SUPPLEMENT NO. 3
October 2019

CODE OF ORDINANCES

City of

ROCKMART, GEORGIA

Looseleaf Supplement

This Supplement contains all ordinances deemed advisable to be included at this time through:

Ordinance No. 2019O-04, adopted May 14, 2019.

See the Code Comparative Table for further information.

Included in the Charter is:

Ordinance No. 2016O-04, adopted July 12, 2016.

See the Charter Comparative Table for further information.

Remove Old Pages	*Insert New Pages*
Title Page	Title Page
xiii—xviii	xiii—xviii
Checklist of up-to-date pages	Checklist of up-to-date pages (following Table of Contents)
SH:1	SH:1, SH:2
CHT:25—CHT:28	CHT:25—CHT:28
CHTCT:3	CHTCT:3
CD4:1—CD4:8	CD4:1—CD4:9
CD5:21—CD5:26	CD5:21—CD5:26.1
CD5:33—CD5:48	CD5:33—CD5:48.2
CD10:5—CD10:10	CD10:5—CD10:10
CD11:7	CD11:7
CD11:59	CD11:59—CD11:61
CD12:13—CD12:18	CD12:13—CD12:19
CD13:3	CD13:3
CD22:1—CD22:6	CD22:1—CD22:6.1
CD22:47—CD22:52	CD22:47—CD22:55
CD23:7, CD23:8	CD23:7—CD23:8.1
CD23:15—CD23:16.1	CD23:15—CD23:16.1
CD23:43—CD23:46.1	CD23:43—CD23:46.1
CCT:13	CCT:13

Remove Old Pages	*Insert New Pages*
SLT:1—SLT:3	SLT:1—SLT:3
CDi:3, CDi:4	CDi:3—CDi:4.1
CDi:11—CDi:16	CDi:11—CDi:16.1
CDi:25—CDi:29	CDi:25—CDi:29

Insert and maintain this instruction sheet in front of this publication. File removed pages for reference.

municode

Municipal Code Corporation P.O. Box 2235 Tallahassee, FL 32316
info@municode.com 800.262.2633 www.municode.com

SUPPLEMENT NO. 2
August 2015

CODE OF ORDINANCES

City of

ROCKMART, GEORGIA

Looseleaf Supplement

This Supplement contains all ordinances deemed advisable to be included at this time through:

Ordinance No. 2015O-02, adopted June 9, 2015.

See the Code Comparative Table for further information.

Remove Old Pages	*Insert New Pages*
Title Page	Title Page
xiii—xvii	xiii—xviii
Checklist of up-to-date pages	Checklist of up-to-date pages (following Table of Contents) SH:1 (following Checklist of up-to-date pages)
CD2:1, CD2:2	CD2:1, CD2:2
CD2:13	CD2:13—CD2:17
CD3:1, CD3:2	CD3:1, CD3:2
CD3:15, CD3:16	CD3:15—CD3:16.1
CD3:21, CD3:22	CD3:21—CD3:22.1
CD3:29, CD3:30	CD3:29, CD3:30
CD5:1—CD5:3	CD5:1—CD5:3
CD5:32.1—CD5:48	CD5:33—CD5:51
CD6:7—CD6:11	CD6:7—CD6:11
CD10:1, CD10:2	CD10:1, CD10:2
CD10:21	CD10:21—CD10:25
CD11:5—CD11:7	CD11:5—CD11:7
CD11:35—CD11:38	CD11:35—CD11:38.4
CD12:4.1—CD12:6	CD12:5—CD12:6.2
CD12:11, CD12:12	CD12:11, CD12:12
CD15:1	CD15:1
CD15:3—CD15:8	CD15:3—CD15:9
CD19:1, CD19:2	CD19:1, CD19:2
CD19:19	CD19:19—CD19:23
CD22:1—CD22:4	CD22:1—CD22:4
CD22:10.3, CD22:10.4	CD22:10.3—CD22:10.5
CCT:13	CCT:13
SLT:1—SLT:3	SLT:1—SLT:3

Remove Old Pages	*Insert New Pages*
CDi:1—CDi:28	CDi:1—CDi:29

Insert and maintain this instruction sheet in front of this publication. File removed pages for reference.

Municipal Code Corporation • PO Box 2235 Tallahassee, FL 32316
info@municode.com • 800.262.2633
fax 850.575.8852 • www.municode.com

SUPPLEMENT NO. 1
February 2010

CODE OF ORDINANCES

City of

ROCKMART, GEORGIA

Looseleaf Supplement

This Supplement contains all ordinances deemed advisable to be included at this time through:

Ordinance No. 2009O-07, adopted November 10, 2009.

See the Code Comparative Table for further information.

Remove old pages	*Insert new pages*
xiii—xvii	xiii—xvii
	Checklist of up-to-date pages (following Table of Contents)
CD5:1—CD5:3	CD5:1—CD5:3
CD5:5—CD5:32	CD5:5—CD5:32.3
CD9:1	CD9:1
CD9:3, CD9:4	CD9:3—CD9:5
CD10:1, CD10:2	CD10:1, CD10:2
CD10:5, CD10:6	CD10:5
CD11:5—CD11:7	CD11:5—CD11:7
CD11:49—CD11:52	CD11:49—CD11:52.1
CD12:1, CD12:2	CD12:1, CD12:2
	CD12:4.1
CD14:1	CD14:1
CD14:3—CD14:5	CD14:3—CD14:5
CD15:5—CD15:8	CD15:5—CD15:8
CD22:1—CD22:10	CD22:1—CD22:10.4
CD22:45, CD22:46	CD22:45—CD22:52
CD23:1, CD23:2	CD23:1, CD23:2
CD23:7—CD23:16	CD23:7—CD23:16.1
CD23:25—CD23:32	CD23:25—CD23:32.1
CD23:41—CD23:46	CD23:41—CD23:46.1
CCT:11, CCT:12	CCT:11—CCT:13
SLT:1—SLT:3	SLT:1—SLT:3
CDi:1—CDi:31	CDi:1—CDi:28
	CDi:45—CDi:49

Insert and maintain this instruction sheet in front of this publication. File removed pages for reference.

MUNICIPAL CODE CORPORATION
Post Office Box 2235
1700 Capital Circle, S.W.
Tallahassee, FL 32316
(850) 576-3171
1-800-262-CODE
Website: www.municode.com

THE CODE

of

ROCKMART, GEORGIA

Published in 2007 by Order of the City Council

Municipal Code Corporation P.O. Box 2235 Tallahassee, FL 32316
info@municode.com 800.262.2633 www.municode.com

OFFICIALS

of the

CITY OF

ROCKMART, GEORGIA

AT THE TIME OF THIS RECODIFICATION

Curtis B. Lewis
Mayor

Bob Culver
Steve Miller
James O. Payne, III
Dr. Bruce Bell
Ray L. Carter
City Council

J.L. Ellis
City Manager

Mike D. McRae
City Attorney

Pam G. Herring
City Clerk

PREFACE

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

Source materials used in the preparation of the Code were the 1976 Code, as supplemented through February 9, 1993, and ordinances subsequently adopted by the City Council. The source of each section is included in the history note appearing in parentheses at the end thereof. The absence of such a note indicates that the section is new and was adopted for the first time with the adoption of the Code. By use of the comparative tables appearing in the back of this Code, the reader can locate any section of the 1976 Code, as supplemented, and any subsequent ordinance included herein.

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

Chapter and Section Numbering System

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

Page Numbering System

The page numbering system used in this Code is a prefix system. The letters to the left of the colon are an abbreviation which represents a certain portion of the volume. The number to the right of the colon represents the number of the page in that portion. In the case of a chapter of the Code, the number to the left of the colon indicates the number of the chapter. In the case of an appendix to the Code, the letter immediately to the left of the colon indicates the letter of the appendix. The following are typical parts of codes of ordinances, which may or may not appear in this Code at this time, and their corresponding prefixes:

Indexes

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

Looseleaf Supplements

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

Keeping this publication up to date at all times will depend largely upon the holder of the publication. As revised pages are received, it will then become the responsibility of the holder to have the amendments inserted according to the attached instructions. It is strongly recommended by the publisher that all such amendments be inserted immediately upon receipt to avoid misplacing them and, in addition, that all deleted pages be saved and filed for historical reference purposes.

Acknowledgments

This publication was under the direct supervision of Roger D. Merriam, Senior Code Attorney, and Ellen K. Torof, Editor, of the Municipal Code Corporation, Tallahassee, Florida. Credit is gratefully given to the other members of the publisher's staff for their sincere interest and able assistance throughout the project.

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

Copyright

All editorial enhancements of this Code are copyrighted by Municipal Code Corporation and the City of Rockmart. Editorial enhancements include, but are not limited to: organization; table of contents; section catchlines; prechapter section analyses; editor's notes; cross references; state law references; numbering system; code comparative table; state law reference table; and index. Such material may not be used or reproduced for commercial purposes without the express written consent of Municipal Code Corporation and the City of Rockmart, Georgia.

TABLE OF CONTENTS

Checklist of Up-to-Date Pages

(This checklist will be updated with the printing of each Supplement)

From our experience in publishing Looseleaf Supplements on a page-for-page substitution basis, it has become evident that through usage and supplementation many pages can be inserted and removed in error.

The following listing is included in this Code as a ready guide for the user to determine whether the Code volume properly reflects the latest printing of each page.

In the first column all page numbers are listed in sequence. The second column reflects the latest printing of the pages as they should appear in an up-to-date volume. The letters "OC" indicate the pages have not been reprinted in the Supplement Service and appear as published for the original Code. When a page has been reprinted or printed in the Supplement Service, this column reflects the identification number or Supplement Number printed on the bottom of the page.

In addition to assisting existing holders of the Code, this list may be used in compiling an up-to-date copy from the original Code and subsequent Supplements.

Page No.	Supp. No.	Page No.	Supp. No.
Title Page	3	CHT:27, CHT:28	3
iii	OC	CHTCT:1	OC
vii, viii	OC	CHTCT:3	3
ix	OC	CD1:1	OC
xiii, xiv	3	CD1:3, CD1:4	OC
xv, xvi	3	CD1:5, CD1:6	OC
xvii, xviii	3	CD1:7, CD1:8	OC
SH:1, SH:2	3	CD2:1, CD2:2	2
CHT:1, CHT:2	OC	CD2:3, CD2:4	OC
CHT:3, CHT:4	OC	CD2:5, CD2:6	OC
CHT:5, CHT:6	OC	CD2:7, CD2:8	OC
CHT:7, CHT:8	OC	CD2:9, CD2:10	OC
CHT:9, CHT:10	OC	CD2:11, CD2:12	OC
CHT:11, CHT:12	OC	CD2:13, CD2:14	2
CHT:13, CHT:14	OC	CD2:15, CD2:16	2
CHT:15, CHT:16	OC	CD2:17	2
CHT:17, CHT:18	OC	CD3:1, CD3:2	2
CHT:19, CHT:20	OC	CD3:3, CD3:4	OC
CHT:21, CHT:22	OC	CD3:5, CD3:6	OC
CHT:23, CHT:24	OC	CD3:7, CD3:8	OC
CHT:25, CHT:26	3	CD3:9, CD3:10	OC

Page No.	Supp. No.	Page No.	Supp. No.
CD3:11, CD3:12	OC	CD5:39, CD5:40	3
CD3:13, CD3:14	OC	CD5:41, CD5:42	3
CD3:15, CD3:16	2	CD5:43, CD5:44	3
CD3:16.1	2	CD5:45, CD5:46	3
CD3:17, CD3:18	OC	CD5:47, CD5:48	3
CD3:19, CD3:20	OC	CD5:48.1, CD5:48.2	3
CD3:21, CD3:22	2	CD5:49, CD5:50	2
CD3:22.1	2	CD5:51	2
CD3:23, CD3:24	OC	CD6:1, CD6:2	OC
CD3:25, CD3:26	OC	CD6:3, CD6:4	OC
CD3:27, CD3:28	OC	CD6:5, CD6:6	OC
CD3:29, CD3:30	2	CD6:7, CD6:8	2
CD3:31, CD3:32	OC	CD6:9, CD6:10	2
CD4:1	3	CD6:11	2
CD4:3, CD4:4	3	CD7:1	OC
CD4:5, CD4:6	3	CD7:3, CD7:4	OC
CD4:7, CD4:8	3	CD7:5, CD7:6	OC
CD4:9	3	CD8:1	OC
CD5:1, CD5:2	2	CD8:3	OC
CD5:3	2	CD9:1	1
CD5:5, CD5:6	1	CD9:3, CD9:4	1
CD5:7, CD5:8	1	CD9:5	1
CD5:9, CD5:10	1	CD10:1, CD10:2	2
CD5:11, CD5:12	1	CD10:3, CD10:4	OC
CD5:13, CD5:14	1	CD10:5	3
CD5:15, CD5:16	1	CD10:7, CD10:8	3
CD5:17, CD5:18	1	CD10:9, CD10:10	3
CD5:19, CD5:20	1	CD10:11, CD10:12	OC
CD5:21, CD5:22	3	CD10:13, CD10:14	OC
CD5:23, CD5:24	3	CD10:15, CD10:16	OC
CD5:25, CD5:26	3	CD10:17, CD10:18	OC
CD5:26.1	3	CD10:19, CD10:20	OC
CD5:27, CD5:28	1	CD10:21, CD10:22	2
CD5:29, CD5:30	1	CD10:23, CD10:24	2
CD5:31, CD5:32	1	CD10:25	2
CD5:33, CD5:34	3	CD11:1, CD11:2	OC
CD5:35, CD5:36	3	CD11:3, CD11:4	OC
CD5:37, CD5:38	3	CD11:5, CD11:6	2

CHECKLIST OF UP-TO-DATE PAGES

Page No.	Supp. No.	Page No.	Supp. No.
CD11:7	3	CD12:13, CD12:14	3
CD11:9, CD11:10	OC	CD12:15, CD12:16	3
CD11:11, CD11:12	OC	CD12:17, CD12:18	3
CD11:13, CD11:14	OC	CD12:19	3
CD11:15, CD11:16	OC	CD13:1	OC
CD11:17, CD11:18	OC	CD13:3	3
CD11:19, CD11:20	OC	CD14:1	1
CD11:21, CD11:22	OC	CD14:3, CD14:4	1
CD11:23, CD11:24	OC	CD14:5	1
CD11:25, CD11:26	OC	CD15:1	2
CD11:27, CD11:28	OC	CD15:3, CD15:4	2
CD11:29, CD11:30	OC	CD15:5, CD15:6	2
CD11:31, CD11:32	OC	CD15:7, CD15:8	2
CD11:33, CD11:34	OC	CD15:9	2
CD11:35, CD11:36	2	CD16:1	OC
CD11:37, CD11:38	2	CD16:3	OC
CD11:38.1, CD11:38.2	2	CD17:1, CD17:2	OC
CD11:38.3, CD11:38.4	2	CD17:3, CD17:4	OC
CD11:39, CD11:40	OC	CD17:5, CD17:6	OC
CD11:41, CD11:42	OC	CD17:7, CD17:8	OC
CD11:43, CD11:44	OC	CD17:9, CD17:10	OC
CD11:45, CD11:46	OC	CD17:11	OC
CD11:47, CD11:48	OC	CD18:1	OC
CD11:49, CD11:50	1	CD18:3, CD18:4	OC
CD11:51, CD11:52	1	CD18:5	OC
CD11:52.1	1	CD19:1, CD19:2	2
CD11:53, CD11:54	OC	CD19:3, CD19:4	OC
CD11:55, CD11:56	OC	CD19:5, CD19:6	OC
CD11:57, CD11:58	OC	CD19:7, CD19:8	OC
CD11:59, CD11:60	3	CD19:9, CD19:10	OC
CD11:61	3	CD19:11, CD19:12	OC
CD12:1, CD12:2	1	CD19:13, CD19:14	OC
CD12:3, CD12:4	OC	CD19:15, CD19:16	OC
CD12:5, CD12:6	2	CD19:17, CD19:18	OC
CD12:6.1, CD12:6.2	2	CD19:19, CD19:20	2
CD12:7, CD12:8	OC	CD19:21, CD19:22	2
CD12:9, CD12:10	OC	CD19:23	2
CD12:11, CD12:12	2	CD20:1	OC

Page No.	Supp. No.	Page No.	Supp. No.
CD20:3, CD20:4	OC	CD22:49, CD22:50	3
CD20:5, CD20:6	OC	CD22:51, CD22:52	3
CD20:7, CD20:8	OC	CD22:53, CD22:54	3
CD20:9, CD20:10	OC	CD22:55	3
CD20:11, CD20:12	OC	CD23:1, CD23:2	1
CD20:13, CD20:14	OC	CD23:3, CD23:4	OC
CD21:1	OC	CD23:5, CD23:6	OC
CD21:3, CD21:4	OC	CD23:7, CD23:8	3
CD21:5, CD21:6	OC	CD23:8.1	3
CD21:7	OC	CD23:9, CD23:10	1
CD22:1, CD22:2	3	CD23:11, CD23:12	1
CD22:3, CD22:4	3	CD23:13, CD23:14	1
CD22:5, CD22:6	3	CD23:15, CD23:16	3
CD22:6.1	3	CD23:16.1	3
CD22:7, CD22:8	1	CD23:17, CD23:18	OC
CD22:9, CD22:10	1	CD23:19, CD23:20	OC
CD22:10.1, CD22:10.2	1	CD23:21, CD23:22	OC
CD22:10.3, CD22:10.4	2	CD23:23, CD23:24	OC
CD22:10.5	2	CD23:25, CD23:26	1
CD22:11, CD22:12	OC	CD23:27, CD23:28	1
CD22:13, CD22:14	OC	CD23:29, CD23:30	1
CD22:15, CD22:16	OC	CD23:31, CD23:32	1
CD22:17, CD22:18	OC	CD23:32.1	1
CD22:19, CD22:20	OC	CD23:33, CD23:34	OC
CD22:21, CD22:22	OC	CD23:35, CD23:36	OC
CD22:23, CD22:24	OC	CD23:37, CD23:38	OC
CD22:25, CD22:26	OC	CD23:39, CD23:40	OC
CD22:27, CD22:28	OC	CD23:41, CD23:42	1
CD22:29, CD22:30	OC	CD23:43, CD23:44	3
CD22:31, CD22:32	OC	CD23:45, CD23:46	3
CD22:33, CD22:34	OC	CD23:46.1	3
CD22:35, CD22:36	OC	CD23:47, CD23:48	OC
CD22:37, CD22:38	OC	CD23:49, CD23:50	OC
CD22:39, CD22:40	OC	CD23:51, CD23:52	OC
CD22:41, CD22:42	OC	CD23:53, CD23:54	OC
CD22:43, CD22:44	OC	CD23:55, CD23:56	OC
CD22:45, CD22:46	1	CD23:57, CD23:58	OC
CD22:47, CD22:48	3	CD23:59, CD23:60	OC

Page No.	Supp. No.
CD23:61, CD23:62	OC
CD23:63, CD23:64	OC
CD23:65, CD23:66	OC
CD23:67	OC
CCT:1	OC
CCT:3, CCT:4	OC
CCT:5, CCT:6	OC
CCT:7, CCT:8	OC
CCT:9, CCT:10	OC
CCT:11, CCT:12	1
CCT:13	3
SLT:1, SLT:2	3
SLT:3	3
CHTi:1, CHTi:2	OC
CHTi:3, CHTi:4	OC
CDi:1, CDi:2	2
CDi:3, CDi:4	3
CDi:4.1	3
CDi:5, CDi:6	2
CDi:7, CDi:8	2
CDi:9, CDi:10	2
CDi:11, CDi:12	3
CDi:13, CDi:14	3
CDi:15, CDi:16	3
CDi:16.1	3
CDi:17, CDi:18	2
CDi:19, CDi:20	2
CDi:21, CDi:22	2
CDi:23, CDi:24	2
CDi:25, CDi:26	3
CDi:27, CDi:28	3
CDi:29	3
CDi:45, CDi:46	1
CDi:47, CDi:48	1
CDi:49	1

SUPPLEMENT HISTORY TABLE

The table below allows users of this Code to quickly and accurately determine what ordinances have been considered for codification in each supplement. Ordinances that are of a general and permanent nature are codified in the Code Book and are considered "Includes." Ordinances that are not of a general and permanent nature are not codified in the Code Book and are considered "Omits."

In addition, by adding to this table with each supplement, users of this Code of Ordinances will be able to gain a more complete picture of the Code's historical evolution.

Ord. No.	Date Adopted	Include/Omit	Supp. No.
Supp. No. 1			
2007O-11	11-13-2007	Include	1
2007O-12	11-13-2007	Include	1
2008O-03	1- 8-2008	Include	1
2008O-04	3-11-2008	Include	1
2008O-05	4- 8-2008	Include	1
2008O-08	8-12-2008	Include	1
2008O-10	8-12-2008	Include	1
2008O-11	11-18-2008	Include	1
2009O-01	2-10-2009	Include	1
2009O-02	4-14-2009	Include	1
2009O-04	5-12-2009	Include	1
2009O-06	10-13-2009	Include	1
2009O-07	11-10-2009	Include	1
Supp. No. 2			
2010O-02	4-13-2010	Include	2
2010O-06	12-14-2010	Include	2
2011O-02	10-11-2011	Include	2
2011O-03	12-13-2011	Include	2
2012O-01	1-10-2012	Include	2
2012O-02	3-20-2012	Omit	2
2012O-05	10- 9-2012	Omit	2
2012O-07	10-18-2012	Include	2
2013O-01	3-12-2013	Include	2
2013O-03	8-13-2013	Include	2
2013O-04	10- 8-2013	Include	2
2014O-01	7- 8-2014	Include	2
2015O-01	6- 9-2015	Include	2
2015O-02	6- 9-2015	Include	2
Supp. No. 3			
2016O-01	3- 8-2016	Include	3
2016O-02	4-12-2016	Include	3
2016O-04	7-12-2016	Include	3
2017O-01	3-14-2017	Include	3

Ord. No.	Date Adopted	Include/Omit	Supp. No.
2017O-05	10-10-2017	Include	3
2018O-04	6-12-2018	Include	3
2018O-05	6-12-2018	Include	3
2018O-06	7-10-2018	Include	3
2018O-07	8-14-2018	Include	3
2018O-09	12-11-2018	Omit	3
2019O-02	2-12-2019	Include	3
2019O-03	2-12-2019	Include	3
2019O-04	5-14-2019	Include	3

PART I

CHARTER*

Article I. Charter, City Limits, and Corporate Powers

Article II. City Government Structure

Article III. Organization of City Government

---

*__Editor's note—__Printed in this part is the city charter, being 2004 Ga. Laws (Act No. 682), page 3910. Amendments are indicated by parenthetical history notes following amended provisions. The absence of a history note indicates that the provision remains unchanged from the original. Obvious misspellings have been corrected without notation. For stylistic purposes, headings and catchlines have been made uniform, citations to state statutes, and the expression of numbers in text as appears in the Code of Ordinances has been used. A consistent scheme of capitalization has also been used. Additions for clarity are indicated in brackets.

Article IV. Finance and Fiscal Administration

Article V. Elections

Article VI. Judicial Branch

Article VII. General Provisions

A BILL TO BE ENTITLED AN ACT To provide a new Charter for the City of Rockmart; to provide for incorporation, boundaries, and powers of the city; to provide for a governing authority of such city and the powers, duties, authority, election, terms, vacancies, compensation, expenses, qualifications, prohibitions, conflicts of interest, and suspension and removal from office relative to members of such governing authority; to provide for inquiries and investigations; to provide for oaths, organization, meetings, quorum, voting, rules, and procedures; to provide for ordinances and codes; to provide for a city manager, mayor, and mayor pro tempore and certain duties, powers, and other matters relative thereto; to provide for administrative affairs and responsibilities; to provide for boards, commissions, and authorities; to provide for a city attorney, a city clerk, and other personnel and matters relating thereto; to provide for rules and regulations; to provide for a municipal court and the judge or judges thereof and other matters relative to those judges; to provide for the court's jurisdiction, powers, practices, and procedures; to provide for the right of certiorari; to provide for elections; to provide for taxation, licenses, and fees; to provide for franchises, service charges, and assessments; to provide for collections; to provide for bonded and other indebtedness; to provide for auditing, accounting, budgeting, and appropriations; to provide for city contracts and purchasing; to provide for the conveyance of property and interests therein; to provide for bonds for officials; to provide for prior ordinances and rules, pending matters, and existing personnel; to provide for penalties; to provide for definitions, construction, and severability; to provide for other matters relative to the foregoing; to repeal a specific Act; to provide for an effective date; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

ARTICLE I. CHARTER, CITY LIMITS, AND CORPORATE POWERS

Section 1.01. Name and incorporation.

This city and the inhabitants thereof are reincorporated by the enactment of this Charter and are hereby constituted and declared a body politic and corporate under the name and style of the City of Rockmart, Georgia, and by that name shall have perpetual succession.

Section 1.02. Corporate limits.

(a) The boundaries of the City of Rockmart shall be those as existing on the effective date of the adoption of this Charter with such alterations as may be made from time to time in the manner provided by law. The boundaries of this city at all times shall be shown on a map, written description, or any combination thereof, to be retained permanently in the office of the city manager, and to be designated, as the case may be: "Official Map of the Corporate Limits of the City of Rockmart, Georgia." Photographic, typewritten, or other copies of such map or description certified by the city clerk shall be admitted as evidence in all courts and shall have the same force and effect as the original map or description.

(b) The mayor and city council may provide for the redrawing of any such map by ordinance to reflect lawful annexations or other changes in the corporate boundaries. A redrawn map shall supersede for all purposes the entire map or maps which it is designated to replace.

(c) The present boundaries of the city, or any portion lawfully annexed hereafter, are a part of the appendix to this Charter and incorporated as the boundaries of Rockmart, by reference.

Section 1.03. Powers and construction.

(a) The City of Rockmart shall have all powers possible for a city to have under the present or future Constitution and laws of this state as fully and completely as though said powers were specifically enumerated in this Charter. The city shall have all powers of self-government not otherwise prohibited by this Charter or by general state law.

(b) The powers of this city shall be construed liberally in favor of the city. The specific inclusion or omission of particular powers shall not be construed as extending or limiting the powers of the city in any way.

Section 1.04. Examples of power.

(a) *Animal regulations.* To regulate and license or to prohibit the keeping or running at large of animals and fowl and to provide for the impoundment of same if in violation of any ordinance or lawful order; to provide for the disposition by sale, gift, or humane destruction of animals and fowl when not redeemed as provided by ordinance; and to provide punishment for violation of ordinances enacted hereunder;

(b) *Appropriations and expenditures.* To make appropriations for the support of the government of the city; to authorize the expenditure or borrowing of money for any purposes authorized by this Charter and for any purpose for which a municipality is authorized by the laws of the State of Georgia; and to provide for the payment of expenses of the city;

(c) *Building regulations.* To regulate and to license the erection and construction of buildings and all other structures; to adopt building, housing, plumbing, electrical, gas, and heating and air-conditioning codes; to regulate all housing and building trades; and to establish minimum standards for and regulate building construction and repair, electrical wiring and equipment, gas installation and equipment, plumbing, and housing for the health, sanitation, cleanliness, welfare, and safety of the inhabitants of the city, and to provide for the enforcement of such standards;

(d) *Business regulation and taxation.* To levy and to provide for the collection of regulatory fees and taxes on privileges, occupations, trades, and professions as authorized by Title 48 of the O.C.G.A. [O.C.G.A. § 48-1-1 et seq.] or other such applicable laws as are or may hereafter be enacted; to permit and regulate the same; to provide for the manner and method of payment of such regulatory fees and taxes; and to revoke such permits after due process for failure to pay any city taxes or fees;

(e) *Condemnation.* To condemn property, inside or outside the corporate limits of the city, for present or future use and for any public purpose deemed necessary by the governing authority, utilizing procedures enumerated in Title 22 of the O.C.G.A. [O.C.G.A. § 21-1-1 et seq.] or such other applicable laws as are or may hereafter be enacted;

(f) *Contracts.* To enter into contracts and agreements with other governmental entities and with private persons, firms, and corporations to the extent permitted by this Charter and the general laws of this state;

(g) *Economic development.* To levy taxes, make appropriations, provide incentive plans, conduct industrial recruitment, and take other actions necessary to promote or advertise the city and its advantages and resources so as to bring new capital, commercial, and other manufacturing enterprises into the city and create new employment opportunities for its residents;

(h) *Emergencies.* To establish procedures for determining and proclaiming that an emergency situation exists within or outside the city and to make and carry out all reasonable provisions deemed necessary to deal with or meet such an emergency for the protection, safety, health, or well-being of the citizens of the city;

(i) *Environmental protection.* To protect and preserve the natural resources, environment, and vital areas of the state through the preservation and improvement of air quality, the restoration and maintenance of water resources, the control of erosion and sedimentation, the management of solid and hazardous waste, and other necessary actions for the protection of the environment;

(j) *Fire regulations.* To fix and establish fire limits and from time to time to extend, enlarge, or restrict the same; to prescribe fire safety regulations not inconsistent with general law, relating to both fire prevention and detection and to firefighting; and to prescribe penalties and punishment for violations thereof;

(k) *Garbage fees.* To levy, fix, assess, and collect a garbage, refuse, and trash collection and disposal fees, and other sanitary service charge, tax, or fee for such services as may be necessary in the operation of the city from all individuals, firms, and corporations residing in or doing business therein benefiting from such services, with said fees, if unpaid, to constitute a lien against

any property or persons served and enforceable in the same manner as a lien for unpaid property taxes;

(l) *General health, safety, and welfare.* To define, regulate, and prohibit any act, practice, conduct, or use of property which is detrimental to [the] health, sanitation, cleanliness, welfare, and safety of the inhabitants of the city and to provide for the enforcement of such standards;

(m) *Gifts.* To accept or refuse gifts, donations, bequests, or grants from any source for any purpose related to powers and duties of the city and the general welfare of its citizens, on such terms and conditions as the donor or grantor may impose;

(n) *Health and sanitation.* To prescribe standards of health and sanitation and to provide for the enforcement of such standards;

(o) *Hospitals.* To levy taxes, collect fees and other revenue, make appropriations, and make payment from the general revenues and funds of the city for the support of public hospitals;

(p) *Jail sentences.* To provide that persons given jail sentences in the city's court may work out such sentences in any public works or on the streets, roads, drains, and other public property in the city; to provide for commitment of such persons to any jail; or to provide for commitment of such persons to any county work camp or county jail by agreement with the appropriate county officials;

(q) *Libraries.* To levy taxes, collect fees and other revenue, make appropriations, and make payment from the general revenues and funds of the city for the support of public libraries;

(r) *Motor vehicles.* To regulate the operation of motor vehicles and exercise control over all traffic, including parking upon or across the streets, roads, alleys, and walkways of the city;

(s) *Municipal agencies and delegation of power.* To create, alter, or abolish departments, boards, offices, commissions, and agencies of the city and to confer upon such agencies the necessary and appropriate authority for carrying out all the powers conferred upon or delegated to the same;

(t) *Municipal debts.* To appropriate and borrow money for the payment of debts of the city and to issue bonds for the purpose of raising revenue to carry out any project, program, or venture authorized by this Charter or the laws of the State of Georgia governing bond issues by municipalities in effect at the time said issue is undertaken;

(u) *Municipal property ownership.* To acquire, dispose of, lease, and hold in trust or otherwise any real, personal, or mixed property, in fee simple or lesser interest, inside or outside the property limits of the city;

(v) *Municipal property protection.* To provide for the preservation and protection of property and equipment of the city and the administration and use of same by the public; and to prescribe penalties and punishment for violations thereof;

(w) *Municipal utilities.* To acquire, lease, construct, operate, maintain, sell, and dispose of public utilities, including but not limited to a system of waterworks, sewers and drains, sewage disposal, gas works, electric light plants, cable television, fiber optic networks, and other telecommunications, transportation facilities, public airports, and any other public utility; and to fix the taxes, charges, rates, fares, fees, assessments, regulations, and penalties and to provide for the withdrawal of service for refusal or failure to pay the same. Any such fees, if unpaid, will constitute a lien against the person or property served and enforceable in the same manner as a lien for unpaid property taxes;

(x) *Nuisance.* To define a nuisance and provide for its abatement, whether on public or private property, in the Municipal Court of Rockmart as outlined both by ordinance and by general state law;

(y) *Penalties.* To provide penalties for [the] violation of any ordinances adopted pursuant to the authority of this Charter and the laws of the State of Georgia;

(z) *Personnel.* To provide such system of personnel administration, employment matters, or similar rules and regulations as the city manager as chief personnel officer and the mayor and city council should determine;

(aa) *Planning and zoning.* To provide comprehensive city planning for development by zoning; and to provide subdivision regulation and the like as the city council deems necessary and reasonable to ensure a safe, healthy, and aesthetically pleasing community;

(bb) *Police and fire protection.* To exercise the power of arrest through duly appointed police officers and to establish, operate, or contract for a police and a firefighting agency;

(cc) *Public hazards: removal.* To provide for the destruction and removal of any building or other structure which is or may become dangerous or detrimental to the public;

(dd) *Public improvements.* To provide for the acquisition, construction, building, operation, and maintenance of public ways, parks and playgrounds, recreational facilities, cemeteries, markets and market houses, public buildings, libraries, public housing, airports, hospitals, terminals, docks, parking facilities, or charitable, cultural, educational, recreational, conservation, athletic, curative, corrective, detentional, penal, and medical institutions, agencies, and facilities; and to provide any other public improvements, inside or outside the corporate limits of the city; to regulate the use of public improvements; and for such purposes, property may be acquired by condemnation under Title 22 of the O.C.G.A. [O.C.G.A. § 21-1-1 et seq.] or such other applicable laws as are or may hereafter be enacted;

(ee) *Public peace.* To provide for the prevention and punishment of drunkenness, riots, and public disturbances;

(ff) *Public transportation.* To organize and operate such public transportation systems as are deemed beneficial;

(gg) *Public utilities and services.* To grant franchises or make contracts for or impose taxes on public utilities and public service companies; and to prescribe the rates, fares, regulations, and standards and conditions of service applicable to the service to be provided by the franchise grantee or contractor, insofar as not in conflict with valid regulations of the Georgia Public Service Commission;

(hh) *Regulation of roadside areas.* To prohibit or regulate and control the erection, removal, and maintenance of signs, billboards, trees, shrubs, fences, buildings, and any and all other structures or obstructions upon or adjacent to the rights-of-way of streets and roads or within view thereof, within or abutting the corporate limits of the city; and to prescribe penalties and punishment for violation of such ordinances;

(ii) *Retirement.* To provide and maintain a retirement plan for officers and employees of the city;

(jj) *Roadways.* To name, rename, lay out, open, extend, widen, narrow, establish or change the grade of, abandon or close, construct, pave, curb, gutter, adorn with shade trees, or otherwise improve, maintain, repair, clean, prevent erosion of, and light the roads, alleys, and walkways within the corporate limits of the city; and to grant franchises and rights-of-way throughout the streets and roads and over the bridges and viaducts for the use of public utilities; and to require real estate owners to repair and maintain in a safe condition the sidewalks adjoining their lots or lands and to impose penalties for failure to do so;

(kk) *Sewer fees.* To levy a fee, charge, or sewer tax as necessary to assure the acquisition, construction, equipment, operation, maintenance, and extension of a sewage disposal plant and sewerage system and to levy on those to whom sewers and sewerage systems are made available a sewer service fee, charge, or sewer tax for the availability or use of the sewers; to provide for the manner and method of collecting such service charges and for enforcing payment of the same. Any such fees, if unpaid, will constitute a lien against the person or property served and shall be enforceable in the same manner as a lien for unpaid property taxes; and to charge, impose, and collect a sewer connection fee or fees to those connected with the system;

(ll) *Solid waste disposal.* To provide for the collection and disposal of garbage, rubbish, and refuse and to regulate the collection and disposal of garbage, rubbish, and refuse by others; and to provide for the separate collection of glass, tin, aluminum, cardboard, paper, and other recyclable

materials and to provide for the sale of such items should the city acquire facilities or equipment, or both, for this purpose;

(mm) *Special areas of public regulation.* To regulate or prohibit junk dealers, pawnshops, the manufacture, sale, or transportation of alcoholic beverages, and the sale of firearms; to regulate the transportation, storage, and use of combustible, explosive, and flammable materials, the use of lighting and heating equipment, and any other business or situation which may be dangerous to persons or property; to regulate and control the conduct of peddlers and itinerant traders, theatrical performances, exhibitions, and shows of any kind, by taxation or otherwise; and to license, tax, regulate, or prohibit professional fortunetelling, palmistry, adult bookstores, and massage parlors;

(nn) *Special assessments.* To levy and provide for the collection of special assessments to cover the costs for any public improvements;

(oo) *Taxes: ad valorem.* To levy and provide for the assessment, valuation, revaluation, and collection of taxes on all property subject to taxation;

(pp) *Taxes: other.* To levy and collect such other taxes as may be allowed now or in the future by law;

(qq) *Vehicles for hire.* To regulate and license vehicles operated for hire in the city; to limit the number of such vehicles; to require the operators thereof to be licensed; to require public liability insurance on such vehicles in the amounts to be prescribed by ordinance; and to regulate the parking of such vehicles; and

(rr) *Other powers.* To exercise and enjoy all other powers, functions, rights, privileges, and immunities necessary or desirable to promote or protect the safety, health, peace, security, good order, comfort, convenience, or general welfare of the city and its inhabitants; and to exercise all implied powers necessary or desirable to carry into execution all powers granted in this Charter as fully and completely as if such powers were fully stated herein; and to exercise all powers now or in the future authorized to be exercised by other municipal governments under other laws of the State of Georgia. No listing of particular powers in this Charter shall be held to be exclusive of others, nor restrictive of general words and phrases granting powers, but shall be held to be in addition to such powers unless expressly prohibited to municipalities under the constitution or applicable laws of the State of Georgia.

Section 1.05. Exercise of powers.

All powers, functions, rights, privileges, and immunities of the City of Rockmart, and its officers, agencies, or employees shall be carried into execution as provided by this Charter. If this Charter makes no provision, such powers shall be carried into execution as provided by ordinance or general laws of the State of Georgia.

Section 1.06. Regulation and control of public streets, alleys, and ways; closing; costs.

(a) In the event that the City of Rockmart receives a petition or written request from all adjoining property owners that any street, lane, alley, avenue, road, or sidewalk, or any part of the same, is no longer needed for street purposes, the city shall have express power and authority to close, lease, sell, convey, or otherwise dispose of any such street, lane, alley, avenue, road, or sidewalk or any part of same. However, should the mayor and city council determine that it is not desirable to permanently abandon such street, lane, alley, avenue, road, or sidewalk, or any part thereof, but should desire to preserve it for future use to the city if needed for street or other purposes, the mayor and city council are hereby expressly granted the power and authority to lease or retain an easement to any such street, lane, alley, avenue, road, or sidewalk, or any part of the same, to any person, firm, or corporation, upon such terms and conditions as they may deem proper, with full power and authority to provide any such lease contract for a renewal of the same on a year-to-year basis, provided that the city shall not require the use of the property for street purposes at the expiration of any original lease contemplated herein.

(b) Before any street, lane, alley, avenue, road, or sidewalk, or any part of the same is closed, sold, leased, conveyed, or otherwise disposed of, the mayor and city council shall adopt a resolu-

tion at a regular meeting thereof, duly called and held. Said resolution shall generally describe such street, land, alley, avenue, road, or sidewalk, or any part of same, together with the intentions of the mayor and city council as to the disposition thereof, including the terms and conditions of said disposition, and the person, firm, or corporation to whom the property is to be disposed. Upon passage of such a resolution, the city shall then publish notice of the proposed closing or other disposition in a newspaper of general circulation located within the corporate limits of the city once a week for two weeks and hold a public hearing at the next regularly scheduled monthly city council meeting. If after such publication, no objection is made to the proposed disposition, the mayor and city council may proceed by ordinance to make such disposition. If, however, any citizen or property owner makes any objection to the proposed disposition, the mayor and city council shall conduct a full and complete hearing and afford all parties the opportunity to present evidence or otherwise voice their opinions for or against the proposed disposition of the street property. The city shall retain full and complete discretion as to the final disposition of said property, even if requested by all adjoining property owners, and shall not have any obligation or duty to grant said property owners' request.

(c) In the event that any person, firm, or corporation of the City of Rockmart files an application to close any portion of a street, lane, alley, avenue, road, or sidewalk, within the corporate limits of the city, the applicant shall bear all expenses occasioned by the closing of said street, lane, alley, avenue, road, or sidewalk, or any part of same, even if the mayor and city council do not ultimately grant the application. Said costs shall include, but not be limited to, any and all attorney's fees, survey costs, preparation of deeds or other legal instruments, recording fees, and any other reasonable costs and expenses incurred therewith. If multiple property owners submit such an application or petition, they shall bear all such costs equally. The applicant shall pay all such costs in advance, prior to the execution of any ordinances, quitclaim deeds, or any other documents required to be executed at the conclusion of said closing.

(d) The mayor and city council may place whatever restrictions, contingencies, or requirements concerning the closing of such street, lane, alley, avenue, road, or sidewalk, or any part of same, as it may deem appropriate, including, but not limited to, the right of retention of easements for sewer, water, and other municipal utilities services.

ARTICLE II. CITY GOVERNMENT STRUCTURE

Section 2.01. Establishment of city council; number; election.

The legislative authority of the government of the City of Rockmart, except as otherwise specifically provided in this Charter, shall be vested in a city council to be composed of a mayor and five councilmembers, to be known as the "mayor and city council of the City of Rockmart." The mayor and city council established in this Charter shall in all respects be a successor and continuation of the governing authority of the City of Rockmart under prior law and shall be elected in the manner provided by general law and this Charter. Furthermore, the mayor and city council shall exercise their powers in such manner as prescribed by this Charter and the Constitution and applicable general laws of the State of Georgia as they exist on the date of the adoption of this Charter and as they may hereafter be amended. If any such powers are not prescribed in this Charter, then the mayor and city council shall exercise them in such a manner as may be prescribed by the duly established ordinances of the City of Rockmart.

Section 2.02. Qualifications and terms for mayor and councilmembers.

The mayor and councilmembers shall serve terms of four years and until their respective successors are elected and qualified. To be eligible for the office of mayor or councilmember, a person shall have been a resident of the City of Rockmart for 12 months immediately preceding the date of election of the mayor or councilmember. Persons seeking to qualify for the office of councilmember shall, at the time of qualification, be a resident of

the ward for which he or she seeks election. Furthermore, the mayor and councilmembers shall continue to reside in the corporate limits of the city and the ward from which they were elected during their respective periods of service and shall be both registered and qualified to vote in municipal elections in this city. The terms of mayor and councilmember shall commence on January 1 of the year next following the year in which they were elected and shall expire on December 31 of the year in which the elections were held to fill the expiring terms.

Section 2.03. Vacancies in office.

(a) *Vacancies.* The office of mayor or councilmember shall become vacant upon the occurrence of any events specified by the Constitution of the State of Georgia, Title 45 of the O.C.G.A. [O.C.G.A. title 45], or such applicable laws as are or may hereafter be enacted.

(b) *Filling vacancies.* A vacancy in the office of mayor or councilmember shall be filled as provided in section 5.06 of this Charter.

Section 2.04. Compensation and reimbursement of expenses.

The city council may from time to time determine the salary of the mayor and councilmembers by ordinance, subject to the requirements of state law. Each councilmember and the mayor, when authorized by the city council and upon presentation of itemized vouchers, receipts, statements, invoices, bills, or other similar such documentation, shall be reimbursed for their actual and necessary expenses incurred in the performance of their duties of office, including, but not limited to, travel, lodging, meals, entertainment, and other similar such expenses.

Section 2.05. Prohibitions.

(a) Elected and appointed officers of the city are trustees and servants of the residents of the city and shall act in a fiduciary capacity for the benefit of such residents.

(b) Conflict of interest. No elected official, appointed officer, or employee of the city or any agency or political entity to which this Charter applies shall knowingly:

(1) Engage in any business or transaction or have a financial or other personal interest, direct or indirect, which is incompatible with the proper discharge of that person's official duties or which would tend to impair the independence of the official's judgment or action in the performance of those official duties;

(2) Engage in or accept private employment or render services for private interests when such employment or service is incompatible with the proper discharge of that person's official duties or would tend to impair the independence of the official's judgment or action in the performance of those official duties;

(3) Disclose confidential information, including information obtained at meetings which are closed pursuant to Chapter 14 of Title 50 of the O.C.G.A. [O.C.G.A. § 50-14-1 et seq.] concerning the property, government, or affairs of the governmental body by which the official is engaged without proper legal authorization or use such information to advance the financial or other private interest of the official or others;

(4) Accept any valuable gift, whether in the form of service, loan, thing, or promise, from any person, firm, or corporation which to the official's knowledge is interested, directly or indirectly, in any manner whatsoever, in business dealings with the governmental body by which the official is engaged; provided, however, that an elected official who is a candidate for public office may accept campaign contributions and services in connection with any such campaign in accordance with Chapter 5 of Title 21 of the O.C.G.A. [O.C.G.A. § 21-5-1 et seq.] the "Ethics in Government Act," or such other applicable laws as are or may hereafter be enacted;

(5) Represent other private interests in any action or proceeding against this city or any portion of its government; or

(6) Vote or otherwise participate in the negotiation or in the making of any contract with any business or entity in which the official has a financial interest.

(c) Disclosure. Any elected official, appointed officer, or employee who shall have any financial interest, directly or indirectly, in any contract or matter pending before or within any department of the city shall disclose such interest to the mayor and city council. Such interest and such disclosure shall be entered on the records of the mayor and city council, and that official shall disqualify himself or herself from participating in any decision or vote relating thereto. Any elected official, appointed officer, or employee of any agency or political entity to which this Charter applies who shall have any financial interest, directly or indirectly, in any contract or matter pending before or within such entity shall disclose such interest to the governing body of such agency or entity.

(d) Use of public property. No elected official, appointed officer, or employee of the city or agency or entity to which this Charter applies shall use property owned by such governmental entity for personal benefit, convenience, or profit except in accordance with policies promulgated by the mayor and city council or the governing body of such agency or entity.

(e) Contracts voidable and rescindable. Any violation of this section which occurs with the knowledge, express or implied, of a party to a contract or sale shall render said contract or sale voidable at the option of the mayor and city council.

(f) Ineligibility of elected officials. Except where authorized by law, neither the mayor nor any councilmember shall hold any other elected or compensated appointed office in the city or otherwise be employed by said government or any agency thereof during the term for which that official was elected. No former mayor or councilmember shall hold any compensated appointed office in the city until one year after the expiration of the term for which that official was elected.

(g) Political activities of certain officers and employees. No appointed officer of the city shall continue in such employment upon qualifying as a candidate for nomination or election to any public office. No employee of the city shall continue in such employment upon election to any public office in this city or any other public office which is inconsistent, incompatible, or in conflict with the duties of the city employee. Such determination shall be made by the mayor and city council either immediately upon election or at any time such conflict may arise.

(h) Penalties for violation:

(1) Any city officer or employee who knowingly conceals such financial interest or knowingly violates any of the requirements of this section shall be guilty of malfeasance in office or position, shall be deemed to have forfeited that person's office or position, and shall be subject to removal under section 3.19 of this Charter.

(2) Any officer or employee of the city who shall forfeit an office or position as described in paragraph (1) of this subsection shall be ineligible for appointment or election to or employment in a position in the city government for a period of three years thereafter.

Section 2.06. Inquiries and investigations.

Following the adoption of an authorizing resolution, the mayor or city council may make inquiries and investigations into the affairs of the city and the conduct of any department, office or agency thereof, and for this purpose may subpoena witnesses, administer oaths, take testimony, and require the production of evidence. Any person who fails or refuses to obey a lawful order issued in the exercise of these powers by the mayor or city council shall be punished in the same manner after a violation of any city ordinance.

Section 2.07. General power and authority of the mayor and city council.

The mayor and five councilmembers shall compose the Rockmart City Council, and shall be vested with all corporate, legislative, and other powers of government of the city, except as otherwise provided by this Charter or general state law.

Section 2.08. Eminent domain.

The mayor and city council are hereby empowered to acquire, construct, operate, and maintain public ways, parks, public grounds, industrial, vocational, technical and commercial parks, cemeteries, markets, market houses, public buildings, libraries, sewers, drains, sewage treatment, waterworks, electrical systems, gas systems, airports, hospitals, and charitable, educational, recreational, athletic, curative, corrective, detentional, penal, and medical institutions, agencies, and facilities, and any other public improvements inside or outside the city, and to regulate the use thereof, and for such purposes, property may be condemned under procedures established under general law applicable now or as provided in the future.

ARTICLE III. ORGANIZATION OF CITY GOVERNMENT

Section 3.01. Organization.

The current city government shall continue as presently organized, unless and until otherwise provided by ordinance, amendment to this Charter, or other law. The mayor and city council may by ordinance: establish, abolish, merge, or consolidate offices, positions of employment, departments, and agencies of the city; provide that the same person shall fill a number of offices and positions of employment; and transfer or change the functions and duties of various offices, positions of employment, and departments and agencies of the city.

Section 3.02. Organizational meeting and oath.

The mayor and city council shall hold an organizational meeting each year at its regularly scheduled January meeting. At this meeting, the councilmembers shall elect a mayor pro tem from its membership, as provided in this Charter, and administer the following oath of office to any newly elected members, as follows:

> "I do solemnly (swear) (affirm) that I will faithfully perform the duties of (mayor) (councilmember) of the City of Rockmart and that I will support and defend the Charter thereof as well as the Constitution and laws of the State of Georgia and the United States of America."

Section 3.03. Regular and special meetings.

(a) The mayor and city council shall hold regular public meetings on the second Tuesday of each month at 7:00 p.m. in the city council room of City Hall, 200 South Marble Street, Rockmart, Georgia, or at other such times and places as may be designated by the mayor and city council or prescribed by ordinance. The mayor and city council shall exercise its powers in all public meetings.

(b) The city council may hold special meetings or work sessions on the call of the mayor or the mayor pro tem and two councilmembers. Notice of any such special meetings or work sessions shall be served on all other councilmembers personally or by personal telephone contact, no less than 24 hours in advance of the meeting. The notice requirements of this section shall not be required and shall be waived if the mayor and all councilmembers are present when this special meeting or work sessions are called. Such notice of any special meeting or work session may also be waived by a councilmember in writing before or after such a meeting. Attendance at a special meeting shall also constitute a waiver of notice on any business transacted in a councilmember's presence. Only the business stated in the notice may be transacted at a special meeting, unless all councilmembers unanimously consent to the transacting of additional business. At work sessions, the mayor and city council may discuss, deliberate, plan, or debate current city issues but may not take any vote or formal action and shall not publish or follow a formal agenda.

(c) All meetings of the mayor and city council shall be public to the extent required by law, and notice to the public of any special meetings shall be given, to the extent reasonably possible, as provided in Code Section 50-14-1 of the O.C.G.A. [O.C.G.A. § 50-14-1] or other such applicable laws as are or may hereafter be enacted.

Section 3.04. Rules of procedure.

(a) The mayor and city council shall adopt its rules of procedure and order of business consistent with the provisions of this Charter and the city clerk shall provide for keeping minutes of its proceedings, which shall be public record. The mayor and city council may also adopt procedures and penalties for compelling the attendance of absent members, as well as punishment for contemptuous behavior conducted in the presence of the mayor and city council.

(b) All committees and committee chairs and officers of the city council shall be recommended by the mayor and approved by the city council and shall serve at the pleasure of the mayor and city council. Furthermore, the mayor and city council shall have the power to appoint new members to any committee at any time.

Section 3.05. Quorum; voting.

A majority of councilmembers present shall constitute a quorum and shall be authorized to transact business of the city council. Voting on the adoption of any ordinances shall be by voice vote and the vote shall be recorded in the minutes of the city council. Any member of the city council shall have the right to request a roll-call vote and such vote shall also be recorded in the minutes, if requested. Except as otherwise provided in this Charter, the affirmative vote of three councilmembers shall be required for the adoption of any ordinance, resolution, or motion.

Section 3.06. Action requiring an ordinance.

Acts of the mayor and city council which have the force and effect of law or have a regulatory or penal effect, or are required by this Charter or state law to be done by ordinance, shall be enacted by ordinance. All other administrative measures, ministerial acts, expressions of current opinion or feeling of the city council, or temporary measures may be in the form of a resolution. The mayor may also from time to time issue nonbinding proclamations to honor or commemorate a group, event, person, or business in the city.

Section 3.07. Ordinances and city legislation; form; procedures.

(a) Every proposed ordinance should be introduced in writing and in the form required for final adoption. The enacting clause of every ordinance shall be "It is hereby ordained by the mayor and city council of the City of Rockmart..." and every ordinance shall begin.

(b) An ordinance may be introduced by any councilmember and read at a regular or special meeting of the mayor and city council. Ordinances shall be considered and either adopted or rejected by the mayor and city council in accordance with the rules it shall establish upon introduction of any ordinance. The clerk shall, as soon as possible, distribute a copy of same to the mayor and each councilmember and retain a reasonable number of copies in his or her office for inspection and copying by members of the public. The clerk shall also forward certified copies of all ordinances to the Municipal Code Corporation or any other person, firm, or corporation responsible for the codification of the city's ordinances, so that the city code can be properly revised and updated. After adoption of ordinances, the city clerk shall number them consecutively in the order of their final adoption and record them in a permanent record book used solely for this purpose. The clerk shall do likewise for resolutions, using a separate series of numbers and a separate record book. The city clerk shall file and preserve the original copies of all ordinances, resolutions, and any written motions.

Section 3.08. Emergencies.

(a) To meet a public emergency affecting life, health, property, or public peace, the city council may convene a special meeting on the call of the mayor, mayor pro tem and two councilmembers,

or a majority of councilmembers and promptly adopt an emergency ordinance. However, such an ordinance may not do any of the following:

(1) Levy taxes;

(2) Grant, renew, or extend a franchise;

(3) Regulate the rate charged by any public utility for its services; or

(4) Authorize the borrowing of money except for temporary loans to be repaid within 30 days.

(b) An emergency ordinance shall be introduced in the form prescribed for ordinances generally, except that it shall be plainly designated as an emergency ordinance and shall contain, after the enacting clause, a declaration stating that an emergency exists and describing the emergency in clear and specific terms. An emergency ordinance may be adopted, with or without amendment, or rejected at the meeting at which it is introduced, but the affirmative vote of at least three councilmembers shall be required for adoption. An emergency ordinance shall become effective immediately upon adoption or at such later time as it may specify.

(c) Every emergency ordinance may be repealed, or have no further force and effect on a date certain when the emergency has ended, if applicable. Otherwise, the ordinance shall remain in full force and effect until properly repealed.

(d) Emergency meetings shall be open to the public to the extent required by law and notice to the public of emergency meetings shall be made as fully as reasonably possible in accordance with Code Section 50-14-1 of the O.C.G.A. [O.C.G.A. § 50-14-1] or such applicable laws as are or may hereafter be enacted.

Section 3.09. Codes of technical regulations.

(a) The mayor and city council may adopt any standard code of technical regulations by reference thereto in an adopting ordinance. The procedure and requirements governing such adopting ordinance shall be as prescribed for ordinances generally except that:

(1) The requirements of section 3.07 of this Charter for distribution of copies of the ordinance shall be construed to include making available copies of any code of technical regulations, as well as the adopting ordinance; and

(2) A copy of each adopted code of technical regulations, as well as the adopting ordinance, shall be authenticated and recorded by the clerk pursuant to section 3.10 of this Charter.

(b) Copies of any adopted code of technical regulations shall be made available by the clerk for inspection by the public.

Section 3.10. Signing; authenticating; recording; codification; printing.

(a) The clerk shall authenticate by the clerk's signature and record all ordinances adopted by the city council in a properly indexed book kept for that purpose.

(b) The mayor and city council shall provide for the preparation of a general codification of all the ordinances of the city having the force and effect of law. The general codification shall be adopted by the mayor and city council by ordinance and shall be published promptly, together with all amendments thereto and such codes of technical regulations and other rules and regulations as the mayor and city council may specify. This compilation shall be known and cited officially as "The Code of the City of Rockmart, Georgia." Copies of the code shall be furnished to all officers, departments, and agencies of the city and made available for purchase by the public at a reasonable price as fixed by the mayor and city council.

(c) The mayor and city council shall cause each ordinance and each amendment to this Charter to be forwarded to the party responsible for codification and printed following its adoption. The printed ordinances and Charter amendments shall be made available for purchase by the public at reasonable prices to be fixed by the mayor and city council. Following publication of the first code under this Charter and at all times thereafter, the ordinances and Charter amendments shall be printed in substantially the same style as the code currently in effect and shall be suitable in

form for incorporation therein. The mayor and city council shall make such arrangements as deemed desirable with reproduction and distribution of any current changes in or additions to codes of technical regulations and other rules and regulations included in the code.

Section 3.11. Election of mayor; forfeiture; compensation.

The mayor shall be elected by a majority vote of all citizens of the City of Rockmart and serve for a term of four years until a successor is elected and qualified. The mayor shall be a qualified elector of this city and shall have been a resident of the city for no fewer than 12 months immediately preceding the election. The mayor shall continue to reside in this city during the period of service. The mayor shall forfeit the office or may be removed on the same grounds and under the same procedures as for councilmembers. The compensation of the mayor shall be established by ordinance in the same manner as for councilmembers.

Section 3.12. Powers and duties of mayor.

The mayor shall:

(1) Preside at all meetings of the city council;

(2) Have a vote only in case of a tie vote by councilmembers;

(3) Have veto power as outlined in section 3.13 of this Charter;

(4) Be the ceremonial head of the city;

(5) Sign ordinances and resolutions upon their final passage;

(6) Secure short-term loans in the name of the city when authorized by the city council to do so;

(7) Sign deeds, bonds, and contracts when authorized by the city council to do so;

(8) Serve as the registered agent for service of process in any legal action against the city;

(9) Be the executive head of the city government, responsible for the efficient and orderly administration of the city's affairs;

(10) Be responsible for the enforcement of the laws, rules, regulations, ordinances, and franchises in the city;

(11) Conduct inquiries and investigations into the conduct of the city's affairs, when he or she deems necessary, or upon vote of three councilmembers, as provided in section 2.06 of this Charter;

(12) Have the power to administer oaths and to take affidavits;

(13) Call special meetings of the city council as provided for in section 3.03 of this Charter;

(14) Direct the city attorney to take such legal action as the city council may determine;

(15) Make recommendations for committee appointments, to be approved by the city council; and

(16) Have and perform such other powers and duties as may be provided by this Charter and duly adopted ordinances not inconsistent herewith.

Section 3.13. Submission of ordinances to mayor; veto power.

(a) Every ordinance adopted by the city council shall be promptly presented to the mayor by the clerk no later than five calendar days from the date of the meeting at which it was adopted.

(b) Either at the meeting at which an ordinance was adopted or no later than five calendar days of receipt of an ordinance, the mayor shall return it to the clerk either with or without the mayor's approval. If the mayor has approved the ordinance, it shall become law immediately upon its return to the clerk. If the mayor neither approves nor disapproves the ordinance, it shall become law at 12:00 noon on the 11th calendar day after the city council meeting at which it was adopted. If the mayor expressly disapproves an ordinance, the mayor shall submit to the city council and clerk a written statement of reasons

for the veto. The statement of the mayor shall be circulated by the clerk to the city council. In all instances, the clerk shall record upon the ordinance the date it was delivered to and received from the mayor.

(c) If the mayor vetoes an ordinance as provided in this section, the clerk shall present said ordinance to the city council at its next regular or special meeting. If the city council then or at its next meeting adopts the ordinance by an affirmative vote of four councilmembers, the ordinance shall become law.

(d) The mayor may disapprove, veto, or reduce any item or items of appropriation in any ordinance or budget. The approved part or parts of any budget or ordinance making appropriations shall become law and the part or parts disapproved shall not become law unless subsequently passed by the city council over the mayor's veto as provided in this section. The reduced part or parts shall also be presented to the city council as if disapproved or vetoed by the mayor and shall not become law unless passed by the city council over the mayor's veto as provided in this section.

Section 3.14. Mayor pro tem.

(a) At the first regular meeting of the mayor and city council each year, the city council shall by majority vote elect another councilmember to serve as mayor pro tem for a term of one year. Upon the city council's failure to elect a mayor pro tem at its first regular meeting in January of each year, the incumbent councilmember who received the highest number of votes when last elected shall be declared mayor pro tem.

(b) The mayor pro tem shall assume the duties and powers of the mayor during the mayor's physical or mental disability or absence. Any such disability or absence shall be declared by a majority vote of the city council. In addition, the mayor pro tem shall sign all contracts and ordinances in which the mayor has a disqualifying financial interest as defined in section 2.05 of this Charter.

Section 3.15. Powers and duties of the city manager.

The mayor and city council shall appoint a city manager who shall be the chief administrative officer of the city. The city manager shall be responsible to the mayor and city council for the administration of all city affairs placed in the city manager's charge by or under this Charter. As the chief administrative office, the city manager shall:

(1) Serve as chief personnel officer for the city and appoint and, when the city manager deems it necessary for the good of the city, reprimand, suspend, remove, or otherwise take disciplinary action against all city employees and department heads the city manager appoints, except as otherwise provided by law or personnel ordinances adopted pursuant to this Charter. The city manager may authorize any department head who is subject to the city manager's direction and supervision to exercise these powers with respect to subordinates in that persons department, office, or agency;

(2) Direct and supervise the administration of all departments, offices, and agencies of the city, except as otherwise provided by this Charter or by law;

(3) Attend all city council meetings except for closed meetings held for the purpose of deliberating on the appointment, discipline, or removal of the city manager and have the right to take part in discussion but not vote;

(4) See that all laws, provisions of this Charter, and acts of the mayor and city council, subject to enforcement by the city manager or by officers subject to the city manager's direction and supervision, are faithfully executed;

(5) Along with the city clerk as finance officer, prepare and submit the annual operating budget and capital budget to the mayor and city council;

(6) Submit to the mayor and city council and make available to the public a complete report on the finances and administrative activities of the city as of the end of each fiscal year;

(7) Make such other reports as the mayor and city council may require concerning the

operations of city departments, offices, and agencies subject to the city manager's direction and supervision;

(8) Keep the mayor and city council fully advised as to the financial condition and future needs of the city and make such recommendations to the mayor and city council concerning the affairs of the city as the city manager deems desirable;

(9) Serve as purchasing agent for the city and approve all purchases and vouchers for same as set forth by ordinance; and

(10) Perform other such duties as are specified in this Charter or as may be required or directed by the mayor and city council.

Section 3.16. Mayor and city council involvement with administration.

It is the policy of the mayor and city council to encourage open discussion and communications among elected officials and city employees. Except for the purpose of inquiries and investigations under section 2.06 of this Charter, the mayor and city council or its members should make every effort to deal with city officers and employees who are subject to the direction and supervision of the city manager through the city manager to the extent possible. Neither the mayor and city council nor its members shall give orders to any such officer or employee, either publicly or privately.

Section 3.17. Acting city manager.

By letter filed with the city clerk, the city manager shall designate, subject to approval of the mayor and city council, a qualified city administrative officer to exercise the powers and perform the duties of city manager during the city manager's temporary absence or physical or mental disability. During such absence or disability, the mayor and city council may revoke such designation at any time and appoint another officer of the city to serve until the city manager shall return or the city manager's disability shall cease. Any such absence or disability shall be declared by majority vote of the mayor and city council.

Section 3.18. City clerk.

The mayor and city council shall appoint a city clerk who shall not be a councilmember. The clerk shall perform the following duties:

(1) Keep and preserve the official city seal and all city records;

(2) Attend meetings of the mayor and city council and keep the official minutes of its proceedings, including the names of members and other parties present and absent, the vote of each councilmember on each resolution, ordinance, motion, or other official action considered;

(3) Prepare and certify copies of official records when requested, for which fees may be prescribed by ordinance;

(4) Serve as chief financial officer of the city and work in coordination with the city manager in budget preparation and review;

(5) Maintain a book or record of registration of franchises granted by the city pursuant to section 4.13 of this Charter; and

(6) Perform such other duties as may be required by the mayor and city council.

Section 3.19. Removal of officers.

(a) The mayor, any councilmember, city manager, or city clerk may be removed from office for any one or more of the following causes:

(1) Incompetence, misfeasance, or malfeasance in office;

(2) Conviction of a felony or other crime involving moral turpitude;

(3) Failure at any time to possess any qualifications of office as provided by this Charter or other law;

(4) Knowingly violating section 2.05 of this Charter or any other express prohibition of this Charter or code of the City of Rockmart;

(5) Abandonment of office or neglect to perform the duties thereof; or

(6) Failure for any other cause to perform the duties of office as required by this Charter, the Rockmart Code of Ordinances, or general state law.

(b) For purposes of subparagraph (a)(2) of this section, the term "moral turpitude" is defined as a crime involving an act which implicates the honesty and integrity of the perpetrator and in particular shall include any crime involving theft, deceit, or fraud.

(c) In the event an elected or appointed officer is sought to be removed by action of the city council, such officer shall be entitled to written notice specifying the ground or grounds for removal and to a public hearing, which shall be held no less than ten days after service of such written notice. Removal of any elected or appointed officer pursuant to subsection (a) of this section shall be accomplished by the affirmative vote of four councilmembers after an investigative hearing. Any and all hearings held pursuant to this section shall be conducted in accordance with Chapter 14 of Title 50 of the O.C.G.A. [O.C.G.A. § 50-14-1 et seq.], the "Georgia Open Meetings Act," to the greatest extent reasonably possible.

(d) Any elected or appointed officer sought to be removed from office as provided in this section shall have the right of appeal from the decision of the city council to the Superior Court of Polk County. Such appeal shall be governed by the same rules as governed appeals to the superior court from the probate court of Polk County.

Section 3.20. City attorney.

The mayor and city council shall appoint a city attorney, together with such assistant city attorneys as may be authorized or required, and shall provide for payment of such attorney or attorneys for services rendered to the city. The city attorney shall perform the following duties:

(1) Provide for the representation and defense of the city in all litigation in which the city is a party;

(2) May be the prosecuting officer or solicitor in the municipal court;

(3) Attend all meetings of the mayor and city council as directed;

(4) Advise the mayor and city council and other city officers and employees concerning legal aspects of the city's affairs;

(5) Approve as to form and legality all contracts, deeds, ordinances, resolutions, and motions as presented or prescribed by the mayor and city council; and

(6) Perform such other duties as may be required by virtue of that person's position as city attorney.

Section 3.21. Employment and personnel matters.

The city council shall adopt rules, regulations, and policies consistent with this Charter concerning the following:

(1) The method of employee selection and probationary periods of employment;

(2) The administration of a position classification and pay plan, and methods of promotion and transfer within the classification plan;

(3) Hours of work, vacation, sick leave and other leaves of absence, overtime pay, and rules governing layoffs or similar reductions in force;

(4) Such dismissal hearings as due process may require; and

(5) Such other personnel policies, regulations, provisions, or notices as may be necessary to provide for the adequate and systematic handling of personnel matters.

Section 3.22. Boards, commissions, and authorities.

(a) The mayor and city council shall create by ordinance such boards, commissions, and authorities to fulfill any investigative, quasi-judicial, or quasi-legislative function the mayor and city council deems necessary and shall by ordinance establish the composition, period of existence, duties, and powers thereof.

(b) All members of boards, commissions, and authorities of the city shall be appointed by the mayor and city council for such terms of office and

in such manner as shall be provided by ordinance, except where other appointing authority, terms of office, or manner of appointment is prescribed by this Charter or by law.

(c) The mayor and city council, by ordinance, may provide for the compensation and reimbursement for actual and necessary expenses of the members of any board, commission, or authority.

(d) Except as otherwise provided by Charter or by law, no more than two members of any board, commission, or authority shall hold any elective office in the city.

(e) Any vacancy on a board, commission, or authority of the city shall be filled for the unexpired term in the manner prescribed herein for original appointment, except as otherwise provided by this Charter or by law.

(f) All board members serve at will and may be removed at any time by the affirmative vote of four members of the city council unless otherwise provided by law.

(g) Except as otherwise provided by this Charter or by law, each board, commission, or authority of the city shall elect one of its members as chair and one member as vice chair, and may elect as its secretary one of its own members or may appoint as secretary an employee of the city. Each board, commission, or authority of the city government may establish such bylaws, rules, and regulations, not inconsistent with this Charter, ordinances of the city, or law, as it deems appropriate and necessary for the fulfillment of its duties or the conduct of its affairs. Copies of such bylaws, rules, and regulations shall be filed with the clerk of the city.

Section 3.23. Department heads.

(a) Except as otherwise provided herein, the mayor and city council shall by ordinance prescribe the functions and duties and establish, abolish, or alter all nonelective offices, positions of employment, departments, and agencies of the city as necessary for the proper administration of the affairs and government thereof.

(b) Except as otherwise provided herein or by other law, the department heads and other officers of the city shall be appointed solely on the basis of their administrative and professional qualifications.

(c) All appointed officers and department heads shall receive such compensation as is determined by the mayor and city council.

(d) There shall be a director or head of each department or agency who shall be its principal officer. Each department head shall be responsible for the administration and direction of the affairs and operations of his or her department or agency, subject to the direction and supervision of the city manager.

ARTICLE IV. FINANCE AND FISCAL ADMINISTRATION

Section 4.01. Fiscal year.

The mayor and city council shall set the fiscal year by ordinance. This fiscal year shall constitute the budget year and the year for financial accounting and reporting of each and every office, department, agency, and activity of the city government.

Section 4.02. Preparation of budgets.

The mayor and city council shall adopt an annual operating budget, a capital improvement plan, and a capital budget, including requirements as to the scope, content, and form of such budgets and plans.

Section 4.03. Submission of operating budget to city council.

(a) On or before a date fixed by the city council, but not later than 30 days prior to the beginning of each fiscal year, the city manager in coordination with the city clerk shall submit to the mayor and city council a proposed operating budget for the ensuing fiscal year, showing the following:

(1) The revenue and expenditure during the previous fiscal year;

(2) Appropriations and estimated revenue and expenditures for the current fiscal year;

(3) Estimated revenue and recommended expenditures for the ensuing fiscal year;

(4) A comparative statement of the assets, liabilities, reserves, and surplus at the end of the previous fiscal year, and estimated assets, liabilities, reserves, and surplus, both at the end of the current fiscal year and the ensuing fiscal year; and

(5) Such other information and data as may be considered necessary by the mayor and city council.

(b) The budget shall be accompanied by a message from the city manager containing a statement of the general fiscal policies of the city, the important features of the budget, explanations of any major changes recommended for the next fiscal year, a general summary of the budget, and any other pertinent comments and information the city manager feel necessary. The operating budget and the capital budget hereinafter provided for, the budget message, and all supporting documents shall be maintained in the office of the city clerk and shall be open to public inspection.

Section 4.04. Action by city council on budget.

(a) The mayor and city council may amend the proposed operating budget submitted by the city manager. However, the budget as finally amended and adopted must provide for all expenditures required by state law or by other provisions of this Charter and for all debt service requirements for the ensuing fiscal year. Moreover, the total appropriations from any funds shall not exceed the estimated fund balance, reserves, and revenues.

(b) The mayor and city council by ordinance shall adopt a final operating budget for the ensuing fiscal year, no later than the regular scheduled June city council meeting for each year. If the city council fails to adopt the budget on or before the date set out herein, the amounts appropriated for operation for the current fiscal year shall be deemed adopted for the ensuing fiscal year on a month to month basis, with all items prorated accordingly until such time as the mayor and city council adopt a budget for the ensuing fiscal year. Notice of any or all meetings at which the budget is adopted shall be given as provided by state law.

(c) Adoption of the budget shall take the form of an appropriations ordinance setting out the estimated revenues in detail by sources and making appropriations according to fund and by organizational unit, purpose, or activity as set out in the budget preparation ordinance adopted pursuant to section 4.03 of this Charter.

(d) The amount set out in the adopted operating budget for each organizational unit shall constitute the annual appropriation for same and no expenditures shall be made or any encumbrance created in excess of the otherwise encumbered balance of the appropriations or allotment thereof to which it is chargeable unless the budget is amended and such excess expenditure approved by the mayor and city council. In addition, the mayor and city council shall not make any appropriations in excess of any estimated revenue, except to provide for an actual emergency threatening the health, property, or lives, safety, or general welfare of the inhabitants of the city, which emergency shall be declared by the affirmative vote of three members of the city council.

Section 4.05. Changes in appropriations.

The mayor and city council may by ordinance make changes in the appropriations contained in the adopted operating budget at any regular meeting or any special or emergency meeting called for that purpose, but any such additional appropriations may be made only for an existing anticipated unappropriated surplus in the fund to which it applies.

Section 4.06. Lapse of appropriations.

Any unencumbered balances of appropriations in the current operating budget at the end of the fiscal year shall lapse into the unappropriated surplus or reserves of the fund or funds from which such appropriations were made.

Section 4.07. Capital budget.

(a) On or before a date fixed by the mayor and city council, but no later than 30 days prior to the beginning of each fiscal year, the city manager shall submit to the mayor and city council a proposed capital improvement plan with a recommended capital budget containing the means of

financing the improvements proposed for the ensuing fiscal year. The mayor and city council shall have the power to accept, with or without amendments, or reject the proposed plan and budget. The mayor and city council shall not authorize an expenditure for the construction of any building, structure, work, or improvement on any public property, unless the appropriations for such project are included in the capital budget, except to meet a public emergency that threatens the lives, health, property, or general welfare of the citizens of Rockmart, which emergency shall be declared by the affirmative vote of three members of the city council.

(b) The city council shall adopt by ordinance the final capital budget for the ensuing fiscal year, not later than the regular June meeting before the beginning of said year. No appropriation provided for in a prior capital improvements budget shall lapse until the purpose for which the appropriation was made has been completed or abandoned. However, the city manager may submit to the city council amendments to the capital budget at any time during the fiscal year, accompanied by recommendations. Any such amendments to the capital budget shall become effective only upon their adoption by ordinance and by the affirmative vote of three members of the city council. In addition, the capital improvements budget may be revised and extended each year with regard to capital improvements still pending or in the process of construction or acquisition.

Section 4.08. Independent audit.

There shall be an annual independent audit of all city accounts, funds, and financial transactions by a certified public accountant selected by the city council. The accountant shall conduct this audit according to generally accepted auditing and accounting principles and file a report with the mayor and city council, as well as a summary thereof, both of which shall be furnished or made available to the mayor and every councilmember. Any audit of any funds by the state or federal governments may be accepted as satisfying the requirements of this Charter.

Section 4.09. Property taxes.

The mayor and city council may assess, levy, and collect an ad valorem tax on all real and personal property that is subject to taxation by the state and county, provided that such property is located within the corporate limits of the city. These taxes shall be levied for the purpose of raising revenues to defray the costs of operating the city government, providing governmental services, repayment of principal and interest on general obligations, and for any other public purpose as may be determined by the mayor and city council in their discretion.

Section 4.10. Millage rate; due dates; payment methods.

(a) The mayor and city council shall by ordinance establish a millage rate for city property taxes, a due date for payment of said taxes, and a time period within which these taxes must be paid. The city shall send a tax bill to all taxpayers and residents of the city showing the due date, assessed valuations, amount of tax due, and information as to delinquency dates and future interest. Failure to send such tax bills shall not, however, invalidate any tax.

(b) The mayor and city council may by ordinance provide for the payment of these taxes in one lump sum or in installments, subject to the restrictions contained in state law, and also authorize the voluntary payment of taxes prior to their due dates.

(c) All taxes due to the city shall bear interest at the maximum interest rate specified by state law for delinquent taxes. Any period of less than one month shall be considered to be one month for the purpose of calculating interest under this section. The city shall have the right to enforce, collect, or both, any delinquent taxes to the fullest extent permitted by general law.

Section 4.11. Occupation and business taxes.

The mayor and city council shall by ordinance have the power to levy such occupation or business taxes as are authorized by law. The mayor and city council may further classify businesses, occupations, or professions for the purpose of such taxation in accordance with state law and may compel the payment of such taxes as provided in section 4.17 of this Charter.

Section 4.12. Regulatory fees; permits.

The mayor and city council shall by ordinance have the power to require businesses or practitioners doing business within the city to obtain a permit for such activity from the city and pay a reasonable regulatory fee for such permit, as provided by state law. Such fees shall reflect the approximate total costs to the city of regulating the activity, and, if unpaid, shall constitute a lien against the property or person liable therefor and may be collected as provided in section 4.17 of this Charter.

Section 4.13. Franchises.

(a) The mayor and city council shall have the power to grant franchises for the use of the city's rights of way, streets, and alleys for use by railroads, street railways, telephone companies, electric companies, electric membership corporations, cable television and other telecommunications companies, Internet providers, fiber optic network providers, gas companies, transportation companies, and other similar organizations. The mayor and city council shall determine the duration, terms, and consideration for such franchises, and whether they shall be exclusive or nonexclusive. However, no franchise shall be granted for a period in excess of 35 years and no franchise shall be granted unless the city receives just and adequate compensation therefor.

(b) The mayor and city council shall provide for the registration of all such franchises with the city clerk in a registration book to be maintained by the clerk and may provide by ordinance for the registration within a reasonable time of all franchises previously granted.

(c) If no franchise agreement is in effect, the mayor and city council has the authority to impose a tax on gross receipts for the use of the city's rights of way, streets, and alleys for use by railroads, street railways, telephone companies, electric companies, electric membership corporations, cable television and other telecommunications companies, Internet providers, fiber optic network providers, gas companies, transportation companies, and other similar organizations.

Section 4.14. Service charges; utilities.

The mayor and city council shall by ordinance have the power to assess and collect fees and tolls for water, sewer, sanitary and health services, or any other similar services provided or made available both within and beyond the corporate limits of the city for the total costs to the city of providing and making such services. Such charges, if unpaid, shall be collected as provided in section 4.17 of this Charter and shall constitute a lien against any person or property served.

Section 4.15. Special assessments.

The mayor and city council shall by ordinance have the power to assess and collect the costs of constructing or reconstructing, widening, or improving any public way, street, sidewalk, curbing, gutters, sewers, or other utility mains and appurtenances, from the abutting property owners on a pro rata basis or under such other terms and conditions as may be reasonable or agreed upon by the parties. Such charges, if unpaid, shall be collected as provided in section 4.17 of this Charter and shall constitute a lien against the person or property assessed.

Section 4.16. Other taxes and fees; construction.

The mayor and city council shall be empowered to levy any other tax or fee now or hereafter permitted by law. The specific inclusion of any right, power, or authority in this article shall not be construed as limiting in any way the general powers of the city to collect taxes, fees, charges, and other moneys, and otherwise govern its local affairs.

Section 4.17. Collection of delinquent taxes and fees.

The mayor and city council may by ordinance provide generally for the collection of any delinquent taxes, fees, charges, or other moneys due the city under sections 4.10 through 4.16 of this Charter by whatever reasonable means as may be permitted by law. This shall include, but not be limited to, the following:

(1) Providing for the dates when such taxes or fees are due;

(2) Fixing late penalties or interest, or both;

(3) Issuance and execution of fi. fas., judgments, or other liens;

(4) Creation and priority of liens;

(5) Making delinquent taxes and fees personal debts of the person or persons required to pay same;

(6) Revoking city permits or other licenses for failure to pay any city taxes or fees;

(7) Providing for the assignment or transfer of tax executions; and

(8) Taking such other action as may be necessary and authorized by law to collect such unpaid taxes, fees, or other charges.

It is the general intent of this article to provide that all unpaid city taxes, fees, charges, or other moneys due the city under this Charter shall constitute a lien against the property, person, or both for which the taxes, fees, or charges are levied, to enable the city to collect and enforce payment of same to the greatest extent possible.

Section 4.18. General obligation bonds.

The mayor and city council shall have the power to issue bonds for the purpose of raising revenue to carry out any project, program, or venture authorized under this Charter or the laws of this state. Such bonding authority shall be exercised in accordance with the laws governing bond issuance by municipalities in effect at the time said issue is undertaken.

Section 4.19. Revenue bonds.

The mayor and city council may issue revenue bonds as provided by state law now or hereafter amended. Such bonds are to be paid out of any revenue produced by the project, program, or venture for which they were issued.

Section 4.20. Short-term loans.

The mayor and city council may obtain short-term loans and must repay such loans not later than December 31 of each year, unless otherwise provided by law.

Section 4.21. Lease-purchase contracts.

The mayor and city council may enter into multiyear lease, purchase, or lease purchase contracts for the acquisition of goods, materials, real and personal property, services, and supplies, provided the contract terminates without further obligation on the part of the municipality at the close of the calendar year in which it was executed and at the close of each succeeding calendar year for which it may be renewed. Contracts must be executed in accordance with the requirements of Code Section 36-60-13 of the O.C.G.A. [O.C.G.A. § 36-60-13] or other such applicable laws as are or may hereafter be enacted.

Section 4.22. Contracting procedures.

No long-term or substantial contract with the city shall be binding on the city unless:

(1) It is in writing;

(2) It is drawn by or submitted and reviewed by the city attorney, and as a matter of course, is signed by the city attorney to indicate such drafting or review; and

(3) It is made or authorized by the city council and such approval is entered in the city council minutes of proceedings pursuant to section 2.21 of this Charter.

The city shall follow the requirements of state law with regard to any "public works construction projects" as defined by Code Section 36-91-1 of the O.C.G.A., et seq., [O.C.G.A. § 36-91-1 et seq.] or other such applicable laws as are or may hereafter be enacted in giving notice, receiving bids, requiring performance and payment bonds, and entering into contracts for such projects. The city manager shall have the discretion to require any outside contractors, subcontractors, or other persons, firms, or corporations to execute a written contract or letter or memorandum of understanding in all outside city projects costing in excess of $5,000.00, depending on the nature of the project. For purposes of this section, "long-term or substantial" shall mean any contract of a duration exceeding 12 months or involving the payment by the city of more than $50,000.00 for any goods, services, equipment, or materials.

Section 4.23. Centralized purchasing.

The mayor and city council may by ordinance prescribe procedures for a system of centralized purchasing for the city.

Section 4.24. Sale and lease of city property.

(a) The mayor and city council may sell and convey or lease any real or personal property owned or held by the city for governmental or other purposes as now or hereafter provided by law.

(b) The mayor and city council may quitclaim any rights it may have in property not needed for public purposes upon report by the city manager and adoption of a resolution, both finding that the property is not needed for public or other purposes and that the interest of the city has no readily ascertainable monetary value.

(c) Whenever in opening, extending, or widening any street, avenue, alley, or public place of the city, a small parcel or tract of land is cut-off or separated by such work from a larger tract or boundary of land owned by the city, the mayor and city council may authorize the city manager to sell and convey said cut-off or separated parcel or tract of land to an abutting or adjoining property owner or owners where such sale and conveyance facilitates the enjoyment of the highest and best use of the abutting owner's property. Included in the sales contract shall be a provision for the rights of way of said street, avenue, alley, or public place. Each abutting property owner shall be notified of the availability of the property and given the opportunity to purchase said property under such terms and conditions as set out by ordinance. The city shall also have discretion to retain any utility easements as may be necessary with regard to such property. All deeds and conveyances heretofore and hereafter so executed and delivered shall convey any title and interest the city may have in such property, notwithstanding the fact that no public sale after advertisement was or is hereafter made.

(d) Any person, firm, or corporation who purchases property from the city pursuant to this section shall be responsible for any and all fees, costs, or other expenses associated with the transaction, including, but not limited to, attorneys' fees, recording costs, survey and appraisal fees, and similar such expenses, except as otherwise agreed between the city and the purchaser.

ARTICLE V. ELECTIONS

Section 5.01. Applicability of general law.

All primaries and elections for any elected office in the City of Rockmart government or any other matter that is properly the subject of a municipal election shall be held and conducted in accordance with general state law governing elections as contained in Chapter 2 of Title 21 of the O.C.G.A., [O.C.G.A. § 21-2-1 et seq.] the "Georgia Election Code," or as may hereafter be amended.

Section 5.02. Regular elections; time for holding.

(a) The regular municipal general election for mayor and councilmembers shall be held biannually on the first Tuesday next following the first Monday in November in each odd numbered year. The terms of office shall begin on January 1 of the year next following such election. Officials elected at any such election shall be sworn in at the first regular meeting of the mayor and city council in January next following such election.

(b) There shall be elected the mayor and city councilmembers from wards 2 and 5 at the municipal general election in 2007 and at every other municipal general election thereafter. There shall be elected the councilmembers from wards 1, 3, and 4 at the municipal general election in 2009 and at every other municipal general election thereafter so that a continuing body is created.

Section 5.03. Wards; ward residency requirements.

(a) The City of Rockmart shall be divided into five wards to be numbered from one to five, all as more particularly shown and depicted on the 2000 Census Map of the City of Rockmart, on file in the

office of the clerk, and including more specifically within each ward the following census blocks of the respectively designated census tracts:

(1) Ward 1.

Census tract no. 9906:

Census blocks 1009, 1012-1022, 1025-1027, 1031-1034, 1036-1043, 1049, 1050, 1053, 1054, 1060-1068, 1089, 1090, and 2008-2017.

Census tract no. 9907:

Census blocks 1005, 1006, 1016, and 1015.

(2) Ward 2.

Census tract no. 9907:

Census blocks 3007, 3009, 3012, 3013, 3019-3044, 4011, 4013-4022, 4024, 4026-4028, 4034, and 5010-5011.

(3) Ward 3.

Census tract no. 9906:

Census blocks 1028-1029, 1055-1057, 1069-1088, 2038-2040, 3000, 3019-3025.

Census tract no. 9907:

Census blocks 2009, 3010, and 3011.

(4) Ward 4.

Census tract no. 9907:

Census blocks 2001, 2002, 2004, 2005, 2007, 2008, 2010-2016, 2018-2023, 3000-3006, 3008, 3014-3018, and 4012.

(5) Ward 5.

Census tract no. 9906:

Census blocks 1010-1012, 1018, 1019, 1021-1027, 1029-1037, 1040-1042, 2000, 2003, 2017, and 4003.

(b) When used in subsection (a) of this section, the terms "tract" and "BG" (Block Group) shall mean and describe the same geographical boundaries as provided in the report of the Bureau of the Census for the United States decennial census of 2000 for the State of Georgia. The separate numeric designations in a tract description which are underneath a "BG" heading shall mean and describe individual blocks within a block group as provided in the report of the Bureau of the Census for the United States decennial census of 2000 for the State of Georgia. Any part of the City of Rockmart which is not included in any such ward described in subsection (a) of this section shall be included within that ward contiguous to such part which contains the least population according to the United States decennial census of 2000 for the State of Georgia. Any part of the City of Rockmart which is described in subsection (a) of this section as being in a particular ward shall nevertheless not be included within such ward if such part is not contiguous to such ward. Such noncontiguous part shall instead be included within that ward contiguous to such part which contains the least population according to the United States decennial census of 2000 for the State of Georgia. Except as otherwise provided in the description of any ward, whenever the description of such ward refers to a named city, it shall mean the geographical boundaries of that city as shown on the census map for the United States decennial census of 2000 for the State of Georgia.

(c) One councilmember shall be elected from each of the five wards of the City of Rockmart as described in subsection (a) of this section. At the time of qualification for office, each councilmember shall be a resident of the ward which he or she is elected to represent and shall be elected by a majority of the voters voting within that ward and not at large. The mayor shall be a resident of the city and shall be elected by a majority of the voters of the entire city.

Section 5.04. Nonpartisan elections.

Political parties shall not conduct primaries for city offices and all names of candidates for city offices shall be listed without party designations.

Section 5.05. Election by majority.

The candidate receiving a majority of the votes cast for any city office shall be elected to serve in that office.

Section 5.06. Special elections; vacancies.

(a) In the event that the office of mayor or councilmember shall become vacant as provided in section 2.03 of this Charter, and such vacancy

occurs during the final 27 months of the terms of the vacant office, then the mayor and city council or those remaining shall appoint a successor for the remainder of the term. If such vacancy occurs before the final 27 months of such term of office, the election superintendent of the city shall call a special election to fill the remainder of the term of office. Persons appointed or elected to fill a vacancy shall possess the same qualifications as required in the office vacated and serve the remainder of the unexpired term and until a successor is regularly elected and qualified. Any special election held pursuant to this section shall be conducted in accordance with general state law regarding municipal elections, as contained in Title 21 of the O.C.G.A. [O.C.G.A. § 21-1-1 et seq.] as now or hereafter amended. Such election shall be held as soon as permitted under state law from the date such vacancy occurs.

(b) Special elections may be called at any time by the mayor and city council for the purpose of voting on bond issues, general obligation debt, or other questions required or permitted by law to be presented to the citizens of the City of Rockmart. In all such special elections, the city shall follow the procedure established for municipal general elections, as well as any additional requirements of state law with regard to bond issues, general obligation debt, or other proper ballot questions.

Section 5.07. Rules and regulations.

Except as otherwise provided by this Charter, the mayor and city council shall, by ordinance, describe such rules and regulations as it deems appropriate to fulfill any options and duties it may have, as contained in Chapter 2 of Title 21 of the O.C.G.A. [O.C.G.A. § 21-2-1 et seq.] as presently enacted or hereafter amended.

ARTICLE VI. JUDICIAL BRANCH

Section 6.01. Creation; name.

There is hereby established a court to be known as the Municipal Court of the City of Rockmart.

Section 6.02. Municipal judge.

(a) The Rockmart municipal court shall be presided over by a part-time municipal judge and any other stand-by or substitute judges as may be provided by ordinance.

(b) No person shall be qualified and eligible to serve as a judge of the Municipal Court of the City of Rockmart unless that person:

(1) Has attained the age of 30 years;

(2) Is an attorney at law, duly licensed and in good standing to practice law in the State of Georgia;

(3) Has obtained or will obtain within 12 months after appointment any and all licenses or certifications as may be required by general law;

(4) Possesses all other qualifications as may be required by law; and

(5) The judge shall serve for a period of one year, to be appointed by the Mayor, subject to approval by the Council, on January 1, 2017 and each year thereafter for a one year term. Any judge so appointed shall be subject to the removal provisions contained in O.C.G.A. § 36-32-2.2; or any and all other provisions of state law presently in force at the time of any action of removal or other sanctions regarding the continuation of a municipal judge in that position.

All municipal judges shall serve until a successor is duly appointed and qualified.

(c) The mayor and city council shall fix the compensation of the municipal judge or judges.

(d) Before assuming office, the municipal judge shall take an oath, to be administered by the mayor, that he or she will honestly and faithfully discharge the duties of office to the best of his or her ability, and without fear, favor, or partiality. The oath shall be entered upon the minutes of the city council as maintained by the clerk pursuant to section 3.18 of this Charter.
(Ord. No. 2016O-04, §§ 1, 2, 7-12-2016)

Section 6.03. Court proceedings; schedules.

The Rockmart municipal court shall be convened at regular intervals and at such other times as may be determined by the judge. A court schedule shall be published and made available to the public, either at city hall or at the Rockmart police department.

Section 6.04. Jurisdiction; powers.

(a) The Rockmart municipal court shall try and punish violations of this Charter, all city ordinances, and such other violations as permitted by general state law.

(b) The Rockmart municipal court shall have the authority to punish those in its presence for contempt, provided that such punishment shall not exceed a fine as authorized by law or ten days in jail.

(c) The Rockmart municipal court may fix punishment for offenses within its jurisdiction, not to exceed a fine of $1,000.00, or imprisonment for six months, or both a fine and imprisonment, or may fix punishment by fine, imprisonment, community service, or any other form of alternative sentencing as now or hereafter provided by law. If state law authorizes punishment in excess of the fine or imprisonment specified herein, then the court may impose the greater punishment.

(d) The Rockmart municipal court shall have authority to establish a schedule of fees to defray its costs of operation, and, with regard to prisoners bound over to any superior court for violations of state law, shall be entitled to reimbursement for the actual costs of meals, transportation, general caretaking expenses, court costs, administrative fees, and such other fees as are authorized to be collected by Georgia law as presently enacted or hereafter amended.

(e) The Rockmart municipal court shall have the authority to establish bail and recognizance to insure the presence of those charged with violations before said court and shall have discretionary authority to accept cash or personal or real property as surety for the appearance of persons charged with such violations. Whenever any person gives bond for his or her appearance and fails to appear at the time fixed for trial, the bond shall be forfeited by the judge presiding at that time and execution shall be issued thereon by serving the defendant and the defendant's sureties with a rule nisi, at least five days before a hearing thereon. In the event that cash or property is accepted in lieu of bond to secure the appearance of a defendant at trial, and if such defendant fails to appear at the time and place fixed for trial, the cash so deposited shall be on order of the municipal judge declared forfeited to the city; or the property so deposited shall have a lien against it for the amount forfeited, which lien shall be enforceable in the same manner and to the same extent as a lien for unpaid city property taxes and fees.

(f) The Rockmart municipal court shall have the same authority as the Superior Court of Polk County to compel the production of evidence in the possession of any party, to enforce obedience to its orders, judgments, or sentences, and to administer such oaths as may be necessary.

(g) The Rockmart municipal court shall have the authority to bind defendants over to the appropriate court when it appears by probable cause that state law has been violated, or where a defendant makes a written request for a trial by jury, or under other circumstances in which a transfer is authorized by state law.

(h) The judge of the Rockmart municipal court may compel the presence of all parties necessary for the proper disposal of each case by the issuance of summons, subpoenas, and warrants, which may be served or executed by any officer as authorized by this Charter or other law.

(i) The judge of the Rockmart municipal court shall be authorized to issue warrants for the arrest of any person or persons charged with violations of any ordinances of the city. The judge shall have the same authority as a magistrate of the state or county to issue warrants for violations of state laws committed within the corporate limits of the City of Rockmart. The judge shall also have the authority to issue warrants for the arrest of persons charged with violating any of the terms or conditions of any sentence of probation imposed upon them in the municipal court and revoke any or all of said

person's remaining probated sentence, if those persons are found to have violated the terms and conditions of their probation.

(j) The Rockmart municipal court is specifically vested with all jurisdiction and power throughout the corporate limits of the city as granted generally by law to municipal courts and particularly by such laws that authorize the abatement of nuisances and prosecution of traffic violations.

(k) Subject to the approval of the mayor and city council, the municipal court is further authorized to enter into any contracts or agreements it deems necessary or expedient for certain services, including, but not limited to, housing persons charged with city offenses in other jail facilities, probation and related supervision services, collection of fines, fees, and other delinquent payments, and similar such services.

Section 6.05. Certiorari.

The right of certiorari from the decisions and judgments of the Rockmart municipal court shall exist in all criminal cases, ordinance violation cases, and such other cases in which certiorari is appropriate under state law. Such certiorari shall be obtained under the sanction of a judge of the Superior Court of Polk County and under the laws of the State of Georgia regulating the granting and issuance of writs of certiorari.

Section 6.06. Rules of court.

With the approval of the city council, the municipal judge shall have full power and authority to make reasonable rules and regulations necessary and proper to secure the efficient and successful administration of the Rockmart municipal court. However, the city council may adopt, in whole or in part, the rules and regulations applicable to superior courts. The rules and regulations made or adopted shall be filed with the city clerk and made available for public inspection. Upon written request, a copy of said rules and regulations shall be furnished to all defendants in municipal court cases at least 48 hours prior to their arraignment, trial, or any other hearing or proceeding.

ARTICLE VII. GENERAL PROVISIONS

Section 7.01. Bonds for city officials.

The officers and employees of the City of Rockmart, both elected and appointed, may be required to execute such surety or fidelity bonds in such amounts and upon such terms and conditions as the city council may from time to time require by ordinance, or as may be provided by law. Any and all premiums or other costs of such bonds, unless otherwise provided by ordinance or other law, shall be paid by the city.

Section 7.02. Existing ordinances, resolutions, rules, and regulations.

All ordinances, resolutions, rules, and regulations now enforced in the city that are not inconsistent with this Charter are declared valid and are in full force and effect until amended or repealed by the city council.

Section 7.03. Pending matters.

Except as specifically provided otherwise in this Charter, all rights, claims, actions, orders, contracts, and any other legal or administrative proceedings existing on or before the date this Charter becomes effective shall continue as they had before the effective date hereof, and any such ongoing projects, work, or cases shall be completed by such city agencies, personnel, departments, authorities, or offices as may be provided by the mayor and city council.

Section 7.04. Construction.

(a) Section captions in this Charter are informative only and are not to be considered as a part of the sections which they describe.

(b) The word "shall" is mandatory and the word "may" is permissive.

(c) The singular shall include the plural, the masculine shall include the feminine, and vice versa.

Section 7.05. Severability.

If any article, section, subsection, paragraph, sentence, or part thereof of this Charter shall be

held to be unconstitutional or otherwise invalid, such unconstitutionality or invalidity shall not affect or impair other parts of this Charter unless it clearly appears that such other parts are wholly and necessarily dependent upon the part held to be unconstitutional or otherwise invalid. It is the legislative intent of the General Assembly in enacting this Charter that each article, section, subsection, paragraph, sentence, or part thereof be enacted separately and independent of each other.

Section 7.06. Specific repealer.

An Act incorporating the City of Rockmart in the County of Polk, approved on April 8, 1968 (Ga. L. 1968, p. 3224), is hereby repealed in its entirety and all amendatory acts thereto are likewise repealed in their entirety. It is the intent and purpose of this Charter to replace and supersede the above-referenced Charter, and any Charter provisions previously enacted.

Section 7.07. Effective date.

This Act shall become effective upon its approval by the Governor or upon its becoming law without such approval.

Section 7.08. Repealer.

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

CHARTER COMPARATIVE TABLE

LOCAL ACTS

The following table shows the location of amendments to the Charter. The Charter is derived from 2004 Ga. Laws (Act No. 682), page 3910.

CHARTER COMPARATIVE TABLE

ORDINANCES

The following table shows the location of ordinance amendments to the Charter.

Ordinance Number	Date	Section	Section in Charter
2016O-04	7-12-2016	1, 2	6.02

PART II

CODE OF ORDINANCES

Chapter 1

GENERAL PROVISIONS

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

The ordinances embraced in this and the following chapters shall constitute and be designated "The Code of Rockmart, Georgia," and may be so cited.
(Code 1976, § 1-1)

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

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

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

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

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

*Liberal construction; minimum requirements; overlapping provision*s. 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 city council may be fully carried out. In the interpretation and application of any provision of this Code, they shall be held to be the minimum requirements adopted for the promotion of the public health, safety, comfort, convenience and general welfare. Where any provision of this Code imposes greater restrictions upon the subject matter than the other provisions of this Code, the provision imposing the greater restriction or regulation shall be deemed to be controlling. The specific controls over the general.

Charter. The term "Charter" means the Charter of the City of Rockmart, Georgia, as amended.

City. The term "city" means the City of Rockmart, Georgia.

City clerk and *clerk.* The terms "city clerk" and "clerk" mean the City Clerk of the City of Rockmart.

City manager. The terms "manager" and "city manager" mean the City Manager of the City of Rockmart.

Code. The term "Code" means The Code of Rockmart, 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.

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

Council and *city council.* The terms "council" and "city council" mean the City Council of the City of Rockmart, Georgia.

County. The term "county" means Polk 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.

Gender. Words of one gender include all other genders.

State law reference—Gender, O.C.G.A. § 1-3-1(4).

Interpretation. In the interpretation and application of any provision of this Code, it 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 the Code imposes greater restrictions upon the subject matter than the general provision imposed by the Code, the provision imposing the greater restriction or regulation shall be deemed to be controlling.

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.

State law reference—Similar provisions, O.C.G.A. § 1-3-1(5).

Judge. The term "judge" where used in this Code means the Judge of the Municipal Court of Rockmart, Georgia, except where otherwise stated.

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

Limits, corporation and *city.* The terms "limits," "corporation" and "city" mean the corporate limits of the city, the legal boundary of the City of Rockmart.

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.

State law reference—Similar provisions, O.C.G.A. § 1-3-3(11).

Municipal court. When the term "municipal court" is used, it shall be interpreted as referring to the Municipal Court of the City of Rockmart.

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

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

State law reference—Similar provisions, O.C.G.A. § 1-3-1(6).

Oath. The term "oath" includes an affirmation.

State law reference—Similar provisions, O.C.G.A. § 1-3-3(12).

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

Officials, employees, boards, commissions and *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, club, society, firm, corporation, partnership or body politic and corporate, as well as an individual.

State law reference—Definition of "person," O.C.G.A. § 1-3-3(14).

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

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

State law reference—Similar provisions, O.C.G.A. § 1-3-3(16).

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.

Schedule of fees and charges. The term "schedule of fees and charges" means the official consolidated list compiled and published by the city which contains rates for utility and other public enterprises, fees, deposit amounts and various charges as determined from time to time by the city council.

Seal. The term "seal" means the city seal, the seal of the corporation.

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

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

Signature and *subscription.* The terms "signature" and "subscription" include the mark of an illiterate or infirm person.

State law reference—Similar provisions, O.C.G.A. § 1-3-3(19).

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

Street and *road.* The terms "street" and "road" include 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 and *occupant.* The terms "tenant" and "occupant," applied to a building or land, include 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.

Week. The term "week" means seven days.

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

Year. The term "year" means a calendar year.

State law reference—Similar provisions, O.C.G.A. § 1-3-3(24).

(Code 1976, § 1-2)

Sec. 1-3. Catchlines of sections, effect of history notes, references in Code.

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

(b) The history or source notes appearing in parentheses after sections in this Code are not intended to have any legal effect but are merely intended to indicate the source of matter contained in the section. Cross references, charter references, related law 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 1976, § 1-3)

Sec. 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 1976, § 1-7)

Sec. 1-5. Amendments to Code; effect of new ordinances; amendatory language.

(a) All ordinances passed subsequent to this Code which 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. Repealed chapters, sections and subsections or any part thereof, by subsequent ordinances, may be excluded from the Code by omission from reprinted pages affected thereby. The subsequent ordinances as numbered and printed or omitted, in the case of repeal, shall be prima facie evidence of these subsequent ordinances 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 Rockmart, 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 Rockmart, Georgia, is hereby amended by adding a section (or article or chapter) to be numbered _____, which section reads as follows: . . . ." The new section may then be set out in full as desired.

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

Sec. 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 which 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, nonsubstantive changes in ordinances and parts of ordinances included in the supplement, insofar as it is necessary to do so to embody them into a unified code. For example, the person may:

(1) Organize the ordinance material into appropriate subdivisions;

(2) Provide appropriate catchlines, headings and titles for sections and other subdivisions of the Code printed in the supplement and make changes in such catchlines, headings and titles;

(3) Assign appropriate numbers to sections and other subdivisions to be inserted in the Code and, where necessary to accommodate new material, change existing section or other subdivision numbers;

(4) Change the words "this ordinance" or words of the same meaning to "this chapter," "this article," "this division," etc., as the case may be, or to "sections _____ to _____" (inserting section numbers to indicate the sections of the Code which embody the substantive sections of the ordinance incorporated into the Code); and

(5) Make other nonsubstantive changes necessary to preserve the original meaning of ordinance sections inserted into the Code.

(d) In no case shall the person make any change in the meaning or effect of ordinance material included in the supplement or already embodied in the Code.
(Code 1976, § 1-6)

Sec. 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 by state law, a person convicted of a violation of this Code shall be punished by a fine not exceeding $1,000.00 or imprisonment for a term not exceeding six months. Violations of this Code that are continuous with respect to time, for 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, franchise or other administrative sanctions. The imposition of a penalty may include probation, community service or related general or special conditions of probation, as authorized by the Charter and state law.

(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 1976, § 1-8)

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

Sec. 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 1976, § 1-4)

Sec. 1-9. Provisions considered as continuations of existing ordinances.

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

Sec. 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 of the city in effect on the date of adoption of this Code.

Sec. 1-11. Certain ordinances not affected by Code.

Nothing in this Code or the ordinance adopting this Code affects the validity of any of 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) Amending the city Charter.

(2) Promising or guaranteeing the payment of money or authorizing the issuance of bonds or other instruments of indebtedness.

(3) Authorizing or approving any contract, deed, or agreement.

(4) Granting any right or franchise.

(5) Making or approving any appropriation or budget.

(6) Providing for salaries or other employee benefits not codified in this Code.

(7) Adopting or amending the comprehensive plan.

(8) Levying or imposing any special assessment.

(9) Dedicating, establishing, naming, locating, relocating, opening, paving, widening, repairing or vacating any street, sidewalk or alley.

(10) Dedicating, accepting or vacating any plat or subdivision.

(11) Levying, imposing or otherwise relating to taxes or fees in lieu of taxes not codified in this Code.

(12) Rezoning property or amending the zoning map or otherwise pertaining to zoning.

(13) That is temporary, although general in effect.

(14) That is special, although permanent in effect.

(15) The purpose of which has been accomplished.

Chapter 2

ADMINISTRATION*

Article I. In General

Secs. 2-1—2-20. Reserved.

Article II. City Council

Sec. 2-21. Salaries.
Sec. 2-22. Regular monthly meeting days, time and place.
Sec. 2-23. Parliamentary practice.
Sec. 2-24. Standing committees.
Secs. 2-25—2-50. Reserved.

Article III. City Clerk

Sec. 2-51. Tax receiver and tax collector; finance officer.
Sec. 2-52. Reports.
Sec. 2-53. Custodian of funds.
Sec. 2-54. Paying out funds.
Sec. 2-55. Keeping books.
Sec. 2-56. Turning over money, etc.
Secs. 2-57—2-80. Reserved.

Article IV. Purchasing

Sec. 2-81. Duties of purchasing agent.
Sec. 2-82. Purchasing agent; procedures manual.
Sec. 2-83. Purchasing procedures.
Secs. 2-84—2-100. Reserved.

Article V. Code of Ethics for City Officials and Employees

Division 1. Generally

Sec. 2-101. Intent.
Sec. 2-102. Definitions.
Sec. 2-103. Acceptance of gifts.
Sec. 2-104. Financial interests of members.
Sec. 2-105. Use of public property.
Sec. 2-106. Use of confidential information.
Sec. 2-107. Coercion by city official.
Sec. 2-108. Voting in matters of personal interest.
Sec. 2-109. Unauthorized purchases.
Sec. 2-110. Meetings of the council.
Sec. 2-111. City attorneys used for private business.
Sec. 2-112. Unauthorized use of public employees.
Sec. 2-113. Travel expenses.
Sec. 2-114. Penalties.
Secs. 2-115—2-140. Reserved.

***State law references—**Municipal corporations generally, O.C.G.A. § 36-3-1 et seq.; incorporation of municipal corporations, O.C.G.A. § 36-31-1 et seq.; powers of municipal corporations generally, O.C.G.A. § 36-34-1 et seq.; powers relating to administration of municipal government generally, O.C.G.A. § 36-34-2; the Municipal Home Rule Act of 1965, O.C.G.A. § 36-35-1 et seq.; home rule for municipalities, Ga. Const. art. IX, § II, ¶ II.

Division 2. Administration

Division 3. Conflict of Interest and Political Activities

Division 4. Outside Employment

Article VI. Emergency Management

Division 1. Generally

Division 2. Emergency Management Agency

Article VII. Records Management and Retention

ARTICLE I. IN GENERAL

Secs. 2-1—2-20. Reserved.

ARTICLE II. CITY COUNCIL*

Sec. 2-21. Salaries.

The salary of each councilman shall be $300.00 per month, and the salary of the mayor shall be $400.00 per month. In addition, the mayor and members of the council shall be paid $50.00 per month for one called meeting. If there are no called meetings, no special meeting compensation shall be paid. Further, if there is more than one called meeting per month, only $50.00 shall be paid for monthly called meetings, regardless of the number.
(Code 1976, § 2-20; Ord. No. 3-2003, § 2, 2-11-2003)

State law reference—Authority to fix compensation of governing authority, O.C.G.A. § 36-35-4.

Sec. 2-22. Regular monthly meeting days, time and place.

The regular monthly meeting of the city council for the transaction of official business, shall be and is hereby fixed as the second Tuesday night in each month, at 7:00 p.m., at the city hall.
(Code 1904, § 225; Code 1976, § 2-21; Res. of 9-10-1974)

State law reference—Open meeting requirements, O.C.G.A. § 50-14-1 et seq.

Sec. 2-23. Parliamentary practice.

In all meetings of the city council the members shall be generally governed in their deliberations by Robert's Rules of Order, Newly Revised, or as hereafter amended, as far as is practicable.
(Code 1904, § 235; Code 1976, § 2-24)

Sec. 2-24. Standing committees.

At the first regular meeting in January of each year, there shall be appointed by the mayor from the membership of the city council such standing council committees as the mayor deems appropriate. Such committees shall have the functions assigned to them by the mayor.
(Code 1904, § 26; Code 1976, § 2-25)

Secs. 2-25—2-50. Reserved.

ARTICLE III. CITY CLERK

Sec. 2-51. Tax receiver and tax collector; finance officer.

The city clerk shall also perform the duties of tax receiver and collector. He shall open his books for receiving tax returns and keep such books open as provided in this chapter, providing all necessary blanks for making returns. The city clerk shall serve as the finance officer of the city unless a position of finance officer shall be created by the mayor and council.
(Code 1904, § 44; Code 1976, § 2-30)

Sec. 2-52. Reports.

The city clerk shall, at the regular meeting in each month, submit to the city council his report showing a detailed statement of receipts and disbursements and cash balance on hand on the first of the month. At such times as the city council may require, he shall make a consolidated report of the business of his office, submit same to the council for approval, and publish same in a newspaper designated by the council.
(Code 1904, § 34; Code 1976, § 2-31)

Sec. 2-53. Custodian of funds.

The city clerk shall be the custodian of the funds of the city and shall deposit the same in designated banks, and shall receive and pay out all monies of the city.
(Code 1904, § 31; Code 1976, § 2-32)

Sec. 2-54. Paying out funds.

The city clerk shall pay out such amounts as are authorized by approved budgetary expenditures of the mayor and council. Payments shall normally be executed by two municipal officers

*__State law reference—__City councils generally, O.C.G.A. § 36-30-1 et seq.

and proper accounting procedures shall be maintained for all disbursements made, especially within budgetary requirements of the city.
(Code 1904, § 32; Code 1976, § 2-33)

Sec. 2-55. Keeping books.

The city clerk shall keep a book in which he shall enter every sum received on account of the city, under its proper head, reciting from whom received and the source from which it was derived. The clerk shall enter all disbursements, reciting the source of any payment made and the nature of any claims. Further, the clerk shall record all receipts, maintain a general ledger, and otherwise properly and appropriately balance all books, accounts, and ledgers of the city, and shall keep all such records in accordance with generally accepted accounting principles.
(Code 1904, § 33; Code 1976, § 2-34)

Sec. 2-56. Turning over money, etc.

At the expiration of his term of office the city clerk shall turn over to his successor, on demand, the balance of the city's money in his hands, for which he may be liable and take his receipt therefor together with his receipt for all books and papers belonging to the city in his custody, which receipt shall be attached with a copy of receipt he gave to his predecessor.
(Code 1904, § 35; Code 1976, § 2-35)

Secs. 2-57—2-80. Reserved.

ARTICLE IV. PURCHASING*

Sec. 2-81. Duties of purchasing agent.

Except as otherwise specifically provided by the mayor and council or as specifically otherwise required by law, the purchasing agent shall:

(1) Procure, within budgetary limitations approved by the mayor and council, for the city the highest quality in supplies, materials, equipment and contractual services at the least expense. He shall keep informed of current developments in the field of purchasing, prices, market conditions and new products, and secure for the city the benefits of research done in the field of purchasing by other governmental jurisdictions, national technical societies, trade associations having national recognition, and by private businesses and organizations.

(2) Discourage uniform bidding and endeavor to obtain as full and open competition as possible on all purchases and sales.

(3) Exploit the possibilities of bulk and seasonal buying.

(4) Adopt as standards the minimum number of quantities, sizes and varieties of supplies consistent with the successful operation of the city government. Such standards shall be developed in cooperation with the heads of city departments.

(5) Prepare and adopt written specifications for supplies, materials, equipment and services, as may be required. Specifications shall be developed with information available through governmental and private sources and in cooperation with city departments.

(6) Prescribe and maintain such forms as may be reasonably necessary to the operation of these rules and this article.

(7) Prepare, adopt and maintain such files as may be necessary to the operation of these rules and the purchasing ordinance; have the authority to declare vendors who default on their quotations irresponsible bidders, and to disqualify them from receiving any business from the municipality for a stated period of time.

(8) Obtain all federal and state tax exemptions to which the city is entitled.

(9) Publish a purchasing procedures manual consistent with the provisions of this article.

(10) Prepare the specifications and notice to bidders and see that the required notices are published where calling for bids is

*__State law reference—__Purchases through state, O.C.G.A. § 50-5-100 et seq.

required by law or ordinance, or where such procedure will benefit the municipality.

(11) Keep records of all purchases made by him and of the destination or ultimate use of such material, equipment or supplies and require each officer or employee having municipal property in his custody to keep an inventory of such property and to furnish a copy thereof to the purchasing agent on request.

(Code 1976, § 2-53; Ord. No. 1981-012, § 1, 9-8-1981)

Sec. 2-82. Purchasing agent; procedures manual.

Prior to the date upon which this article becomes mandatory for the control of city purchasing, the purchasing agent shall publish a purchasing procedures manual consistent with the provisions hereof. The purchasing agent shall not delegate the power to issue a purchasing procedures manual; however, the purchasing agent may obtain recommendations. Notice of the availability of the procedures manual shall be given reasonable public dissemination.

(Code 1976, § 2-54; Ord. No. 1981-012, § 1, 9-8-1981)

Sec. 2-83. Purchasing procedures.

(a) *Requisition and estimates*. All city departments shall file with the purchasing agent detailed requisitions for estimates for their requirements of supplies, contractual services, materials and equipment. The purchasing agent shall examine each requisition and shall have the authority to revise as to quantity, quality or estimated cost. The purchasing agent shall consult with a head of the requisitioning department prior to making revisions.

(b) *Authority to make purchases.*

(1) The purchasing agent shall have the authority to make purchases of all materials, equipment, supplies and contractual services, when the cost thereof does not exceed the amount as established by the city council and has been included within the applicable budgetary provisions.

(2) All materials, equipment, supplies and contractual services, when the estimated cost thereof shall exceed the amount as established by the city council, shall be presented to the mayor and council for formal action.

a. Notices, at the discretion of the purchasing agent, inviting bids shall be published once in at least one official newspaper in the city at least five days preceding the last day for the receipt of proposals. The newspaper notice, when it is used, shall include a general description of the articles to be sold, shall state where bid blanks and specifications may be secured, and the time and place for opening bids. In all cases, a notice inviting bids will be posted in an appropriate place in the city hall at least ten days preceding the last day for the receipt of proposals. The notice shall specifically state that the city reserves the right to reject any and all bids.

b. The purchasing agent also shall solicit bids from all prospective vendors and contractors by mailing them copies of bids with the necessary specifications, and any other information which will acquaint them with the proposed purchases.

c. When deemed necessary by the purchasing agent, bid deposits shall be prescribed in the public notices inviting bids. The amounts of such deposits shall be five percent of the bids and shall be in the form of a bond or certified check. Bonds and certified checks shall be returned to unsuccessful bidders within five days after the awarding of the contracts. The successful bidder shall forfeit any deposit required upon failure on his part to enter into a contract within 15 days after the award.

d. Bids shall be sealed, shall be identified on the envelope, shall be submitted at the place and no later than the

time stated in the public notice inviting bids and shall be opened at a public meeting at the time and place stated in the public notice. A tabulation of all bids received shall be made available for public inspection.

(c) *Award of contract*. The purchasing agent shall have the authority to award contracts within the limits of this article, rules and regulations.

(1) When the award is not given to the lowest bidder, a full and complete statement of the reasons for placing the contract elsewhere shall be placed in the minutes of the council meeting following the award.

(2) If all bids received are for the same total amount or unit price, quality being equal, the contract shall be awarded to a local bidder. When the decision can be made in no other way, the contract shall be awarded to one of the tie bidders by drawing lots in public.

(d) *Public works project exception*. Nothing contained in this section shall be construed to change, reduce or otherwise alter the provisions of state law governing the requirements of performance and payment bonds for public works accomplished in this city. Presently, the requirement of such bonds, under state law, is for all contracts of improvements exceeding $100,000.00. The provisions of O.C.G.A. § 13-10-1 are incorporated herein by reference and made a part of this subsection. Hereafter, the requirements of state law (and any later amendments thereto) shall govern the purchasing agent's requirements of performance and payment bonds pursuant to this article.

(e) *Performance bonds*. To protect the interests of the city, a performance bond in the amount of 100 percent of the proposed contract shall be required from the successful bidder before entering into the contract. If such bond is not provided within 15 days of the award of such bid, the award shall be void. The contractor shall furnish such other bonds or insurances as may be required by law, the city or specifications. The amounts and types of these bonds and insurances shall be set forth in the bid specifications.

(f) *Prohibition against subdivision*. No contract or purchase shall be subdivided to avoid requirements of these rules.

(g) *Open market procedure*. All purchases of supplies, materials, equipment and contractual services under a value of $10,000.00 shall be made in the open market, without advertisement, and without observing the procedures prescribed in the formal contract procedure.

(1) All open market purchases shall, wherever possible, be based on at least three competitive bids, and shall be awarded to the lowest and best bidder in accordance with the standards set forth in this article and the purchasing procedures manual.

(2) The purchasing agent shall solicit bids by direct mail requests to prospective bidders, by telephone, and by public notice posted on the bulletin board of the city hall.

(3) The purchasing agent shall keep the record of all open market orders and the bids submitted in competition thereon, and such records shall be open to public inspection.

(h) *Day-to-day and emergency purchases*. Normal daily operations or emergencies, with the approval of the purchasing agent, the head of any city department may purchase directly any supplies, materials and equipment, in amounts not greater than the amount set by the purchasing agent whose immediate procurement is essential to prevent delays of the department which may vitally affect the life, health or convenience of citizens. The heads of such departments shall follow normal purchasing procedures as defined in the purchasing procedures policy.

(i) *Petty cash fund*. The purchasing agent is hereby authorized to establish a petty cash fund not to exceed $250.00, it being recognized that such fund eliminates the writing of numerous requisitions and purchase orders, thereby resulting in a saving of appreciable time, supplies and money. Such fund shall be used primarily for the purchase of small items needed at once, and only upon the approval of the purchasing agent. In order to reimburse the petty cash fund, the pur-

chasing agent shall submit to the city clerk a petty cash voucher form, in duplicate, and attach all receipts as a means of accounting for its expenses.

(j) *Inspection and testing*. The purchasing agent, or his authorized representative, shall inspect or supervise the inspection of all deliveries of supplies, materials, equipment or contractual services to determine their performance with the specifications set forth in the order or contract. The purchasing agent shall have the authority to require chemical and physical tests of materials submitted with bids and delivery and samples to determine their quality in conformance with the specifications. In the performance of such tests, the purchasing agent shall have the authority to make use of laboratory facilities of any outside laboratory.
(Code 1976, § 2-55; Ord. No. 1981-012, § 1, 9-8-1981; Ord. No. 1988-007, §§ 1, 2, 8-9-1988; Ord. No. 007-1997, §§ 1—3, 7-8-1997)

Secs. 2-84—2-100. Reserved.

ARTICLE V. CODE OF ETHICS FOR CITY OFFICIALS AND EMPLOYEES

DIVISION 1. GENERALLY

Sec. 2-101. Intent.

It is the intent of this article that city officials avoid any action whether or not specifically prohibited by section 2-103 which might result in, or create the appearance of the following:

(1) Using public office for private gain;

(2) Impeding government efficiency or economy;

(3) Affecting adversely the confidence of the public in the integrity of the government; or

(4) Purposefully or intentionally violating laws involving moral turpitude as defined by state law.

(Ord. No. 006-1999, art. A, § 3, 12-14-1999)

Sec. 2-102. 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:

City official shall be any person who is an elected city representative, including the mayor, of the city.

Employee shall be any person who is a full-time or part-time employee of the city.

Government or *city* shall be construed to mean the city government.

Immediate family shall mean the employee or city official, spouse and children of said parties.
(Ord. No. 006-1999, art. A, § 1, 12-14-1999)

Sec. 2-103. Acceptance of gifts.

(a) No city official shall solicit or accept directly or indirectly anything of value from any person, corporation, or group which:

(1) Has, or is seeking to obtain contractual or other business or financial relationships with the city;

(2) In exchange for the thing of value seeks to have a city official exercise a matter of discretion in his favor;

(3) In exchange for the thing of value seeks to have interests which may be affected by the performance or nonperformance of the official duty of the city official.

(b) This section shall not apply to campaign contributions which shall be reported in accordance with state laws.
(Ord. No. 006-1999, art. A, § 2, 12-14-1999)

Sec. 2-104. Financial interests of members.

City officials may not:

(1) Have direct or indirect financial interests that conflict substantially with their responsibilities and duties as government servants; or

(2) Engage in, directly or indirectly, financial transactions as a result of, or primarily relying upon, information obtained from

their office. Aside from these restrictions, city officials are free to engage in lawful financial transactions to the same extent as private citizens.

(Ord. No. 006-1999, art. A, § 4, 12-14-1999)

Sec. 2-105. Use of public property.

A city official shall not use city government property of any kind for other than officially approved activities, nor direct employees to use such property for the personal purposes of such official.

(Ord. No. 006-1999, art. A, § 5, 12-14-1999)

Sec. 2-106. Use of confidential information.

A city official shall not directly or indirectly, make use of, or permit others to make use of, for the purpose of furthering a private interest, official information not made available to the general public.

(Ord. No. 006-1999, art. A, § 6, 12-14-1999)

Sec. 2-107. Coercion by city official.

A city official shall not use his position in any way to coerce, or give the appearance of coercing, another person to provide any financial benefit to him or persons within his immediate family, or those with whom an official has business or financial ties.

(Ord. No. 006-1999, art. A, § 7, 12-14-1999)

Sec. 2-108. Voting in matters of personal interest.

A city official shall not vote on an ordinance or amendment in a meeting that would directly affect his private business, business interests, property; nor such interests of his immediate family.

(Ord. No. 006-1999, art. A, § 8, 12-14-1999)

Sec. 2-109. Unauthorized purchases.

A city official shall not order any goods and services for the city, nor obligate city funds for any payment, without prior official authorization for such an expenditure.

(Ord. No. 006-1999, art. A, § 9, 12-14-1999)

Sec. 2-110. Meetings of the council.

Meetings of the council shall be conducted in accordance with O.C.G.A. title 50, ch. 14 (O.C.G.A. § 50-14-1 et seq.), and O.C.G.A. § 36-80-1, as it applies to municipalities.

(Ord. No. 006-1999, art. A, § 10, 12-14-1999)

Sec. 2-111. City attorneys used for private business.

A city official shall not use the attorneys who are under retainer by the city for personal or private business without paying just compensation.

(Ord. No. 006-1999, art. A, § 11, 12-14-1999)

Sec. 2-112. Unauthorized use of public employees.

A city official shall not use his superior position to request or require an employee to:

(1) Do clerical work on behalf of his family, business, social, church or fraternal interests;

(2) Purchase goods and services to be used for personal, business, or political purposes;

(3) Work for him personally without offering just compensation; and/or

(4) Perform work allegedly for the benefit of the city without prior official authorization.

(Ord. No. 006-1999, art. A, § 12, 12-14-1999)

Sec. 2-113. Travel expenses.

A city official shall not draw per diem or expense monies from the city to attend a seminar; convention, or conference and then fail to attend the seminar, convention, or conference without refunding the pro-rata unused per diem or expense monies to the city.

(Ord. No. 006-1999, art. A, § 13, 12-14-1999)

Sec. 2-114. Penalties.

The code of ethics to be observed by city officials are set forth above and any violation thereof shall subject the offender to disciplinary action which may include censure and either public or private reprimand. Power to administer a greater

punishment shall include power to administer the lesser. Further, in cases involving intentional acts, the general penalties of section 1-7 of this Code may be used as disciplinary action for violations of this Code.
(Ord. No. 006-1999, art. A, § 14, 12-14-1999)

Secs. 2-115—2-140. Reserved.

DIVISION 2. ADMINISTRATION

Sec. 2-141. Ethics committee.

The ethics committee shall consist of three persons, one appointed by the mayor, one appointed by the council, and one person appointed jointly by the mayor and a majority of the city council. All members shall be residents of the city and shall serve two-year terms.
(Ord. No. 006-1999, art. B, § 1, 12-14-1999)

Sec. 2-142. Receipt of complaints.

(a) All complaints shall be filed with the ethics committee. The ethics committee may require that oral complaints, and complaints illegibly or informally drawn, be reduced to a memorandum of complaint in such form as may be prescribed by the city council. A copy of any filed complaint shall be forwarded to the party against whom the complaint is filed.

(b) Upon receipt of a complaint in proper form, the ethics committee 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 ethics committee shall be empowered to subpoena parties, 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 ethics committee 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 ethics committee shall not deprive the complaining party of any action he might otherwise have at law or in equity against the respondent government servant.

(d) The ethics committee shall be empowered to conduct probable cause investigations, to take evidence and hold hearings.

(e) The ethics committee 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) Should the committee determine that disciplinary action is warranted, it shall make written findings and recommendations to the city council.

(g) The official against whom a complaint is filed may present evidence to the ethics committee and/or city council concerning any alleged complaints.
(Ord. No. 006-1999, art. B, § 2, 12-14-1999)

Sec. 2-143. Additional regulations.

This article shall be cumulative to any other ordinance, resolution or act now existing.
(Ord. No. 006-1999, art. B, § 3, 12-14-1999)

Sec. 2-144. Right to appeal.

Any final decision by the city council pursuant to this code of ethics for city council members shall be reviewable by the superior court of the county. The review by the superior court 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.
(Ord. No. 006-1999, art. B, § 4, 12-14-1999)

Sec. 2-145. Code of conduct.

No elected official, appointed officer, or employee of the city or any agency or political entity to which the Charter applies shall knowingly engage in any business or transaction or have a financial or other personal interest, directly or indirectly, which is incompatible with the proper

discharge of his official duties or which would tend to impair his independence of judgment or action in the performance of his official duties.
(Ord. No. 006-1999, art. B, § 5, 12-14-1999)

Secs. 2-146—2-170. Reserved.

DIVISION 3. CONFLICT OF INTEREST AND POLITICAL ACTIVITIES

Sec. 2-171. Acceptance of gifts, gratuities, special privileges.

(a) Employees and city officials shall not accept any gifts, loans, rewards, favors, or services that may reasonably tend to improperly influence them in the discharge of their official duties. This limitation is not intended to prohibit the acceptance of articles of negligible value which are distributed generally nor to prohibit loans from regular lending institutions. It is particularly important that employees and officials guard against relationships which might be construed as or give the appearance of favoritism, coercion, unfair advantage or collusion.

(b) Employees shall not use or attempt to use their position to secure economic benefits or advantages, special privileges or exemptions for themselves or others including the use of knowledge obtained by or through their employment or by virtue of their position.

(c) Employees shall not accept employment or engage in any business or professional activity which they may reasonably expect would require or induce them to disclose confidential information acquired by them by reason of their official position.

(d) Employees shall not accept payment from outside sources for professional services (i.e., teaching, instructing, speaking engagements, consulting, honorariums) when such activities are done on city time or when such services pertain to the purchase or sale of city property.
(Ord. No. 006-1999, art. C, § 1, 12-14-1999)

Sec. 2-172. Proprietorship of creations.

All plans, designs, reports, specifications, drawings, devices, inventions, and other items produced or created by employees during working hours or through the use of city facilities or equipment or at the request of the city shall be and become the sole property of the city.
(Ord. No. 006-1999, art. C, § 2, 12-14-1999)

Sec. 2-173. Confidential information.

Employees shall not disclose confidential information gained by reason of their official position, nor shall they otherwise use such information for their personal gain or benefit.
(Ord. No. 006-1999, art. C, § 3, 12-14-1999)

Sec. 2-174. Conflict of interest.

(a) If an employee of the city is an officer, director, agent or member of, or owns interest in any entity which is subject to the regulation of, or which has financial commitments with the city, they shall file a sworn statement to this effect with the city clerk.

(b) Employees shall not transact any business in their official capacity with any business entity of which he is an officer, director, agent, member, or in which he owns a controlling interest, excluding civic, charitable or religious organizations.

(c) Employees shall not have personal investment in any enterprise which will create a conflict or a perceived conflict between their private interest and the public interest.

(d) This prohibition shall extend to employees, city officials and their immediate family.
(Ord. No. 006-1999, art. C, § 4, 12-14-1999)

Sec. 2-175. Political activity.

(a) No person employed by the city shall either publicly or otherwise hold himself out as a candidate in any city election while holding employment with the city.

(b) City employees shall not take part in any political management or political campaigns in the election of the mayor or any member of the city council for the city during any period of time for which he is expected to perform work or receive compensation from the city.

(c) No employee, official or other person shall solicit, orally or by letter, or be in any other manner concerned in obtaining any assessments, contributions, or services for any political party from any employee during his hours of duty, service, or work with the city.

(d) Employees shall not represent the city by wearing any uniform or portion thereof that is issued by the city while he is participating in any campaign at any time.

(e) The city in no way seeks to influence employees in their choice of party affiliations or candidates, recognizing that this is a matter for each person to decide. Therefore, nothing contained herein shall be construed to restrict the right of the employee to hold membership in and support a political party, to vote as he chooses, to express opinions on political subjects or candidates, to maintain political neutrality, to attend political parties after work hours, or to campaign actively during off duty hours in all areas of political activity.

(f) Employees shall not utilize any city equipment or vehicles in support of any political campaign.
(Ord. No. 006-1999, art. C, § 4, 12-14-1999)

Secs. 2-176—2-200. Reserved.

DIVISION 4. OUTSIDE EMPLOYMENT

Sec. 2-201. Limitations and approval requirement.

(a) City employment shall be considered to be the primary employment of all full-time employees. No employee may engage in outside employment which will interfere with the interests of city service. Standards by which some employment is not acceptable include, but are not limited to:

(1) Illegal activity;

(2) Employment that by virtue of association will reflect upon the reputation of the city;

(3) High hazard or fatiguing work which might detract from or reduce city performance.

(b) Prior to beginning any regularly scheduled outside employment, employees will obtain specific written approval from their department head or his designee on request forms which indicate the name of the outside employer, the nature of the work, hours of work, address and telephone number where the employee can be reached. Such information will become a part of the employee's official personnel record. Employees are required to obtain approval from their department head or his designee for any change in a previously approved outside employment request.

(c) Any employee accepting or engaging in outside employment under the terms of this rule shall make arrangements with the outside employer to be available to respond immediately to any emergency call of duty whenever the city shall determine that the employee's services are necessary.

(d) Employees sustaining injuries while engaged in outside employment are normally ineligible to receive benefits under the city's worker's compensation program. If an employee sustains an injury while engaged in outside employment, but is performing duties, within the scope of his city responsibilities (i.e. a police arrest), he may be eligible for partial city worker's compensation benefits.

(e) Failure to comply with the provisions of this section will result in disciplinary action.
(Ord. No. 006-1999, art. D, § 1, 12-14-1999)

Secs. 2-202—2-240. Reserved.

ARTICLE VI. EMERGENCY MANAGEMENT*

DIVISION 1. GENERALLY

Sec. 2-241. Adoption of National Incident Management System and Unified Command System by reference.

The city hereby adopts the National Incident Management System (NIMS) as established un-

*__State law references__—Georgia Mutual Aid Act, O.C.G.A. § 36-69-1 et seq.; Georgia Emergency Management Act of 1981, O.C.G.A. § 38-3-1 et seq.

der HSPD 5 and the Unified Command System as established under O.C.G.A. § 38-3-57 as its system of preparing for and responding to disaster incidents and directs all incident managers and response organizations in the city to train, exercise and use these systems in their response operations.
(Ord. No. 12-2005, 11-8-2005)

Secs. 2-242—2-270. Reserved.

DIVISION 2. EMERGENCY MANAGEMENT AGENCY

Sec. 2-271. 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:

Emergency management means the preparation for and the carrying out of all emergency and disaster functions other than those functions for which military forces or state and federal agencies are primarily responsible, to prevent, minimize and repair injury and damage resulting from emergencies or disasters, or the imminent threat thereof, of manmade or natural origin. These functions include, without limitation, firefighting services, police services, medical and health services, rescue, engineering, warning services, communications, protection against the effects of radiological, chemical and other special weapons, evacuation of persons from stricken areas, emergency welfare services, emergency transportation, plant protection, shelter, temporary restoration of public utility services, and other functions related to the civilian population, together with all other activities necessary or incidental to total emergency and disaster preparedness for carrying out the foregoing functions.

Sec. 2-272. Penalty for violation of division.

Any person violating any provision of this division, or any rule, order or regulation made pursuant to this article, shall, upon conviction thereof, be punishable as provided in section 1-7 of this Code.

Sec. 2-273. Office of emergency management director.

In agreement or cooperation with the governing officials of the cities within the county, the city recognizes all county emergency management requirements. The chairman, county commissioners, in cooperation with city officials within the county, shall nominate for appointment by the governor a director of emergency management for the entire county. When appointed, the emergency management director is charged with the following duties:

(1) To represent the governing officials of the county and cities therein on matters pertaining to emergency management.

(2) To assist county and city officials in organizing county and city departments for emergency operations.

(3) To develop, in conjunction with county and city departments, the county emergency operations plan for emergency functions set forth in section 2-271. Such plan will be in consonance with the Georgia Natural Disaster Operations Plan and Nuclear Emergency Operations Plan, and shall be submitted to the governing officials of the county and the cities therein for approval, and thence to the state emergency management agency for approval.

(4) To maintain the emergency management agency and carry out the day-to-day administration of the county emergency management program, including the submission of required reports to the state emergency management agency.

(5) To submit reports as required by governing officials in keeping with good management practices, e.g., financial, daily activity, etc.

(6) To obtain, with the authority of governing officials, a facility to be used for an emergency operations center.

(7) To coordinate activities of the emergency operations center staff during periods of an emergency, and under the supervision of governing officials.

Sec. 2-274. Emergency management agency established.

The emergency management agency shall be established around existing county and city departments and the emergency functions listed in section 2-271 may be assigned as follows:

Department/Agency	*Functions*
(1) Chairman, county commissioners, city governing officials	Direction and control; public information supply; finances.
(2) Sheriff's office, city and county police departments	Police services; evacuation.
(3) Emergency management agency	Communications and warning; emergency public information; state military support; training; preliminary damage assessment and reporting; public property assistance; attack preparedness; specific hazards.
(4) Fire departments	Search, rescue and recovery; fire services; hazardous materials; radiological protection.
(5) Road and street departments	Engineering; petroleum and solid fuel services.
(6) Superintendent of schools	Transportation services; food services.
(7) Health department	Health and medical services.
(8) City and county manager	Administrative services; resources management; utilities.
(9) Department of family and children services	Social services; shelter and temporary housing.

Heads of departments listed above are responsible for developing appropriate annexes to the local emergency operations plan (EOP) for their assigned emergency functions. Such annexes will be submitted to the emergency management director for inclusion in the local EOP for submission to appropriate local officials for approval.

Sec. 2-275. Emergency powers.

In the event of a manmade or natural disaster, actual enemy attack upon the United States, or any other emergency which may affect the lives and property of the citizens of the county, the chairman, county commissioners, jointly with city officials of the affected cities, or in their absences their legally appointed successors may determine that an emergency or disaster exists and thereafter shall have and may exercise for such period as such emergency or disaster exists or continues, the following powers:

(1) To enforce all rules, laws and regulations relating to emergency management, and to assume direct operational control over all emergency management resources.

(2) To seize or take for temporary use any private property for the protection of the public.

(3) To sell, lend, give or distribute all or any such property or supplies among the inhabitants of the county and to maintain a strict accounting of property or supplies distributed and for funds received for such property or supplies.

(4) To perform and exercise such other functions and duties, and take such emergency actions as may be necessary to promote and secure the safety, protection and well-being of the inhabitants of the county.

Sec. 2-276. Volunteers.

All persons, other than officers and employees of the county and cities therein, performing emergency functions pursuant to this article, shall serve with or without compensation. While engaged in such emergency functions, duly assigned volunteers shall have the same immunities as county and city officers and employees.

Secs. 2-277—2-299. Reserved.

ARTICLE VII. RECORDS MANAGEMENT AND RETENTION

Sec. 2-300. Title.

This article shall be known as, or may be cited as, the "Rockmart Records Management and Retention Ordinance."
(Ord. No. 2011O-02, § 2, 10-11-2011)

Sec. 2-301. Purpose.

The purpose of this article is to prevent the proliferation of the records in original form maintained as public records, except to the extent the records may be necessary for permanent preservation as provided by state and federal law. Furthermore, it is the purpose of this article to establish and maintain an acting and continuing program for the economical and efficient management of public records, to provide for maximum utilization of city resources, office space, and filing equipment for approved records and management and retention schedules.
(Ord. No. 2011O-02, § 2, 10-11-2011)

Sec. 2-302. Adoption of Georgia Records Act and related regulations.

The city council hereby adopts by reference the Georgia Records Act, O.C.G.A. § 50-18-90 et seq., and the rules and regulations, as amended from time to time and established pursuant to said Act, as a basis for establishing a records management program. The city council further adopts by reference the publication entitled "Retention Schedules for Local Government Paper and Electronic Records" (hereinafter the "state schedules"), printed by the Georgia Division of Archives and History as to both common and specific records, approved in October, 2010, and as this regulation may be amended, altered, or modified from time to time, and to the extent compatible with the types of records generated and maintained by the city. Records will be maintained and destroyed in accordance with said state schedules and applicable federal and state laws governing records management.
(Ord. No. 2011O-02, § 2, 10-11-2011)

Sec. 2-303. Definitions.

For purposes of this article, the following terms, phrases, words, and their derivations, shall have the meaning given herein except where the context clearly indicates a different meaning:

Agency means any city office, authority, department, division, board, commission, or other separate unit of city government created or established by federal, state, or local law, or under the jurisdiction of the Rockmart City Council. Records of the Rockmart Municipal Court and the city attorney's office are expressly excluded from this article.

City means the City of Rockmart, a municipal corporation of the State of Georgia.

Records means all documents, papers, letters, maps, books, (except books in organized libraries), microfilm, magnetic tape, audio and video tapes, emails, electronic documents and files, or any other material, regardless of physical form or characteristics, whether electronic or otherwise, made or received pursuant to law or ordinance, in the performance of functions of any agency, or created in the normal course of business of any agency.

Retention schedule means a set of instructions prescribing how long, where, and what form a record shall be kept before disposition. The retention schedule shall be prepared by the clerk in accordance with the state schedules and disseminated to each city agency.
(Ord. No. 2011O-02, § 2, 10-11-2011)

Sec. 2-304. City clerk designated as records management officer.

The clerk of the city is responsible for the administration of the records management program and is hereby designated the records management officer for the city. The clerk will act for and on behalf of the council in directing and coordinating all records management matters. The duties of the clerk shall include, but are not limited to, the following:

(1) Establish and maintain an active and continuing program for the economical

and effective management of public records, including, but not limited to, an automated storage and retrieval system;

(2) Assist each agency in the implementation of a plan for records management and/or retention;

(3) Conduct training in records management and/or retention for any agents or designees of any city agency as needed;

(4) Coordinate records management matters with the state records committee and the state department of archives and history;

(5) Preserve records of continuing value;

(6) Coordinate the removal of records not in common current use from office space to a designated records holding facility and remove other records upon the expiration of their day to day utility in the office in accordance with the approved disposition standards;

(7) Systematically eliminate all records in accordance with approved disposition standards and state schedules upon the expiration of their designated retention.

(Ord. No. 2011O-02, § 2, 10-11-2011)

Sec. 2-305. Agency duties regarding records management and retention.

It shall be the duty of each city agency to perform the following functions:

(1) Make and preserve, or cause to be made and preserved, records containing adequate and proper documentation of the organization, function, policies, decisions, procedures, and essential transactions of the agency, which records are designed to furnish the information necessary to protect the legal and financial rights of the city and of persons directly affected by the agency's activities;

(2) Cooperate fully with the city in complying with this article;

(3) Establish and maintain an active and continuing program for the economical and efficient management of records and assist the city in the conduct of records management, surveys and inventories, where applicable;

(4) Implement records management procedures and policies in accordance with those issued by the city;

(5) Establish necessary safeguards against the removal or loss of records and such further safeguards as may be required by rules and policies of the city. These safeguards shall include, but not be limited to, notification to all officials, employees, designees or other agents of the agency that no records of the same are to be removed or destroyed except in accordance with this article;

(6) Designate an agency records manager who shall maintain and operate a records management program in accordance with this article.

(Ord. No. 2011O-02, § 2, 10-11-2011)

Sec. 2-306. Agency requests for variation from this article.

(a) Any city agency that wishes to retain records in a time, place, or manner different than those specified in the state schedules shall submit a written request to the clerk. The request shall include, but not be limited to, the type of record and any reason(s) for the desired action modifying the state schedules. These reasons shall be based on the legal, physical, administrative, or historical retention requirements and standards established by the clerk and the city council.

(b) The clerk shall review a request submitted by any city agency and consider any and all evidence presented by the agency. The clerk shall make a decision based upon the material submitted by the requesting agency to determine whether any modification of the existing state schedules is warranted. Such decision shall be presented to the agency in writing within 20 days after the written request for a variation is submitted.

(c) Any agency dissatisfied with the decision of the clerk shall have ten days within which to appeal that decision to the city council. After receiving the notice of appeal, the clerk shall

place the matter on the agenda of the next regular meeting of the city council for consideration, and the council's decision at that meeting shall be final. If under appeal, no records scheduled for destruction pursuant to the state schedules and listed in the request of any agency under this Code section shall be destroyed until a final decision has been made by the city council.

(d) No retention period shorter than those prescribed by the state schedules shall be implemented.

(e) No place or manner of destruction different from those listed in the state schedules shall be implemented without approval by the state records committee.

(f) Nothing in this Code section shall be construed as requiring the state records committee's approval for the setting of a record retention period greater than the corresponding period in the state schedules. Such a modification may be documented in the city's records management plan or by amendment to this article.

(g) Nothing in this Code section shall be construed as requiring a city agency to destroy records while awaiting the clerk's or council's approval of a record retention schedule that would lengthen the retention period for said records.
(Ord. No. 2011O-02, § 2, 10-11-2011)

Sec. 2-307. Storage and disposition of records.

(a) A centralized records center or local holding area shall be established and secured to safeguard non-electronic records. All non-electronic records not required for day to day city operation shall be transferred to the records center or local holding area until destroyed or otherwise disposed of in accordance with the state schedules and destruction policies and procedures set forth herein. Such non-electronic records shall be kept by the clerk in a secure location to which the clerk strictly limits access.

(b) Electronic records shall be stored in a manner consistent with the other provisions of this article and in conformity with the state schedules. The clerk shall implement security measures such that electronic records are accessible only by appropriate persons and at an appropriate time, place, and manner.

(c) An archival depository will be selected to store those records that are determined to have permanent historical value.

(d) No record shall be altered, disposed of, or destroyed except in accordance with the provisions of this article.
(Ord. No. 2011O-02, § 2, 10-11-2011)

Sec. 2-308. Segregation of electronic records.

Electronic records shall be segregated so as to facilitate responses to requests made pursuant to the Open Records Act, O.C.G.A. § 50-18-70 et seq. Electronic records containing privileged materials or materials exempt from production under the Open Records Act or other applicable state or federal law shall be stored separately from those electronic records containing no such exempted or privileged materials.
(Ord. No. 2011O-02, § 2, 10-11-2011)

Sec. 2-309. Retention and destruction of magnetically stored meeting tapes.

The retention period for magnetically stored recordings of meetings of the Rockmart City Council and each city agency, including advisory boards, authorities and other committees appointed by the city council, shall only be for the time period until such council or agency's written minutes are approved.
(Ord. No. 2011O-02, § 2, 10-11-2011)

Sec. 2-310. Penalties.

Any person who removes, alters, steals, or destroys any records of any city agency in a manner not authorized by this article or any applicable retention schedule shall be guilty of a misdemeanor and may be prosecuted in Rockmart Municipal Court. Any person found guilty of violating this article shall be subject to the same sentencing, fines, and other imprisonment as other offenses within the jurisdiction of the municipal court. However, no custodian of any public record, or any city employee, agent, or designee who acts

in substantial compliance with this article shall be held personally liable or guilty of a misdemeanor.
(Ord. No. 2011O-02, § 2, 10-11-2011)

Sec. 2-311. Municipal court records.

The disposal, destruction, or other action to be taken regarding records of the Rockmart Municipal Court shall be governed by O.C.G.A. § 50-18-92. The municipal judge shall recommend to the state records committee and the administrative office of the courts retention schedules for their approval pursuant to this Code section and follow any schedules which are eventually recommended and/or approved by same. Such retention schedules, when adopted, shall be incorporated into this article and made a part hereof by reference.
(Ord. No. 2011O-02, § 2, 10-11-2011)

Sec. 2-312. Conflict of laws.

(a) All laws or parts of laws or resolutions or parts thereof in conflict with this article are hereby repealed.

(b) To the extent any records are managed for retention and destruction pursuant to state and federal statutes that conflict with this article, such records shall be retained and destroyed in compliance with such federal or state schedules. A city agency shall provide a written explanation to the clerk identifying the records and the applicable statutory citation so that such records can be removed from the city's retention schedules.
(Ord. No. 2011O-02, § 2, 10-11-2011)

Sec. 2-313. Severability.

If any section, subsection, sentence, clause, phrase, or portion of this article is for any reason held invalid or unconstitutional by any court or administrative agency of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portions thereof.
(Ord. No. 2011O-02, § 2, 10-11-2011)

Chapter 3

ALCOHOLIC BEVERAGES*

Article I. In General

Article II. Malt Beverages

Article III. Wine

*__State law references__—Alcoholic beverages, O.C.G.A. § 3-1-1 et seq.; local licensing of sale of alcoholic beverages, O.C.G.A. § 3-3-2.

Article IV. Distilled Spirits

ARTICLE I. IN GENERAL

Sec. 3-1. 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:

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

Alcoholic beverage shall be defined pursuant to O.C.G.A. § 3-1-2(2) and includes all alcohol, distilled spirits, beer, malt beverages, wine, or fortified wine as defined in this article.

Brown bag establishment means any restaurant in which the owners or their agents knowingly allow patrons to bring in and consume the patrons' own alcoholic beverages.

City means the city, its mayor and council, agents, employees, designees, and other representatives.

Distilled spirits shall be defined pursuant to O.C.G.A. § 3-1-2(7) and includes any alcoholic beverage obtained by distillation or containing more than 21 percent alcohol by volume, including, but not limited to, all liquors and fortified wines.

Election day means one hour before the polls open until one hour after the polls close on any day set aside for any general or special election for any city, county, state, and/or federal offices, referendum questions, or any other ballot questions.

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. The term includes, but is not limited to, brandy.

Hotel and/or motel means any building or structure kept, used, maintained, advertised and held out to the public to be a place where food is actually served and consumed and sleeping accommodations are offered for adequate pay to travelers and guests, whether transient, permanent or residential, and whether conducted in the same building or in separate buildings or structures used in connection therewith that are on the same premises and are a part of the hotel operations; and which:

(1) Maintains 50 or more rooms used for the sleeping accommodations of such guests;

(2) Maintains an adequate sanitary kitchen and dining room equipped to serve food as required therein;

(3) Operates one or more public dining rooms (excluding banquet rooms) with a combined seating capacity of at least 30, where meals are regularly served to guests; provided that, consistent with the definition of "lounge" in this section, in no event shall the seating capacity of the lounge exceed that of such public dining rooms;

(4) Employs sufficient personnel to serve food as required in this article; and

(5) Derives at least as much gross income from the sale of such meals prepared, served, and consumed in the hotel as it does from its sale of alcoholic beverages.

Lounge means a separate room connected with, a part of and adjacent to a restaurant (as defined in this section) or located in a hotel (as defined in this section), provided that in no event shall the seating capacity of the lounge exceed that of its connected restaurant.

Malt beverage means any alcoholic beverage obtained by the fermentation of any infusion or decoction of barley, malt, hops, or any other similar product, or any combination of such products in water, containing not more than six percent alcohol by volume and including ale, porter, brown, stout, lager beer, small beer, and strong beer. The term does not include sake, known as Japanese rice wine.

Manufacturer means any maker, producer, distiller, vintner, rectifier, blender, or bottler of any distilled spirits.

Minor shall be defined pursuant to O.C.G.A. § 3-3-23, as currently enacted or hereafter amended.

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

Premises means the space or area owned, leased and/or controlled by the licensee and used by him for the purpose of operating under the license; except that in the case of hotels and motels, the term "premises" shall include only the portion of the property where alcoholic beverages are sold. The term "premises" is further defined as one physically identifiable place of business consisting of one room, or two or more contiguous rooms operating under the same trade name where alcoholic beverages are sold. Any premises outlets which cannot be determined as one identifiable place of business shall require additional licenses regardless of such establishment having the same trade name, ownership, or management, except that in the case of hotels and motels, premises shall include only the portion of the property where alcoholic beverages are sold. The term "premises" is further defined as one physically identifiable place of business consisting of one room, or two or more contiguous rooms operating under the same trade name where alcoholic beverages are sold. Any premises outlets which cannot be determined as one identifiable place of business shall require additional licenses regardless of such establishment having the same trade name, ownership, or management.

Residence means the act or fact of living or regularly staying at or in some place for the discharge of a duty or the enjoyment of a benefit or the place where one actually lives as distinguished from his domicile or place of temporary sojourn.

Restaurant means any public place kept, used, maintained, advertised and held out to the public as a place where meals are actually and regularly served, without sleeping accommodations, which:

(1) Maintains an adequate and sanitary kitchen and dining room equipment to serve food as required in this article.

(2) Provides a regular seating capacity for at least 30 persons; provided, that consistent with the definition of the term "lounge," in no event shall the seating capacity of the lounge exceed that of its connected restaurants.

(3) Employs sufficient personnel to serve food as required in this section.

(4) Serves at least one meal per day at least five days per week (with the exception of holidays, vacations and periods of renovations or redecorating).

(5) Derives at least 50 percent of its gross income from the sale of such meals prepared, served and consumed on the premises.

(6) Has obtained all necessary licenses, permits, or other governmental approval normally required of restaurants from any federal, state, or local agency.

Retail dealer means any person who sells distilled spirits in unbroken packages at retail only to consumers and not for resale. The term "retail dealer" shall be synonymous with the term "package sale license holder."

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 by volume made from fruits, berries, or grapes either by natural fermentation or by natural fermentation with brandy added. The term 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 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 that point in the manufacturing process when it conforms to the definition of wine contained in this section.

(Ord. No. 16-2005, § 1, 12-13-2005)

State law reference—Definitions, O.C.G.A. § 3-1-2.

Sec. 3-2. Familiarity with chapter.

It shall be the duty of each licensee to maintain a copy of this chapter on the premises, and to instruct each employee as to the terms thereof; and each licensee and employee shall at all times be familiar with this chapter.

Sec. 3-3. Responsibility for acts of employees and others.

Licensees are charged with the responsibility for compliance with this chapter by their officers, agents, servants and employees. Licensees are responsible and shall be subject to license probation, suspension, or revocation for any violations accruing upon the licensed premises by any officer, agent, servant, or employee.

Sec. 3-4. Purchase by or sales to underage persons prohibited.

(a) No holder of any alcoholic beverage license or his agents, employees, or representatives shall knowingly furnish, sell, or offer for sale any alcoholic beverages to a person under 21 years of age. This prohibition shall not apply with respect to the sale of alcoholic beverages to a person when 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. In this subsection, the term "proper identification" means any document issued by a governmental 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 state department of public safety to issue identification cards to handicapped persons who do not have a motor vehicle driver's license. The term "proper identification" does not include a birth certificate.

(b) Subsection (a) of this section shall not apply to the following:

(1) Alcoholic beverages purchased for medical purposes pursuant to a prescription of a physician duly authorized to practice medicine in the state;

(2) Alcoholic beverages purchased for consumption at a religious ceremony.

(c) All licensees shall post in the most conspicuous place in their establishments a sign printed in letters at least four inches high reading as follows:

"SALE OF ALCOHOLIC BEVERAGES TO MINORS STRICTLY PROHIBITED."

(d) It shall be unlawful for any minor to falsely misrepresent his age in any manner whatsoever. It shall be unlawful for any minor to drink or possess any alcoholic beverages, except as stated in subsection (a) of this section, or except as provided in O.C.G.A. § 3-3-23.

(e) The municipal court, in accordance with O.C.G.A. § 36-32-10, is granted jurisdiction to try and dispose of a first offense violation of O.C.G.A. § 3-3-23, relating to furnishing alcoholic beverages to, and purchase and possession of alcoholic beverages by, a person under 21 years of age, if the offense occurred within the corporate limits of the city. O.C.G.A. § 36-32-10 is incorporated herein by reference.

Sec. 3-5. On-premises consumption during certain hours prohibited.

All licensees under this chapter shall adhere to the prohibited hours of operation as set forth in this chapter.

Sec. 3-6. Food sales by consumption on the premises licensee.

(a) All holders of a license for consumption of alcoholic beverages on the premises by the drink shall maintain at least 50 percent of their annual gross income from the sale of foods. City officials may examine the records of the license holder at any reasonable time to determine whether the requirements of this section are being met. If said records indicate that the licensee is not meeting the requirements of this section, then his license may be subject to suspension or revocation under section 3-80.

(b) Within 120 days after having been issued a license for consumption of alcoholic beverages by the drink on the premises, the licensee shall submit to the city a statement from a certified public accountant or registered public accountant that the income requirements set forth in this section have been met for the first 90 days after the applicant received his license. Thereafter, on a quarterly basis and at each and every time of the license renewal, or upon request of the city,

each license holder shall submit to the city a statement from a certified or registered public accountant verifying that the income requirements as set forth in this section have been met.
(Ord. No. 15-2005, § 18, 12-13-2005)

Sec. 3-7. Removal of beverages prohibited.

(a) All alcoholic beverages sold by consumption on the premises licensees shall be consumed only on the licensed premises. It shall be unlawful for any person to remove from the licensed premises any alcoholic beverages sold for consumption on the premises. Each licensee shall be responsible for ensuring that no person so removes any alcoholic beverages from the premises in any type of container.

(b) Each consumption on the premises licensee shall post in a prominent place at each exit from the licensed premises a sign in substantially the following form: "It is a violation of City Ordinance to take any type alcoholic beverage from this outlet."

Such sign shall be uniform letters not less than one inch in height.

(c) It shall be unlawful for any person to drink or have in his possession an open container of any alcoholic beverage:

(1) On any public street, sidewalk, park or other public place within the city, or upon or within any motor vehicle on the streets, sidewalks, parks and public places of the city unless said person is at or on the premises of an establishment with a license issued pursuant to this article; or

(2) While on private property, open to public view, without the express permission of the owner, agent or person in lawful possession thereof.

(Ord. No. 15-2005, § 18, 12-13-2005)

Sec. 3-8. Brown bag establishments prohibited.

Brown bag establishments as defined in this chapter shall be prohibited within the city.
(Ord. No. 15-2005, § 18, 12-13-2005)

Sec. 3-9. Multiple licenses prohibited.

It shall be prohibited for any person to hold more than one alcoholic beverage license for a single licensed premises except that a person may hold one malt beverage license, one wine license and one distilled spirits license of the same classification for a single licensed premises.
(Ord. No. 15-2005, § 18, 12-13-2005)

Sec. 3-10. Keeping intoxicating beverages for unlawful sale; to influence trade.

(a) It shall be unlawful for any person to keep at any place in this city any alcoholic, spirituous, vinous, malt or other intoxicating liquors, bitters, beer or other intoxicating drinks for unlawful sale or unlawful furnishing.

(b) It shall be unlawful for any person doing business as a restaurant, gas station or convenience store to keep any distilled spirits on the premises of the business.
(Code 1976, § 3-1; Ord. No. 1990-009, § 1, 8-14-1990)

Sec. 3-11. Compliance with other laws.

(a) In addition to the provisions of this article, licensees are also charged with the responsibility for adhering to any other provisions of this Code, as well as the statutes and laws of the state and of the United States relating to the operation of their businesses.

(b) All applicants for licenses, in the case of pending applications, and all licensees, in the case of issued licenses, shall forthwith report to the city clerk and chief of police any allegations of a violation of any state law or regulation or local ordinance or regulation when such allegations are made by the state department of revenue, a law enforcement officer, tax commissioner, or a prosecuting attorney in this state charging the applicant or the licensee, as the case may be, with the violation of any law or regulation which could or would, in the event of a finding of guilt, result in a suspension or revocation of such license or a denial or an application for such license. Similarly, an applicant or a licensee shall report to the city clerk and chief of police all findings of such violations by any administrative agency, the tax

commissioner, or court which under this article could or would result in a revocation or suspension of a license. Failure to make reports required by this section shall itself be grounds for suspension or revocation of or the denial of an application for a license as the city council shall determine.

Sec. 3-12. Public drinking, drunkenness prohibited.

A person who shall be and appear in an intoxicated condition in any public place or within the curtilage of any private residence not his own other than by invitation of the owner or lawful occupant, which condition is made manifest by boisterousness, by indecent condition or act, or by vulgar, profane, loud, or unbecoming language, is guilty of a misdemeanor.(Code 1976, § 3-5; Ord. No. 1990-009, § 1, 8-14-1990)

State law reference—Similar provisions, O.C.G.A. § 16-11-41.

Secs. 3-13—3-59. Reserved.

ARTICLE II. MALT BEVERAGES*

Sec. 3-60. Responsibility of licensees for acts of employees and others; posting copies of chapter.

Licensees shall be responsible for compliance with all provisions of this chapter concerning the sale of malt beverages and/or wine by their officers, agents, and employees. Copies of the provisions of this chapter shall be maintained in a conspicuous place within the confines of the license location and distributed to all employees. (Ord. No. 2-1997, § 12, 2-10-1997)

Sec. 3-61. Photo permit for employees.

(a) *Required.* All employees involved in the sale of alcoholic beverages are required to obtain a photo permit from the city police department.

(b) *Time limit for applying.* Employees subject to this provision shall, within 14 days of their first day of work in an establishment holding a license to sell alcoholic beverages, report to the city police department for the purpose of applying for a photo permit on such forms as shall be required by the police department. No person may remain employed by any establishment holding an alcoholic beverage license unless the provisions of this section have been complied with.

(c) *Transferability; replacement permits.* Photo permits are transferable from one licensed premises to another within the corporate city limits. A photo permit shall be valid for a period of two years from the date of issue. At expiration, a new photo permit must be applied for. Photo permits must be made available for inspection upon request by the city council or police department. In case of lost, altered or mutilated photo permits, a replacement must be obtained immediately. If the original photo permit is found after a replacement is issued, then it must be turned in to the permits section at the police department; possession of more than one photo permit is a violation of this section.

(d) *Processing fee.* A processing fee is payable to the city upon application for a photo permit. In the event of a lost or mutilated photo permit, a replacement fee shall be payable to the city.

(e) *Police record.* The city shall have a complete and exhaustive search made relative to any police record of the person applying for the photo permit, who shall be fingerprinted. No photo permit shall be issued to any person if the following is shown to exist:

(1) The employee as a previous or current employee, or as a previous alcoholic beverage licensee, has been convicted of violating any laws, ordinances, or regulations regulating such business if such conviction or arrest occurred within a five-year period immediately preceding the date of application. The term "conviction" shall include an adjudication of guilt, a plea of guilty or nolo contendere or the forfeiture of bond when charged with a crime. If there is an arrest and charges are still pending, then action shall be postponed until the charges are adjudicated;

(2) The employee within a five-year period preceding the date of application shall

*__State law reference—__Malt beverages, O.C.G.A. § 3-5-1 et seq.

have been convicted for any felony charged under any of the laws of the several states or of the United States. The term "conviction" shall include an adjudication of guilt, a plea of guilty, or nolo contendere or the forfeiture of bond when charged with a crime. If there is an arrest and charges are still pending, then action shall be postponed until the charges are adjudicated;

(3) The employee has been convicted of more than one misdemeanor, including traffic violations, involving the use or abuse of any alcoholic beverage, opiate or drug, within the three years preceding the application. The term "conviction" shall include an adjudication of guilt, a plea of guilty or nolo contendere or the forfeiture of bond when charged with a crime. If there is an arrest and charges are still pending, then action shall be postponed until the charges are adjudicated; or

(4) The employee is on parole from any state or federal prison or work camp; provided that, in the event the employee is on active probation or parole, a signed letter must be submitted with the application for a photo permit from the applicant's parole or probation officer, such letter must be on official stationary, must state that the employee has been authorized by the probation office to maintain employment in an alcoholic beverage establishment.

(f) *Criminal record; notice.* In the event there is a criminal record discovered that would exclude the issuance of a photo permit, the designated agent of the police department shall issue a letter to the person fingerprinted, to the city clerk, and to the employer, stating that the person is ineligible for employment.

(g) *Right to appeal.* Any employee excluded from receiving or holding a photo permit under the terms of this section shall have the right to appeal such exclusion to the city council, which may in its discretion approve the issuance of a photo permit.
(Ord. No. 2-1997, § 12, 2-10-1997)

Sec. 3-62. Necessity for license, penalties.

It shall be unlawful to manufacture, sell or offer to sell at wholesale or retail within the corporate limits of the city any malt beverage without having the appropriate license for such manufacture or sale, or to carry on such activity in violation of the terms of such license, the laws of the city, the state or the federal government. Any person, firm or corporation violating such laws or regulations shall be subject to immediate revocation of any license granted hereunder. In addition, such violation shall be punishable as provided in section 1-7 of this Code.
(Code 1976, § 3-16; Ord. No. 1990-009, § 1, 8-14-1990)

Sec. 3-63. Separate license for each malt beverage outlet; transfer of license; surrender of license.

(a) A separate license shall be required for each malt beverage outlet, and separate application shall be made for each.

(b) Immediately upon the sale or closing of an outlet, it shall be the duty of the licensee to surrender his license to the council.
(Code 1976, § 3-17; Ord. No. 1990-009, § 1, 8-14-1990)

Sec. 3-64. Classification of malt beverage licenses; fees.

(a) *Types of classification.* Licenses under this article shall be classified as follows:

(1) *Retail package store*. The retail malt beverage package license shall permit only the sale of malt beverages in packages at retail.

(2) *Wholesale distributor*. The wholesale malt beverage distributor license shall permit only the sale of malt beverages by wholesalers who have a permanent business address located within the city.

(3) *Retail sales of malt beverages by the drink for consumption on the premises*. The retail consumption on the premises malt beverage license shall permit only the sale of malt beverages by the drink for consumption on the premises.

(b) *Fee amount, payment.* The following license fees shall be paid to the city clerk prior to the issuance or renewal of any malt beverage license:

(1) *Retail package*. The license fee for the operation of a retail package store for one calendar year or any part thereof shall be as established by the city council. No license fee shall be prorated or refunded.

(2) *Wholesale distributor*. The license fee for operation as a wholesale distributor for one calendar year or any part thereof shall be as established by the city council. No license fee shall be prorated or refunded.

(3) *Retail sales for consumption on the premises*. The license fee for the operation of a business or other location for serving malt beverages for consumption on the premises for one calendar year or any part thereof shall be as established by the city council. No license fee shall be prorated or refunded. The city may amend this fee from time to time.

(Code 1976, § 3-18; Ord. No. 1990-009, § 1, 8-14-1990; Ord. No. 2-1997, § 2, 2-10-1997; Ord. No. 15-2005, § 1, 12-13-2005)

Sec. 3-65. Application for license.

(a) Application for a malt beverages license under this article shall be made on forms furnished by the city, signed by the applicant under oath, and, at a minimum, shall contain the following information:

(1) The name, age, address, and length of residency of the applicant.

(2) The name, location, and description of the premises or place of business which is to be operated under such a license.

(3) A statement of whether the applicant or, if the applicant is a partnership, corporation, LLC, or other legal entity, any officer or other person with an interest in the application, has made application at any previous time with the city or any other governing authority for any alcoholic beverage license, and, if so, the disposition of such application.

(4) Whether the applicant or, if the applicant is a partnership, corporation, LLC, or other legal entity, any officer or other person with an interest in the application has ever been convicted of a crime other than traffic violations.

(5) Whether any previous alcoholic beverage license issued to the applicant, or if the applicant is a partnership, corporation, LLC, or other legal entity, any officer or other person with an interest in the application, has been revoked by any federal, state, or local government authority, together with a statement of the reasons for such revocation.

(6) A complete listing of any persons or entities who are to be interested directly or indirectly in the profits or losses, or both, of the proposed business.

(7) As to the applicant's proposed manager and employees at the business location, the same information required of the applicant under subsections (a)(1), (3), (4) and (5) of this section.

(8) Name and address of the owner or landlord or resident manager of the property proposed for said license, and a copy of the deed evidencing ownership of the property.

(9) If the applicant is a partnership, corporation, LLC, or other legal entity, a copy of the partnership agreement, articles of incorporation, bylaws, operating agreement, or other agreements or documents reflecting the creation, organization, and/or operation of the entity, together with a certificate of good standing from the secretary of state.

(10) Such other information as may be required by the city council, chief of police, city manager, city attorney, city clerk, building inspector, fire chief, or other city official.

(b) All new applications for malt beverages licenses under this article shall be accompanied by a nonrefundable investigation fee, paid in cash or certified funds, to defray the city's administra-

tive costs in reviewing and processing said applications as established by the city council. If any applicant applies for more than one alcoholic beverage pouring license at the same time, he shall be charged a single application fee as established by the city council. Hereafter, the city may amend these fees from time to time.

(c) All new applications for licenses under this article shall also be accompanied by the proper amount of the license fee, paid in cash or certified funds, as established by the city council. In the event the license is denied, refused, or otherwise not issued, such fee shall be returned to the applicant within 15 days of the city's decision on the application.

(d) The making of any untrue or misleading statement in the application for a license under this article shall be sufficient cause for the refusal, suspension, revocation, or cancellation of such license pursuant to the notice and hearing provisions provided in the chapter.

(e) The application shall also be accompanied by a current certificate from a registered surveyor containing the following information:

(1) A scale drawing of the building or proposed building as situated on the proposed lot;

(2) Proposed off-street parking facilities available to the building;

(3) Both the straight line distance and measured distance in linear feet from areas listed as "prohibited locations" in section 3-69 and, in the case of package sales, any other business or location with a package license;

(4) The requirement of showing these distances shall not exist where the proposed location is more than 650 feet from the "prohibited locations" listed in subsection (e)(3) of this section, or, in the case of package sales, more than 2,000 feet from another location with a package license, but the surveyor's plat or certificate shall so indicate; and

(5) The current zoning classification for the proposed location.

(f) Applications for package sales shall also be accompanied by a publisher's affidavit evidencing compliance with O.C.G.A. § 3-4-27.
(Code 1976, § 3-19; Ord. No. 1990-009, § 1, 8-14-1990; Ord. No. 2-1997, § 3, 2-10-1997; Ord. No. 15-2005, § 2, 12-13-2005)

Sec. 3-66. Retail license qualifications.

No retail malt beverage or wine license shall be granted to any applicant, unless that applicant meets the following standards of qualifications for the granting of a license, which qualifications, if not met, shall be considered as grounds for denial of a license, in addition to the provisions for the granting of the license as set forth in section 3-68:

(1) All applicants for a retail license must show financial responsibility. The governing authority may require all applicants to provide financial statements and other evidence of financial responsibility in conjunction with any application. All applicants for a license must be of good character, and all operators, managers, clerks, and other employees that may be involved in the sale of malt beverages shall be of like character. Corporate or firm applicants shall be of good business reputation.

(2) The applicant must be a citizen of the United States, and a resident of the county for a period of one year preceding the date of filing the application; except as provided in subsection (6) of this section. No license shall be granted to an applicant who has been convicted under federal, state or local law for a criminal offense involving alcoholic beverages, gambling, crimes involving moral turpitude, or tax law violations, if any such conviction tends to indicate that the applicant would not maintain the operation for which a license is being sought in conformity with federal, state or local laws of the city.

(3) The applicant shall not have had revoked, for cause, such as violation of regulations, or improper operations, within five years preceding his application, any license is-

sued to him by any city or county in the state, or any other state, to sell alcoholic beverages of any kind.

(4) The applicant shall be the owner of the premises for which the license is held or the owner of the lease thereon.

(5) The applicant shall be active in, and solely responsible for the management and operation of the business for which the license is granted.

(6) If the applicant is a partnership or corporation, then either a partner, outlet manager, or corporate agent must conduct the business on the licensed premises, but the person does not have to reside within the county.

(7) Any misstatement or concealment of fact in the application shall be grounds for denial of consideration of the application or revocation of any license if this is discovered after the license is granted. The applicant shall be liable to prosecution for perjury under the laws of the state for such conduct.

(8) The governing authority, in its discretion, may consider any extenuating circumstances which may reflect favorably or unfavorably on the applicant, application or the proposed location of the business, including, but not limited to, any report which may be obtained from the chief of police, or his designee, and the other standards for review of license applications as set forth in section 3-68. If, in the judgment of the city council, circumstances are such that the granting of the license would not be in the best interest of the general public, such circumstances may be grounds for denying the application.

(9) In the event the application is otherwise approved after consideration as provided in this Code, the applicant must obtain a federal beer stamp and a state retail beer license before beginning operation.

(Code 1976, § 3-20; Ord. No. 1990-009, § 1, 8-14-1990; Ord. No. 2-1997, § 4, 2-10-1997)

Sec. 3-67. Wholesale license.

Any wholesale dealer in malt beverages licensed by the state, or the agent of such wholesale dealer, shall be granted a license to distribute such beverages in the city upon application for such license to the clerk of the city, the payment of the fee herein provided, and the presentation of evidence that he understands this article and the conditions under which retail licenses are issued. No wholesale license holder shall have any direct financial interest in any retail license for the sale of malt beverages or wine within the city.

(Code 1976, § 3-21; Ord. No. 1990-009, § 1, 8-14-1990; Ord. No. 2-1997, § 6, 2-10-1997)

Sec. 3-68. Standards for review of license application; grant or denial.

(a) After the application has been completed and submitted to the city council for a decision, in making a determination, the council shall be guided by the factors set out in this subsection:

(1) The report of the chief of police concerning the investigation into the application.

(2) The criminal record of the applicant and outlet manager, if applicable, and the general good character, reputation and financial responsibility of the applicant, provided that nonpayment of federal, state, county, or city taxes shall be prima facie evidence of lack of financial responsibility.

(3) Whether the applicant has been adjudicated as incompetent or insane, or has insufficient mental capacity to conduct the business for which the application is made.

(4) Whether the applicant has been discharged from any military service under conditions other than honorable.

(5) Concerning the criminal record of the applicant, as previously set forth in these standards, whether the applicant, or outlet manager, or other parties who have a significant business interest in the licensed operation have been convicted of more than one misdemeanor, including traffic violations, involving the use or

abuse of any alcoholic beverage, opiate, or drug within five years preceding the application.

(6) For purposes of the review of any criminal record, the term "conviction" shall include an adjudication of guilt, a plea of guilty, or nolo contendere or the forfeiture of bond when charged with a crime. If there is an arrest and charges are still pending against any applicant, or other party at interest to said application, then any final action on the application shall be postponed until the charges are adjudicated.

(7) Whether the information and statements contained in the application are complete.

(8) Evidence presented to the council for or against the application, at the time and place set for an initial decision on the application by the council.

(9) Whether any license for the sale of malt beverages previously issued for the location has been revoked for cause by the city council.

(10) Whether the applicant holds or possesses any other license for the sale of malt beverages issued by the city.

(11) The history or reputation of the building or establishment (proposed for outlet) for prostitution or other sex offenses; fighting, shooting, stabbing, or other violence; gambling, illegal dealing in alcoholic beverages or drugs; or other similar violations of the laws of this state or the United States of America.

(12) Whether the application meets all of the retail license qualifications set forth in section 3-66.

(13) Whether the license is for a location which comes within the provisions of prohibited locations, as set forth in section 3-69.

(14) Whether the proposed location has adequate off-street parking facilities or other parking available for its patrons and whether the location would tend to increase and promote traffic congestion and resulting hazards therefrom.

(15) The nature of the neighborhood immediately adjacent to the proposed location; that is, whether the same is predominately residential, industrial or business.

(16) Whether the proposed location is in such close proximity to existing malt beverage establishments so as to create a nuisance, traffic hazard, or similar problems if the license were granted.

(17) Any recommendations received by the city council from either the planning commission, Coosa Valley Regional Development Center, building inspector, or other responsible agencies which might materially affect the proposed location, its effect, if any, on surrounding property values, the city's development plan, zoning restrictions, if any, and other planned development alternatives of the city.

(18) No license shall be granted to any applicant, or remain held by any licensee, who is not a citizen of the United States, resident alien, or is otherwise authorized or has legal permission to be and remain in this country, and who is not a resident within the county, provided that an owner who does not meet this residency requirement may do so through a manager, agent, or other employee who resides within the county.

(b) A decision on a license application shall be made at the next regular or special meeting of the city council under the provisions of this article. Licenses, if granted, shall be issued by the city clerk upon payment of the license fee. All decisions of the council shall be in accordance with the provisions of section 3-81.
(Code 1976, § 3-22; Ord. No. 1990-009, § 1, 8-14-1990; Ord. No. 2-1997, § 5, 2-10-1997; Ord. No. 15-2005, § 16, 12-13-2005)

Sec. 3-69. Prohibited locations for sale of retail malt beverages.

(a) It shall be unlawful to grant a license for the sale of malt beverages or wine within the following areas in the city:

(1) Within any residential zoning district.

(2) Within a measured distance of 300 feet of any girl's club, boy's club, YMCA, community center, Salvation Army Center, public park, or other public playground or recreational facility owned or operated by the city except as to licenses for the sale of malt beverages by the drink in the central business district, as defined in this Code, and as may be amended from time to time, in which a measured distance of 50 feet shall apply.

(3) Within a measured 300 feet of any alcoholic treatment center owned or operated by the state or any local governing authority.

(4) Within a measured 300 feet of any school ground or college campus.

(5) Within a measured distance of 300 feet of any church, except as to licenses for the sale of malt beverages by the drink in the central business district as defined in this Code, and as may be amended from time to time, in which a measured distance of 50 feet shall apply.

(b) The term "measured," for purposes of this section, means measured by way of the nearest traveled road, street, highway or publicly owned sidewalk from the front entrance of an outlet authorized to sell beer to the property line of an involved school ground, residential section, church or other prohibited property location. If the measurement crosses a road, street or highway, the measurement shall be at an intersection or authorized crosswalk. The term "measured" as it relates to the distance from the front entrance of such outlet shall be the measurement from the front door of such outlet in a straight line to the nearest road, street, highway or publicly owned sidewalk.

(c) No window sales of malt beverages and/or wine shall be permitted at any retail or wholesale outlet within the city.
(Code 1976, § 3-23; Ord. No. 1990-009, § 1, 8-14-1990; Ord. No. 2-1997, § 7, 2-10-1997; Ord. No. 15-2005, § 3, 12-13-2005)

State law reference—Location restrictions, O.C.G.A. § 3-3-21 et seq.

Sec. 3-70. License nontransferable.

A license once issued may not be transferred from one person, firm, or corporation to another, or from one licensed premises to another.
(Code 1976, § 3-24; Ord. No. 1990-009, § 1, 8-14-1990)

Sec. 3-71. Presumption of being in business.

Any person having located on his premises more than 48 12-ounce bottles or containers or the equivalent of 576 ounces of beer at any one time, shall be presumed as a matter of law to be in the business of selling for a pecuniary consideration.
(Code 1976, § 3-25; Ord. No. 1990-009, § 1, 8-14-1990)

Sec. 3-72. Excise tax; enforcement, collection and penalty.

(a) Except as provided in subsection (b) of this section, there is hereby levied and imposed upon such wholesale dealer selling malt beverages within the city an excise tax in the amount of 0.4166 cents per ounce of malt beverages sold by such wholesale dealer within the corporate limits of the city.

(b) All malt beverages sold in or from a barrel or bulk container and being commonly known as tap or draft beer, shall not be subject to the excise tax provided for in subsection (a) of this section, but in lieu thereof there is hereby imposed upon each wholesale dealer selling such malt beverages within the corporate limits of the city an excise tax of $6.00 for each barrel or bulk container having a capacity of 15½ gallons sold by such wholesale dealer within the city, and at a like rate for fractional parts thereof. Furthermore, all malt beverages sold in bottles, cans, or other containers, except barrel or bulk containers, shall be taxed at a rate of $0.05 per 12 ounces, and a proportionate tax at the same rate on all fractional parts of 12 ounces.

(c) Each licensee pursuant to this article selling malt beverages within the city shall file a report by the tenth day of each month showing for the preceding calendar month the exact quantities of malt beverages, by size and type of con-

tainer, constituting a beginning and ending inventory for the month, sold within the city. Each such licensee pursuant to this article shall remit to the city on the tenth day of the month next succeeding the calendar month in which sales were made, the amount of excise tax due in accordance with this section.

(d) No decal, stamp, or other identifying marking shall be required on malt beverages sold within the city.

(e) The failure to make a timely report and remittance shall render a licensee pursuant to this article liable for a penalty equal to ten percent of the total amount due during the first 30-day period following the date such report and remittance were due and a further penalty of 20 percent of the amount of such remittance for each successive 30-day period or any portion thereof, during which such report and remittance are not filed. The filing of a false or fraudulent report shall render the licensee pursuant to this article making such report liable for a penalty equal to 100 percent of the amount of the remittance which would be required under an accurate and truthful report.

(f) Such failure to make a timely report or remittance as required in subsection (e) of this section shall also constitute grounds for the revocation of the business license issued by the city to the licensee pursuant to this article.
(Code 1976, § 3-26; Ord. No. 1990-009, § 1, 8-14-1990; Ord. No. 15-2005, § 4, 12-13-2005)

State law reference—Local excise taxes on sale of malt beverages, O.C.G.A. § 3-5-80 et seq.

Sec. 3-73. Inspection of stock on hand.

All malt beverages in the possession of a retail licensee shall be made readily available for inspection by an authorized city official.
(Code 1976, § 3-27; Ord. No. 1990-009, § 1, 8-14-1990)

Sec. 3-74. Retailer's acceptance of deliveries.

The retail dealers in malt beverages licensed under this article shall not buy nor accept deliveries of malt beverages from wholesalers or other persons offering same for sale except from wholesalers duly licensed under this article. Such retailer shall not accept deliveries of malt beverages except directly to the premises for which his license and permit was issued, and by no other means than in a conveyance owned and operated by a wholesaler licensed under this article to make deliveries of malt beverages in the city.
(Code 1976, § 3-28; Ord. No. 1990-009, § 1, 8-14-1990)

Sec. 3-75. Storage on premises only.

All such malt beverages in the possession of a licensed retailer shall be stored and sold in and upon the premises for which the license was issued, which premises shall be described in the application for license hereinabove referred to, and at no other place.
(Code 1976, § 3-29; Ord. No. 1990-009, § 1, 8-14-1990)

Sec. 3-76. Window sales and curb service prohibited.

It shall be unlawful for any retail or wholesale licensee of beer, through the licensee or the licensee's employees, agents or otherwise, to service, sell or deliver any malt beverages to automobiles, or to passengers of automobiles, whether the automobiles are located on public or private property. Curb service or drive-in sales of malt beverages shall be forbidden in any form or manner within the corporate limits of the city, provided however, that present curb service or drive-in sale locations within the city which were in existence on or before August 14, 1990,shall be allowed to continue operation. In the event any of such establishments shall close, or otherwise cease operation, no new establishments may be permitted at the location.
(Code 1976, § 3-30; Ord. No. 1990-009, § 1, 8-14-1990)

Sec. 3-77. Employment of minors prohibited.

It shall be unlawful for any retail licensee selling malt beverages for off-premises consumption to employ any person on the premises for any purpose whatsoever, under 18 years of age. This section shall not apply to persons under 18 years

of age who are employed in supermarkets, convenience stores, breweries or drugstores from selling or handling malt beverages.
(Code 1976, § 3-31; Ord. No. 1990-009, § 1, 8-14-1990)

State law reference—Similar provisions, O.C.G.A. § 3-3-24.

Sec. 3-78. Hours for sales; restrictions.

(a) It shall be unlawful for any person to sell, give away, offer for sale, or in any manner dispense or deliver any malt beverages by the package within the city during the hours 12:00 a.m. until 12:30 p.m. Sunday and from 11:30 p.m. Sunday until 8:00 a.m. Monday.

(b) It shall be unlawful for any person to sell, give away, offer for sale, or in any manner dispense or deliver any malt beverages for consumption on the premises between the hours of 12:30 a.m. and 8:00 a.m. Tuesday through Saturday; and the hours of 12:00 a.m. until 12:30 p.m. Sunday and from 11:30 p.m. Sunday until 8:00 a.m. Monday.

(c) All holders of a license for consumption of malt beverages on the premises must stop selling, serving, or offering for sale any alcoholic beverages 30 minutes prior to closing time. Furthermore, all such license holders must also close and have all patrons or customers out of the premises no later than 30 minutes after closing time.

(d) 12:00 a.m. shall mean midnight and 12:00 p.m. shall mean noon.
(Code 1976, § 3-32; Ord. No. 1990-009, § 1, 8-14-1990; Ord. No. 15-2005, § 5, 12-13-2005; Ord. No. 2011O-03, § 1, 12-13-2011; Ord. No. 2012O-01, § 1, 1-10-2012)

Sec. 3-79. Regulations.

(a) *Prohibitions*. No holder of a license authorizing the sale of malt beverages at retail in the city, nor any agent or employee of the licensee, shall do any of the following upon the licensed premises:

(1) Sell beer to any person while such person is in an intoxicated condition.

(2) Sell beer upon the licensed premises or permit beer to be consumed thereon, on any day or at any time when such sale or consumption is prohibited by law.

(3) Permit on the licensed premises, any disorderly conduct or breach of the peace.

(4) Sell, offer for sale, or possess on the licensed premises any kind of alcoholic liquor, the sale or possession of which is not authorized under this license.

(5) Permit or allow any consumption of alcoholic beverages on the premises of any licensed location if the premises only holds a retail dealer license for package sales. It shall be the duty of the owner, operator, outlet manager or employee of any such establishment to police and prevent the consumption of any alcoholic beverages upon the premises. Evidence of any such consumption by any person within or upon the premises of operation of said location shall be deemed prima facie evidence that the license holder is allowing the consumption of such beverages. The burden shall be upon such owner or operator to establish to the satisfaction of the city that any such conduct was without the knowledge, permission or implied consent of the license holder. For the purposes of this section, knowledge of the license holder shall include not taking appropriate precaution or action to prevent such consumption, which shall be deemed as implied consent or permission for consumption on the premises. The provisions of this subsection shall not apply to any location that has a valid license issued pursuant to this Code for consumption of malt beverages or wine by the drink on the premises.

(6) Failure to post conspicuously in a place of business the license granted hereunder.

(7) In connection with sales on the premises, no person under the age of 18 years shall be allowed to sell, deliver or take orders for the sale, delivery or serving of malt beverages or wine. This section shall not prohibit persons under 18 years of age who are employed in supermarkets, con-

venience stores, or drugstores from selling or handling the sale of malt beverages or wine which are sold for consumption off the premises if there is at all times during which any person under the age of 21 years is working on the premises, a licensee or one employee of the licensee at least 21 years of age or older. This person must serve in a supervisory capacity on the premises inside the building within which the license for the sell of malt beverages and/or wine is held.

(b) *Building to meet requirements of city building inspector*. The building or proposed building to house a retail outlet for the sale of malt beverages shall meet all requirements of the city building inspector.

(c) *Signs to be posted*. Each outlet for the retail sale of malt beverages shall post in a conspicuous place within the outlet a sign in letters at least two inches high, reading as follows:

SALE OF MALT BEVERAGES TO MINORS STRICTLY PROHIBITED

(d) *Incorporation of state regulations*. The state regulations relating to the sale and distribution of malt beverages by the package, and by the drink for consumption on the premises, as revised and promulgated by the state revenue department, are hereby incorporated into and made a part of this article as if fully set out herein.

(e) *Change of ownership, information*. Any holder of a license to sell at retail malt beverages by the package, or by the drink for consumption on the premises, shall make an immediate report to, and receive approval by, the city council of any change in the interests in or ownership of a malt beverage outlet and/or any change in the information as stated in the original application for license.

(f) *Outdoor advertising*. No mobile advertising signs, overhanging advertising signs, flashing light signs or other exterior outdoor advertising sign shall be permitted which advertises the sale of beer. Further, any interior signs that may be viewed by the public from the road or otherwise may be seen in plain view from the exterior of the premises shall be five or less in number. It is the intention of this subsection to prohibit the outdoor advertising of malt beverages; and to limit the use of beer advertising signs, or other window signs in retail malt beverage outlets to three or less in number when displayed for public view.

(g) *Elected and appointed officials and employees not to hold license.* No elected city official, full-time appointed city official, city employee, or their immediate family, within the first degree of consanguinity or affinity as defined according to civil law, shall neither apply for nor hold any license to sell malt beverages and/or wine in the city.

(Code 1976, § 3-34; Ord. No. 1990-009, § 1, 8-14-1990; Ord. No. 2-1997, §§ 8, 11, 2-10-1997; Ord. No. 15-2005, §§ 6, 17, 12-13-2005)

Sec. 3-80. Renewal of license; revocation; lapse.

(a) All licenses shall be issued on a calendar year basis and shall be renewable as a matter of course upon payment of the appropriate fee, provided that the applicant has not violated any of the terms and provisions of this article.

(b) Each applicant shall make written application for renewal on or before November 15 of each year on forms provided by the city, and the license fee shall be made in full, not later than December 31 of each year.

(c) If the applicant for a license has not commenced operation of business upon the premises upon which a license has been granted within 120 days from the date of the granting of the license, this license shall lapse, become void, and be of no force or effect.

(d) Such renewal applications shall be referred to the chief of police, and if, after appropriate investigation, no violations have been discovered, the application shall automatically be granted for a renewal license for the next calendar year.

(e) No license which has been issued or which may hereafter be issued by the city shall be suspended, probated or revoked, except for due cause as that term is defined in subsection (f) of this section and after a hearing requiring the licensee to appear and show cause to the mayor

and council of the city why such license should not be suspended or revoked. At any such hearing, all parties to the hearing shall be entitled to be represented by counsel and shall be entitled to all subpoena powers provided by this Code and the city Charter, together with the right to examine

all witnesses under oath. Notice of any proposed action and hearing shall be given at least five days prior to the conducting of any such hearing. In the event the licensee is a partnership or corporation, service shall be made upon the local manager, registered agent for service or any resident officer or partner within the county.

(f) For purposes of any action concerning the revocation, suspension, probation or other penalties of any licensed holder within the city, the term "due cause" for suspension or revocation of such license shall include, but not be limited to:

(1) The violation of any provision of this chapter by the license holder, partner, officer, director, principal stockholder (who owns more than ten percent ownership) or any employee engaged in the sale of alcoholic beverages, of this Code or any other ordinance or duly adopted regulation of the city, except misdemeanor traffic violations by the above-named persons, partnerships, corporations, or entities;

(2) The violation of any provision of this chapter by the license holder, partner, officer, director, principal stockholder (who owns more than ten percent ownership) or any employee engaged in the sale of alcoholic beverages, of any state law or regulation, any county ordinance or regulation, or any other ordinance, regulation or law regulating such businesses, or violation of any regulation made pursuant to authority granted for the purpose of regulating such business, or for the violation of any law of the United States of America, except misdemeanor traffic violations by the above-named persons, corporation or entity;

(3) Falsifying, false swearing regarding or the omission of any fact affecting the license application or any supplemental information required during the term of the license, with regard to the location of the business or the license holder, partner, officer, director, principal stockholder (who owns more than ten percent ownership) or any employee engaged in the sale of alcoholic beverages; or any reason which would authorize the mayor or council of the city to refuse the issuance of a license;

(4) The violation of any term, condition or provision of this chapter in any particular or as to any detail whatsoever shall be due and conclusive cause for suspension or revocation of any license described in this chapter;

(5) The sale or offer of sale of any alcoholic beverage to any minor, as defined and prohibited by the laws of the state, or to any person under the age of 21 years; or the failure to card or require proof of age, together with proof of the legal ability of any person under the age of 21 to purchase alcoholic beverages; or the failure to report to the police department of the city, in writing, any attempt to purchase alcoholic beverages by a minor or other person not entitled to make such purchase within 24 hours of such attempted purchase; or

(6) When the sale of alcoholic beverages at any location shall become a nuisance; shall adversely affect the public health, safety, morals or welfare of the community; or require police protection, enforcement or supervision to the extent not required by other retail sales of consumer goods or products.

(Code 1976, § 3-35; Ord. No. 1990-009, § 1, 8-14-1990; Ord. No. 2-1997, § 9, 2-10-1997)

Sec. 3-81. Decisions regarding application to be in writing.

All decisions approving, denying, suspending or revoking any malt beverage license under the provisions of this article shall be in writing, setting forth the reasons therefor. The written decision shall be served upon the applicant or licensee.

(Code 1976, § 3-36; Ord. No. 1990-009, § 1, 8-14-1990)

Sec. 3-82. Cumulative provisions; no refund of license fees; action after revocation.

(a) The remedies and actions provided in this article, including but not limited to the suspension or revocation of any malt beverage or wine

license shall be cumulative; and in addition to and nonexclusive of any other action, civil or criminal, pending, resolved, or threatened, regarding the license, location, owner of the business or licensee. In the event of revocation or suspension by the mayor and council the licensee shall not be entitled to a refund or return of an portion of the license fee.

(b) If any license for selling malt beverages or wine is revoked, all signs indicating that such beverages may be sold or purchased shall be removed from the place of business. Upon receipt by the police department of notice of any revocation, the department shall take all necessary action to see that this section is completely enforced.
(Ord. No. 2-1997, § 10, 2-10-1997)

Sec. 3-83. Review of revocation, suspension or failure to renew.

If the city council revokes, suspends or fails to renew any license which has been issued by the council under this article, the city council may, notwithstanding the other provisions herein, review such revocation, suspension or failure to renew and may reinstate such license, subject to all of the following conditions:

(1) Such review cannot be held until at least one year after the date of the revocation, suspension or failure to renew.

(2) The original licensee against whom the revocation, suspension or failure to renew action was taken must make application in writing for reinstatement of his license after the lapse of the one-year period.

(3) The original licensee must have remained in the same business, except for the selling of alcoholic beverages, at the same location continuously since such revocation, suspension or failure to renew.

(4) The original licensee must, at the time of the review, be qualified in all respects for the same type license originally issued to him, except for those provisions in section 3-73 concerning violations relating to the sale of alcoholic beverages, if the revocations, suspension or failure to renew was a result of such violation.

(5) The application for reinstatement shall be made in accordance with and subject to all the same provisions, conditions and qualifications as required by this article for the approval of an initial license.

(Code 1976, § 3-38; Ord. No. 1990-009, § 1, 8-14-1990)

Secs. 3-84—3-139. Reserved.

ARTICLE III. WINE*

Sec. 3-140. 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:

Alcoholic beverage means and includes all alcohol, distilled spirits, beer, malt beverages, wine, or fortified wine.

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. Such a beverage is classified as a distilled spirit, and may not be sold in the city and therefore is not subject to regulation under this article.

Governing authority means the mayor and council of the city.

Manufacturer means any maker, producer, distiller, brewer, vintner, rectifier, blender, or bottler of any alcoholic beverage.

Package means a bottle, can, keg, barrel, or any other original consumer container of alcoholic beverages.

Person means any individual, firm, partnership, cooperative, nonprofit membership corporation, joint venture, association, company, corporation, agency, syndicate, estate, trust, business trust, receiver, fiduciary, or any other group or

*__State law reference—__Wine, O.C.G.A. § 3-6-1 et seq.

combination acting as a unit, body politic, or political subdivision, whether public, private, or quasi-public.

Retail dealer means any person who sells wine in unbroken packages at retail only to customers and not for resale.

Wholesaler means any person who sells wine to other wholesale dealers or retail dealers.

Wine means an alcoholic beverage containing no more than 21 percent by volume made from fruits, berries, or grapes either by natural fermentation or by natural fermentation with brandy added. 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.
(Ord. No. 1-1997, §§ 1, 2, 2-11-1997)

Sec. 3-141. Compliance with other applicable provisions.

It shall be unlawful for any person to sell any wine without first complying with the rules and regulations set out in this article, applicable provisions of article II of this chapter and/or all other applicable ordinances, state or federal laws.
(Ord. No. 1-1997, § 3, 2-11-1997)

Sec. 3-142. Classification of wine licenses.

Licenses under this article shall be classified as follows:

(1) *Retail sales of wine by the package sale*. The retail wine package sale license shall permit only the sale of wine in packages at retail.

(2) *Retail sales of wine by the drink for consumption on the premises*. The retail sale of wine for consumption on the premises license shall permit only the sale of wine by the drink for consumption on the premises.

(Ord. No. 15-2005, § 7(3.1), 12-13-2005)

Sec. 3-143. Licenses.

(a) *Application; fee.* All applicants for a wine license issued pursuant to this article shall complete an application furnished by the mayor and council of the city, which form shall substantially comply with the form available from the clerk of the city. All applicants shall complete each form in its entirety, providing all information requested, and an applicant's failure to provide such information may result in denial of the application. A nonrefundable fee established by the city council shall be included in any application for a wine license under this article. If the application is submitted simultaneously with another alcoholic beverage license application, only one fee shall be required for both applications.

(b) *Complete set of fingerprints to be furnished.* Each applicant shall also furnish a complete set of fingerprints along with the application, and these fingerprints shall be forwarded to the division of investigation, who shall search the files of the state crime information center for a period of two years immediately preceding the date of such application for any evidence of prior criminal activity. The division of investigation shall also submit these fingerprints to the Federal Bureau of Investigation under rules established by the United States Department of Justice for processing and identification records. The federal record, if any, shall be obtained and returned to the mayor and council considering such application. If an applicant is submitting a license request for the sale of both wine and beer, only one set of fingerprints and one investigation shall be required. If the applicant already holds a beer license and request a wine license, the fingerprinting requirement of this subsection shall apply.

(c) *Age and residency requirements.* No wine license issued pursuant to this article shall be granted to any applicant, unless such applicant is 21 years of age and has been a resident of the city for a minimum of one year immediately preceding the filing of the application. These residency and age requirements shall apply equally to a corporation, partnership, or other business applying for a license under this section. A local manager, partner or other person shall be designated as the local party responsible for the license, subject to all license application provisions.

(d) *Eligibility.* No employee or elected official of the city shall be eligible to receive a wine license issued pursuant to this article.

(e) *Standards on which issuance or denial is based.* The city council shall apply the following standards to all decisions pertaining to the issuance or denial of any licenses under this section:

(1) Financial responsibility of the applicant.

(2) The good character of the applicant, and, if the applicant is a corporation or business, the good character of all operators, managers, clerks or other employees. In addition, corporate or business applicants shall have a good business reputation.

(3) The criminal record of each applicant, any agent or outlet manager (responsible licensee) of any corporate or business applicants. No license hereunder shall be granted to any applicant who has been convicted under any federal, state, or local law of a criminal offense involving alcoholic beverages, gambling, or tax violations, or of any other offense, if such conviction tends to indicate that the applicant would not maintain the operation for which a license is being sought in conformity with federal, state, or local laws and ordinances.

(4) Any other relevant extenuating circumstances that may reflect favorably or unfavorably upon the applicant, the application, or proposed location of the business for which a business is being sought. The mayor and council shall have the discretion to deny an application for a license under this section, if, in their judgment, the granting of such license would not be in the best interest of the general public.

(f) *Notice of issuance or denial to be in writing.* All decisions of the mayor and council either approving or denying a license application shall be stated in writing, and a copy of such statement shall be provided to the applicant either personally or by certified mail to the applicant's stated address.

(g) *Hearing.* When the mayor and council deny an application for a wine license issued pursuant to this article, the applicant shall have 15 days following notification of such denial to request a hearing before the mayor and council. Any such denial shall inform the applicant of this time requirement. At this hearing the applicant shall be entitled to present evidence and cross-examine opposing or adverse witnesses.

(h) *Suspension or revocation.* The general rules, regulations and conditions governing the suspension or revocation of licenses as contained in the malt beverage code of the city in article II of this chapter shall also apply to this article.

(i) *Package and consumption licenses not to be issued for same location.* No applicant shall be entitled to apply for or receive both a package license and license for consumption by the drink on the premises for the same location.
(Ord. No. 1-1997, § 4, 2-11-1997; Ord. No. 15-2005, §§ 7, 8, 12-13-2005)

Sec. 3-144. Premises.

(a) *Compliance with zoning requirements.* Any business license issued hereunder shall comply with all zoning requirements and ordinances of the city, the regulations of the state revenue commissioner, and the laws of the state.

(b) *Lighting.* Each such building 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 street on which the building is located so as to reveal the inside retail area of the building and so as to reveal all the outside premises of the building.

(c) *Prohibited areas.* No license for the sale of wine under this article shall be granted within the areas within the city also prohibited by section 3-69 or not authorized by state law.
(Ord. No. 1-1997, § 5, 2-11-1997)

Sec. 3-145. Term of license; renewal.

A license issued pursuant to this article shall be valid only for the calendar year indicated thereon, and shall be renewed only upon approval of the mayor and council of the city that issued the license. A licensee who desires to continue business during a subsequent calendar year must

make a new application for such year prior to November 1 of the year in which the current license expires.
(Ord. No. 1-1997, § 6, 2-11-1997; Ord. No. 15-2005, § 9, 12-13-2005)

Sec. 3-146. License fees; proration.

The annual fee for a license issued pursuant to this article shall be as established by the city council and shall be paid prior to the issuance of such license, at the same time the application for such license is filed. Such fee shall be paid either in cash or by bank certified check or money order. No license fee may be prorated or refunded and shall be payable in full for any part of a year. A separate license fee shall be paid for a malt beverage license.
(Ord. No. 1-1997, § 7, 2-11-1997; Ord. No. 15-2005, § 10, 12-13-2005)

Sec. 3-147. Wholesale license.

Any wholesale dealer in wines licensed by the state, or the agent of such wholesale dealer, who has a place of business or conducts business sales within the city at any location within the city, shall make application for a license to the clerk of the city, and pay the fees herein provided. Wholesale license dealers shall comply with this article, and article II of this chapter concerning malt beverages, before the wholesale dealer can sell or deliver any alcoholic beverage to any establishments in the city. Deliveries and sales shall only be made to retailers properly licensed to sell either malt beverages or wine within the city. Deliveries shall be made in conveyances owned and operated by a wholesale license holder and shall at all times be made subject to any inspection by duly authorized representatives of the city. No person who has any direct financial interest in a retail license for the sale of malt beverages and/or wine shall hold a wholesale license under the terms of this chapter.
(Ord. No. 1-1997, § 8, 2-11-1997)

Sec. 3-148. Excise tax.

(a) *Levied.* There is hereby levied upon all wine sold within the city an excise tax computed at the rate of $0.22 per liter which shall be paid to the city. Said tax shall be paid as follows: Each wholesaler selling, shipping, or any way delivering wine to any licensee shall collect the excise tax at the time of delivery to each licensee on or before the 15th day of the month following. The $0.22 per liter shall be prorated so that all containers of wine shall be taxed on the basis of $0.22 per liter.

(b) *Unlawful not to collect or pay.* It shall be unlawful and a violation of this article for any wholesaler to sell, ship, or deliver in any manner any wine to a licensee without collecting the tax provided for under the provisions of this section. It shall also be unlawful and a violation of this article for any licensee to possess, own, hold, store, display, or sell any wine on which such tax has not been paid.

(c) *Distributor to furnish summary of purchase invoices.* Each wholesale distributor shall furnish the city a summary of all purchase invoices for wine sold to each licensee in the city on or before the tenth of each month following such purchases. Said invoices shall show the amount of excise tax paid.

(d) *City's right to audit and require records.* The city shall have the right to audit, and to require the production of records from, each wholesaler supplying licensees in the city and each licensee so supplied.

(e) *Licensee to file report of exact quantities sold; when due.* Each licensee pursuant to this article shall file a report by the tenth day of each month showing for the proceeding calendar month the exact quantities of wine sold within the city. Each such licensee shall remit to the city on the tenth day of the month next succeeding the calendar month in which sales were made the excise tax due in accordance with this section.
(Ord. No. 1-1997, § 9, 2-11-1997; Ord. No. 15-2005, § 11, 12-13-2005)

State law reference—Excise tax on wine, O.C.G.A. § 3-6-60 et seq.

Sec. 3-149. Delivery of goods; place of sale.

No retail dealer shall sell or deliver any wine to any person except in the retail dealer's place of business. There shall be no delivery, curb, nor window service whatsoever of wine. A retail dealer

licensed may sell by the package only, but shall be permitted to load the purchased goods in the customer's vehicle when the sale physically takes place and monies have been exchanged inside the place of business. Curb service type sales and sales to customers in vehicles parked in the parking area of the place of business are prohibited.
(Ord. No. 1-1997, § 10, 2-11-1997)

Sec. 3-150. Malt beverage regulations applicable.

The malt beverage code of the city as contained in article II of this chapter is incorporated herein by reference as to matters concerning the application, qualifications and procedures governing the issuance of a wine license, which procedures and applications may be more detailed and specific than may be set out separately in this article governing wine sales. Further, all regulations controlling the sale of malt beverages, or in any way pertaining to the sale of malt beverages as contained in article II of this chapter shall have full application to the sale of wine as though fully set out as a separate portion of this article. In the event of any inconsistencies between procedures, applications, regulations or similar matters within articles II and III of this chapter, the more detailed procedures of article II shall control. It is the intention of this section that wine shall be sold only in compliance with all general application procedures, license qualifications, rules and regulations which govern malt beverages and/or wine sales, since both are alcoholic beverages regulated under this chapter.
(Ord. No. 1-1997, § 11, 2-11-1997; Ord. No. 15-2005, § 12, 12-13-2005)

Sec. 3-151. Hours for sales; restrictions.

(a) It shall be unlawful for any person to sell, give away, offer for sale, or in any manner dispense or deliver any wine by the package within the city during the hours 12:00 a.m. until 12:30 p.m. Sunday and from 11:30 p.m. Sunday until 8:00 a.m. Monday.

(b) It shall be unlawful for any person to sell, give away, offer for sale, or in any manner dispense or deliver any wine for consumption on the premises between the hours of 12:30 a.m. and 8:00 a.m. Tuesday through Saturday; and the hours of 12:00 a.m. until 12:30 p.m. Sunday and from 11:30 p.m. Sunday until 8:00 a.m. Monday.

(c) All holders of a license for consumption of wine on the premises must stop selling, serving, or offering for sale any alcoholic beverages 30 minutes prior to closing time. Furthermore, all such license holders must also close and have all patrons or customers out of the premises no later than 30 minutes after closing time.

(d) 12:00 a.m. shall mean midnight and 12:00 p.m. shall mean noon.
(Ord. No. 1-1997, § 12, 2-11-1997; Ord. No. 15-2005, § 13, 12-13-2005; Ord. No. 2011O-03, § 2, 12-13-2011; Ord. No. 2012O-01, § 2, 1-10-2012)

State law reference—Hours of sale, O.C.G.A. § 3-3-10.

Sec. 3-152. Transferability.

No licensee shall buy, arrange to buy or in any way affect the transfer of any wine except from a licensed wholesaler.
(Ord. No. 1-1997, § 15, 2-11-1997; Ord. No. 15-2005, § 14, 12-13-2005)

Sec. 3-153. Retail dealers to store inventory only on premises.

A licensee shall keep no inventory or stock of wine at any place except the licensed place of business, nor shall any retail dealer enter into any type of arrangement whereby wine ordered by the licensee is stored by a licensed wholesaler.
(Ord. No. 1-1997, § 16, 2-11-1997; Ord. No. 15-2005, § 14, 12-13-2005)

Sec. 3-154. License not transferable.

No wine license issued pursuant to this article shall be transferable or assignable to any other person or location, and in the event that a licensed business is sold or closed, it shall be the duty of the licensee to immediately surrender the license to the mayor and council.
(Ord. No. 1-1997, § 17, 2-11-1997; Ord. No. 15-2005, § 7, 12-13-2005)

Sec. 3-155. Display of license.

Any license issued under this article shall be displayed prominently at all times on the premises for which the license was issued.
(Ord. No. 1-1997, § 18, 2-11-1997)

Sec. 3-156. Licensees to maintain a copy of this article; employees to be familiar with terms; responsibility of licensee for violations.

Each licensee hereunder shall keep a copy of this article in the licensed premises and shall instruct any person working there with respect to the terms hereof, and each licensee, the licensee's agents and employees selling wines shall at all times be familiar with the terms of this article. The licensee shall be responsible for any acts of

agents or employees which are in violation of this article, the laws of the state or the rules and regulations of the state revenue commission.
(Ord. No. 1-1997, § 19, 2-11-1997; Ord. No. 15-2005, § 14, 12-13-2005)

Sec. 3-157. Wine tasting.

Nothing herein shall preclude a licensee from conducting a wine tasting provided that the licensee complies with all regulations of the state revenue commission then in force relative to such wine tasting. A copy of any permit in the city shall be filed with the mayor and council of the city prior to conducting any wine tasting.
(Ord. No. 1-1997, § 20, 2-11-1997)

Sec. 3-158. Gambling or drinking on premises prohibited.

There shall be no gambling, betting, games of chance, punch-boards, slot machines, pin-ball machines, or the operation of any scheme for hazarding money or any other thing of value in any place of business licensed under this article, or in any room adjoining the same, owned, leased or controlled by a licensee. Any violation of this section shall be cause for suspension or revocation of a license. Nothing contained in this section shall prohibit the sale and purchase of lottery tickets authorized, printed, and distributed by the Georgia Lottery Corporation pursuant to the Georgia Constitution, article I, § II, ¶ VIII and related laws and provisions by a licensee under this section.
(Ord. No. 1-1997, § 21, 2-11-1997; Ord. No. 15-2005, § 15, 12-13-2005)

Sec. 3-159. Grounds for suspension or revocation of license.

(a) No person shall engage in the sale of wine in the city without first complying with the rules and requirements set out in this article and article II of this chapter governing malt beverage sales as they apply to all license holders generally. Any license issued hereunder shall be subject to immediate suspension or revocation upon any of the following grounds:

(1) The making of any statement and application for a license issued hereunder which shall be later found to be false;

(2) The licensee's failure to comply with the rules and regulations of the clerk of the city, the laws and regulations of the United States and the state;

(3) Whenever it can be shown that a licensee hereunder 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;

(4) Suspension or revocation of a state retail dealer license;

(5) Any violation of section 3-82; or

(6) Violation of any rules, regulations, ordinances and/or state law concerning the sale of malt beverages and/or wine within the corporate limits of the city;

(7) For any other legal and sufficient cause.

(b) Any action taken by the mayor and council of the city to suspend or revoke a license issued hereunder, shall not preclude and may be in addition to, any criminal prosecution by another proper authority as provided by the laws and ordinances of the county, city, state, or the United States. Whenever any action is taken by the mayor and council to suspend or revoke any license issued hereunder, the mayor and council shall provide written notice to the licensee of the action taken and stating the reasons therefor. The licensee shall have 15 days following notification of such action to request a hearing before the mayor and council. The licensee shall be entitled at such hearing to present evidence and cross-examine opposing witnesses.
(Ord. No. 1-1997, § 22, 2-11-1997)

Secs. 3-160—3-203. Reserved.

ARTICLE IV. DISTILLED SPIRITS

Sec. 3-204. Classifications of licenses; compliance.

The following classifications of licenses shall be issued pursuant to this article: Distilled spirits, by the drink for consumption on the premises. No

person shall engage in the sale of distilled spirits in the city without first complying with the provisions of this article.
(Ord. No. 16-2005, § 2(3-200), 12-13-2005)

Sec. 3-205. License declared privilege.

Notwithstanding anything in this article to the contrary, the distribution, sale, handling, and other dealing in or possession of distilled spirits in the city is a privilege and not a right, and the issuance of a license under this article shall not create any property rights in the license holder. Furthermore, such privilege shall not be exercised in the city except as licensed under the terms of this article.
(Ord. No. 16-2005, § 2(3-201), 12-13-2005)

Sec. 3-206. Adoption of state law.

The state regulations regarding the distribution of distilled spirits as promulgated and revised by the state revenue department, together with the provisions of O.C.G.A. title 3 (O.C.G.A. § 3-1-1 et seq.) are hereby incorporated into and made a part of this article as if set forth in full herein.
(Ord. No. 16-2005, § 2(3-202), 12-13-2005)

Sec. 3-207. Applications; contents and terms; license fees.

(a) Application for a distilled spirits license under this article shall be made on forms furnished by the city, signed by the applicant under oath, and, at a minimum, shall contain the following information:

(1) The name, age, address, and length of residency of the applicant.

(2) The name, location, and description of the premises or place of business which is to be operated under such a license.

(3) A statement of whether the applicant, or, if the applicant is a partnership, corporation, LLC, or other legal entity, any officer or other person with an interest in the application, has made application at any previous time with the city or any other governing authority for any alcoholic beverage license, and, if so, the disposition of such application.

(4) Whether the applicant, or, if the applicant is a partnership, corporation, LLC, or other legal entity, any officer or other person with an interest in the application has ever been convicted of a crime other than traffic violations.

(5) Whether any previous alcoholic beverage license issued to the applicant, or if the applicant is a partnership, corporation, LLC, or other legal entity, any officer or other person with an interest in the application, has been revoked by any federal, state, or local government authority, together with a statement of the reasons for such revocation.

(6) A complete listing of any persons or entities who are to be interested directly or indirectly in the profits or losses, or both, of the proposed business.

(7) As to the applicant's proposed manager and employees at the business location, the same information required of the applicant under subsections (1), (3), (4), and (5) of this section.

(8) Name and address of the owner, landlord or resident manager of the property proposed for said license, and a copy of the deed evidencing ownership of the property.

(9) If the applicant is a partnership, corporation, LLC, or other legal entity, a copy of the partnership agreement, articles of incorporation, by-laws, operating agreement, or other agreements or documents reflecting the creation, organization, and/or operation of the entity, together with a certificate of good standing from the secretary of state.

(10) Such other information as may be required by the mayor and council, chief of police, city manager, city attorney, city clerk, building inspector, fire chief, or other city official.

(b) All new applications for distilled spirits licenses under this article shall be accompanied by a nonrefundable investigation fee, paid in cash or certified funds to defray the city's administrative costs in reviewing and processing said applications. If an applicant applies for more than one alcoholic beverage pouring license at the same time, then he shall be charged a single application fee.

(c) All new applications for distilled spirits licenses under this article shall also be accompanied by the proper amount of the license fee, paid in cash or certified funds. If the license is denied, refused, or otherwise not issued, such fee shall be returned to the applicant within 15 days of the city's decision on the application.

(d) The making of any untrue or misleading statement in the application for a distilled spirits license under this article shall be sufficient cause for the refusal, suspension, revocation, or cancellation of such license pursuant to the notice and hearing provisions provided in sections 3-80 through 3-83.

(e) The application shall also be accompanied by a current certificate from a registered surveyor containing the following information:

(1) A scale drawing of the building or proposed building as situated on the proposed lot;

(2) Proposed off-street parking facilities available to the building;

(3) The current zoning classification for the proposed location.

(Ord. No. 16-2005, § 2(3-203), 12-13-2005)

Sec. 3-208. Fingerprints; bond.

(a) Each applicant and employee thereof shall furnish a complete set of fingerprints which the city shall forward to the Georgia Bureau of Investigation, who shall search the files of the state crime information center for a period of ten years immediately preceding the date of such application for any evidence of criminal activity. The Georgia Bureau of Investigation shall also submit fingerprints to the Federal Bureau of Investigation under rules established by the department of justice for processing and identification of records. If the applicant is a corporation, LLC, partnership, or other legal entity, then all partners, officers, and/or any other principals, managers, and employees of the entity shall be subject to this fingerprinting requirement.

(b) In addition to the bond requirements of O.C.G.A. § 3-4-22, applicants must post with the city a personal performance bond along with their application, said bond to be conditioned upon the faithful observance and performance by the licensee of the rules and regulations contained in this article. Furthermore, said bond shall be payable to the city, in the amount of $10,000.00, and shall be approved and executed in the form specified by the city. Upon the violation of this article, or any part thereof, or on the suspension, revocation, fine or other adverse action taken against the licensee, the city shall determine the amount of the bond to be forfeited in accordance with the nature of the violation and the amount of any fine that may be imposed, after notice and a hearing, as provided by sections 3-80 through 3-83. The determination by the city to forfeit all or part of such bond may be in addition to any action taken by the city under sections 3-80 through 3-83. Applicants shall have an affirmative duty to notify the bonding company of the potential adverse actions that can be taken against the bond upon a finding that the applicant has violated the provisions of this article.

(c) Nothing herein shall preclude the city from no longer requiring the bond contained in this section whenever any licensee has established sufficient financial responsibility and/or a record of faithful compliance with federal, state, and local laws, regulations, and ordinances over a period of not less than five years from the granting of a license.

(Ord. No. 16-2005, § 2(3-204), 12-13-2005)

Sec. 3-209. Qualifications; restrictions.

In addition to the qualifications set forth in section 3-66 regarding malt beverages generally, applicants for a distilled spirits license under this article shall meet the following qualifications:

(1) No license shall be issued pursuant to this article if the applicant is not at least 21 years of age.

(2) No license shall be issued pursuant to this article to any city employee, official, agent, or other representative who has any interest, directly or indirectly in the proposed business.

(3) A separate license shall be issued for each premises or business location.

(4) No license shall be issued if the proposed business is in a "prohibited location" as defined in section 3-69.

(5) Sales by the drink for consumption on the premises licenses shall only be issued for locations in zoning districts where restaurants are a permitted use. The zoning classification shall be determined at the time of application.

(Ord. No. 16-2005, § 2(3-205), 12-13-2005)

Sec. 3-210. Considerations and guidelines for granting or denying a license.

(a) The considerations and guidelines for granting or denying a license pursuant to this article shall be the same as for malt beverages, as set forth in section 3-68.

(b) In addition to the considerations and guidelines set forth in section 3-68, the city shall also consider the zoning classification for the proposed location.

(Ord. No. 16-2005, § 2(3-206), 12-13-2005)

Sec. 3-211. Investigations and processing of applications.

(a) Within 15 days from the time an application is submitted to the city, the clerk shall notify the chief of police of the application. The chief of police shall investigate the character and criminal record, if any, of the applicant and all identified managers, employees, agents, and/or other interested parties and make a report to the mayor and council. The clerk shall also refer the application to the building inspector, who shall inspect the proposed licensed premises and likewise issue a report to the mayor and council. After the police chief and building inspector have rendered their reports, the clerk shall place the matter on the agenda for the next regularly scheduled mayor and council meeting at which the applicant shall be afforded a hearing. At this meeting, the full mayor and council may approve or deny the application. The mayor and council may also table the application for further study and investigation or may approve the application with certain conditions that must be met before the license can be issued.

(b) If an application is denied, then the applicant shall be notified in writing of the mayor and council's decision, and the reasons therefor, within ten days. The applicant shall then have 30 days to either request reconsideration of the mayor and council's denial or appeal the mayor and council's decision to the superior court of the county.

(c) If an application is denied, then the applicant may not submit another application for the same proposed business premises for a period of 12 months from the mayor and council's decision.

(d) If the mayor and council determine that the applicant meets the standards and guidelines for licenses as set forth in this chapter and the applicant has paid the required license and investigation fees, the mayor and council shall issue the license requested.

(Ord. No. 16-2005, § 2(3-207), 12-13-2005)

Sec. 3-212. Term of license; renewal.

(a) A distilled spirits license issued pursuant to this article shall be valid only for the calendar year indicated thereon, and no such license may be renewed except upon approval of the mayor and council and payment of the required license fee.

(b) A licensee who desires to continue in business during the subsequent calendar year must make a new application for renewal of his current license prior to November 15 of the year in which the current license expires and pay the required license fee in full, in cash or certified funds, on or before December 31 of that year.

(c) Upon receipt of an application for renewal of an existing license issued pursuant to this article, the clerk shall forward same to the chief of police, who shall then provide a report on any criminal activity of the licensee, his employees, agents, or other representatives, or at the location of the licensed premises during the year.

(d) In considering an application for renewal of an existing license issued pursuant to this article, the mayor and council shall be guided by the considerations and guidelines set forth in sections 3-66 and 3-68. The mayor and council may take the same action regarding renewal applications that it is empowered to take with regard to an initial application, as set forth in section 3-65.
(Ord. No. 16-2005, § 2(3-208), 12-13-2005)

Sec. 3-213. Fees.

Beginning in calendar year 2006, the investigation fee for applications submitted pursuant to this article shall be as established by the city council. The approved fee for a license for the sale of distilled spirits by the drink for consumption on the premises shall be as established by the city council. All fees shall be paid at the time of submission of the application, either in cash or certified funds. Investigative fees shall be nonrefundable and shall be used to defray the city's administrative costs and other expenses in investigating, reviewing, and otherwise processing the application. The city may amend these fees from time to time.
(Ord. No. 16-2005, § 2(3-209), 12-13-2005)

Sec. 3-214. Termination of business.

(a) All licenses issued pursuant to this article shall be valid only so long as the licensee is actively engaged in such business, with the exception of holidays, vacations, and periods of renovation, redecoration, or other substantial improvements that would prohibit the operation of business. In the event the licensee shall cease to be actively engaged in the business, or the business is not opened to the public for a period of 60 consecutive days, the license shall expire, and the licensee shall immediately return the license to the city.

(b) Similarly, if the applicant for a license has not commenced operation of business on the proposed licensed premises within 120 days of the issuance of the license, then the license shall lapse and become void. In this event, a new application shall be submitted pursuant to section 3-208.

(c) If a license lapses or expires under this section, the licensee shall not be entitled to a refund or proration of any fees, taxes, or other charges levied pursuant to this article.
(Ord. No. 16-2005, § 2(3-210), 12-13-2005)

Sec. 3-215. Licenses nontransferable.

(a) Licenses issued pursuant to this article shall be nontransferable and may not be assigned, conveyed, or otherwise transferred to a person or entity other than the licensee. Upon the death of a licensee, the license shall terminate, and the personal representative of the licensee's estate may apply for a new license, subject to the requirements of this chapter.

(b) Licenses issued pursuant to this article shall not be transferable from one location to another. Any current holder of a license issued pursuant to this article desiring to discontinue business at one location and commence business at some other location must make a complete new application for the new location.
(Ord. No. 16-2005, § 2(3-211), 12-13-2005)

Sec. 3-216. Suspension or revocation of licenses.

(a) No person or other legal entity shall engage in the sale of distilled spirits in the city without first complying with the rules and requirements of this article and obtaining a license issued pursuant to this article. Any license issued hereunder shall be subject to suspension, revocation, or other adverse action upon the grounds set forth in section 3-80, as well as any of the following grounds:

(1) The making of any statement in an application for a license issued or under which shall later be found to be false, inaccurate, or otherwise misleading;

(2) The violation by the license holder or any of the holder's agents, employees, or representatives of any federal, state, or local law or regulation, other than traffic violations, which would tend to reflect on the holder's ability to comply with this article or render them unqualified to continue to hold a license issued hereunder. The determination of whether any such violation

has occurred may be made by the mayor and council by a preponderance of the evidence, and an actual conviction in any court for such offense shall not be necessary in order to take adverse action against the license;

(3) The license holder's default on any obligation of any kind whatsoever lawfully owing to the city, or the general failure to demonstrate adequate financial responsibilities regarding the business;

(4) Any conduct on the part of the license holder or his agents, employees, or representatives that is contrary to the public welfare, health, safety, or morals, to the extent that such conduct affects or impacts the holder's ability to continue to comply with this article or renders him unqualified to continue to hold a license issued hereunder;

(5) Operating or conducting the business in a manner contrary to the public welfare, health, safety, or morals, or in such a manner as to constitute a nuisance; or

(6) The violation of any federal, state, or local law, ordinance, including this article, or other regulations pertaining to alcoholic beverages.

(b) The mayor and council shall have the power and authority to revoke, refuse to renew, suspend, place on probation, or take other adverse action, or a combination of such actions, against any license issued pursuant to this article. The mayor and council shall also have the authority to impose fines on any license holder for violations of any provisions of this article. Before taking any such action, however, the mayor and council shall give the licensee written notice to appear at a time and place specified therein, not less than seven days from the date of such notice, to show cause as to why any such adverse action should not be taken against said licensee. Service of notice of said hearing shall be made by personal service at the licensed premises by a city police officer to any employee, agent, or other representative of the license holder; provided that, if personal service cannot be perfected, then service may be made by tacking a copy of the notice to the door of the premises and mailing the original to the license holder at the licensed premises with a copy to any other address of the license holder contained in the most recent license application or renewal. At the time and place appointed for hearing, the licensee may be represented by counsel. The license holder shall have the opportunity to present testimony, documentary evidence, or any other relevant evidence it may have and cross examine any witnesses presented by the city. After such hearing, the mayor and council shall take action with regard to the licensee's license as may be warranted by the facts, in its sole judgment and discretion. The city shall notify the licensee of its decision in writing within ten days of said hearing. Any license holder aggrieved by the mayor and council's decision shall have the right to appeal to the superior court of the county within 30 days of the mayor and council's decision. Any such appeal shall be governed by the laws of this state regarding certiorari from the municipal court to the superior court.

(c) Any adverse action taken by the city with regard to a license issued pursuant to this article shall not preclude, and may be in addition to, any criminal prosecution by any proper authority of the city, county, state, or the United States.

(d) If a license is revoked under this section, then the time limitations on submitting new applications shall apply. Furthermore, the license holder shall not be entitled to a refund or proration of any fees, taxes, or other charges levied under this article if his license is revoked.

(e) The license holder shall immediately notify the bonding company who provides the performance bond required by section 3-212 hereof of any fines imposed by the city pursuant to this section, and provide written proof to the city of such notice, in order to facilitate payment of such fines. If the license holder fails to provide the city with proof of notice of any fines to the bonding company within ten days after the fine is imposed, the city may provide such notice.
(Ord. No. 16-2005, § 2(3-212), 12-13-2005)

Sec. 3-217. Business location or premises; requirements.

(a) No license shall be issued pursuant to this article unless the building in which the business will be located is complete and detailed plans of

said building and outside premises are attached to the application. If the building is to be constructed at a later date, the applicant shall submit proposed plans and specifications and a building permit for a proposed building to be built or renovated along with the application. In either event, the complete or proposed building shall comply with all ordinances of the city and all building codes incorporated therein, as well as all regulations of the state revenue commissioner and the laws of the state. The building shall be subject to final inspection and approval by the building inspector prior to issuance of a license and shall remain open to inspection by any city official at any time the business is open to consumers.

(b) Each building shall contain sufficient lighting so that the building itself and the premises on all sides thereof are readily visible at all times from the street on which the building is located, so as to reveal all the outside premises of said building.

(c) No tinted windows, screens, partitions or other opaque devices that prevent a clear view of the interior of the building from the street, nor any booths or other compartments inside the building, shall be permitted.

(d) Each applicant for a license pursuant to this article shall attach to the application evidence of ownership of the building and/or real estate on which the building or proposed building is to be located. If the applicant is leasing the building, then the applicant shall submit a copy of the lease.

(e) Each license holder shall post in a conspicuous location within the place of business a sign, printed in letters at least two inches high, reading as follows: "Sale of liquor to persons under 21 years of age strictly prohibited."

(f) The parking area for any licensed premises shall be paved with concrete or asphalt and contain sufficient square footage and parking spaces as required by this Code for retail commercial places of business.
(Ord. No. 16-2005, § 2(3-213), 12-13-2005)

Sec. 3-218. Prohibited activities.

(a) No holder of a license issued pursuant to this article, nor any agent, employee, or other representative of the licensee shall engage in any of the following conduct upon the licensed premises:

(1) Knowingly furnish, sell, or cause or permit to be furnished or sold to any minor alcoholic beverages of any kind.

(2) Knowingly allow or require any person under the age of 18 years in his employment to dispense, serve, sell, or take orders for any alcoholic beverages.

(3) Knowingly sell alcoholic beverages to any person while such person is in an intoxicated condition.

(4) Sell alcoholic beverages on the licensed premises on any day or at any time when such sale is prohibited by law.

(5) Permit any disturbance of the peace, obscenity, or any lewd, immoral, or improper entertainment, conduct, or practice on the licensed premises. If any such conduct occurs, the license holder shall immediately report it to the city police department.

(6) Sell or offer for sale any alcoholic beverages by the use of vending machines.

(7) In the case of package sale licenses, permit any customer to open, consume, or have any open containers of any alcoholic beverages in their possession on the licensed premises.

(8) Knowingly permit any gambling, betting, games of chance, punchboards, slot machines, illegal lottery, or other device for the hazarding of any money or other thing of value on the licensed premises.

(Ord. No. 16-2005, § 2(3-214), 12-13-2005)

Sec. 3-219. Employee identification cards.

(a) Any person, including the licensee, who works in a business with a license issued pursuant to this article shall apply to the police department for a distilled spirits employee identification card, which card shall expire on the person's

birthday and be renewable on or before that time. The fee for the initial card shall be $25.00. The fee for a replacement card shall be $25.00. The fee for renewal of such card shall be $10.00. In the event that a renewal of such card is late, an additional fee of $25.00 will be assessed for all renewals after the renewal date for each individual. Fees shall be paid to the city clerk's office. Hereafter, the city may amend these fees from time to time.

(b) While on duty in the licensed premises, every person required to hold an employee identification card under subsection (a) of this section shall have his employee identification card on his person at all times.

(c) Employees of any licensee under the provisions of this article shall make themselves available for photographing, fingerprinting and such other investigation as may be required by the police department, pursuant to section 3-65.

(d) The police department shall investigate the employee applicants. A distilled spirits employee identification card shall not be issued to any person who has pled guilty to, or has been convicted of a felony within the last five years. The police department shall report any other detrimental information about an applicant that would tend to affect his qualifications or ability to perform the functions of an employee in the licensed premises to the mayor and council, and may prohibit the issuance of a distilled spirits identification card where the applicant's record indicates such employment would adversely affect the public health, safety, or welfare, or violate the law.

(e) No licensee under the provisions of this article shall hire any person, nor shall any person work or assist in the licensed premises until such person has procured a distilled spirits employee identification card.

(f) The police department may provisionally grant an identification card to an applicant, pending investigation and report. Where the report, when reviewed, is unfavorable as set out in subsection (d) of this section, the department may revoke the card and demand its return.

(g) The police department may, after reasonable notice and hearing (unless waived), revoke an identification card and demand its surrender where the employee violates the provisions of this chapter, or otherwise becomes unqualified or unfit to hold said card.

(h) It shall be unlawful for an employee whose card has been revoked, and upon whom demand for surrender of a card has been made, to refuse to so surrender, or to alter, conceal, deface, or destroy the card.
(Ord. No. 16-2005, § 2(3-215), 12-13-2005)

Sec. 3-220. Hours for sales; restrictions.

(a) It shall be unlawful for any person to sell, give away, offer for sale, or in any manner dispense or deliver any distilled spirits for consumption on the premises between the hours of 12:30 a.m. and 8:00 a.m. Tuesday through Saturday; and the hours of 12:00 a.m. until 12:30 p.m. Sunday and from 11:30 p.m. Sunday until 8:00 a.m. Monday.

(b) All holders of a license for consumption of distilled spirits on the premises must stop selling, serving, or offering for sale any alcoholic beverages 30 minutes prior to closing time. Furthermore, all such license holders must also close and have all patrons or customers out of the premises no later than 30 minutes after closing time.

(c) 12:00 a.m. shall mean midnight and 12:00 p.m. shall mean noon.
(Ord. No. 16-2005, § 2(3-216), 12-13-2005; Ord. No. 2011O-03, § 3, 12-13-2011; Ord. No. 2012O-01, § 3, 1-10-2012)

Sec. 3-221. Inventory and stock.

(a) No holder of a license issued pursuant to this article shall buy or arrange to buy or in any way effect the transfer of any distilled spirits to its business location, except from a licensed wholesaler.

(b) A holder of a license for consumption of distilled spirits by the drink shall purchase distilled spirits only from licensed wholesalers and in sizes of 750 milliliters or larger, unless a

particular brand is not packaged in this size, in which case the licensee shall purchase the next largest size available in such brand.
(Ord. No. 16-2005, § 2(3-217), 12-13-2005)

Sec. 3-222. Food sales by consumption on the premises licensee.

(a) All holders of a license for consumption of distilled spirits by the drink shall maintain at least 50 percent of their annual gross income from the sale of foods. City officials may examine the records of the license holder at any reasonable time to determine whether the requirements of this section are being met. If said records indicate that the licensee is not meeting the requirements of this section, then his license may be subject to suspension or revocation under sections 3-80 through 3-83.

(b) Within 120 days after having been issued a license for consumption of distilled spirits by the drink on the premises, the licensee shall submit to the city a statement from a certified public accountant or registered public accountant that the income requirements set forth in this section have been met for the first 90 days after the applicant received his license. Thereafter, on a quarterly basis and at each and every time of the license renewal, or upon request of the city, each license holder shall submit to the city a statement from a certified or registered public accountant verifying that the income requirements as set forth in this section have been met.
(Ord. No. 16-2005, § 2(3-218), 12-13-2005)

Sec. 3-223. Excise taxes.

(a) In addition to the annual license fees imposed by this article, there is also hereby levied and imposed an excise tax on all sales of distilled spirits by the drink. Said tax shall amount to three percent of the charge to the public for the beverage, and shall be amended from time to time, if amended by the state general assembly.

(b) The tax levied by this article shall be paid to the city by each premises licensee in the city.

(c) Each licensee pursuant to this article shall file a report by the tenth day of each month showing for the preceding calendar month the exact number of distilled spirits beverages sold by the drink within the city. Each such license shall remit to the city on the tenth day of each month next succeeding the calendar month in which the sales were made, the amount of excise tax due in accordance with this section.
(Ord. No. 16-2005, § 2(3-219), 12-13-2005)

Sec. 3-224. Audit; failure to make reports; penalties.

(a) The city shall have the right to audit and require the production of records from each wholesaler supplying retailers in the city as well as each retailer so supplied.

(b) The failure to make a timely report and remittance under this article shall render a wholesale dealer liable for a penalty equal to ten percent of the total amount during the first 30-day period following a date such report and remittance were due, and an additional penalty of five percent of the amount of such remittance for each successive 30-day period or any portion thereof, during which such report and remittance are not filed. The filing of a false, fraudulent, inaccurate, or misleading report shall render the wholesale dealer making such report liable for a penalty equal to 25 percent of the amount of the remittance which would be required under an accurate and truthful report.

(c) Any retail or wholesale dealer's failure to make a timely report or remittance or filing of a false, fraudulent, misleading, or inaccurate report shall also constitute grounds for the suspension or revocation of any licenses issued to said dealer by the city.
(Ord. No. 16-2005, § 2(3-220), 12-13-2005)

Sec. 3-225. Sales prohibited when tax not paid.

It shall be unlawful for any holder of a distilled spirits license to sell at retail or otherwise within the city any beverages taxed by this article on which the required tax has not been paid to the wholesaler, distributor, or the city.
(Ord. No. 16-2005, § 2(3-221), 12-13-2005)

Sec. 3-226. Display of license.

Holders of licenses issued pursuant to this article shall display them prominently and in plain view at all times on the premises for which said licenses were issued.
(Ord. No. 16-2005, § 2(3-222), 12-13-2005)

Sec. 3-227. Licensee's responsibility regarding this article.

Each holder of a license issued pursuant to this article shall keep a copy of this article in the licensed premises, be familiar with the terms of the article, and instruct any agent, employee, or other representative working there with regard to same. The licensee shall be responsible for any acts of such agents, employees, or representatives in violation of this article, the laws of the state, or the rules and regulations of the state revenue commissioner and the mayor and council.
(Ord. No. 16-2005, § 2(3-223), 12-13-2005)

Sec. 3-228. Employees.

It shall be the duty of all holders of licenses issued pursuant to this article to file with the clerk a list of the home addresses, telephone numbers, and places of employment of any employees, resident managers, or other agents who will be working in or on the licensed premises. Changes in the list of employees, with names of new employees, shall be submitted to the clerk within three business days of said changes. Any new employees or other agents of the licensee shall be subject to the investigative requirements of section 3-65 regarding background checks and fingerprinting.
(Ord. No. 16-2005, § 2(3-224), 12-13-2005)

Sec. 3-229. Brown bag establishments prohibited.

Brown bag establishments as defined in this chapter shall be prohibited within the city.
(Ord. No. 16-2005, § 2(3-225), 12-13-2005)

Chapter 4

ANIMALS AND FOWL*

Article I. In General

Article II. Dogs

*__State law references__—Disposal of dead animals, O.C.G.A. § 4-5-1 et seq.; Animal Protection Act, O.C.G.A. § 4-11-1 et seq.; cruelty to animals, O.C.G.A. § 16-12-4; wild animals, O.C.G.A. § 27-5-4 et seq.; fish, O.C.G.A. § 27-4-30 et seq.; liability of owner or keeper of vicious or dangerous animal for injuries caused by animal, O.C.G.A. § 51-2.

ARTICLE I. IN GENERAL

Sec. 4-1. Injuring or molesting wild animals on city property.

(a) It shall be unlawful for any person to shoot at, throw objects at or molest in any way whatever, squirrels, rabbits, birds or any other game of any kind in the city parks, playgrounds, waterworks grounds, streets or upon any property whatsoever controlled by the city.

(b) It shall be unlawful for any person to allow his dogs to run at large in the parks or playgrounds or allow such dogs to molest any of the above-mentioned animals and birds in any way.
(Code 1976, § 4-1; Ord. No. 192, 2-5-1936)

State law reference—Injury to livestock by dogs, O.C.G.A. § 51-26.

Sec. 4-2. Commercial poultry production.

It shall be unlawful for any person to engage in the growing or production of poultry for commercial use in the city. Any person who shall keep or maintain in any building or enclosure more than 500 chickens or other fowl at one time is prima facie guilty and the burden of proof shall be cast upon the one so charged.
(Code 1976, § 4-3; Ord. No. 252, §§ 1, 4, 1-29-1954)

Sec. 4-3. Hogs prohibited.

It shall be unlawful for any person to keep hogs within the city.
(Code 1904, §§ 130, 132; Code 1976, § 4-4; Ord. No. 125, 12-2-1924)

Sec. 4-4. Livestock at large—Prohibited; impounding.

It shall be unlawful for any livestock to run at large in the city, off of the property of the owner. Any such animal found at large shall be taken up by any policeman or other designated official, or by any person upon whose land such animal is found trespassing.
(Code 1904, §§ 62, 169; Code 1976, § 4-6; Ord. No. 192, 2-5-1936)

State law reference—Estrays, O.C.G.A. § 4-3-1 et seq.

Sec. 4-5. Same—Confining after capture; redemption by owner.

All livestock so taken up shall be confined in a pen to be provided by the city, to be held until the owner complies with the law in reference thereto. The owner of any such animal may reclaim the same by paying the costs and damages. If not reclaimed by the owner the same shall be sold or otherwise disposed of by the city.
(Code 1904, § 170; Code 1976, § 4-7)

Sec. 4-6. Same—Record of impounding.

All livestock so taken up shall be registered by the designated official in a book to be kept for that purpose, in which he shall particularly describe the animal, give the name of the person taking up the same, where and when taken up, and the subsequent proceedings relative to same.
(Code 1904, § 171; Code 1976, § 4-8)

Sec. 4-7. Same—Sale of impounded animals.

(a) On the next day after the animals are taken up and are put in the pound the designated official shall advertise such animals for sale by posting a notice at the door of the post office, the sale to occur before the city hall, three days from the date of the advertisement, during the legal hours of sale.

(b) The proceeds arising from such sale shall be disposed of as follows: the costs of taking up, keeping, giving notice and selling shall first be paid, the remainder to be paid over to the clerk-treasurer, subject to the claim of the true owner, provided it is made within three months.
(Code 1904, §§ 173, 174; Code 1976, § 4-9)

Sec. 4-8. Diseased animals.

It shall be unlawful for any person to keep within the city, any horse or mule with glanders, or to ride or drive on the public streets any horse or other animal that has glanders or other infectious or contagious disease.
(Code 1904, § 80; Code 1976, § 4-10)

State law reference—Disease prevention, O.C.G.A. § 4-4-1 et seq.

Sec. 4-9. Horses or other animal transportation prohibited.

It shall be unlawful for any person to walk, ride, fasten or travel with or upon any horse, mule, ox or similar animal within the corporate limits of the city, unless under special permit issued and approved by the city manager and/or his designee.
(Ord. No. 6-2003, § I, 6-16-2003)

Sec. 4-10. Slaughtering prohibited.

No person shall slaughter any animal at any residence or other location within the corporate limits of the city. This prohibition shall include the indiscriminate killing and slaughtering of animals, the killing of animals for the purpose of cooking same, ritualistic or symbolic slaughtering activities, or any other activities whatsoever. This prohibition shall not apply to duly licensed commercial and/or industrial manufacturing operations within the city.
(Code 1904, § 134; Code 1976, § 4-12)

Secs. 4-11—4-35. Reserved.

ARTICLE II. DOGS

Sec. 4-36. 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:

Animal control officer means any person, firm or corporation engaged on behalf of the city by the city manager to carry out the provisions hereof and to maintain facilities for impounding animals under this article.

At large means off the premises of the owner, and not under the control of the owner or a member of the owner's immediate family, either by leash, cord, chain, voice control or otherwise.

Confined means that any dog is within a building, pen or fenced area or other structure built to prevent intrusion or escape by any dog.

Control means that any owner must keep his dog upon his private property, on a leash if in a public place, or confined by a proper enclosure if the dog is determined to be a dangerous dog, or potentially dangerous dog, as defined by this section.

Dangerous dog.

(1) The term "dangerous dog" means:

a. Any dog that engages in or has been found to have been trained to engage in exhibitions of fighting;

b. Any dog that, when unprovoked, attacks, inflicts bites, or otherwise causes injury to human beings either on public or private property;

c. Any dog previously determined to be and currently registered as a potentially dangerous dog which, after its owner or custodian has been notified of this determination, continued the behavior described in this definition of potentially dangerous dog or is maintained in violation of section 4-54; or

d. Any dog which, when unprovoked, has killed, or seriously injured a domestic animal.

(2) The term "dangerous dog" does not mean:

a. Any dog that attacks or inflicts bites upon a trespasser of a fully enclosed building;

b. Any dog used in the military or police if the bite or attack occurred while the dog was performing in that capacity; or

c. Any dog further exempted from dangerous dog designation classified under section 4-37.

Dog means any dog of either sex, unless otherwise specified.

Domestic animals means any dog, cat, horse, and/or similar animal that lives or habitats on or about the home and/or property of a person.

Owner means any natural person or any legal entity, including, but not limited to, a corporation, partnership, firm or trust owning, possess-

ing, harboring, keeping or having custody or control of a dog, dangerous dog or a potentially dangerous dog within this city.

Potentially dangerous dog means:

(1) Any dog that, in a terrorizing manner, approaches any person in apparent attitude of attack upon the streets, sidewalks, or any public grounds or places; or anywhere on or off the property of the owner or custodian of the dog;

(2) Any dog at large found to menace, chase, display threatening or aggressive behavior, or otherwise threaten or endanger the safety of any human being; or

(3) Any dog which, when unprovoked, has bitten, or inflicted injury upon a domestic animal.

Proper enclosure means an enclosure for keeping a dangerous dog or potentially dangerous dog while on the owner's property securely confined indoors or in a securely enclosed and locked pen, fence or structure suitable to prevent the entry of young children and designed to prevent the dog from escaping. Any such pen or structure shall have secure sides and a secure top, and, if the dog is enclosed within a fence, all sides of the fence shall be of sufficient height and the bottom of the fence shall be constructed or secured in such a manner as to prevent the dog's escape either from over or from under the fence. Any such enclosure shall also provide protection from the elements for the dog.

Records of an appropriate authority means records of any state, county or municipal law enforcement agency; records of any county or municipal animal control agency; records of any county board of health; records of any federal, state or local court; or records of a dog control officer provided for in this article.

Severe injury means any physical injury that results in broken bones or disfiguring lacerations requiring multiple sutures or cosmetic surgery, or a physical injury that results in death.

(Code 1976, § 4-20; Ord. No. 1981-004, § 1, 3-10-1981; Ord. No. 1990-001, § 1, 2-13-1990; Ord. No. 2-2006, § 1(4-36), 1-10-2006; Ord. No. 2018O-06, §§ 1, 3, 7-10-2018)

Sec. 4-37. Exemption from dangerous dog designation.

A dog that inflicts an injury upon a person when the dog is being used by a law enforcement officer to carry out the law enforcement officer's official duties shall not be a dangerous dog or potentially dangerous dog within the meaning of this article. A dog shall not be a dangerous dog or a potentially dangerous dog within the meaning of this article if the injury inflicted by the dog was sustained by a person who, at the time, was committing a willful trespass or other tort or was tormenting, abusing or assaulting the dog or had, in the past, been observed or reported to have tormented, abused or assaulted the dog or was committing or attempting to commit a crime. (Code 1976, § 4-21; Ord. No. 1990-001, § 2, 2-13-1990)

Sec. 4-38. Powers, duties and jurisdiction.

(a) The city may contract or enter into agreements with any other municipality or with the county for any joint dog control services or for the implementation of dog control services required by the Dangerous Dog Control Law (O.C.G.A. § 4-8-20 et seq.). This joint dog control service may include, but not be limited to, the use of joint personnel, facilities, equipment, dog control officers, animal control boards or any other joint services as may be expeditious and deemed advisable by the mayor and council of the city.

(b) The city manager may appoint such animal and/or dog control officer, police officers or such other personnel as may be necessary to effectuate the purposes of the provisions of this article. All persons so appointed shall have the power to enforce all ordinances and codes relating to animal control in the city shall perform all duties assigned to them by the city manager, shall investigate any animal nuisances, advise on animal control regulations and problems, educate the public concerning animal control and generally supervise all activities required by this chapter. Further, the individuals shall administer the provisions of the dangerous dog control law of the state.

(c) The city council does hereby delegate unto the municipal court of this city jurisdiction for the enforcement of the provisions of this article, including the right to conduct such hearings, make such fines and require the enforcement of this article as may be generally provided by the Code of the city or the laws of this state.
(Code 1976, § 4-22; Ord. No. 1990-001, § 3, 2-13-1990)

Sec. 4-39. Requirements for possessing dangerous dog or potentially dangerous dog.

(a) It is unlawful for an owner to have or possess within this state and the city a dangerous dog or potentially dangerous dog without a certificate of registration issued in accordance with the provisions of this section. This certificate shall be in addition to any standard dog license and fees or other requirements of this article. See section 4-39.

(b) Subject to the additional requirements of subsection (c) of this section for dangerous dogs, the dog control officer shall issue a certificate of registration to the owner of such dog if the owner presents to the dog control officer or the dog control officer otherwise finds sufficient evidence of:

(1) A proper enclosure to confine the dangerous dog or potentially dangerous dog;

(2) The posting of the premises where the dangerous dog or potentially dangerous dog is located with a clearly visible sign warning that there is a dangerous dog on the property. This sign shall be as designed by the department of natural resources and shall be posted in a conspicuous place so that it may be seen by the general public; and

(3) Any other reasonable conditions as are deemed necessary by the animal control officer, including, but not limited to:

a. Completion of an obedience course, upon successful completion of which, the animal control officer may waive the muzzle requirement of section 4-55 as pertaining to potentially dangerous dogs;

b. The purchase and wearing of a bright fluorescent yellow collar that identifies the dog as a potentially dangerous dog.

(c) In addition to the requirements of subsection (b) of this section, the owner of a dangerous dog shall present to the dog control officer evidence of:

(1) A policy of insurance in the amount of at least $250,000.00 issued by an insurer authorized to transact business in this state insuring the owner of the dangerous dog against liability for any personal injuries inflicted by the dangerous dog; or

(2) A surety bond in the amount of $250,000.00 or more issued by a surety company authorized to transact business in this state payable to any person injured by the dangerous dog;

(3) Any other reasonable conditions as are deemed necessary by the animal control officer including but not limited to the following:

(i) That the postal service and all utility companies have been given written notice of the dangerous dog;

(ii) Submission of a photograph of the dog. The photo must include the full head and body from the front;

(iii) That the dog has been spayed or neutered;

(iv) That the dog has been assigned a registration number, or such other identification number as the city shall determine, and that this registration number shall be inscribed on any of the dog's collars.

(d) The owner of a dangerous dog or potentially dangerous dog shall notify the dog control officer within 24 hours if the dog is on the loose, is unconfined, has attacked a human, has died or has been sold or donated. If the dog has been

sold or donated, the owner shall also provide the dog control officer with the name, address and telephone number of the new owner of the dog.

(e) The owner of a dangerous dog or potentially dangerous dog shall notify the dog control officer if the owner is moving from the city. The owner of a dangerous dog or potentially dangerous dog who moves from this city to another jurisdiction within the state shall register the dangerous dog or potentially dangerous dog in the new jurisdiction within ten days after becoming a resident.

(f) Issuance of a certificate of registration or the renewal of a certificate of registration by the city does not warrant or guarantee that the requirements specified in subsections (b) and (c) of this section are maintained by the owner of a dangerous dog or potentially dangerous dog on a continuous basis following the date of the issuance of the initial certificate of registration or following the date of any annual renewal of such certificate.

(g) A dog control officer is authorized to make whatever inquiry is deemed necessary to ensure compliance with the provisions of this article.

(h) The city does hereby levy and charge against the owner of any dangerous dog for the purpose of registration pursuant to this section, and in addition to any other license fees required generally for dogs within the city, the sum of $250.00 as a fee to register the dog as a dangerous dog pursuant to the ordinances of the city. All certificates of registration shall be renewed on an annual basis. At the time of any renewal, the animal control officer shall require evidence from the owner or make such investigation as may be necessary to verify that the dangerous dog, or potentially dangerous dog, is continuing to be confined in a proper enclosure and that the owner is continuing to comply with all of the provisions of the Code of Ordinances of the city which might apply to this situation.
(Code 1976, § 4-38; Ord. No. 1990-001, § 4, 2-13-1990; Ord. No. 2-2006, § 1(4-54), 1-10-2006)

Sec. 4-40. Restrictions on permitting dangerous or potentially dangerous dogs to be outside a proper enclosure.

It is unlawful for an owner of a potentially dangerous dog or dangerous dog to permit the dog to be outside a proper enclosure unless the dog is muzzled and restrained by a substantial chain or leash and is under the physical restraint of a responsible person. The muzzle shall be made in a manner that will not cause injury to the dog or interfere with its vision or respiration but will prevent it from biting any person.
(Code 1976, § 4-39; Ord. No. 1990-001, § 4, 2-13-1990; Ord. No. 2-2006, § 1(4-55), 1-10-2006)

Sec. 4-41. Violations; penalties; county regulations.

(a) The owner of a dangerous dog who violates any applicable provisions of this article shall be guilty of a misdemeanor of high and aggravated nature. Each day that a violation exists shall be considered a separate offense under the Code of Ordinances of the city. Punishment of such persons shall be under the minimum standards of state law, incorporated herein by reference, pursuant to the provisions of O.C.G.A. § 4-8-28 and in conformity with the general penalty provisions of section 1-7.

(b) The owner of any dog who fails to comply with any provisions of this section, other than the dangerous dog provisions which apply under subsection (a) of this section, shall be tried in municipal court for nuisance and/or violation of this Code. The general penalty provisions of section 1-7 shall apply to the imposition of any fines or imprisonment of any violator of the various provisions of this article or this section which do not specifically apply to dangerous dogs.

(c) In addition to any fines or other action taken by the municipal court of this city pursuant to subsections (a) and (b) of this section, the judge of the municipal court shall also be authorized to recover the costs of impoundment of any dog, the costs of properly licensing the dog and any and all other related costs incurred by the city connection with the enforcement of any provisions of this article.

(d) If an owner who has a previous conviction for a violation of this article knowingly and willfully fails to comply with the provisions of this article, such owner shall be guilty of a felony

if the owner's dangerous dog attacks or bites a human being under circumstances constituting another violation of this article.

(e) An owner who knowingly and willfully fails to comply with the provisions of this article shall be guilty of a felony if the owner's dangerous dog aggressively attacks and causes severe injury or death of a human being under circumstances constituting a violation of this article.

(f) In addition to the penalties for violations under subsection (c) or (d) of this section, the dangerous dog involved shall be immediately confiscated by the animal control officer or by a law enforcement officer or another person authorized by the animal control officer and placed in quarantine for the proper length of time as determined by the county board of health or animal control officer. Thereafter, the dangerous dog may be destroyed in an expeditious and humane manner.

(g) No owner of dangerous dog shall be held criminally liable under this article for injuries inflicted by said owner's dog to any human being trespasser while on the owner's property; or if the owner has complied with both state law and this article.

(h) The city may enter into certain enforcement agreements, intergovernmental contracts, or similar joint service agreements with Polk County, Georgia, and/or other municipalities within the county. Should such agreements exist, the provisions of any and all county ordinances or other enforcement regulations are incorporated herein by reference. In the event of any inconsistencies between this chapter and the county regulations, this chapter shall control as it relates to enforcement actions in the municipal court and the county ordinances, regulations, or similar provisions shall control in the event enforcement occurs in the magistrates court or some similar court having jurisdiction over county ordinance violations.

(Code 1976, § 4-42; Ord. No. 1990-001, § 4, 2-13-1990; Ord. No. 2-2006, § 1(4-58), 1-10-2006)

Sec. 4-42. Compliance with county ordinance.

All persons shall comply with the county animal control ordinance.

Sec. 4-43. Keeping domestic animals under control.

It shall be unlawful for any owner of a domestic animal not to control the animal at all times through one of the following means:

(1) On a leash when off the property of the owner.

(2) Within a safe area of a vehicle driven or parked on the street; or in a box or tied/restrained in the bed of a truck.

(3) Within the owner's property limits.

(4) Confined within the property limits of the owner, or another party with the permission of the owner and the person in control of the property where the animal is confined.

(Ord. No. 2018O-06, §§ 1, 2, 7-10-2018)

Sec. 4-44. Tethering generally.

It shall be unlawful for any owner and/or keeper of a domestic animal to chain, tie, fasten or otherwise tether any animal unless all of the conditions and provisions of this section are properly complied with by the person in charge of a dog or any other domestic animal, to-wit:

(1) The tether is connected to the dog by a commercially available body harness made of nylon or leather that is of sufficient size to adequately and safely restrain the dog;

(2) The tether is of a size and weight that is reasonably necessary to safely restrain the dog without placing excessive strain or weight on the dog;

(3) The dog is not tethered outside in periods of extreme weather conditions; including but not limited to extreme heat, cold, thunderstorms, lightning, tornadoes, tropical storms or hurricanes;

(4) A dog is tethered in a manner under conditions that do not jeopardize its health, safety or well-being;

(5) The tether shall not extend over an object in such a manner that could result in strangulation of, or injury to, the animal. The length of the tether must be a minimum of ten feet, or at least three times the length of the animal measured from the animal's nose to the end of its tail, whichever is greater; unless the tether is being used to secure the animal to the bed of an open vehicle or pick-up truck. Restraints should allow the animal to move about and lie down comfortably; and

(6) An animal that is sick or injured cannot be tethered as a means of confinement by the owner nor may an animal under the age of six months be tethered at any time unless the owner is present and attending to the tethered animal during the entire time it is tethered.

(Ord. No. 2018O-06, §§ 1, 4, 7-10-2018)

Sec. 4-45. Specific requirements for confinement.

(a) All domestic animals shall be provided with sanitary shelter from the elements. Said shelter shall be designed, constructed and maintained to protect the animal from rain, snow, ice, excessive cold, excessive heat and excessive direct sunlight, and of a size to allow the animal sufficient space to stand, turn around, and lie down and make all other normal body movements in a normal and comfortable position appropriate to age, size and health of the animal.

(b) All domestic animals shall be provided with clean, potable water at all times.

(Ord. No. 2018O-06, §§ 1, 5, 7-10-2018)

Sec. 4-46. Prohibitions for conduct involving domestic animals.

The following types of conduct and/or actions by domestic animals:

(1) Attack or act so to menace pedestrians or other persons using public areas, parks, public rights-of-way, trails, streets, areas and/or the property of another.

(2) Domestic animals shall, as near as practicable, be kept at least ten feet away from any public street, parks, and/or other public areas; except under the strict control of the owner/handler of the animal pursuant to the provisions of section 4-43 of this article.

(3) Disturb the peace of any other person by loud, persistent, habitual barking, howling, growling, yelping or whining. No person shall be charged with violating this subsection unless written warning has previously been issued within 90 days of the charged violation. No such violation of this subsection shall be issued unless there are at least three complaining witnesses who have signed a written statement stating the address of the dog owner, a description of the dog and of the offense, date, time and location of the offense.

(Ord. No. 2018O-06, §§ 1, 6, 7-10-2018)

Sec. 4-47. Penalty.

Any person who is found guilty of violating the prohibitions of this article shall be subject to all general penalties of the Code of the City of Rockmart, pursuant to section 1-7 and/or other applicable violations of ordinances and/or laws regarding such unlawful conduct.

(Ord. No. 2018O-06, §§ 1, 7, 7-10-2018)

Chapter 5

BUILDINGS AND CONSTRUCTION

Article I. In General

Article II. Construction and Technical Codes

Article III. Signs and Awnings

Division 1. Generally

Division 2. Temporary Signs

Article IV. Plumbing

Article V. Flood Damage Prevention

Division 1. Generally

Division 2. Administration

Division 3. Provisions for Flood Hazard Reduction

Division 4. Variance Procedures

Article VI. Soil Erosion, Sedimentation and Pollution Control

Article VII. Movable Housing

Article VIII. Manufactured Homes

ARTICLE I. IN GENERAL

Sec. 5-1. Fire limits.

The fire limits in the city shall be as described on the map on file in the office of the city clerk.
(Code 1976, § 5-5)

Sec. 5-2. Construction sites.

(a) *Clean conditions*. The property owners, prime contractors and any other person in charge of any construction site shall maintain the construction site in such a manner that waste and litter from building materials shall be prevented from being carried away by the elements to adjoining premises.

(b) *Waste receptacles required*. Every owner, contractor or other person in charge of any construction site shall provide at his own expense, adequate waste receptacles of sizes, numbers and types as required to contain all wastes and litter generated on the construction site.

(c) *Periodic emptying of receptacles*. All waste and litter shall be removed and all waste receptacles emptied as often as necessary to prevent the scattering of such waste by the elements and to maintain the usefulness of all such receptacles.

(d) *Daily pickup of waste*. All waste and litter generated from construction activities shall be picked up at the end of each workday and placed in containers.

(e) *Securing of all building materials*. All building material other than waste shall be securely placed on the construction site to prevent the scattering of such building material on the construction site and to prevent the elements from carrying it to adjoining premises.
(Code 1976, § 5-6; Ord. No. 1986-005, §§ 1—5, 5-13-1986)

Sec. 5-3. Housing numbering.

(a) *Required.* All lots, houses, apartments, buildings, offices or other structures within the corporate limits of the city shall be properly and orderly numbered in accordance with a master plan of numbering adopted and approved by the city manager.

(b) *City to keep chart of street numbers.* The city manager or other employee of the city shall keep a chart, list or other orderly system showing proper street numbers and shall make available to any person upon inquiry the proper number by which any structure as outlined in subsection (a) of this section shall be designated so as to allow it to receive a proper numerical sequence from the officials of the city.

(c) *Duty of owner to place numbers.* It shall be the duty of the owners and occupants of every such structure within the city to have placed thereon, in an area visible from the street, numerical figures at least three inches high, showing the proper number of the lot, structure, house or other building located thereon.

(d) *Penalty for violation of section.* Any person, firm or corporation failing to properly number any house, building, lot or other area owned or occupied by them shall be subject to the general penalty provisions of section 1-7 of this Code. Each separate day in which such failure occurs shall be deemed and considered as a separate violation of this section.
(Code 1976, § 5-46; Ord. No. 1989-004, § 1, 4-11-1989)

Secs. 5-4—5-20. Reserved.

ARTICLE II. CONSTRUCTION AND TECHNICAL CODES

Sec. 5-21. State standards adopted.

All state minimum standard codes enumerated in O.C.G.A. § 8-2-20(9)(B)(i) as now or hereafter modified pursuant to O.C.G.A. § 8-2-20(9)(B)(ii) are adopted.
(Code 1976, §§ 5-1, 5-20, 5-30, 5-40, 5-70, 5-80, 5-111; Mo. of 7-13-1976; Ord. No. 1981-007, § 1, 3-16-1981; Ord. No. 1991-006, 10-8-1991; Ord. No. 1991-007, 10-8-1991; Ord. No. 1991-008, 10-8-1991; Ord. No. 1991-009, 10-8-1991; Ord. No. 1991-010, 10-8-1991; Ord. No. 1991-011, 10-8-1991)

Sec. 5-22. Permits to be applied for in advance.

All building permits shall be applied for at least 72 hours in advance of the intended construction. The building official shall have such time as reasonably necessary to act upon any such application.

Sec. 5-23. Permit fees.

On all buildings, structures or alterations requiring a building permit as set forth in this chapter, a fee for such building permit shall be paid as required at the time of filing the application in accordance with and in the amount set forth or recommended in the edition of the International Building Code and such other pertinent construction codes adopted by the city and in force at that time.

Sec. 5-24. Installation of grease traps by food handlers.

(a) *Required.* Any person serving prepared food for retail sale (within the city limits and those outside the city limits using city sewage) are hereby required to install and maintain a grease trap apparatus designed to catch and prevent grease and oils from being deposited into the city sewage system. Such handlers of food are hereby required to maintain the equipment in good working condition and to clean the equipment on a regular basis, taking into consideration the extent and amount of greases and oils used and discarded in their business.

(b) *Periodic inspections.* The building inspector for the city shall periodically inspect the premises and equipment and maintain such records as necessary so as to enforce the provisions of subsection (a) of this section. If the building inspector finds that a handler of food has failed to adequately maintain such equipment, the building inspector shall notify such person and give the establishment a reasonable time in which to remedy the same.

(c) *Violation of section; penalty.* If any person is found guilty of failing to install and/or maintain a grease trap as provided in this section after reasonable notice from the building inspector and an opportunity to be heard before the judge of the municipal court, such person may be punished for such violation according to section 1-7 of this Code.

Secs. 5-25—5-40. Reserved.

ARTICLE III. SIGNS AND AWNINGS

DIVISION 1. GENERALLY

Sec. 5-41. Definitions.

The words used in this article shall have their normal accepted meanings except as set forth below:

Animated illumination or effects means illumination or effects with action, motion, moving characters or flashing lights. This may require electrical energy, but shall also include wind or any alternatively powered devices. Specifically included is any motion picture or video mechanism used in conjunction with any billboard sign structure in such a manner as to permit or allow the images to be visible from any public right-of-way. This definition does not include signs which indicate only time and/or temperature, provided that such time and/or temperature signs do not change or alternate messages more than 12 times a minute nor electronic message signs.

Awning/canopy means a permanently installed cloth or canvas covering which hangs from a building facade or projects over the public walkway for beautification or shelter. Hereinafter referred to as a canopy.

Awning sign means a sign, symbol, trademark or other message written on an awning attached to a wall. Awning signs are included in the definition of wall signs.

Banner means a sign of a temporary nature made of a cloth-like, plastic or similar material which is secured or mounted to a permanent fixture or structure.

Billboard sign means an outdoor signboard, with posters, painted or vinyl membrane stretched across such sign board, or with similar panels erected on a freestanding structure for the pur-

pose of supporting said sign. The structure may support two opposing faced sign boards or panels, each of which should be of same dimensions. General standard sign board or panel sizes are acceptable, but in no case shall each sign board or panel have a height greater than 12 feet or a width greater than 30 feet, and shall not exceed 300 square feet in total area. The entire structure shall not be greater in height than 35 feet, measured from the highest point of the structure, including the supported sign board or panel, to the lowest adjacent grade (i.e. the lowest natural elevation of the ground surface, prior to construction, adjacent to the proposed footings of a sign).

Block out zone means an area that is measured from the intersecting points of a public right-of-way, street, road, highway or railroad, at any entrance onto or exit from any public road or other location and extending 20 feet along the right-of-way in each direction and closed so as to form a triangle in the corner created by the intersection.

Buildable area of lot means that area of a lot within the building setback lines of the city zoning ordinance within which a principal building or structure may be erected.

Building facade area means the height of the facade multiplied by the width of the facade equals the facade area.

Building setback line means the minimum yard requirement adjacent to any public street or property line set by the city zoning ordinance beyond which no part of a principal building or structure may be erected.

Bunting means a long colored strip of cloth or other pliable material used for festive decoration and containing no message, logo, or emblem and attached to a permanent structure.

Canopy sign means a sign affixed to, imposed upon or painted on any permanent roof-like structure extending over a driveway or vehicle access area. Such signs may be mounted flush or suspended. A flush canopy sign is one that is mounted in such a manner that a continuous face with the canopy is formed. A hanging canopy is one suspended from or beneath the canopy.

Changeable copy sign (manual) means a sign on which copy or sign panels may be changed manually in the field, such as boards with changeable letters or changeable pictorial panels.

Commemorative sign means a sign which identifies a site of memorable and/or historic public interest.

Directional sign means a sign providing instruction for travel to or indicating the location of a place or event, whether by words, arrows or other symbols.

Electronic message sign means a sign whose message may be changed at intervals by electronic process or by remote control, including the device known as a commercial electronic variable message sign.

Facade means the exterior surface or face of a building. The front facade is the building wall which contains the primary entry of the building. The side facade means the exterior walls other than the main or front view.

Fall zone means the protective area surrounding any billboard or freestanding sign as defined in subsection 5-50(b)(2).

Flashing includes illumination which is not kept constant in intensity at all times when in use and which exhibits sudden or marked changes in lighting affects. Excludes illuminated signs which indicate only time and/or temperature provided that such time and/or temperature signs do not change or alter a message more than 12 times a minute.

Freestanding sign means a self-contained sign which is wholly independent of any building or other structure and is of a permanent nature. For the purposes of this article, the term "freestanding sign" excludes billboards, canopy signs, trailer and/or portable signs, and any other sign which does not require a permit.

Height means the measure in linear feet from the highest point on the sign to the unaltered elevation of the ground at the base of the sign or directly beneath the sign. The height of a sign may be measured from the highest point on the sign to the level of the nearest road from which the sign is intended to be viewed.

Illuminated sign, direct, means a sign designed to emit light.

Illuminated sign, indirect, means a sign on which light is cast from a source other than the display area.

Includes denotes a partial definition.

Inflatable devices includes air or gas filled signs, figures or balloons that, when inflated are no more than 50 feet tall.

Instructional sign means a sign conveying instructions or information to the public.

Interstate highway means any road of the state highway system which is a portion of the National System of Interstate and Defense Highways, as officially designed or as may hereinafter be so designated by the state department of transportation and approved by the United States Secretary of Transportation pursuant to 23 USC 103; or any limited access highway as officially designated or as may hereinafter be so designated by the state department of transportation and approved by the United States Secretary of Transportation pursuant to the provisions of 23 USC 103, or similar provisions establishing limited access highways.

Legal lot of record means a lot that meets the legal requirements set forth for the applicable zoning district.

Lot means contiguous parcels of land, legally platted and recorded as a legal lot of record, in single or common ownership, and not divided by a public street.

Major thoroughfare means a street or highway having a right-of-way of 70 feet or more.

Marquee wall sign means a changeable copy sign located on or affixed to an exterior facade or wall of a building.

Noncommercial messages means messages that do not have as their primary purpose the sale, offering for sale, advertisement, description, or promotion of any product, goods, commodity, or service for consumption, purchase, and/or use by the general public, and instead convey opinions and/or messages relating to ideas, theories or other matters outside a commercial context.

Nonconforming sign means any lawfully erected sign, which, on the effective date of this article fails to comply with the requirements of this article.

Normal maintenance, replacement and repair means and includes painting and cleaning. However, normal maintenance and repair conclusively does not include any structural alterations, any modification that requires a building permit or any alteration that costs in excess of 35 percent of the value of the sign prior to such maintenance or repair. For purposes of this definition, the value of a sign shall be the replacement cost of the sign structure. The valuation of the sign shown on the records of the tax assessor shall be presumed to be the replacement cost. If no amount appears in the records of the tax assessor for the individual sign, then the amount stated as the value of the sign on the original sign permit application shall be presumed to be the replacement cost. These presumptions of replacement costs may be rebutted by a city-approved appraisal.

Out-parcel (spin-site) means a portion of a larger parcel of land generally designed as a site for a separate structure and business from the larger tract. An out-parcel may or may not be a subdivision of a larger parcel.

Owner includes any person having possession or control of a sign; or the owner of record of the real property upon which the sign is located.

Permanent sign means any sign attached to land or building, roof, wall, awning, canopy, etc., by means of concrete, bolts, metal braces, wood, etc., and has a valid sign permit.

Permanent window sign means a sign with letters, words, or symbols which is displayed on and permanently attached to the window glass or framework.

Portable display sign and/or trailer sign means any sign not permanently affixed to the ground, including signs mounted or designed to be mounted on a trailer-type frame or portable wood or metal frame. Portable display signs are not included in the definition of freestanding signs.

Primary highway means any road of the state highway system which is a portion of connected

main highways, as officially designated or as may hereafter be so designated by the state department of transportation and approved by the United States Secretary of Transportation pursuant to 23 USC 103.

Prohibited sign means any sign, other than a lawful nonconforming sign, which does not conform in any manner to this article.

Projecting sign means a sign which is attached perpendicularly to a building and extends horizontally from the plane of the building wall.

Road sign or *street sign* means a sign designating the name of a particular road or street placed at any intersection throughout the city.

Roof sign means a sign that is mounted on the roof of a building. The term excludes flags; see subsections 5-44(b)(9), (10).

Rotating sign means a banner or sign that spins, turns, twirls, or otherwise rotates in a circular manner, whether activated or propelled mechanically, electronically, or by wind or air.

Sign means any object, device, display, or structure, which is used to advertise, identify, display, direct, or attract attention to an object, person, institution, organization, business, product, service, event, idea, or location by any means, including words, letters, figures, pictorials, murals, designs, symbols, fixtures, colors, illumination or projected images.

Sign area means the entire face of a sign, including the advertising surface and any framing, trim, or molding but not including the supporting structure.

Soffit sign means a sign which hangs or is suspended beneath the cover of a walkway or beneath a support extending from a building.

Streamers and pennants means colored paper, cloth, fabric, or similar material no longer than ten feet that streams in the wind, or any banner longer in the fly than in the hoist, especially one that tapers to a point and is usually attached to a rope or cord which can subsequently be attached to a pole or to a building.

Temporary sign means any sign not permanently affixed to real property or any structure thereon and is intended by its nature to be placed only for a temporary period of time.

Traffic control sign means a sign placed on, near, or adjacent to a city road, street, or other right-of-way and containing directions, instructions, or control signals regarding vehicular traffic. This would include, but not necessarily be limited to, stop signs, speed signs, yield signs, and similar such signs.

Trailer sign and/or portable sign means any sign not permanently affixed to the ground, including signs mounted or designed to be mounted on a trailer-type frame or portable wood or metal frame. Portable display signs are not included in the definition of freestanding.

Wall sign means a sign fastened to, or painted on, the wall of the building or structure (including an awning, canopy, or window sign) in such a manner that the wall becomes the supporting structure for, or forms the background surface of, the sign. The total signage on one side of a building or structure shall constitute one wall sign.

WEDS or *weekend directional sign* means any sign conveying directions to a specific place or event. For example, to premises that are for sale or lease; to a church or community gathering, yard sales, moving sales, estate sales, etc.

Window sign means a sign painted upon or affixed so as to be visible through a window.

Zoning district means the zoning designation of parcels of land under the city-zoning ordinance. (Ord. No. 7-2003, § 1(5.51), 7-10-2003; Ord. No. 2008O-11, § 2, 11-18-2008)

Sec. 5-42. General regulations.

(a) *What signs are covered.* Unless specifically excluded herein, this article shall govern any sign erected, maintained or located in the city. Signs wholly located within a structure or building and intended to be viewed from the interior (and not the exterior) of the building are not regulated by this article.

(b) *Compliance with other laws, codes and rules.* All signs shall comply with all federal, state, and city laws, ordinances, codes, and rules. Compliance with the terms of this article shall not operate to relieve any individual, corporation, or other entity of any other duty imposed by law.

(c) *Property rights of others must be respected.* Issuance of a permit hereunder shall not serve to waive any applicable protective covenants or private rights of property ownership.

(d) *Obstruction of vision*. No sign or other obstruction of vision, including but not limited to poles or other support structures, with a height greater than three feet, shall be permitted within an area beginning at the intersection of right-of-way lines of any street, road, highway, driveway, curb-cut or railroad, and extending 20 feet along each such right-of-way, and closed by a straight line connecting the end points of the said 20-foot sections of the right-of-way lines. (Block out zone.) This provision shall not include traffic control signs.

(e) *Signs shall not be similar to traffic control devices*. No sign or illumination shall be used, constructed, maintained or located at any location where it may interfere with or obstruct the view of an authorized traffic control device or sign, nor shall any sign be used, constructed, maintained, or located where it, by reason of its position, shape, wording or color, may be confused with an authorized traffic control device or sign or emergency vehicle device or markings.

(f) *Lights*. Lines, rows, or any series of lights supported by cables or other physical means shall be a minimum of ten feet from the edge of the street or out of the right-of-way, whichever is farthest from the street.

(g) *Electrical and structural safety*. All electrical signs and all electrical devices that illuminate signs or otherwise operate signs are subject to inspection and reasonable regulation by the city building inspection department or its successor. All such signs and electrical devices shall only be allowed if listed by an approved testing laboratory or agency and installed in conformance with that listing. All signs shall be built in compliance with all applicable building and electrical codes of the city.

(h) *Content of sign*. This article shall not regulate the specific content of signs. Any sign, display or device allowed under this article may contain commercial or noncommercial copy, except that such copy shall not contain obscene or pornographic material as defined in the United States and/or state law. See subsection 5-43(6).

(i) *Expiration of permit.* A sign permit for any sign shall expire three months after the issuance of the permit if construction of the sign has not commenced within that time. A sign permit shall expire six months after the issuance of the permit if construction of the sign is not completed within that time. If construction has not begun or been completed as required by this subsection, then a new application must be submitted and the permitting process recommended.

(j) *Setback*. Freestanding signs shall be setback a minimum of five feet from all property lines, unless additional setbacks are required through other provisions of this Code.

(k) *Signs attached to a building*. Permanent signs attached to a building shall be considered a wall sign and shall comply with the regulations pertaining to wall signs allowed under this article. (Excludes flags; see subsections 5-44(b)(9), (10))

(l) *Changeable copy signs (manual).* Changeable copy signs shall be allowed only as an addition to or in conjunction with a permitted freestanding sign and must be permanently affixed to said sign. Changeable copy signs shall not be allowed to stand alone. Such signs shall be deducted from the allocation of freestanding sign area.

(m) *Clearance from high voltage power lines.* Signs shall be located not less that eight feet horizontally or 13 feet vertically from overhead electrical conductors which are energized in excess of 750 volts. Signs located in the vicinity of electrical conductors energized with less that 750 volts shall maintain clearance in accordance with applicable National Electrical Safety Codes. Copies of said code are on file with the building

official. In no case shall a sign be installed closer than 36 inches from any electrical conductor or public utility guy wire.

(n) *Directional signs*. Off-site directional signs of a quasi-public nature, which state the name, or location of a hospital, community center, private school, college, youth organization, church or other place of worship, a nonprofit public entity; or the name or place of meeting of an official or civic body, shall be allowed with a permit. The maximum height of said signs shall be six feet and said signs shall not exceed six square feet in area. No permit fee shall be required.
(Ord. No. 7-2003, § 1(5.53), 7-10-2003)

Sec. 5-43. Prohibited signs.

Any sign not specifically identified in this article as a permitted sign shall be prohibited. The following signs are prohibited in any zoning district in the city:

(1) Banners except as specifically allowed under this article.

(2) Signs which produce noise or sounds capable of being heard even though the sounds produced are not understandable sounds.

(3) Signs which emit visible smoke, vapor, particles or odors.

(4) Signs which are erected or maintained upon trees, utility poles or painted or drawn upon rocks or other natural features.

(5) Inflatable devices except as specifically allowed under this article.

(6) Signs, which depict obscene or pornographic material as defined under United States and/or state law interpreting and regulating sexually explicit depictions.

(7) Roof signs except as otherwise allowed herein.

(8) Rotating signs.

(9) Vehicle signs or devices attached to any vehicle or trailer parked so as to be visible from the public right-of-way and being used for the purpose of providing advertisements of products, services, or events; or directing people to a business or activity; except for a common carrier or other vehicle which is used for daily transportation with a valid license plate. Any vehicle having a sign attached thereto as a part of the operational structure of the vehicle is to be parked in a parking space belonging to the business or on the property to which the sign makes reference. No trailer and/or portable nonmotorized vehicle signs shall be permitted, except as otherwise allowed and regulated by this article.

(10) Signs in disrepair or otherwise not in good repair, specifically including any sign currently in a state of disassembly, any sign which has its internal lighting exposed to view; or signs which have not been properly maintained and are a potential danger or nuisance in their current condition.

(11) Twirling, curb-type, and portable display signs, shall be prohibited except as otherwise allowed herein.

(12) No signs other than those belonging to local, state or federal governments, or any subdivision thereof, railroads or similar public agencies shall be located in a public right-of-way.

(13) Trailer and/or portable signs. Changeable copy signs designed to be transported periodically from place to place or designed to be supported on wheels, whether or not such wheels have been removed, are prohibited except as specifically allowed under this article.

(14) Florescent or Day-Glo colored signs.

(15) Electronic message or flashing signs.
(Ord. No. 7-2003, § 1(5.52), 7-10-2003)

Sec. 5-44. Signs which do not require a permit.

(a) *Permit exceptions.* The following operations shall not be considered as creating a new sign, and therefore, shall not require a sign permit:

(1) The changing of the advertising copy or message on an approved painted sign,

billboard, theater marquee, or similar-type approved sign which is specifically designed for the use of replaceable copy.

(2) The changing of the tenant panels on a freestanding multiuse tenant board.

(3) Normal maintenance or repair of an approved or existing sign or structure, as long as such repair and/or maintenance does not exceed 35 percent of the sign's value.

(b) *Exempt signs.* No sign permit shall be required for any of the following signs to be displayed in any zoning district; provided, however, that all other applicable regulations shall apply to such signs and that no such sign in a residential zoning district shall be illuminated:

(1) *Official government signs*. Signs of a governmental body, governmental agency or public authority or entity in its exercise of power of eminent domain or police power, including but not limited to traffic signals, signs or similar regulatory devices of warnings; official flags, emblems, official public notices, official instruments, signs of historic interest or other similar signs or devices.

(2) *Instructional signs*. Signs erected for the purpose of giving direction or instruction into and from the property; provided, however, that no such sign shall exceed three feet in height above the pavement and shall not exceed three square feet in sign area. No such sign shall be located closer that one foot from the public right-of-way and shall display public safety directional information only and shall not obstruct sight distance from driveways.

(3) *Banners attached to buildings*. No more than one banner, not to exceed 30 square feet in area, shall be displayed at each place of business and shall be securely attached to the facade of a building with the exception that within the downtown business district, such banners shall be displayed for a period not to exceed 60 days for the same message, not to exceed two per year.

(4) *Streamers or pennants*. Streamers or pennants shall be setback at least five feet from the edge of the street and out of the right-of-way, whichever is farthest from the street.

(5) *Real estate signs*. Signs that display the sale, rental, lease or other marketing efforts concerning real estate and are placed upon the property being marketed.

(6) *Construction related signs.* Signs placed upon a site of construction, alteration, or sale. Such signs shall not exceed 16 square feet in area in residential districts or 32 square feet in sign area in nonresidential zoning districts and shall not exceed ten feet in height. All signs shall be removed from the property within 14 days after final completion, sale, or abandonment of the property.

(7) *Noncommercial signs.* Signs displaying a noncommercial message shall be allowed in all zoning districts and shall comply with the standard regulations in this article pertaining to size, height, location, and number of signs allowed per property with the exception that such signs displayed in a single-family residential district shall be a maximum of 16 square feet in area and six feet in height.

(8) *Special event or seasonal signs.* Sign displays that include any message, insignia, or depiction traditionally associated with the holiday or event celebrated or observed, including state, national or international events. Each allowed special event or seasonal display may continue for a 30-day period in any one year, with the exception that during Thanksgiving through the New Year season, a 60-day period of display shall be allowed.

(9) *Official flags or insignias*. Any flags or insignias of the United States, this state or any other nation, state or government and nonprofit organizations. Such flags or insignias shall be flown in compliance with the standards applicable under state and federal law.

(10) *Nonofficial flags*. Nonofficial flags used primarily for commercial advertising purposes shall not exceed five feet in height from the top edge of the roof soffit when erected on the roof of a building. Such flags when erected on the ground shall be a minimum of five feet from the edge of the street or out of the right-of-way, whichever is farthest from the street. One logotype flag for industries shall be allowed per main entrance to the principal building. Such flags shall be erected on a flagpole and shall not exceed the maximum allowable height of the district.

(11) *Architecture.* Decorative or artistic renditions of an insignia, trademark, logo, coat of arms, or other similar feature of any person, company, group or similar entity.

(12) *Scoreboards.* Scoreboards and other signs on any public or school athletic fields, fences or walls.

(13) *Gas pumps/vending machines.* Signs forming an integral part of a gasoline pump, service appliance, or vending machine.

(14) *Interior signs.* Signs intended to be viewed from the interior, rather than the exterior, of the building.

(15) *Political signs.* Signs whereby the public is to be informed regarding a specific event, theory, idea, opinion, candidate or issue.

a. Political signs shall be located a minimum of one foot from any publicly maintained street right-of-way or easement, shall not be located in any medians, and must be with prior authorization of the property owner.

b. Political signs shall be limited to a copy area not to exceed 32 square feet.

c. Political signs shall be allowed in all zoning districts.

d. Prior to the removal of signs in violation, except for signs on the right-of-way or those signs creating a traffic or safety hazard, violators (whether erector or user) shall be given at least 48 hours' notice to remedy their violation.

(16) *Weekend directional signs (WEDS) findings and purposes.* Many people travel to, from and through the city on a daily basis. During the weekday rush hours when the majority of people on the roads are commuting to or from work, roads are often nearly beyond their capacity. Traffic hazards and distractions must be minimized. However, people at times need the benefit of directional signs to help find their destinations. Properly regulated signs may actually aid the flow of traffic. The following regulations recognize the difference in weekday and weekend traffic and are intended to promote the health, safety and welfare of the residents, visitors and businesses in the city:

a. *Definition.* Weekend directional signs may convey directions to a specific place, event, or gathering.

b. *Zoning districts.* Weekend directional signs shall be allowed in all zoning districts.

c. *Time allowed.* Weekend directional signs shall be allowed from 3:00 p.m. on Friday to 11:59 p.m. on Sunday. It shall be the responsibility of the sign owner to remove all weekend directional signs prior to 11:59 p.m. on Sunday.

d. *No permit required*. Weekend directional signs do not require a permit or a permit fee.

e. *Construction.* Weekend directional signs shall not exceed four square feet of sign area and three feet in height and may be double-faced. Weekend directional signs shall be mounted on an independent single or double pole device. Weekend directional signs shall not be affixed in any manner to trees, natural objects, street light poles, utility poles, other signs or other sign structures. Weekend directional signs shall be made

of metal, plastic, laminated cardboard or some other durable waterproof material. No sign shall be made of paper. All weekend directional signs shall contain a name, telephone number, residential or mailing address or other identifying information so that the city can determine the identity of the person or entity who placed the sign.

f. *Location.* There shall be only two weekend directional signs for any given place, activity, or event per 300 feet of road frontage. No weekend directional sign shall be located closer than one foot from the right-of-way. All weekend directional signs must be placed on private property with the property owner's permission.

(17) *Sandwich board or sidewalk signs.* One such sign shall be allowed at the main entrance to the business and shall not exceed ten square feet in sign area, and shall not interfere with pedestrian or vehicular circulation.

(18) *Vertical pole banners.* No more than two vertical pole banners shall be allowed to be attached to an existing permanent light pole or utility pole within the city and shall be allowed only in conjunction with city or quasi-public institutional promotions, or special nonprofit events, or business special events. Such banners shall not exceed 30 square feet in area, shall have a maximum width of 2½ feet and a maximum height of eight feet; and shall have a maximum display height of 25 feet measuring from the top edge of the banner to the ground. Such banners attached to public utility poles or light poles shall be approved by the city and/or the utility owner prior to attachment.

(Ord. No. 7-2003, § 1(5.54), 7-10-2003)

Sec. 5-45. Minimum height above sidewalk.

Awnings and signs shall not be erected or maintained less than eight feet above the sidewalk.

(Code 1976, § 5-50; Ord. No. 132, § 1, 9-1-1925)

Sec. 5-46. Self-support.

All awnings and signs shall be self-supporting; that is no awning or sign shall be erected in such a manner as to rest on the sidewalk, or street, but every sign shall be supported by the building from which it projects.

(Code 1976, § 5-51; Ord. No. 132, § 2, 9-1-1925)

Sec. 5-47. Material.

No awning or sign of any material not authorized in the building code, shall be erected or maintained.

(Code 1976, § 5-52; Ord. No. 132, § 3, 9-1-1925)

Sec. 5-48. Fastening signs to poles or trees.

No signs shall be fastened to any utility light pole or to any tree.

(Code 1976, § 5-53; Ord. No. 132, § 4, 9-1-1925)

Sec. 5-49. Signs or banners over streets.

No sign or banner shall be placed across any street, alley, or other city property, without first securing written consent from the city council.

(Code 1976, § 5-54; Ord. No. 132, § 6, 9-1-1925)

Sec. 5-50. Freestanding signs and billboards.

(a) *Permit required.* All signs under this section require a permit.

(b) *Tables of regulations.* Freestanding signs in all zoning districts shall comply with the following tables of regulations, as applicable to the type zone:

TABLE 1.
FREESTANDING SIGN REGULATIONS
FOR COMMERCIAL ZONING DISTRICTS

Location of Property Frontage	*Maximum Number of Signs*	*Maximum Sign Area (square feet)*	*Maximum Height of Signs (feet)*
C-1 Central Business District	No freestanding signs permitted for any purpose, except as allowed by variance.	N/A	N/A
C-2 Neighborhood Business District	One common freestanding sign shall be allowed adjacent to a common entrance and one additional freestanding sign for each business.	150	25
C-3 General Commercial District	One common freestanding sign shall be allowed adjacent to a common entrance.	150	25
	Additional freestanding signs are allowed in certain portions feet of C-3 zones, as shown in Table 5.	48	20

TABLE 2.
FREESTANDING SIGN REGULATIONS
FOR RESIDENTIAL ZONING DISTRICTS

Location of Property Frontage	*Maximum Number of Signs*	*Maximum Sign Area (square feet)*	*Maximum Height of Signs (feet)*
R-1, R-2, R-3, R-4, R-5, R-7 Single-Family Districts	No signs permitted for any purpose, except those otherwise authorized by this article; or authorized nonconforming uses.	N/A	N/A
R-6A and R-6B Duplex and Multifamily Districts	One freestanding sign shall be allowed on each property frontage and shall have a maximum sign area of 32 square feet.	32	10

TABLE 3.
FREESTANDING SIGN REGULATIONS
FOR INDUSTRIAL ZONING DISTRICTS

Location of Property Frontage	*Maximum Number of Signs*	*Maximum Sign Area (square feet)*	*Maximum Height of Signs (feet)*
O-I Office—Industrial	One freestanding sign per business location.	150	25

Location of Property Frontage	*Maximum Number of Signs*	*Maximum Sign Area (square feet)*	*Maximum Height of Signs (feet)*
I-1, I-2, I-3 Industrial	One freestanding sign shall be allowed adjacent to a common entrance or per business location.	150	25

TABLE 4.
FREESTANDING SIGN REGULATIONS
FOR PLANNED UNIT DEVELOPMENT

Location of Property Frontage	*Maximum Number of Signs*	*Maximum Sign Area*	*Maximum Height of Signs*
PUD	Because a PUD is a potential multiple use project, meeting special zoning requirements, all proposed signage shall be submitted with the development plan for approval.	Must be approved by city according to overall proposed development plan and PUD ordinance.	

TABLE 5.
PERMITTED LOCATIONS
FOR FREESTANDING SIGNS

Location of Property Frontage	*Maximum Number of Signs*	*Maximum Sign Area (square feet)*	*Maximum Height of Signs (feet)*
Zone 1	One sign at each described intersection location.	48	20
Zone 2	All signs within this zone must meet all distance and fall zone regulations.	48	20
Zone 3	Two signs at each described intersection location.	48	20
Zone 4	All signs within this zone must meet all distance and fall zone regulations.	48	20
Zone 5	All signs within this zone must meet all distance and fall zone regulations.	48	20

Note to Table 5. The five permitted zones for freestanding signs are described in attachments "A" through "E" of the ordinance from which this section is derived.

(1) *Location.* If a lot has more than one street frontage and a freestanding sign is proposed on each street, then the freestanding sign allowed on each frontage can be no closer to the intersection of said streets than one-half the distance of the frontage on each street.

(2) *Regulations within corporate limits.* Freestanding signs that are authorized within the corporate limits of the city shall be subject to the following regulations:

a. All signs shall be constructed in an area that maintains a protective fall zone. That is, if the sign falls in any direction from its highest points, no building, parking lot, sign, or other improvement shall be located within the fall zone so that persons or property could be injured and/or damaged as a result of the falling sign. The fall zone shall be calculated by taking 1½ times the height of the sign and drawing a circle with that radius around the sign's proposed centered location.

b. Freestanding signs shall be permitted within five zones (see Table 5) within the city. The description of each zone is attached and made a part of this article by reference. The city reserves the right to amend, restrict, or expand any freestanding sign zones.

c. In zones 2, 4 and 5 all freestanding signs shall have at least 300 feet of distance between the signs, in addition to meeting all fall zone regulations set forth in subsection (b) of this section.

d. No signs shall be lower than two feet off the ground, nor higher than 25 feet.

e. No sign may be located so as to impair, in any way, traffic visibility at intersections where freestanding signs are allowed.

(c) *Billboards.* Billboards shall be allowed only in C-2 and C-3 zoning districts and must have at least 2,500 feet of distance between the signs, in addition to meeting all fall zone regulations set forth in subsection (b)(2) of this section. No billboard shall be higher than 35 feet, measured from the ground to the top of the sign.

For the purposes of determining the required distances between billboards, distance shall be measured from the center of each billboard. Further, such measurement shall be by line of site or shortest distance, whichever is less. For purposes of enforcing the 2,500 feet of distance between billboards, the term billboard shall refer to any sign within or outside of the city limits that meets the definition of "billboard sign" in section 5-41 herein so that no billboard shall be allowed if there is another billboard within 2,500 feet no matter if the existing billboard is located within or outside of the city limits. The above manner of measuring distance applies only to the measurement of distances between signs and it is not applicable to any other section of this code requiring distance measurements.
(Ord. No. 7-2003, § 1(5.55), 7-10-2003; Ord. No. 2008O-11, § 2, 11-18-2008)

Editor's note—The attachment referred to in subsection (b) of this section is not set out herein but can be found on file in the city clerk's office.

Sec. 5-51. Wall signs; canopy signs; awning signs.

(a) *Permit required.* All signs under this section require a permit.

(b) *Requirements.* Wall signs, canopy signs and awning signs in all zoning districts except residential shall comply with the following:

(1) Wall signs shall have an aggregate area not to exceed two square feet for each linear foot of building face parallel to a street lot line, not to exceed 200 square feet in area. Where a lot fronts on more than one street, the aggregate sign area facing each street frontage shall be calculated separately. Canopy and awning signage shall be deducted from allocated wall sign area.

(2) Height. Wall signs that project more than four inches from the building surface on which it is attached shall be at least eight feet above the finished elevation at its lowest extremity. The signs shall not be higher than the vertical wall to which it is attached.

(3) Wall, canopy or awning signs shall not have interchangeable copy unless approved as a marquee sign.

(4) Marquee wall signs may be substituted for wall signs for approved uses such as theaters and hotels where their use is customary. Such signs shall not extend above the roofline of the building nor extend more than two feet away from the face of the building upon which the sign is secured. Allowable sign dimensions shall be the same as for wall signs.

(5) No wall sign shall project more than 24 inches from the building face on which it is attached.

(6) No wall sign shall be closer than 18 inches to an adjacent property line and shall not be installed over a party wall.

(7) Wall signs shall be concentrated near the pedestrian level. Signs shall not obscure important architectural details or features such as windows, transom panels, sills, moldings, and cornices.

(Ord. No. 7-2003, § 1(5.56), 7-10-2003)

Sec. 5-52. Sign regulations for window and projecting signs.

(a) *Percentage of window allowed to be covered.* Each ground level business having a window directly oriented to a street may use all of that glass area as one allowable sign, but no single window shall be covered more than 30 percent.

(b) *Stipulations regarding projecting signs.* Property owners in commercial districts shall be allowed to attach one projecting sign to a building facade that fronts a public right-of-way with the following stipulations:

(1) The sign shall not exceed an area of six square feet.

(2) The horizontal dimension of the sign shall not exceed three feet.

(3) The sign shall be attached perpendicular to a building wall.

(4) The distance from the ground to the lower edge of the sign shall be a minimum of eight feet over a sidewalk and a minimum of 13 feet over a street or driveway.

(5) The distance from the building wall to the sign shall not exceed six inches.

(6) The height of the top edge of the sign shall not exceed the height of the wall from which the sign projects, if attached to a single story building, or the height of the sill or bottom of any second story window, if attached to a multistory building.

(7) The sign may be directly or indirectly lighted; however, direct lighting shall be of the sign copy only.

(Ord. No. 7-2003, § 1(5.57), 7-10-2003)

Sec. 5-53. Grand opening signs.

Property owners in commercial districts may exhibit banners, flags, portable signs, balloons, streamers, or inflatable devices within two months of starting the operation of a new business or for any significant change in the business. A property owner in a commercial district shall be granted one grand opening permit for the life of the business at any given location.

(Ord. No. 7-2003, § 1(5.58), 7-10-2003)

Sec. 5-54. Nonconforming signs.

(a) *Grandfathered signs.* Signs lawfully existing on the effective date of this article, which do not conform to the provisions of this article shall be deemed to be legal nonconforming grandfathered signs and may remain, except as otherwise specifically qualified in this article. Such signs shall not be enlarged, extended, structurally reconstructed, replaced or altered in any manner; except a sign face may be changed so long as the new sign face does not increase either height or sign area. This provision shall not have the effect of excusing any violation of any other ordinance,

nor shall it permit the continued existence of any unsafe sign or any sign that is not in good state of repair.

(b) *Maintenance.* Nothing in this section shall be deemed to excuse a property owner from keeping nonconforming signs in good repair. No repairs other than minor maintenance and upkeep of nonconforming signs shall be permitted to make the sign comply with the requirement of this article. A nonconforming sign which has been declared by the city to be unsafe because of its physical condition shall not be repaired, rebuilt or restored unless such repair or restoration will result in a sign which conforms to all applicable provisions of this article.

(c) *Relocation.* A nonconforming sign shall not be moved or otherwise relocated for any distance on the same lot or to another lot unless such change in location will make the sign conform to the provisions of this article, and meet permit requirements of this article.

(d) *Removal, destruction or discontinuance of use.* If a nonconforming sign is removed or destroyed or the use of the sign is discontinued for any period of time, except for normal maintenance and repair, as defined in this article, or for maintenance of a building if such sign is attached to a building, the subsequent erection of a replacement sign shall be in accordance with the provisions of this article. As a consequence, when a nonconforming sign is destroyed or toppled by an act of God; weather, or whatever other means, this shall not constitute a sufficient reason to grant a variance to re-erect the nonconforming sign.

(e) *Replacement by a conforming sign.* A nonconforming sign that is changed to, or replaced by, a conforming sign shall no longer be deemed nonconforming, and thereafter such sign shall be subject to the provisions of this article.
(Ord. No. 7-2003, § 1(5.59), 7-10-2003)

Secs. 5-55—5-70. Reserved.

DIVISION 2. TEMPORARY SIGNS

Sec. 5-71. Defined.

The term "temporary sign," as used in this division, shall mean and include any sign, banner, pennant, valance or advertising display constructed of cloth, canvas, light fabric, cardboard, wall-board, or other light materials, with or without frames, intended to be displayed for a period of six months or less.
(Code 1976, § 5-60; Ord. No. 272, § 2, 11-2-1960)

Sec. 5-72. Permit—Required.

It shall be unlawful for any person to erect, repair, alter, relocate, or maintain within the city any temporary sign, billboard or other advertising structure without first obtaining permit from the building inspector and making payment of fee required herein.
(Code 1976, § 5-61; Ord. No. 272, § 3, 11-2-1960)

Sec. 5-73. Same—Application forms; required information.

Application for permits shall be made upon blanks provided by the building inspector, and shall contain, or have attached thereto the following information:

(1) Name, address and telephone number of the applicant.

(2) Location of buildings, structures, poles, posts, or lot to which or upon which the sign or billboard is to be attached or erected.

(3) Written consent of the owner of buildings, structures, poles, posts or land to which or on which the sign or billboard is to be erected or attached.

(4) A statement as to the length of time the sign or billboard shall remain in place together with a bond with good security to be approved by the city attorney binding the applicant to remove the sign or billboard at the expiration of such time and in default thereof, authorizing the cost of removal to be charged to applicant and his surety.

(Code 1976, § 5-62; Ord. No. 272, § 4, 11-2-1960)

Sec. 5-74. Same—Fees.

(a) *Amount.* Every applicant before being granted a permit hereunder shall pay to the city a fee in the amount established by the city council.

(b) *Exceptions.* The provisions of this section shall not apply to the following signs:

(1) Real estate signs not exceeding eight square feet in area that advertise the sale, rental or lease of the premises upon which said signs are located only.

(2) Signs painted on the exterior surface of a building or structure.

(3) Bulletin boards not over eight square feet in area for public, charitable or religious institutions when the same are located on the premises of said institutions.

(4) Signs denoting the architect, engineer or contractor when placed upon work under construction, not exceeding 16 square feet in area.

(5) Legal notices, railroad crossing signs, danger, and such other nonadvertising signs as may be approved by the city council.

(Code 1976, § 5-63; Ord. No. 272, §§ 5, 6, 11-2-1960)

Sec. 5-75. Placing on city property.

No person shall erect or maintain any temporary sign as herein defined on any city property or public way within the city unless the same is done pursuant to a contractual right obtained from the city council.

(Code 1976, § 5-64; Ord. No. 272, § 7, 11-2-1960)

Sec. 5-76. Removal of signs after expiration of permit.

At the expiration of the permit for the erection and maintenance of any temporary sign, the applicant for the permit shall remove or cause to be removed all of such signs, and if said applicant should default in the removal of such signs or any of them the city is authorized to have the same removed and charge the costs of such removal to the applicant and his surety.

(Code 1976, § 5-65; Ord. No. 272, § 8, 11-2-1960)

Secs. 5-77—5-105. Reserved.

ARTICLE IV. PLUMBING

Sec. 5-106. Conservation restrictions.

(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:

Commercial means any type of building other than residential.

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

Residential means any building or unit of a building intended for occupancy as a dwelling, but shall not include a hotel or motel.

(b) *Limitations on construction after April 1, 1992.* On or after April 1, 1992, no construction may be initiated within the city for any residential building of any type which:

(1) Employs a gravity tank-type, flushometer-valve, or flushometer-tank toilet that uses more than an average of 1.6 gallons of water per flush, provided, however, this subsection shall not be applicable to one-piece toilets until July 1, 1992;

(2) Employs a shower head that allows a flow of more than an average of 2.5 gallons of water per minute at 60 pounds per square inch of pressure;

(3) Employs a urinal that uses more than an average of one gallon of water per flush;

(4) Employs a lavatory faucet or lavatory replacement aerator that allows a flow of more than two gallons of water per minute; or

(5) Employs a kitchen faucet or kitchen replacement aerator that allows a flow of more than 2.5 gallons of water per minute.

(c) *Limitations on construction after July 1, 1992.* On or after July 1, 1992, there shall be no construction of any commercial building initiated within the city for any commercial building of any type which does not meet the requirements of subsection (b) of this section.

(d) *Applicability of requirements.* The requirements of subsection (b) of this section shall apply to any residential construction initiated after April 1, 1992, and to any commercial construction initiated after July 1, 1992, which involves the repair or renovation of or addition to any existing building when such repair or renovation of or addition to such existing building includes replacement of toilets or showers or both.

(e) *Exemptions.*

(1) New construction and the repair or renovation of an existing building shall be exempt from the requirements of subsections (b) and (d) of this section when:

a. The repair or renovation of the existing building does not include the replacement of the plumbing or sewage system servicing toilets, faucets or showerheads within such existing buildings;

b. Such plumbing or sewage system within such existing building, because of its capacity, design, or installation would not function properly if the toilets, faucets or showerheads required by this section were installed;

c. 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

d. Units to be installed are:

1. Specifically designed for use by persons with disabilities;

2. Specifically designed to withstand unusual abuse or installation in a penal institution; or

3. Toilets for juveniles.

(2) The owner, or his agent, of a building undergoing new construction or repair or renovation who is entitled to an exemption as specified in subsections (e)(1)b through d of this section shall obtain the exemption by applying at the office of the building inspector for the city. A fee as adopted by the city council shall be charged for the inspection and issuance of such exemption.

(f) *Enforcement, penalty.*

(1) This section shall be enforced by the office of the building inspector of the city. Citations for violations may be issued by the chief building inspector of the city.

(2) Any person, corporation, partnership or other entity violating this section shall be tried before the municipal court of the city. Upon conviction, a violation of this section may be punished according to the provisions of section 1-7 of this Code of the city.

(Code 1976, § 5-81; Ord. No. 1992-002, §§ 1—6, 3-10-1992)

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

Secs. 5-107—5-130. Reserved.

ARTICLE V. FLOOD DAMAGE PREVENTION*

DIVISION 1. GENERALLY

Sec. 5-131. Definitions.

Unless specifically defined below, words or phrases used in this article shall be interpreted

*__Editor's note—__Ord. No. 2007O-12, adopted Nov. 13, 2007, amended Art. V in its entirety. Subsequently, Ord. No. 2008O-10, adopted August 12, 2008, amended Art. V to read as herein set out. Former Art. V, §§ 5-131—5-141, 5-176—5-178, 5-201—5-207, 5-226, 5-227, pertained to similar subject matter and derived from Ord. No. 002-1998, § I, 2-10-1998. See also the Code Comparative Table.

so as to give them the meaning they have in common usage and to give this article its 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 building official's interpretation of any provision of this article.

Area of shallow flooding means a designated AO or AH zone on a community's flood insurance rate map (FIRM) with base flood depths from one to three feet, and/or where a clearly defined channel does not exist, where the path of flooding is unpredictable and indeterminate, and where velocity flow may be evident.

Area of special flood hazard means the land in the floodplain within a community subject to a one percent or greater chance of flooding in any given year. In the absence of official designation by the Federal Emergency Management Agency, areas of special flood hazard shall be those designated by the local community and referenced in section 5-135.

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 computed elevation to which floodwater is anticipated to rise during the base flood. BFEs are shown on flood insurance rate maps and on flood profiles.

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

Building: See *Structure.*

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:

(1) Structures or facilities that produce, use, or store highly volatile, flammable, explosive, toxic, or water-reactive materials;

(2) 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;

(3) Emergency operation centers or data storage centers which contain records or services that may become lost or inoperative during flood and storm events; and

(4) 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 storage of materials or equipment.

Elevated building means a non-basement building built to have the lowest floor of the lowest enclosed area elevated above the ground level by means of fill, solid foundation perimeter walls, pilings, columns, piers, or shear walls adequately anchored so as not to impair the structural integrity of the building during a base flood event.

Existing construction means any structure for which the "start of construction" commenced before March 4, 1988.

Existing manufactured home park or *subdivision* means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum the installation of utilities, the construction of streets, and final site grading or the pouring of concrete pads) is completed before February 9,

1988. [i.e., the effective date of the FIRST floodplain management regulations adopted by a community].

Expansion to an existing manufactured home park or *subdivision* means the preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed, including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads.

Flood or *flooding* means a general and temporary condition of partial or complete inundation of normally dry land areas from:

(1) The overflow of inland or tidal waters; or

(2) 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 means the official report by the Federal Insurance Administration evaluating flood hazards and containing flood profiles and water surface elevations of the base flood.

Floodplain means any land area susceptible to flooding.

Floodproofing 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:

(1) Listed individually in the National Register of Historic Places (a listing maintained by the U.S. Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;

(2) Certified or 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;

(3) Individually listed on a state inventory of historic places and determined as eligible by states with historic preservation programs which have been approved by the Secretary of the Interior; or

(4) Individually listed on a local inventory of historic places and determined as eligible by communities with historic preservation programs that have been certified either:

a. By an approved state program as determined by the Secretary of the Interior; or

b. Directly by the Secretary of the Interior in states without approved programs.

Lowest floor means the lowest floor of the lowest enclosed area, including basement. An

unfinished or flood resistant enclosure, used solely for parking of vehicles, building access, or storage, in an area other than a basement, is not considered a building's lowest floor, provided that such enclosure is not built so as to render the structure in violation of other provisions of this code.

Manufactured home means a building, transportable in one or more sections built on a permanent chassis and designed to be used with or without a permanent foundation when connected to the required utilities. The term 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.

Manufactured home park or subdivision, for purposes of this article, means a parcel (or continuous parcels) of land divided into two or more manufactured home lots for rent or sale.

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 article, the term is synonymous with National Geodetic Vertical Datum (NGVD).

National Geodetic Vertical Datum (NGVD), as corrected in 1929, means 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 March 4, 1988 and includes any subsequent improvements to such structures. For floodplain management purposes, "new construction" means structures for which the "start of construction" commenced after February 9, 1988.

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 February 9, 1988 [i.e., the effective date of the first floodplain management regulations adopted by a community].

North American Vertical Datum (NAVD), as corrected in 1988, means a vertical control used as a reference for establishing varying elevations within the floodplain.

Recreational vehicle means a vehicle, which is:

(1) Built on a single chassis;

(2) Four hundred square feet or less when measured at the largest horizontal projection;

(3) Designed to be self-propelled or permanently towable by a light duty truck; and

(4) Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

Start of construction means the date the development permit was issued, provided 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 article requirements.) For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

Structure means a walled and roofed building that is principally above ground, a manufactured home, a gas or liquid storage tank.

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

Substantial improvement means any reconstruction, rehabilitation, addition, or other improvement of a structure, taking place during a five-year period, in which the cumulative cost equals or exceeds 50 percent of the market value of the structure prior to the "start of construction" of the improvement. NOTE: The market value of the structure 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 (1) those improvements of a structure required to comply with existing violations of state or local health, sanitary, or safety code specifications which are solely necessary to assure safe living conditions and which have been identified by the code enforcement official, and not solely triggered by an improvement or repair project, or (2) any alteration of a "historic structure" provided that the alteration will not preclude the structure's continued designation as a "historic structure."

Substantially improved existing manufactured home parks or *subdivisions* is where the repair, reconstruction, rehabilitation or improvement of the streets, utilities and pads equals or exceeds 50 percent of the value of the streets, utilities and pads before the repair, reconstruction or improvement commenced.

Variance means a grant of relief from the requirements of this article, which permits construction in a manner otherwise prohibited by this article.

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 article is presumed to be in violation until such time as that documentation is provided.
(Ord. No. 2007O-12, 11-13-2007; Ord. No. 2008O-10, 8-12-2008; Ord. No. 2019O-04, § 2—4, 5-14-2019)

Sec. 5-132. Statement of purpose.

It is the purpose of this article to promote the public health, safety and general welfare and to minimize public and private losses due to flood conditions in specific areas by provisions designed to:

(1) Require that uses vulnerable to floods, including facilities, which serve such uses, be protected against flood damage at the time of initial construction;

(2) Restrict or prohibit uses which are dangerous to health, safety and property due to water or erosion hazards, or which increase flood heights, velocities, or erosion;

(3) Control filling, grading, dredging and other development which may increase flood damage or erosion;

(4) Prevent or regulate the construction of flood barriers which will unnaturally divert flood waters or which may increase flood hazards to other lands; and

(5) Control the alteration of natural floodplains, stream channels, and natural protective barriers, which are involved in the accommodation of floodwaters.

(Ord. No. 2007O-12, 11-13-2007; Ord. No. 2008O-10, 8-12-2008)

Sec. 5-133. Objectives.

The objectives of this article 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.

(Ord. No. 2007O-12, 11-13-2007; Ord. No. 2008O-10, 8-12-2008)

Sec. 5-134. Lands to which this article applies.

This article shall apply to all areas of special flood hazard within the jurisdiction of Rockmart, Georgia and such additional areas within the city as may be specifically referenced by the provisions of this article.

(Ord. No. 2007O-12, 11-13-2007; Ord. No. 2008O-10, 8-12-2008; Ord. No. 2019O-04, § 1, 5-14-2019)

Sec. 5-135. 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 March 4, 1988 with accompanying maps and other supporting data and any revision thereto, are adopted by reference and declared a part of this article.

For those land areas acquired by a municipality through annexation, the current effective FIS dated December 16, 1988 with accompanying maps and other supporting data and any revision thereto, for Polk 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.

The repository for public inspection of the Flood Insurance Study (FIS), accompanying maps and other supporting data is located [in the] Rockmart Municipal Building.

(Ord. No. 2007O-12, 11-13-2007; Ord. No. 2008O-10, 8-12-2008)

Sec. 5-136. Establishment of development permit.

A development permit shall be required in conformance with the provisions of this article PRIOR to the commencement of any development activities.

(Ord. No. 2007O-12, 11-13-2007; Ord. No. 2008O-10, 8-12-2008)

Sec. 5-137. Compliance.

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

(Ord. No. 2007O-12, 11-13-2007; Ord. No. 2008O-10, 8-12-2008)

Sec. 5-138. Abrogation and greater restrictions.

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

(Ord. No. 2007O-12, 11-13-2007; Ord. No. 2008O-10, 8-12-2008)

Sec. 5-139. Interpretation.

In the interpretation and application of this article 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.

(Ord. No. 2007O-12, 11-13-2007; Ord. No. 2008O-10, 8-12-2008)

Sec. 5-140. Warning and disclaimer of liability.

The degree of flood protection required by this article is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur; flood heights may be increased by man-made or natural causes. This article does not imply that land outside the areas of special flood hazard or uses permitted within such areas will be free from flooding or flood damages. This article shall not create liability on the part of the City of Rockmart or by any officer or employee thereof for any flood damages that result from reliance on this article or any administrative decision lawfully made hereunder.
(Ord. No. 2007O-12, 11-13-2007; Ord. No. 2008O-10, 8-12-2008)

Sec. 5-141. Penalties for violation.

Failure to comply with the provisions of this article 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 article 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 60 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 Rockmart from taking such other lawful actions as is necessary to prevent or remedy any violation.
(Ord. No. 2007O-12, 11-13-2007; Ord. No. 2008O-10, 8-12-2008)

Secs. 5-142—5-175. Reserved.

DIVISION 2. ADMINISTRATION

Sec. 5-176. Designation of article administrator.

The building official is hereby appointed to administer and implement the provisions of this article.
(Ord. No. 2007O-12, 11-13-2007; Ord. No. 2008O-10, 8-12-2008)

Sec. 5-177. Permit procedures.

Application for a development permit shall be made to the building official 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 floodproofed;

c. Design certification from a registered professional engineer or architect that any proposed non-residential floodproofed structure will meet the floodproofing criteria of subsection 5-202(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.*

a. For all new construction and substantial improvements, the permit holder shall provide to the administrator an as-built certification of the regulatory floor elevation or floodproofing level immediately after the lowest floor or floodproofing is completed. Any lowest floor certification made relative to mean sea level shall be prepared by or under the direct supervision of a registered land surveyor or professional engineer and certified by same. When floodproofing is utilized for 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.

b. The building official 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.

(Ord. No. 2007O-12, 11-13-2007; Ord. No. 2008O-10, 8-12-2008)

Sec. 5-178. Duties and responsibilities of the administrator.

Duties of the building official shall include, but shall not be limited to:

(1) Review proposed development to assure that the permit requirements of this article 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) Review all permit applications to determine whether proposed building sites will be reasonably safe from flooding.

(4) When base flood elevation data or floodway data have not been provided in accordance with section 5-135, then the building official 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 division 3.

(5) Review 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 subsection 5-177(2).

(6) Review and record the actual elevation, in relation to mean sea level to which any new or substantially improved structures have been floodproofed, in accordance with subsection 5-177(2).

(7) When floodproofing is utilized for a structure, the building official shall obtain certification of design criteria from a registered professional engineer or architect in accordance with subsection 5-202(2) and subsection 5-204(2).

(8) Make substantial damage determinations following a flood event or any other event that causes damage to structures in flood hazard areas.

(9) 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).

(10) For any altered or relocated watercourse, submit engineering data/analysis within six 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.

(11) 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 building official 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 article.

(12) All records pertaining to the provisions of this article shall be maintained in the office of the department of community development and shall be open for public inspection.

(Ord. No. 2007O-12, 11-13-2007; Ord. No. 2008O-10, 8-12-2008)

Secs. 5-179—5-200. Reserved.

DIVISION 3. PROVISIONS FOR FLOOD HAZARD REDUCTION

Sec. 5-201. 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:

1. Provide a minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding;

2. The bottom of all openings shall be no higher than one foot above grade; and

3. Openings may be equipped with screens, louvers, valves or other coverings or devices provided they permit the automatic flow of floodwater in both direction.

b. So as not to violate the "lowest floor" criteria of this article, the unfinished or flood resistant enclosure shall only be used for parking of vehicles, limited storage of maintenance equipment used in connection with the premises, or entry to the elevated area; 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 (including ductwork), 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 article, shall be undertaken only if the nonconformity is not furthered, extended or replaced.

(Ord. No. 2007O-12, 11-13-2007; Ord. No. 2008O-10, 8-12-2008)

Sec. 5-202. Specific standards.

In ALL areas of special flood hazard the following provisions are required:

(1) *New construction and/or substantial improvements.* Where base flood elevation data are available, new construction and/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, which provides an additional level of protection referred to as "freeboard." 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 subsection 5-201(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 at or above one foot above the base flood elevation.

(2) *Non-residential construction.* New construction and/or the substantial improvement of any structure located in A1—30, AE, or AH zones, may be floodproofed in lieu of elevation. The structure, together with attendant utility and sanitary facilities, must be designed to be water tight to one foot above the base flood elevation, with walls substantially impermeable to the passage of water, and structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effect of buoyancy. A registered professional engineer or architect shall certify that the design and methods of construction are in accordance with accepted standards of practice for meeting the provisions above, and shall provide such certification to the official as set forth above and in subsection 5-178(6).

(3) *Standards for manufactured homes and recreational vehicles.* Where base flood elevation data are available:

a. All manufactured homes placed and/or substantially improved on: (1) individual lots or parcels, (2) in new and/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 and/or substantially improved in an existing manufactured home park or subdivision may be elevated so that either:

1. The lowest floor of the manufactured home is elevated no lower than one foot above the level of the base flood elevation; or

2. The manufactured home chassis is elevated and supported by reinforced piers (or other

foundation elements of at least an equivalent strength) of no less than 36 inches in height above grade.

c. All manufactured homes must be securely anchored to an adequately anchored foundation system to resist flotation, collapse and lateral movement. (Ref. subsection 5-201(6) above.)

d. All recreational vehicles placed on sites must either:

1. Be on the site for fewer than 180 consecutive days;

2. 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

3. The recreational vehicle must meet all the requirements for "new construction", including the anchoring and elevation requirements of subsection 5-202(3)a.—c., above.

(4) *Floodway.* Located within areas of special flood hazard established in section 5-135, 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 subsection 5-202(4)a. above is satisfied, then any new construction or substantial improvement shall comply with all other applicable flood hazard reduction provisions of division 3.

(Ord. No. 2007O-12, 11-13-2007; Ord. No. 2008O-10, 8-12-2008)

Sec. 5-203. Building standards for streams without established base flood elevations and/or floodway (A zones).

Located within the areas of special flood hazard established in section 5-135 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 section 5-135, then the building official 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 division 3. ONLY if data are not available from these sources, then the following provisions (2) and (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 20 feet, whichever is greater, measured from the top of the stream bank, unless certification by a registered professional engineer is provided demonstrating that such encroachment shall not result in

more than a 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 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 elevation 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 subsection 5-201(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 no less than three feet above the highest adjacent grade at the building site.

The building official shall certify the lowest floor elevation level and the record shall become a permanent part of the permit file.

(Ord. No. 2007O-12, 11-13-2007; Ord. No. 2008O-10, 8-12-2008)

Sec. 5-204. Standards for areas of shallow flooding (AO zones).

Areas of special flood hazard established in section 5-135, may include designated "AO" shallow flooding areas. These areas have base flood depths of one to three feet above ground, with no clearly defined channel. The following provisions apply:

(1) All new construction and substantial improvements of residential and non-residential structures shall have the lowest floor, including basement, elevated to the flood depth number specified on the flood insurance rate map (FIRM), above the highest adjacent grade. If no flood depth number is specified, the lowest floor, including basement, shall be elevated at least three feet above the highest adjacent grade. Openings sufficient to facilitate the unimpeded movements of flood waters shall be provided in accordance with standards of subsection 5-201(4), "Elevated Buildings."

The building official shall certify the lowest floor elevation level and the record shall become a permanent part of the permit file.

(2) New construction or the substantial improvement of a non-residential structure may be floodproofed in lieu of elevation. The structure, together with attendant utility and sanitary facilities, must be designed to be water tight to the specified FIRM flood level plus one foot, above highest adjacent grade, with walls substantially impermeable to the passage of water, and structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effect of buoyancy. A registered professional engineer or architect shall certify that the design and methods of construction are in accordance with accepted standards of practice for meeting the provisions above, and shall provide such certification to the official as set forth above and as required in subsections 5-177(1)c. and (2).

(3) Drainage paths shall be provided to guide floodwater around and away from any proposed structure.

(Ord. No. 2007O-12, 11-13-2007; Ord. No. 2008O-10, 8-12-2008)

Sec. 5-205. Standards for subdivisions.

(a) All subdivision and/or development proposals shall be consistent with the need to minimize flood damage;

(b) All subdivision and/or development proposals shall have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize flood damage;

(c) All subdivision and/or development proposals shall have adequate drainage provided to reduce exposure to flood hazards; and

(d) For subdivisions and/or developments greater than 50 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.
(Ord. No. 2007O-12, 11-13-2007; Ord. No. 2008O-10, 8-12-2008)

Sec. 5-206. Standards for critical facilities.

(a) Critical facilities shall not be located in the 100-year floodplain or the 500-year floodplain.

(b) All ingress and egress from any critical facility must be protected to the 500-year flood elevation.
(Ord. No. 2007O-12, 11-13-2007; Ord. No. 2008O-10, 8-12-2008)

Secs. 5-207—5-225. Reserved.

DIVISION 4. VARIANCE PROCEDURES

Sec. 5-226. General variance regulations.

(a) The Rockmart Planning Commission as established by the City of Rockmart Mayor and Council shall hear and decide requests for appeals or variance from the requirements of this article.

(b) The board shall hear and decide appeals when it is alleged an error in any requirement, decision, or determination is made by the building official in the enforcement or administration of this article.

(c) Any person aggrieved by the decision of the Rockmart Planning Commission may appeal such decision to the Superior Court of Polk 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) 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, Rockmart Planning Commission shall consider all technical evaluations, relevant factors, and all standards specified in this and other sections of this article.
(Ord. No. 2007O-12, 11-13-2007; Ord. No. 2008O-10, 8-12-2008)

Sec. 5-227. Conditions for variances.

(a) A variance shall be issued ONLY when there is:

(1) A finding of good and sufficient cause;

(2) A determination that failure to grant the variance would result in exceptional hardship; and

(3) 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.

(b) The provisions of this article are minimum standards for flood loss reduction; therefore any deviation from the standards must be weighed carefully. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief; and, in the instance of an historic structure, a determination that the variance is the minimum necessary so as not to destroy the historic character and design of the building.

(c) 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.

(d) The building official shall maintain the records of all appeal actions and report any variances to the Federal Emergency Management Agency upon request.

(e) Upon consideration of the factors listed above and the purposes of this article, the Rockmart Planning Commission may attach such conditions to the granting of variances as it deems necessary to further the purposes of this article.
(Ord. No. 2007O-12, 11-13-2007; Ord. No. 2008O-10, 8-12-2008)

Secs. 5-228—5-250. Reserved.

ARTICLE VI. SOIL EROSION, SEDIMENTATION AND POLLUTION CONTROL*

Sec. 5-251. Title.

This article will be known as "The City of Rockmart Soil Erosion, Sedimentation and Pollution Control Ordinance."
(Ord. No. 2010O-02, § I, 4-13-2010; Ord. No. 2018O-07, § 1(I), 8-14-2018)

*__Editor's note—__Ord. No. 2010O-02, §§ I—X, adopted April 13, 2010, amended Art. VI in its entirety to read as herein set out. Former Art. VI, §§ 5-251—5-258, pertained to land disturbing activities, and derived from Ord. of 9-14-2004. See also the Code Comparative Table.

Sec. 5-252. Definitions.

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

Best management practices (BMPs) means and includes sound conservation and engineering practices to prevent and minimize erosion and resultant sedimentation, which are consistent with, and no less stringent than, those practices contained in the "Manual for Erosion and Sediment Control in Georgia" published by the commission as of January 1 of the year in which the land-disturbing activity was permitted.

Board means the board of natural resources.

Buffer means 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.

Certified personnel means a person who has successfully completed the appropriate certification course approved by the Georgia Soil and Water Conservation Commission.

Coastal marshlands shall have the same meaning as in O.C.G.A. § 12-5-282.

Commission means the Georgia Soil and Water Conservation Commission (GSWCC).

CPESC means certified professional in erosion and sediment control with current certification by EnviroCert, Inc., which is also referred to as CPESC or CPESC, Inc.

Cut means 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 the excavated surface. Also known as excavation.

Department means the Georgia Department of Natural Resources (DNR).

Design professional means a professional licensed by the State of Georgia in the field of: Engineering, architecture, landscape architecture, forestry, geology, or land surveying; or a person that is a certified professional in erosion and sediment control (CPESC) with a current certification by EnviroCert, Inc. Design Professionals

shall practice in a manner that complies with applicable Georgia law governing professional licensure.

Director means the director of the environmental protection division or an authorized representative.

District means the Coosa Soil and Water Conservation District.

Division means the environmental protection division (EPD) of the department of natural resources.

Drainage structure means a device composed of a virtually nonerodible 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 means the process by which land surface is worn away by the action of wind, water, ice or gravity.

Erosion, sedimentation and pollution control plan means a plan required by the Erosion and Sedimentation Act, O.C.G.A. ch. 12-7, that includes, as a minimum protection at least as stringent as the state general permit, best management practices, and requirements in section 5-254(c) of this article.

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

Final stabilization means all soil disturbing activities at the site have been completed, and that for unpaved areas and areas not covered by permanent structures and areas located outside the waste disposal limits of a landfill cell that has been certified by EPD for waste disposal, 100 percent of the soil surface is uniformly covered in permanent vegetation with a density of 70 percent or greater, or landscaped according to the plan (uniformly covered with landscaping materials in planned landscape areas), or equivalent permanent stabilization measures as defined in the manual (excluding a crop of annual vegetation and seeding of target crop perennials appropriate for the region). Final stabilization applies to each phase of construction.

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

Grading means 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 means the original elevation of the ground surface prior to cutting or filling.

Land-disturbing activity means 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 5-253(5).

Larger common plan of development or sale means a contiguous area where multiple separate and distinct construction activities are occurring under one plan of development or sale. For the purposes of this paragraph, "plan" means an announcement; piece of documentation such as a sign, public notice or hearing, sales pitch, advertisement, drawing, 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 means the governing authority of any county or municipality which is certified pursuant to O.C.G.A. § 12-7-8(a).

Metropolitan River Protection Act (MRPA) means a state law referenced as O.C.G.A. § 12-5-440 et seq. which addresses environmental and developmental matters in certain metropolitan river corridors and their drainage basins.

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

Nephelometric turbidity units (NTU) means 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 or suspended particles are present.

NOI means a notice of intent form provided by EPD for coverage under the state general permit.

NOT means a notice of termination form provided by EPD to terminate coverage under the state general permit.

Operator means the party or parties that have:

(1) Operational control of construction project plans and specifications, including the ability to make modifications to those plans and specifications; or

(2) Day-to-day operational control of those activities that are necessary to ensure compliance with an erosion, sedimentation and pollution control 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 erosion, sedimentation and pollution control plan or to comply with other permit conditions.

Outfall means the location where storm water in a discernible, confined and discrete conveyance, leaves a facility or site or, if there is a receiving water on site, becomes a point source discharging into that receiving water.

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

Person means any individual, partnership, firm, association, joint venture, public or private corporation, trust, estate, commission, board, public or private institution, utility, cooperative, state agency, municipality or other political subdivision of the State of Georgia, any interstate body or any other legal entity.

Phase or *phased* means sub-parts or segments of construction projects where the sub-part or segment is constructed and stabilized prior to completing construction activities on the entire construction site.

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

Properly designed means designed in accordance with the design requirements and specifications contained in the "Manual for Erosion and Sediment Control in Georgia" (Manual) published by the Georgia Soil and Water Conservation Commission as of January 1 of the year in which the land-disturbing activity was permitted and amendments to the Manual as approved by the commission up until the date of NOI submittal.

Roadway drainage structure means a device such as a bridge, culvert, or ditch, composed of a virtually nonerodible 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 roadway consisting of one or more defined lanes, with or without shoulder areas, and carrying water to a release point on the other side.

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

Sedimentation means 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 means an erosion, sedimentation and pollution control plan approved in writing by the Coosa Soil and Water Conservation District.

Stabilization means 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 means the national pollution discharge elimination system (NPDES) general permit or permits 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 U.S.C. Section 1251, et seq., and O.C.G.A. § 12-5-30(f).

State waters means 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 Georgia which are not entirely confined and retained completely upon the property of a single individual, partnership, or corporation.

Structural erosion, sedimentation and pollution control practices means 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 and sediment traps, etc. Such practices can be found in the publication Manual for Erosion and Sediment Control in Georgia.

Trout streams means all streams or portions of streams within the watershed as designated by the Wildlife Resources 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, in the rules and regulations for Water Quality Control, Chapter 391-3-6 at www.epd.georgia.gov. 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 means 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 means any natural or artificial watercourse, stream, 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 means those areas that are inundated or saturated by surface or ground water 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. No. 2010O-02, § II, 4-13-2010; Ord. No. 2018O-07, § 1(II), 8-14-2018)

Sec. 5-253. 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, "The Georgia Surface Mining Act of 1968".

(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 paragraph; provided, however, that construction of any such residence shall conform to the minimum requirements as set forth in O.C.G.A. § 12-7-6 and this paragraph. For single-family residence construction covered by the provisions of this paragraph, there shall be a buffer zone between the residence and any state waters classified as trout streams pursuant to Article 2 of Chapter 5 of the Georgia Water Quality Control Act. 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 O.C.G.A. § 12-7-6(b) and the buffer zones provided by this paragraph shall be enforced by the local issuing authority;

(5) Agricultural operations as defined in O.C.G.A. § 1-3-3, "definitions," 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 subsections (15) and (16) of section 5-254(c) of this article, 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 (NRCS) 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 paragraph, "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), (2), (3), (4), (5), (6), (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 Georgia Highway Authority, or the state road and 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 the department of transportation or the state road and 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 Georgia 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. No. 2010O-02, § III, 4-13-2010; Ord. No. 2018O-07, § 1(III), 8-14-2018)

Sec. 5-254. Minimum requirements for erosion, sedimentation and pollution control using best management practices.

(a) *General provisions.* Excessive soil erosion and resulting sedimentation can take place during land-disturbing activities if requirements of the article and the NPDES general permit are not met. Therefore, plans for those land-disturbing activities which are not exempted by this article shall contain provisions for application of soil erosion, sedimentation and pollution control measures and practices. The provisions shall be incorporated into the erosion, sedimentation and pollution control plans. Soil erosion, sedimentation and pollution control measures and practices shall conform to the minimum requirements of section 2-254(b) and (c) of this article. 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, sedimentation and pollution during all

stages of any land-disturbing activity in accordance with requirements of this article and the NPDES general permit.

(b) *Minimum requirements/BMPs.*

(1) Best management practices as set forth in section 2-254(b) and (c) of this article 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 paragraph (2) of this subsection or any substantially similar terms contained in a permit for the discharge of storm water issued pursuant to of O.C.G.A. § 12-5-30(f), the "Georgia Water Quality Control Act". 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 subsection(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 to O.C.G.A. § 12-5-30(f), the "Georgia Water Quality Control Act", 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 paragraph 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), the "Georgia Water Quality Control Act", for each day on which such failure occurs.

(4) The director may require, in accordance with regulations adopted by the board, reasonable and prudent monitoring of the turbidity level of receiving waters into which discharges from land disturbing activities occur.

(5) The LIA may set more stringent buffer requirements than stated in subsections (c)(15), (16) and (17), in light of O.C.G.A. § 12-7-6(c).

(c) The rules and regulations, ordinances, or resolutions adopted pursuant to O.C.G.A. § 12-7-1 et seq. for the purpose of governing land-disturbing activities shall require, as a minimum, protections at least as stringent as the state general permit; and best management practices, including sound conservation and engineering practices to prevent and minimize erosion and resultant sedimentation, which are consistent with, and no less stringent than, those practices contained in the Manual for Erosion and Sediment Control in Georgia published by the Georgia Soil and Water Conservation Commission as of January 1 of the year in which the land-disturbing activity was permitted, as well as the following:

(1) Stripping of vegetation, regrading 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 practicable erosion potential;

(4) Whenever feasible, natural vegetation shall be retained, protected and supplemented;

(5) The disturbed area and the duration of exposure to erosive 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 run-off 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 paragraph, a disturbed area is stabilized when it is brought to a condition of continuous compliance with the requirements of 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, sedimentation and pollution 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 section 5-254(b)(2) of this article;

(15) Except as provided in paragraphs (16) and (17) of this subsection, 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, where a drainage structure or a roadway drainage structure must be constructed, provided that adequate erosion control measures are incorporated in the project plans and specifications, and are implemented; or where bulkheads and sea walls are installed to prevent shoreline erosion on Lake Oconee and Lake Sinclair; or along any ephemeral stream. As used in this provision, the term "ephemeral stream" means a stream: That under normal circumstances has water flowing only during and for a short duration after precipitation events; that has the channel located above the ground-water table year round; for which ground water is not a source of water; and for which runoff from precipitation is the primary source of water flow, Unless exempted as along an ephemeral stream, the buffers of at least 25 feet established pursuant to part 6 of Article 5, Chapter 5 of Title 12, the "Georgia Water Quality Control Act", shall remain in force unless a variance is granted by the Director as provided in this paragraph. 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 or her 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: (i) Stream crossings for water lines; or (ii) Stream crossings for sewer lines; and

(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 Article 2 of Chapter 5 of Title 12, the "Georgia Water Quality Control Act", 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 or her 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: (i) Stream crossings for water lines; or (ii) Stream crossings for sewer lines; and

(17) There is established a 25-foot buffer along coastal marshlands, as measured horizontally from the coastal marshland-upland interface, as determined in accordance with Chapter 5 of Title 12 of this title, the "Coastal Marshlands Protection Act of 1970." And the rules and regulations promulgated thereunder, 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 Code Section 12-2-8, where an alteration within the buffer area has been authorized pursuant to Code Section 12-5-286, for maintenance of any currently serviceable structure, landscaping, or hardscaping, including bridges, roads, parking lots, golf courses, golf cart paths, retaining walls, bulkheads, and patios; provided, however, that if such maintenance requires any land-disturbing activity, adequate erosion control measures are incorporated into the project plans and specifications and such measures are fully implemented, where a drainage structure or roadway drainage structure is constructed or maintained; provided, however, that if such maintenance requires any land-disturbing activity, adequate erosion control measures are incorporated into the project plans and specifications and such measures are fully implemented, on the landward side of any currently serviceable shoreline stabilization structure, or for the maintenance of any manmade storm-water detention basin, golf course pond, or impoundment that is located entirely within the property of a single individual, partnership, or corporation; provided, however, that adequate erosion control measures are incorporated into the project plans and specifications and such measures are fully implemented. For the purposes of this paragraph maintenance shall be defined as actions necessary or appropriate for retaining or restoring a currently serviceable improvement to the specified operable condition to achieve its maximum useful life. Maintenance includes emergency reconstruction of recently damaged parts of a currently serviceable structure so long as it occurs within a reasonable period of time after damage occurs. Maintenance does not include any modification that changes the character, scope or size of the original design and serviceable shall be defined as usable in its current state or with minor maintenance but not so degraded as to essentially require reconstruction.

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; provided, however, that any person constructing a single-family residence, when such residence is constructed by or under contract with the owner for his or her 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

b. The buffer shall not apply to crossings for utility lines that cause a width of disturbance of not more than 50 feet within the buffer, provided, however, that adequate erosion control measures are incorporated into the project plans and specifications and such measures are fully implemented.

c. The buffer shall not apply to any land-disturbing activity conducted

pursuant to and in compliance with a valid and effective land-disturbing permit issued subsequent to April 22, 2014, and prior to December 31, 2015; provided, however, that adequate erosion control measures are incorporated into the project plans and specifications and such measures are fully implemented or any lot for which the preliminary plat has been approved prior to December 31, 2015 if roadways, bridges, or water and sewer lines have been extended to such lot prior to the effective date of this Act and if the requirement to maintain a 25-foot buffer would consume at least 18 percent of the high ground of the platted lot otherwise available for development; provided, however, that adequate erosion control measures are incorporated into the project plans and specifications and such measures are fully implemented.

d. Activities where the area within the buffer is not more than 500 square feet or that have a "Minor Buffer Impact" as defined in 391-3-7-.01 (r), provided that the total area of buffer impacts is less than 5,000 square feet are deemed to have an approved buffer variance by rule. Bank stabilization structures are not eligible for coverage under the variance by rule and notification shall be made to the division at least 14 days prior to the commencement of land disturbing activities.

(d) Nothing contained in O.C.G.A. § 12-7-1 et seq. shall prevent any local issuing authority from adopting rules and regulations, ordinances, or resolutions which contain stream buffer requirements that exceed the minimum requirements in section 5-254(b) and (c) of this article.

(e) 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 the terms of the permit.
(Ord. No. 2010O-02, § IV, 4-13-2010; Ord. No. 2018O-07, § 1(IV), 8-14-2018)

Sec. 5-255. Application/permit process.

(a) *General.* The property owner, developer and designated planners and engineers shall design and review before submittal the general development plans. The local issuing authority shall review the tract to be developed and the area surrounding it. They shall consult the zoning ordinance, storm water management ordinance, subdivision ordinance, flood damage prevention ordinance, this ordinance, and any other ordinances, rules, regulations or permits, which regulate the development of land within the jurisdictional boundaries of the local issuing authority. However, the owner and/or operator are the only parties who may obtain a permit.

(b) *Application requirements.*

(1) No person shall conduct any land-disturbing activity within the jurisdictional boundaries of the City of Rockmart without first obtaining a permit from the department of community development to perform such activity and providing a copy of notice of intent submitted to EPD if applicable.

(2) The application for a permit shall be submitted to the department of community development and must include the applicant's erosion, sedimentation and pollution control plan with supporting data, as necessary. Said plans shall include, as a minimum, the data specified in section 5-255(c) this article. Erosion, sedimentation and pollution control plans, together with supporting data, must demonstrate affirmatively that the land disturbing activity proposed will be carried out in such a manner that the provisions of section 5-254(b) and (c) of this article will be met. Applications for a permit will not be accepted unless accompanied by three copies of the applicant's erosion, sedimentation and

pollution control plans. All applications shall contain a certification stating that the plan preparer or the designee thereof visited the site prior to creation of the plan in accordance with EPD Rule 391-3-7-.10.

(3) In addition to the local permitting fees, fees will also be assessed pursuant to O.C.G.A. § 12-5-23(a)(5), provided that such fees shall not exceed $80.00 per acre of land-disturbing activity, and these fees shall be calculated and paid by the primary permittee as defined in the state general permit for each acre of land-disturbing activity included in the planned development or each phase of development. All applicable fees shall be paid prior to issuance of the land disturbance permit. In a jurisdiction that is certified pursuant to O.C.G.A. § 12-7-8(a) half of such fees levied shall be submitted to the division; except that any and all fees due from an entity which is required to give notice pursuant to O.C.G.A. § 12-7-17(9) or (10) shall be submitted in full to the division, regardless of the existence of a local issuing authority in the jurisdiction.

(4) Immediately upon receipt of an application and plan for a permit, the local issuing authority shall refer the application and plan to the district for its review and approval or disapproval concerning the adequacy of the erosion, sedimentation and pollution control plan. The district shall approve or disapprove a plan within 35 days of receipt. Failure of the district to act within 35 days shall be considered an approval of the pending plan. The results of the district review shall be forwarded to the local issuing authority. No permit will be issued unless the plan has been approved by the district, and any variances required by section 2-254(c)(15), (16) and (17) have been obtained, all fees have been paid, and bonding, if required as per section 2-255(b)(6), have been obtained. Such review will not be required if the local issuing authority and the district have entered into an agreement which allows the local issuing authority to conduct such review and approval of the plan without referring the application and plan to the district. The local issuing authority with plan review authority shall approve or disapprove a revised plan submittal within 35 days of receipt. Failure of the local issuing authority with plan review authority to act within 35 days shall be considered an approval of the revised plan submittal.

(5) If a permit applicant has had two or more violations of previous permits, this article section, or the Erosion and Sedimentation Act, as amended, within three years prior to the date of filing the application under consideration, the local issuing authority may deny the permit application.

(6) The local issuing authority may require the permit applicant to post a bond in the form of government security, cash, irrevocable letter of credit, or any combination thereof up to, but not exceeding, $3,000.00 per acre or fraction thereof of the proposed land-disturbing activity, prior to issuing the permit. If the applicant does not comply with this section or with the conditions of the permit after issuance, the local 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. These provisions shall not apply unless there is in effect an ordinance or statute specifically providing for hearing and judicial review of any determination or order of the local issuing authority with respect to alleged permit violations.

(c) *Plan requirements.*

(1) Plans must be prepared to meet the minimum requirements as contained in section 2-254(b) and (c) of this article, or through the use of more stringent, 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. Maps, drawings and supportive computations shall bear the signature and seal of the certified design professional. Persons involved in land development design, review, permitting, construction, monitoring, or inspections or any land disturbing activity shall meet the education and training certification requirements, dependent on his or her level of involvement with the process, as developed by the commission and in consultation with the division and the stakeholder advisory board created pursuant to O.C.G.A. § 12-7-20.

(2) Data required for site plan shall include all the information required from the appropriate erosion, sedimentation and pollution control plan review checklist established by the commission as of January 1 of the year in which the land-disturbing activity was permitted.

(d) *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 and all applicable fees have been paid prior to permit issuance. The permit shall include conditions under which the activity may be undertaken.

(2) No permit shall be issued by the local issuing authority unless the erosion, sedimentation and pollution control plan has been approved by the district and the local issuing authority has affirmatively determined that the plan is in compliance with this article, any variances required by section 12-254(c)(15), (16), and (17) are obtained, bonding requirements, if necessary, as per section 5-255(b)(6) 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) Any land-disturbing activities by a local issuing authority shall be subject to the same requirements of this article, and any other ordinances relating to land development, as are applied to private persons and the division shall enforce such requirements upon the local issuing authority.

(4) If the tract is to be developed in phases, then a separate permit shall be required for each phase.

(5) 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.

(6) The LIA may reject a permit application if the applicant has had two or more violations of previous permits or the Erosion and Sedimentation Act permit requirements within three years prior to the date of the application, in light of O.C.G.A. § 12-7-7(f)(1).

(Ord. No. 2010O-02, § V, 4-13-2010; Ord. No. 2018O-07, § 1(V), 8-14-2018)

Sec. 5-256. Inspection and enforcement.

(a) The City of Rockmart 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 primary, secondary and tertiary 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. Tertiary permittees shall be responsible for installation and maintenance where the tertiary 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 local issuing authority must amend its ordinances to the extent appropriate within 12 months of any amendments to the Erosion and Sedimentation Act of 1975.

(c) The City of Rockmart 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.

(d) No person shall refuse entry or access to any authorized representative or agent of the local 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.

(e) The district or the commission or both shall semi-annually review the actions of counties and municipalities which have been certified as local issuing authorities pursuant to O.C.G.A. § 12-7-8(a). The district or the commission or both may provide technical assistance to any county or municipality for the purpose of improving the effectiveness of the county's or municipality's erosion, sedimentation and pollution control program. The district or the commission shall notify the division and request investigation by the division if any deficient or ineffective local program is found.

(f) The division may periodically review the actions of counties and municipalities which have been certified as local issuing authorities pursuant to O.C.G.A. § 12-7-8(a). Such review may include, but shall not be limited to, review of the administration and enforcement of a governing authority's ordinance and review of conformance with an agreement, if any, between the district and the governing authority. If such review indicates that the governing authority of any county or municipality certified pursuant to O.C.G.A. § 12-7-8(a) has not administered or enforced its ordinances or has not conducted the program in accordance with any agreement entered into pursuant to O.C.G.A. § 12-7-7(e), the division shall notify the governing authority of the county or municipality in writing. The governing authority of any county or municipality so notified shall have 90 days within which to take the necessary corrective action to retain certification as a local issuing authority. If the county or municipality does not take necessary corrective action within 90 days after notification by the division, the division shall revoke the certification of the county or municipality as a local issuing authority.

(Ord. No. 2010O-02, § VI, 4-13-2010; Ord. No. 2018O-07, § 1(VI), 8-14-2018)

Sec. 5-257. 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 local issuing authority.

(b) *Stop-work orders.*

(1) For the first and second violations of the provisions of this article, the director or 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 director or 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 director or 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 director or the local issuing authority shall issue an immediate stop-work order; and

(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.

(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 or her 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 or her 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 ordinance 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 5-255(b)(6). The Local 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.*

(1) Any person who violates any provisions of this article, or 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 limita-

tion 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. No. 2010O-02, § VII, 4-13-2010; Ord. No. 2018O-07, § 1(VII), 8-14-2018)

Sec. 5-258. Education and certification.

(a) 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.

(b) For each site on which land-disturbing activity occurs, each entity or person acting as either a primary, secondary, or tertiary permittee, as defined in the state general permit, shall have as a minimum one person who is in responsible charge of erosion and sedimentation control activities on behalf of said entity or person and meets the applicable education or training certification requirements developed by the commission present on site whenever land-disturbing activities are conducted on that site. A project site shall herein be defined as any land-disturbance site or multiple sites within a larger common plan of development or sale permitted by an owner or operator for compliance with the state general permit.

(c) Persons or entities involved in projects not requiring a state general permit but otherwise requiring certified personnel on site may contract with certified persons to meet the requirements of this article.

(d) If a state general permittee who has operational control of land-disturbing activities for a site has met the certification requirements of O.C.G.A. § 12-7-19(b)(1), then any person or entity involved in land-disturbing activity at that site and operating in a subcontractor capacity for such permittee shall meet those educational requirements specified in of O.C.G.A § 12-7-19(b)(4) and shall not be required to meet any educational requirements that exceed those specified in said paragraph.

(Ord. No. 2010O-02, § VIII, 4-13-2010; Ord. No. 2018O-07, § 1(VIII), 8-14-2018)

Sec. 5-259. Administrative appeal and judicial review.

(a) *Administrative remedies.* The suspension, revocation, modification or grant with condition of a permit by the local issuing authority upon finding that the holder is not in compliance with the approved erosion, sediment and pollution 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 city manager within 30 days after receipt by the local issuing authority of written notice of appeal.

(b) *Judicial review.* Any person, aggrieved by a decision or order of the local issuing authority, after exhausting his administrative remedies, shall have the right to appeal denovo to the Superior Court of Polk County.

(Ord. No. 2010O-02, § IX, 4-13-2010; Ord. No. 2018O-07, § 1(IX), 8-14-2018)

Sec. 5-260. Effectivity, validity and liability.

(a) *Effectivity.* The ordinance from which this article is derived shall become effective on the 14 day of August, 2018.

(b) *Validity.* If any section, paragraph, clause, phrase, or provision of this article shall be adjudged invalid or held unconstitutional, such decisions shall not affect the remaining portions of this article.

(c) *Liability.*

(1) 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 local issuing authority or district for damage to any person or property.

(2) 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.

(3) No provision of this article shall permit any persons to violate the Georgia Erosion and Sedimentation Act of 1975, the Georgia Water Quality Control Act or the rules and regulations promulgated and approved thereunder or pollute any Waters of the State as defined thereby.

(Ord. No. 2010O-02, § X, 4-13-2010; Ord. No. 2018O-07, § 1(x), 8-14-2018)

Secs. 5-261—5-285. Reserved.

ARTICLE VII. MOVABLE HOUSING

Sec. 5-286. Definitions.

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

Building permit means the written document authorizing the construction of works of improvements, alterations or other construction activities concerning any movable housing, as defined in this section, within the city.

Movable housing means any house, dwelling, building or other structure (not a manufactured home as defined in O.C.G.A. § 8-2-131(3)) which has been extracted from its foundation or other permanent location by means of dollies, jacks or other devices so as to be made portable, movable or otherwise subject to being transported or hauled; when in fact the structure was not constructed or designed for that purpose.

Moving permit means that written document required to authorize the moving, transportation or relocation of any movable housing either within or without the corporate limits of the city.

Sec. 5-287. Regulations, restrictions for use of public streets.

(a) *Permit.* No person shall use the streets within the corporate city limits of the city to move, transport or relocate any house, dwelling, building or other structure of a width more than 12 feet at its widest point, or a length of more than 60 feet at its longest point, or a height of 14 feet at its highest point without first obtaining a permit from the building inspector, or his designated agent (hereafter referred to as the issuer).

(b) *Movement times.* No structure shall be moved upon any street within the city limits between the hours of 7:30 a.m. and 9:30 a.m., 11:30 a.m. and 1:30 p.m., and 3:30 p.m. and 6:00 p.m. No movement shall be made between sunset and sunrise unless special permission is granted by the city council. Movement times may also be changed by the issuer or permit when special situations exist.

(c) *Permit application.* The application for the permit shall designate:

(1) The type of load to be moved.

(2) The exact route and streets to be used.

(3) The time of day or night that the moving shall take place.

(4) The fact that Southern Bell Telephone, Georgia Power Company, Falcon Cable TV Company and any and all other public utilities whose facilities may be affected, have been notified.

(5) Such other matters as the issuer deems proper.

The terms of the permit shall be strictly adhered to by the mover; no deviation therefrom shall be permitted without the express written permission of the issuer.

(d) *Application deadline.* Application for a permit must be made at least 15 days prior to the proposed moving, at which time the issuer shall notify the chief of police, who shall furnish, at the time of moving, such necessary police escort to the mover as the police chief deems necessary to ensure the safety of the public.

(e) *Sign required.* A sign evidencing that a structure is to be removed or located, as the case may be, upon any real property within the city shall be placed upon the property at least 15 days prior to the proposed removal or relocation. This sign shall comport with the general size requirements of signs evidencing a proposed change of property zoning within the city.

(f) *Permit fee; deposit as bond for damages.* The fee for such moving permit shall be as set forth in the schedule of fees and charges. In addition thereto, the movers shall deposit with the issuing authority of the city an amount as set forth in the schedule of fees and charges for each such movable housing structure to be transported either within or without the city, as a bond for damages to public property. This sum shall be returned to the mover within 15 days after such moving if no damage is done to public property. In case of such damage, the amount of the refund will be the total deposit less actual damages, including repair, replacement, labor and incidental expenses. If damage costs exceed the deposit, the mover shall be liable to the city for all additional expenses.

Sec. 5-288. Restrictions on transportation.

(a) When any part of movement is on a state route, the provisions of this section are in addition to those required by the state for its permit. No city permit shall be issued under this article in such cases unless the mover has first obtained a state permit for such movement.

(b) In no event shall permission be granted to remove into or within the city any building which any government or governmental agency has found unfit for human habitation or use or which has been constructed of defective materials, or which has become defective from age, fire, abuse or other cause. When any doubt exists, the building inspector shall make a complete inspection for such faults.

(c) When movement is on streets with overhead signals, cables, wires or other devices, the mover shall take such precautions as are necessary to guide and handle the wires and/or devices and to prevent damage thereto.

(d) The issuer of the permit may contact the city fire chief as soon as the permit is issued. Changes in the predetermined route may be made at the discretion of the fire chief.

(e) All extreme points on the structure being moved shall be visibly marked with flags or lights or both. If movement at night is permitted, lights shall be required.

Sec. 5-289. Building permits required; fees.

(a) Building permit fees in addition to the moving permit shall be as established by the city council.

(b) No permit as required by the building code shall be issued until the prescribed fee has been paid, nor shall an amendment to a permit be approved until the additional fee, if any, due to an increase in the estimated cost of the building or structure has been paid.

(c) Where work for which a permit is required by this Code is started or proceeded with prior to obtaining the permit, the fees specified shall be doubled, but the payment of such double fee shall not relieve any person from fully complying with the requirements of this Code in the execution of the work nor from any other penalties prescribed in this article.

Sec. 5-290. Standards for review of issuance of permit.

The building inspector of the city is charged with the authority for the enforcement of this article. As such, in determining whether to issue a moving permit, he shall use the following criteria:

(1) No permit for movable housing shall be issued until notice of an application for a permit, to be made on forms approved by the city, has been given to the owners of all adjoining property upon which the building or structure is to be moved. Each adjoining property owner, including those adjacent to the property and across the street directly therefrom, shall be allowed to be heard before the building inspector before the granting of a permit occurs.

(2) Whether the proposed housing can be properly brought to the level of minimum standard requirements contained in the building code of the city, and as generally required pursuant to the provisions of O.C.G.A. § 8-2-1 et seq. The aforesaid provisions of state law generally deal with the construction or alteration of buildings. Those sections of this Code or state law applicable to movable housing shall be used as criteria for determining the feasibility of issuing a permit to the applicant.

(3) Whether the structure, when complete, will have a fair market value which is not less than 80 percent of the assessed fair market value of adjoining comparable properties, for tax purposes, in the general vicinity and neighborhood within the city where this structure is to be located. The purpose of this provision is to ensure that the structure's presence in the area will not diminish property values.

(4) Whether the structure can safely and properly, using reasonable construction standards and those contained in this Code, be properly placed upon the property, constructed, repaired and maintained as a residential dwelling unit fit and safe for occupancy by the general public.

(5) Whether the placing of a movable housing structure, together with all work or other construction to be accomplished in the vicinity of the property will create a health, safety or public hazard or nuisance within the corporate limits of the city.

(6) Whether the applicant has, within five years before the date of the application, had a building permit revoked, failed to comply with code standards and requirements of the building inspector or otherwise been cited for significant violations of the building codes and ordinances of the city.

Sec. 5-291. Permit not transferable; subject to denial, revocation, suspension or amendment.

(a) A permit, once issued, may not be transferred from one person to another, or from one licensed location for the moving of a structure contemplated by this article to another location, without the express written consent of the building inspector having been first obtained.

(b) The building inspector shall have full power and authority to deny, revoke, refuse to grant, suspend or amend, as might be needed, any moving permit to be granted under this article.

(c) Since the criteria and establishment of this permit also requires later enforcement and compliance with this article, this permit and the accompanying building permit shall be subject to revocation for cause.

(d) Before taking any action adverse to an applicant or permit holder, the building inspector shall conduct a hearing at which all interested

parties may be heard concerning the grant, renewal, refusal or suspension of any license privileges granted under this article. Appeal of any decision of the building inspector shall be to the city council.

Sec. 5-292. Hearing.

Upon written application within 30 days of the decision of the building inspector, any applicant or other party aggrieved by any decision pursuant to this article shall be afforded an opportunity for a hearing before the city council. At that time the aggrieved party shall be allowed to present evidence, cross examine opposing witnesses, or present any and all documentation concerning the application or decision. Failure to make timely appeal of the decision within the time period shall cause the decision to become final and nonappealable. The hearing shall be conducted within 30 days from the date of a timely application and the final decision of the city council in this regard shall be accomplished in writing and communicated to the aggrieved party. The review before the city council shall be conducted pursuant to the criteria contained in this article for review by the building inspector, and shall be considered a de novo consideration of the decision.

Secs. 5-293—5-315. Reserved.

ARTICLE VIII. MANUFACTURED HOMES

Sec. 5-316. 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:

Manufactured home means a factory-built, single-family structure that is manufactured under the authority of 42 USC 5401 (the National Manufactured Home Construction and Safety Standards Act), transportable in one or more sections, which in traveling mode, is eight body feet or more in width or 40 body feet or more in length, or, when erected on site, is 320 or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air conditioning, and electrical systems contained therein. Calculations used to determine the number of square feet in a structure will be based on the structure's exterior dimensions measured at the largest horizontal projections when erected on site. These dimensions will include all expandable rooms, cabinets, and other projections containing interior space, but do not include bay windows.

Mobile home means a transportable, factory-built home, designed to be used as a year-round residential dwelling and built prior to the enactment of the Federal Manufactured Housing Construction and Safety Standards Act of 1974, which became effective June 15, 1976.
(Ord. of 4-13-2004)

Sec. 5-317. Prohibited; exceptions.

Mobile homes and manufactured homes are not permitted uses in any zoning district within the city, and may not be placed, assembled or erected within any zoning district within the city except existing or later approved manufactured home parks and/or subdivisions.
(Ord. of 4-13-2004)

Chapter 6

CEMETERIES

Sec. 6-1. 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:

Cemetery lot and plot means and consists of enough land in which persons may be buried in single grave spaces, as defined in the plat of the cemetery and as described in the deed of the burial rights to the owner thereof.
(Ord. No. 8-2003, § 2(6-2), 7-10-2003)

Sec. 6-2. Burials, location restricted.

It shall be unlawful to bury any dead body except in a public or private cemetery.
(Ord. No. 8-2003, § 2(6-1), 7-10-2003)

Sec. 6-3. Cemetery lots or burial spaces subject to restrictions, covenants, rules and regulation; authority of sexton.

(a) All cemetery plots, lots or burial spaces owned and purchased within the Rose Hill Cemetery, and all such plots, lots or spaces sold, shall be subject to the restrictions, covenants, rules and regulations set forth in this chapter, and subject to such other rules, regulations, amendments or alterations and ordinances as shall be adopted and regularly passed by the city from time to time, and the reference to these rules and regulations in the deed or certificate of ownership shall have the same force and effect as if fully set forth therein.

(b) The sexton of the city is authorized to supervise the upkeep, care and operation of the Rose Hill Cemetery. In the absence of the sexton, the assistant sexton or delegate assumes the duties of this position.
(Ord. No. 8-2003, § 2(6-3), 7-10-2003)

Sec. 6-4. Purchase price of lots.

The purchase price of lots in the Rose Hill Cemetery shall be as set out in the fee schedules set forth by the mayor and city council. The fee schedule may be adjusted from time to time and/or when necessary.
(Ord. No. 8-2003, § 2(6-4), 7-10-2003)

Sec. 6-5. Burial rights in Rose Hill Cemetery, supervision of sale and conveyances, execution, form and condition of deed.

The city clerk shall generally supervise the sale and conveyance of burial rights purchased in the Rose Hill Cemetery. The city clerk shall execute to purchaser of the burial rights a cemetery deed made in substantially the following form:

GEORGIA, POLK COUNTY.

KNOW ALL MEN BY THESE PRESENTS:

That the City of Rockmart, Georgia (hereinafter "Grantor") a municipal organized under the laws of the State of Georgia, in consideration of the sum $_____, to it in hand paid, the receipt of which is hereby acknowledged, does hereby grant and convey to _____ (hereinafter "Grantee") subject to the conditions reservations, and rules and regulations set forth and referred to herein, the rights of interment in the following lot or lots in the Rose Hill Cemetery, a municipal cemetery situated in the City of Rockmart, Polk County, Georgia, to-wit:

Lot No. _____ Block No. ____ Section _____, Lot No. _____ Block No. _____ Section _____ Lot No. _____ Block No. _____ Section _____ in the Rose Hill Cemetery located in Rockmart, Polk County Georgia, containing _____ interment spaces, according to the maps and plats of said cemetery on file in the Office of the Clerk of the City of Rockmart, Georgia, and the Office of the Clerk of the Superior Court of Polk County, Georgia.

This conveyance is subject to all laws and ordinances governing cemeteries and interment rights, and to following conditions:

A. No transfer or assignment of any right acquired by the Grantee herein shall be valid without such transfer and approval of the transferee by the Grantor first being properly recorded in the Office of the Clerk of the City of Rockmart, Georgia.

B. No monument or other memorial, tree, plant, object or embellishment of any kind shall be placed upon, altered or removed from said lot or lots by Grantee except as authorized by the Cemetery Ordinance of the City of Rockmart, Georgia, as the same now exists or as hereafter amended.

C. The herein enumerated conditions shall not be considered as the only limitations, and Grantee's rights shall be subject to the Ordinances of the City of Rockmart now in effect or which may hereafter be adopted, as well as the rules and regulations now in effect or which may hereafter be adopted by the Superintendent of Municipal Cemeteries for the control, regulation and government of Rose Hill Cemetery. The rules and regulations are on file for inspection in the Office of the City Clerk of Rockmart, Georgia, and are incorporated herein by reference and made a part thereof.

D. The conditions, reservations, restrictions, rules and regulations herein described and referred to are binding on the Grantee, her heirs, devises, executors, administrators and assigns, and are enforceable only by the City of Rockmart, or its successor in interest.

IN WITNESS WHEREOF, the City of Rockmart, has caused this instrument to be executed by its duly authorized officers, this _____ day of _____, _____.

CITY OF ROCKMART

Signed, sealed and delivered

BY:

_____
Mayor

in the presence of:

ATTEST:

_____
City Clerk

Witness:

_____

Notary Public:

_____

(b) Except, however, in deeding burial rights in the portion of the cemetery known as Rose Hill West, such deed given by the city clerk shall contain the following clause:

> "Monuments or stones of any kind, or enclosures, shall not be permitted on the graves and plots located in the Rose Hill West portion of the city cemetery as hereinafter described: Only individual bronze memorial tablets or markers and bronze family name markers shall be allowed and they must be set level with the ground within the family lot. They must be set subject to approval and inspection of the city."

(c) It is further provided that all deeds to burial rights hereafter given by the city shall be upon the expressed condition nevertheless that no sale or transfer of the rights of burial and interment in such cemetery at any time by the purchaser thereof or by any future owner shall be valid without the permission and approval of the city, and upon the payment of a transfer fee in an amount as set forth in the fee schedule of the city, adopted by the mayor and council. The record of transfer shall be kept by the city, together with the city's permission of transfer upon a book specifically kept for the purpose of recording such transfers. The transfers shall not be valid or binding between the parties thereto or the city until the transfers shall be approved by the city and recorded in such book. The deeds and transfers shall contain also legal descriptions to identify the plot conveyed.
(Ord. No. 8-2003, § 2(6-5), 7-10-2003)

Sec. 6-6. Ownership construed, use and division, reversion to city.

Ownership of a lot consists only in the right of interment. The lot can be used for no other purpose and cannot be divided into smaller portions than originally laid down in the plot. Should a lot holder die without devise of or any known kindred, title to such lot shall revert to the city, for the protection of those who may be interred therein.
(Ord. No. 8-2003, § 2(6-6), 7-10-2003)

Sec. 6-7. Issuance of deed.

A deed or certificate of ownership shall be issued to each lot holder on full payment of the purchase money of such lot.
(Ord. No. 8-2003, § 2(6-7), 7-10-2003)

Sec. 6-8. Purchased right of purchaser, taking for debt or selling for secular use.

When a right has once been purchased within the enclosure of a public cemetery for burial purposes, it becomes for all time the property of the purchaser and his transferees and cannot be taken for debt or sold for secular uses.
(Ord. No. 8-2003, § 2(6-8), 7-10-2003)

Sec. 6-9. Owner's change of address, duty to notify city; sufficient and proper legal notification described.

It shall be the duty of the plot, lot or burial space owner to notify the city of any change in his post office address. Notice sent to a plot, lot, or burial space owner at the last address on file in the office of the city clerk shall be considered sufficient and proper legal notification.
(Ord. No. 8-2003, § 2(6-9), 7-10-2003)

Sec. 6-10. Certain rights and privileges reserved by city.

The following rights and privileges are hereby expressly reserved by the city in its conveyance of any cemetery lot, plot, or space: At any time and from time to time to resurvey, enlarge, diminish, replat, alter in shape or size or otherwise change all or any part, portion or subdivision of the property mapped and platted, and to file amended maps or plats thereof, and to use the same for the erection of buildings, or for any purposes or uses connected with, incident to, or convenient for the care, preservation or preparation, for the disposal or interment of dead human bodies, or other cemetery purposes, together with easements, and rights-of-way over and through such premises for and privilege of, installing, maintaining and operating pipe lines, conduits or drains for sprinklers, drainage electric or communication lines, or for any other like purposes.
(Ord. No. 8-2003, § 2(6-10), 7-10-2003)

Sec. 6-11. Easements or rights of interment in roads, drives, alleys or walks.

No easement or right of interment is granted by the city to any plot, lot or burial space owner in any road, drive, alley or walk within the cemetery, but such road, drive, alley or walk may be used as long as the city devotes it to that purpose.
(Ord. No. 8-2003, § 2(6-11), 7-10-2003)

Sec. 6-12. Transfer of assignment, prerequisite to validity.

No transfer or assignment of any cemetery lot, space or plot or interest therein, shall be valid until the consent of the city has been endorsed thereon and the same has been recorded on the books of the city.
(Ord. No. 8-2003, § 2(6-12), 7-10-2003)

Sec. 6-13. Charge for transfer and ownership.

The city may fix a charge for all transfers of ownership or lot spaces and plots. No transfer of ownership shall be complete or effective until all charges are paid.
(Ord. No. 8-2003, § 2(6-13), 7-10-2003)

Sec. 6-14. Subdivision of plots, interment of persons with no interest in plot.

The subdivision of plots, lots or spaces is not allowed by anyone except the city and no one having an interest therein shall be interred in any plot, lot or space except by written consent of all parties interested in such plot, lot or space and the city; provided, however, a relative of any record owner may be buried in such lot, space or plot as provided in this chapter or by the laws of the state.
(Ord. No. 8-2003, § 2(6-14), 7-10-2003)

Sec. 6-15. Family plot—Inalienable, reversion to city.

Whenever an interment of the remains of a member or of a relative of a member of the family of the record owner, or of the remains of the record owner, is made in a plot transferred by deed or certificate of ownership to an individual owner and the owner dies without making disposition of

the plot either in his will by specific devise, or by a written declaration filed and recorded in the office of the city, the plot thereby becomes inalienable and shall be held as the family plot or the owner with title to the same reverting to the city for the protection of those who may be interred therein.
(Ord. No. 8-2003, § 2(6-15), 7-10-2003)

Sec. 6-16. Same—Right to burial within same without consent.

In a family plot one grave, niche or crypt may be used for the owner's interment; one for the owner's surviving spouse, if any, who by law has a right of interment in it; and in those remaining, if any, the parents and children of the deceased owner, in order of death, may be interred without the consent of any person claiming an interest in the plot.
(Ord. No. 8-2003, § 2(6-16), 7-10-2003)

Sec. 6-17. Same—Order of right of interment.

If no parent or child survives, the right of interment goes in the order of death, first, to the spouse of any child of the record owner, and second, in the order of death, to the next heir at law of the owner or the spouse of any heir at law.
(Ord. No. 8-2003, § 2(6-17), 7-10-2003)

Sec. 6-18. Same—Interment right waived in favor of other relative.

Any surviving spouse, parent, child or heir who has a right to interment in a family plot may waive such right in favor of any other relative, or spouse of a relative, of either deceased owner or of his spouse, and upon such waiver the remains of the person in whose favor the waiver is made may be interred in the plot.
(Ord. No. 8-2003, § 2(6-18), 7-10-2003)

Sec. 6-19. Right of spouse of owner.

The spouse of any owner of any plot which contains more than one interment space has a vested right of interment of his remains in the plot, lot or space and any person thereafter becoming the spouse of the owner has a vested right of interment of his remains in the plot if more than one interment space is unoccupied at the time the person becomes the spouse of the owner.
(Ord. No. 8-2003, § 2(6-19), 7-10-2003)

Sec. 6-20. Vested right of spouse, joinder prerequisite to divesting.

No conveyance or other action of the owner without the written consent or joinder of the spouse of the owner divests the spouse of a vested right of interment, except that a final decree of divorce between them terminates the vested right of interment unless otherwise provided in the decree.
(Ord. No. 8-2003, § 2(6-20), 7-10-2003)

Sec. 6-21. Plots having several owners, representation by designated owner.

When there are several owners of the rights of interment in a plot, lot or space, they may designate one or more persons to represent the plot, lot or space and file written notice of designation with the city. In the absence of such notice or of written objection to its so doing, the city is not liable to any owner for interring or permitting an interment or refusing an interment in the plot, lot or space upon the request or direction of any co-owners of the lot, space or plot.
(Ord. No. 8-2003, § 2(6-21), 7-10-2003)

Sec. 6-22. Vested right—Waiving.

A vested right of interment may be waived, and is so waived and terminated upon the interment elsewhere of the remains of the person in whom vested.
(Ord. No. 8-2003, § 2(6-22), 7-10-2003)

Sec. 6-23. Same—Scope.

No vested right of interment gives to any person the right to have his remains interred in any interment space in which the remains of any deceased having a prior vested right of interment have been interred, nor does it give any person the right to have the remains of more than one deceased person interred in a single interment space.
(Ord. No. 8-2003, § 2(6-23), 7-10-2003)

Sec. 6-24. Authorization to open plot.

The city may inter or open a plot for any purpose on proper written authorization by any plot owner of record made out on forms approved by the city and duly filed in the office of the city clerk unless there are written instructions to the contrary on file in such office.
(Ord. No. 8-2003, § 2(6-24), 7-10-2003)

Sec. 6-25. Owners permitting interment for remuneration.

Cemetery owners shall not allow any interment to be made in their lots for a remuneration.
(Ord. No. 8-2003, § 2(6-25), 7-10-2003)

Sec. 6-26. Monument restrictions in Rose Hill Cemetery.

(a) Upright monuments or stones of any kind, or enclosures, or other upright objects shall not be allowed on graves and plots in that portion of the cemetery known as Rose Hill West. In this section, only individual bronze memorial tablets or markers and bronze family name markers shall be allowed and they must be set level with the ground within the family plot. They must be set subject to the approval and inspection of the city.

(b) Section 37 Rose Hill East. Upright monuments only shall be permitted in the portion of the cemetery known as Section 37 Rose Hill East. The monument base shall have a thickness of not greater than 20 inches and not less than 10 inches. Die thickness shall be no more than 10 inches and no less than 6 inches and shall be no more than 50 percent of the thickness of the base. The height of the marker shall not exceed 42 inches above ground. The base of the monument shall not be closer to the grave lot line than a point 12 inches from the property line. Coping, walls, ledgers, poured slabs, corner markers and foot markers are prohibited. V-A markers shall be permitted only as headstones and shall be set upright at the head of the grave lot.
(Ord. No. 8-2003, § 2(6-26), 7-10-2003; Ord. No. 2013O-04, § 1, 10-8-2013)

Sec. 6-27. Monument contractors and construction.

(a) *License required.* All monument contractors must hold a valid license from the city and an installation permit from the sexton.

(b) *Working hours.* The permitted working hours are as follows, except as otherwise permitted by the city manager:

(1) Monday—Friday: 8:00 a.m.—5:00 p.m.

(2) No Saturday or Sunday work permitted.

(3) All work must be completed by noon on the last working day before the following holidays:

New Year's Day

Good Friday

Easter

Mother's Day

Memorial Day

Father's Day

July 4th

Labor Day

Veterans Day

Thanksgiving Day

Christmas

(4) No excavation work can be instituted that cannot be completed by Friday noon or before holidays. Once excavation work begins, the contractor must pursue installation diligently until the work is completed. When any questionable work results, the sexton is empowered to temporarily stop all work until the matter is resolved to the satisfaction of the city.

(c) *Materials.* All monuments must be of solid base and die, marble or granite. Flush markers can be bronze. No other materials are permitted. All monuments must have a concrete or cement foundation, not less than four inches thick, of adequate strength and construction. All monuments and markers shall be in accordance with the regulations on file in the office of the city clerk.
(Ord. No. 8-2003, § 2(6-27), 7-10-2003)

Sec. 6-28. Offensive, improper or injurious monuments, removal.

If any monument or other structure, or any inscription, is placed in or upon any lot or grave, which is determined by the sexton to be offensive,

improper or injurious to the appearance of the surrounding lots or grounds or cemetery generally, he shall have the right and it shall be his duty to enter upon such lot and cause the removal of such offensive or improper object.
(Ord. No. 8-2003, § 2(6-28), 7-10-2003)

Sec. 6-29. Surface of lot or graves raising or depressing prohibited.

The proprietors of cemetery lots are prohibited from raising or depressing the surface of the lot or graves above or below the surrounding ground.
(Ord. No. 8-2003, § 2(6-29), 7-10-2003)

Sec. 6-30. Authority for grading, landscaping, improvements, plantings, interments, disinterment and removals.

All grading, landscape work and improvements of any kind and all care on plots shall be done, and all trees and shrubs and herbage of any kind shall be planted and trimmed, cut or removed and all openings and closings of plots, and all interments, disinterments and removals shall be made only by the authority of the city.
(Ord. No. 8-2003, § 2(6-30), 7-10-2003)

Sec. 6-31. Improvements or alterations of individual property.

All improvements or alterations of individual property in the cemetery shall be under the direction of and subject to the consent, satisfaction and approval of the city; and, should they be made without its written consent, the city shall have the right to remove, alter or change such improvements or alterations at the expense of the plot, lot or space owner, or in any event at any time when in its judgment, they become unsightly to the eye.
(Ord. No. 8-2003, § 2(6-31), 7-10-2003)

Sec. 6-32. Detrimental trees and shrubs, right to remove.

If any tree or shrub, situated in any lot, shall by means of its roots or branches become detrimental in any way to the adjoining lot, avenue or walk, it shall be the duty and privilege of the city, and it hereby reserves the right, to enter upon the lot and remove the trees, shrubs, or any part thereof. But no tree growing in any lot or border shall be pruned or removed without the consent of the city.
(Ord. No. 8-2003, § 2(6-32), 7-10-2003)

Sec. 6-33. Flowers, trees, shrubs and herbage—Right to prevent removal.

The city reserves the right to prevent the removal of any flowers, floral designs, trees, shrubs, plants or herbage of any kind from the cemetery. No flowers will be removed from any grave without the permission of the sexton.
(Ord. No. 8-2003, § 2(6-33), 7-10-2003)

Sec. 6-34. Same—Authority to remove, liability for frames or baskets.

The city shall have the authority to remove all floral designs, flowers, weeds, trees, shrubs, plants or herbage of any kind from the cemetery, when, in the judgment of the sexton, they become unsightly, dangerous, detrimental or diseased. The city shall not be liable for damage to floral pieces, baskets, or frames in which or to which such floral pieces are attached.
(Ord. No. 8-2003, § 2(6-34), 7-10-2003)

Sec. 6-35. Gathering or breaking flowers, etc.; feeding or disturbing birds or animal life.

All persons are prohibited from gathering flowers, either wild or cultivated, or breaking trees, shrubbery or plants or feeding or disturbing the birds or other animal life in the city cemetery.
(Ord. No. 8-2003, § 2(6-35), 7-10-2003)

Sec. 6-36. Control of floral arrangements.

(a) *Number and placement.* Only one floral arrangement shall be placed on each grave and only at the base of the monument. All flowers shall be placed at the base of the monument. Any flowers which are determined by the sexton to be outside of the appropriate area shall be removed by the city. In Section 37 Rose Hill East, flowers shall be allowed only in vase(s) permanently attached to the marker, which shall be subject to inspection and approval of the city.

(b) *Containers.* The city recommends that all floral arrangements be placed in clay or plastic containers. Glass, tin, wire and cement containers are prohibited. Any other container must be approved by the sexton.

(c) *Removal.* The sexton is authorized to remove funeral flowers after 72 hours unless notified by the family or lot owners.

(d) *Disposal of floral frames.* Floral frames when removed from the plot shall be disposed of by the city, unless called for within ten days by those lawfully entitled to them.
(Ord. No. 8-2003, § 2(6-36), 7-10-2003; Ord. No. 2013O-04, § 2, 10-8-2013)

Sec. 6-37. Signs, notices, or advertisements prohibited.

No signs, notices or advertisements of any kind shall be allowed in the cemetery, except by the city.
(Ord. No. 8-2003, § 2(6-37), 7-10-2003)

Sec. 6-38. Responsibility for damage.

The city disclaims all responsibility for loss or damage from causes beyond its reasonable control, and especially from damage caused by the elements, an act of God, common enemy, thieves, vandals, strikers, malicious mischief makers, explosions, unavoidable accidents, invasions, insurrections, riots or order of any military or civil authority, whether the damage is direct or collateral.
(Ord. No. 8-2003, § 2(6-38), 7-10-2003)

Sec. 6-39. Interments, disinterments and removals.

(a) *Time; manner; charges.* All interments, disinterments and removals must be made at the time and in the manner and subject to the payment of such charges, as fixed by the city.

(b) *Registered funeral homes to open or close graves; sexton's right of refusal.* Only city approved and registered funeral homes will open or close graves. The sexton reserves the right to refuse to open or close a grave at any time he sees fit, with the approval of the city manager.

(c) *Compliance with law.* All other state and local health laws must be complied with prior to any interment in the city cemetery.

(d) *Standards for containers; vaults required.* All interments must be inside containers of minimum standard as approved by the sexton (minimum standard is pine construction or equal). These containers must be in vaults or permanent outside enclosures of minimum standard (minimum standard is concrete construction placed underground).

(e) *Owner permission.* No interment will be made in the Rose Hill Cemetery until the owner of the burial plot shall execute an affidavit directing interment of the remains of the deceased in said burial plot.
(Ord. No. 8-2003, § 2(6-39), 7-10-2003)

Sec. 6-40. Charges for opening graves, interment and disinterment.

The charges for opening any graves, interment and disinterment in the cemetery shall be as set out in the fee schedule book.
(Ord. No. 8-2003, § 2(6-40), 7-10-2003)

Sec. 6-41. Right to refuse immediate interment after specified hour.

The city may refuse to make an interment until a more expedient time if the remains arrive at the cemetery entrance after 5:00 p.m., or if too many funerals arrive at the same hour.
(Ord. No. 8-2003, § 2(6-41), 7-10-2003)

Sec. 6-42. Interment or disinterment prohibited on specified holidays.

There shall be no interments or disinterments on the following days: New Year's Day, Easter, Mother's Day, Father's Day, Memorial Day, July 4th, Labor Day, Thanksgiving Day and Christmas Day, and Martin Luther King's Holiday.
(Ord. No. 8-2003, § 2(6-42), 7-10-2003)

Sec. 6-43. Delay of interment, liability and right of city.

The city shall be in no way liable for any delay in the interment of a body where a protest to the interment has been made, or where these rules

and regulations have not been complied with and, further, the city reserves the right, under such circumstances, to place the body in a funeral home or a receiving vault until the full rights have been determined. The city may require any protest to be in writing and to be filed in the office of the city clerk.
(Ord. No. 8-2003, § 2(6-43), 7-10-2003)

Sec. 6-44. Reservation of right to require specified notice before interment.

The right is reserved by the city to insist upon at least 24 hours' notice before any interment. Interment requests with less than 24 hours' notice may be refused. All requests with less than 12 hours' notice shall be refused.
(Ord. No. 8-2003, § 2(6-44), 7-10-2003)

Sec. 6-45. Liability for interment permit and identity of person sought to be interred or cremated.

The city shall not be liable in damages for an error in the interment permit nor for the mistake or error in the identity of the person sought to be interred or cremated.
(Ord. No. 8-2003, § 2(6-45), 7-10-2003)

Sec. 6-46. Responsibility for telephone orders or mistakes caused by vague instructions.

The city shall not be held responsible for any order given by telephone, or for any mistake occurring from the want of precise and proper instructions as to the particular space, size and location in a plot where interment is desired.
(Ord. No. 8-2003, § 2(6-46), 7-10-2003)

Sec. 6-47. Procedure when instructions from plot owner not available.

When instructions from the plot owner regarding the location of an interment space in a plot cannot be obtained, or are indefinite, or when for any reason the interment space cannot be opened when specified, the city may, in its discretion, allow the opening in such location in the plot as it deems best and proper so as not to delay the funeral; and the city shall not be liable in damages for any error so made.
(Ord. No. 8-2003, § 2(6-47), 7-10-2003)

Sec. 6-48. Error in interment.

In the event an error shall be committed in the interment of the remains of any person, the city reserves the right to remove and re-inter the remains in such other property of equal value and similar location as may be substituted and conveyed in lieu of the mistaken property.
(Ord. No. 8-2003, § 2(6-48), 7-10-2003)

Sec. 6-49. Disinterment—Permission prerequisite.

No disinterment from any lot shall be made except on express permission of the city clerk of the city first obtained. The city clerk may insist that an order from a proper court of law first be secured by those seeking the disinterment.
(Ord. No. 8-2003, § 2(6-49), 7-10-2003)

Sec. 6-50. Same—Liability of city.

The city shall exercise due care in authorizing disinterment and removal, but it shall assume no liability for damage to any casket, burial case, vault or urn, incurred by the funeral home in making the disinterment or removal.
(Ord. No. 8-2003, § 2(6-50), 7-10-2003)

Sec. 6-51. Removal of body repugnant to sense of decency.

Removal of a body, or cremated remains by the heirs of the deceased so that the plot, lot or space may be sold for profit to themselves, or removal contrary to the expressed or implied wish of the original plot owner or if repugnant to the ordinary sense of decency is absolutely forbidden.
(Ord. No. 8-2003, § 2(6-51), 7-10-2003)

Sec. 6-52. Limitation on number of bodies interred in same grave, vault, crypt, or niche.

(a) Not more than one body shall be interred in any one grave, vault, crypt, or niche. Cremains may be allowed to be interred in the same grave space with proper minimum container such as provided by the crematory.

(b) In the portion of the cemetery known as Section 37 Rose Hill East, when cremains are buried in the same space of a traditional casket burial, a single grave marker shall be located at the head of the grave space and shall include the names or both individuals to be interred in the same lot.
(Ord. No. 8-2003, § 2(6-52), 7-10-2003; Ord. No. 2013O-04, § 3, 10-8-2013)

Sec. 6-53. Firearms within cemeteries, permit required.

No firearms shall be permitted within any cemetery except with special permit from the city or other duly constituted authorities.
(Ord. No. 8-2003, § 2(6-53), 7-10-2003)

Sec. 6-54. Visitation hours; loitering in cemeteries.

City cemeteries shall be open for visitation during the following hours:

(1) One-half hour after sunup.

(2) One-half hour before sundown.
(Ord. No. 8-2003, § 2(6-54), 7-10-2003)

Sec. 6-55. Refreshments, prohibited within cemeteries, exception.

No person shall be permitted to have refreshments within any cemetery except as authorized by the sexton.
(Ord. No. 8-2003, § 2(6-55), 7-10-2003)

Sec. 6-56. Persons within grounds to use only avenues, walks, alleys, and roads.

Persons within the cemetery grounds shall use only the avenues, walks, alleys and roads and shall not walk, drive or ride upon the lots, plots and spaces.
(Ord. No. 8-2003, § 2(6-56), 7-10-2003)

Sec. 6-57. Automobiles regulated.

Automobiles shall not be driven through the grounds at a greater speed than ten miles per hour, and must always be kept on the righthand side of the cemetery roadway. Automobiles are not allowed to park or to come to a full stop in front of an open grave unless such automobiles are in attendance at the funeral. No off-road recreational vehicles or motorcycles shall be allowed in the city cemetery.
(Ord. No. 8-2003, § 2(6-57), 7-10-2003)

Sec. 6-58. Interpretation, application and enforcement of provisions.

These rules and regulations shall be interpreted, applied and enforced by the public works committee. In cases of hardship, necessity or unreasonableness in the application or enforcement of any of these rules and regulations the majority of the public works committee shall have the right to alter the application and enforcement of these rules and regulations so as to relieve the hardship or unreasonableness, and the same shall not constitute forfeiture nor shall it have effect of changing or abridging the rule, covenant or regulation.
(Ord. No. 8-2003, § 2(6-58), 7-10-2003)

Sec. 6-59. Violation of chapter provisions.

It shall be unlawful for any person to do any act forbidden by this chapter, and it shall be unlawful for any person to fail to perform any act required by this chapter. Any person performing any act forbidden by this chapter or failing to perform any act required by this chapter shall have breached this chapter, and upon conviction thereof shall be punished as provided by section 1-7 of this Code.
(Ord. No. 8-2003, § 2(6-59), 7-10-2003)

Sec. 6-60. Management of excess dirt.

Management of excess dirt will be coordinated with the city sexton.
(Ord. No. 8-2003, § 2(6-60), 7-10-2003)

Chapter 7

COURTS

Article I. In General

Secs. 7-1—7-30. Reserved.

Article II. Municipal Court

ARTICLE I. IN GENERAL

Secs. 7-1—7-30. Reserved.

ARTICLE II. MUNICIPAL COURT*

Sec. 7-31. Regulations.

(a) The chief municipal judge may propose written regulations, or amendments thereto, to organize and operate the municipal court in the most efficient manner reasonably possible consistent with the Charter and this Code.

(b) These regulations shall become effective only after approval by the city council. The city council may, by resolution, amend the regulations at any time.

Sec. 7-32. Summons; notice to appear; subpoena; failure to appear.

(a) Any person charged with a violation of this Code or any state law under the jurisdiction of the municipal court and who has been served within a written summons, citation or notice to appear before the municipal judge at a given time, place and date shall be required to so appear and, upon failure to so appear, the municipal judge may order that person's immediate arrest for an appearance before the judge on a day and time certain to show cause why the person should not be held in contempt and on the original charges.

(b) Any person who may be able to provide evidence of any kind on a matter before the municipal court and who has been served by a police officer with a written subpoena issued by the court clerk or a municipal judge which orders the person to be present at the municipal court and testify at a given time, place and date shall be required to be present and, upon failure to be present, may be held in contempt of court and the municipal judge may order that person's immediate arrest for an appearance before the judge on contempt charges.

*__State law reference—__Municipal courts, O.C.G.A. § 36-32-1 et seq.

Sec. 7-33. Court sessions; opening announcement.

(a) A regular session of the municipal court shall be held at a fixed hour of a fixed day as may be determined by the chief municipal judge, provided any session may be dispensed with when there is no business pending in the court or no cases are ready for trial. The judge may schedule such other sessions, continue court, or otherwise handle court scheduling as the chief judge should determine.

(b) The general form of opening announcement may contain the following:

(1) A command that attention by all is required;

(2) The name of the court;

(3) A declaration that court is in session; and

(4) The name of the judge presiding.

Sec. 7-34. Special sessions.

The chief municipal judge may order special sessions when, in his judgment, it is necessary, or there is urgent cause for the trial of accused persons, before the next regular sitting of the court. The necessity or urgency of the cause shall be presumed from the fact of a session being held. All defendants shall have at least six hours' notice of the session.

Sec. 7-35. Police attendance.

It shall be the duty of the chief of police or his deputy, or some member of the police force designated by the police chief, to attend each session of the court to act as court liaison officer. It shall be the duty of each police officer making the arrest or having knowledge of the case for or against the defendant to attend the trial of any person brought before the municipal court. Unless otherwise required, officers need not appear for court arraignment.

Sec. 7-36. Appearance bond; procedure for accepting.

Offenses against the ordinances of the city shall be bailable as follows:

(1) The arresting officer, chief of police, a municipal judge or any other officer des-

ignated by the chief of police may accept bond of the accused payable to the city conditioned upon the appearance of the accused at the next session or any subsequent session of the municipal court as stated in the bond, to answer the charge.

(2) The bond shall be in writing in an amount established in a schedule adopted by the chief municipal judge and approved by the city.

(3) In lieu of an appearance bond, a person arrested for violation of a city ordinance may be released on his own recognizance or may deposit his driver's license with the arresting officer, the police chief or a municipal judge if, in any of these officials' determinations, the person will appear at the time set for the court appearance in view of the following considerations:

a. The seriousness of the offense charged;

b. The penalty provided by law;

c. The number of charges pending against the defendant;

d. The criminal record of the defendant;

e. The residence of the defendant and the length of time of residence;

f. The defendant's age;

g. The defendant's marital status and number of children;

h. Residency of the relatives of the defendant;

i. Employment of the defendant (by whom, nature of work and how long employed);

j. Former employment of the defendant;

k. Amount of earnings of the defendant;

l. The defendant's character, reputation and previous criminal history;

m. The defendant's mental condition; and

n. Whether the defendant has membership in any clubs or societies, church affiliation and other things which could show that he is a responsible member of the community with established community ties.

(4) Any person released under subsection (3) of this section shall receive a receipt for any driver's license deposited or, if released on the person's own recognizance, shall sign and receive a copy of the citation or ticket describing the violation for which the person was arrested.

(5) All persons arrested or notified by citation or ticket of parking violations shall be released on their own recognizance.

(6) All sureties who sign bonds for the release of principals for offenses against the city shall at all times be governed and comply with O.C.G.A. § 17-6-1 et seq.

(7) Any person engaged in the bonding business who fails to deposit the required bond amount into the court registry after a bond forfeiture has occurred, as required by O.C.G.A. § 17-6-71, shall be summoned to the municipal court, after having been given ten days' notice, to show cause why such person's privilege of signing bonds for municipal offenses should not be suspended by the court.

Sec. 7-37. Continuance of cases.

Continuances shall be made only for good cause shown. Prior to the scheduled court appearance the solicitor, clerk of court or the presiding judge may grant continuations of a case.

Sec. 7-38. Forfeiture of witness and appearance bonds.

(a) The presiding municipal judge shall call the case in its regular order, and if the accused or any subpoenaed witness is not in court and does not answer the call, and if no good and sufficient reason is given for the nonappearance, the judge shall enter on the docket where the case is stated, "bond forfeited," or similar words, if there was

any bond or cash posted, and issue an arrest warrant for that person, in the judge's discretion.

(b) Upon forfeiture of any bond, the cash deposited as security shall be paid to the city treasury, and it shall become the property of the city.

(c) Upon the forfeiture of any bond signed by a person as surety, the city may collect the sum as delinquent revenues are collected.

(d) Each bond forfeited under the terms of this section, unless extended by the court for good cause shown, shall be due and payable six months from the date that said bond is forfeited. If any forfeiture is not paid within 30 days of the due date for payment of such forfeiture, the city will no longer accept any bonds signed by the same person acting as the surety on the forfeited bond.

Sec. 7-39. Acceptance of pleas.

Before accepting a plea to an offense charged, the court shall in all cases, in language which the defendant can understand, inform the defendant of the nature of the charge and the penalty which may be imposed upon conviction.

Sec. 7-40. Pleas.

(a) The defendant shall enter one of the following pleas:

(1) Guilty;

(2) Not guilty;

(3) Nolo contendere, with the permission of the court; or

(4) A former judgment of conviction or acquittal of the offense charged.

(b) If the defendant refuses to enter a plea, the court shall enter a plea of not guilty and set the case down for trial.

Sec. 7-41. Fines; collections; payment in advance of court date.

(a) For fines that may be due by any defendant, collection may be made by the city as for delinquent taxes due the city.

(b) Persons charged with violations of this Code may, prior to the time for their court appearance, plead guilty in writing and pay to the city as their fine the amount set as the appearance bond for the offense charged, except as may be provided otherwise in the appearance bond schedule.

Sec. 7-42. Appearance of complaining witnesses; bond or release on own recognizance.

(a) A material or complaining witness in any contested prosecution shall appear at the session at which the prosecution is docketed. The prosecution may be dismissed if the material witness fails to appear.

(b) Any person who has been subpoenaed as a witness before the municipal court may, in the discretion of the serving police officers, be required to give bond or be released on such person's own recognizance with good security or a cash bond or collateral, conditioned to appear and testify before the municipal court in the case in which the witness has been subpoenaed.

Sec. 7-43. Rules of evidence.

The general rules of evidence applicable to the superior court of the county shall be applicable in the trial of all cases in the municipal court.

Sec. 7-44. Judgment and sentences.

Upon a judgment or plea of guilty the court shall impose sentence. The court may:

(1) Impose a fine, with or without a commitment for compulsory work, confinement or both;

(2) Commit the defendant to confinement, compulsory work, or both;

(3) Suspend the execution of the sentence in whole or in part; or

(4) Defer the execution of the sentence or any portion thereof to one or more fixed dates in the future.

Sec. 7-45. Contempt powers.

The judge shall have authority to issue criminal or civil sanctions for contempt of court, as is

authorized by state law, or for failure to comply with lawful orders of the municipal court. The judge may impose any sanction, including confinement, in exercise of contempt powers.

Sec. 7-46. Collection of court costs.

(a) The municipal court may collect costs in cases involving violations of the penal statutes of the state in the same manner as are now provided by law in cases where criminal warrants are issued, and proceeding thereon had before a magistrate.

(b) In all cases in the municipal court involving a violation of the penal statutes of the state, where the accused is bound over to the superior court or the state court of the county to await trial, the city shall be allowed costs in the same amounts as are provided by general state law for a magistrate.

(c) Such costs shall be collected and paid to the city in the same manner and at the same time as costs are now collected and paid by the state court of the county to the sheriff, clerk and solicitor of the state court for the benefit of the county and the board of education of the county; provided, however, that the insolvent cost bill of the city shall participate in the distribution of fines and forfeitures arising only in cases committed from the municipal court.

Sec. 7-47. Disposal of evidence.

Any illegal firearms, weapons or other illegally possessed items or contraband seized by the city police and before the court for disposition may be destroyed, sold as city property or used in the service of the city at the order of the presiding municipal judge.

Sec. 7-48. Traffic violations; prosecution.

Violation of any municipal ordinance governing traffic violations shall be prosecuted within 24 months of the date of the issuance of the citation. Failure to prosecute within the allotted time shall constitute a bar of further prosecution. However, nothing in this section shall be construed to create a bar of prosecution on any contempt citation issued by a judge of the municipal court.

Chapter 8

ELECTIONS*

*__State law reference—__Georgia Municipal Election Code, O.C.G.A. § 21-2-1 et seq.

Sec. 8-1. Polling place.

All elections held according to law for federal, state, or municipal offices, and to be held under the provisions of this chapter, shall be conducted at the Rockmart Community Center.

Sec. 8-2. Absentee ballots.

In all elections in accordance with this chapter, absentee ballots shall be used and the provisions governing absentee voting shall be in accordance with O.C.G.A. § 21-2-1 et seq., known as the "Georgia Election Code," and as may be amended from time to time in the future.

Sec. 8-3. Qualification fee of candidates for mayor or council.

(a) Each candidate seeking election as mayor or a city councilperson in any special or general election, shall pay a qualification fee of three percent of the annual salary of the office of the city sought at the time of qualification. Such fee shall be paid to the municipal elections superintendent at the time a candidate files notice of candidacy.

(b) A candidate who is not able to pay a qualification fee may file a pauper's affidavit instead of paying such qualification fee. Said pauper's affidavit shall affirm the candidates poverty and his resulting inability to pay a qualifying fee otherwise required hereunder. To be acceptable under this section, a pauper's affidavit must show on its face that the candidate has neither the assets nor the income to pay the qualifying fee otherwise required.

Chapter 9

FIRE PROTECTION AND PREVENTION*

Article I. In General

Article II. Fire Code

Article III. Key Lock Boxes

*__State law references__—Impersonating a public officer or employee, O.C.G.A. § 16-10-23; obstruction or hindering of firefighters, O.C.G.A. § 16-10-24.1; false fire alarms, O.C.G.A. § 16-10-27; fireworks, O.C.G.A. § 25-10-1 et seq.; Georgia Fire Sprinkler Act, O.C.G.A. § 25-11-1 et seq.; regulation of fire and other hazards to persons and property generally, O.C.G.A. § 25-2-1 et seq.; smoke detector requirements, O.C.G.A. § 25-2-40; local fire departments generally, O.C.G.A. § 25-3-1 et seq.; local fire safety standards authorized, O.C.G.A. § 25-3-4; Georgia Firefighter Standards and Training Act, O.C.G.A. § 25-4-1 et seq.; mutual aid resource pacts, O.C.G.A. § 25-6-1 et seq.; Georgia Fire Academy Act, O.C.G.A. § 25-7-1 et seq.; following fire apparatus or emergency vehicle, O.C.G.A. § 40-6-247; crossing fire hose, O.C.G.A. § 40-6-248; The Uniform Act for the Application of Building and Fire Related Codes to Existing Buildings, O.C.G.A. § 8-2-200; Statewide Application of Standard Fire Prevention Code, O.C.G.A. § 8-2-25(a); fire escapes in buildings, O.C.G.A. § 8-2-50.

ARTICLE I. IN GENERAL

Sec. 9-1. Damaging or interfering with fire department property or operations; driving over fire hose.

Any person who shall willfully or knowingly injure or damage in any way or by any means whatsoever, or use without permission, any engine, hose, hook, ladder, or other implement, material or apparatus of any kind connected with or used by any fire company in the city as a part of their machinery or material for extinguishing fires, or drive over any hose on the streets, or interfere in any way whatsoever with the fire department at fires, parades or practices, or knowingly put any obstruction in front of any house used by the fire department for keeping its apparatus, shall be punished as prescribed in section 1-7 of this Code.

State law references—Obstruction or hindering of firefighters, O.C.G.A. § 16-10-24.1; following fire apparatus or emergency vehicle, O.C.G.A. § 40-6-247; crossing fire hose, O.C.G.A. § 40-6-248.

Sec. 9-2. Riding on fire department equipment.

It shall be unlawful for any person, other than active members of the fire department, to get upon, or to ride upon, the fire truck or other apparatus of the fire department, either in going to or returning from fires, or at other times, except at the request of the driver of such equipment, or at the request of any city official in charge of such equipment.

Sec. 9-3. Persons who may be present at fires; refusal to leave scene of fire.

No person except firefighters, members of the police force, the city manager, the mayor or a city councilman, property owners, their agents, insurance agents and/or fire investigators shall be allowed within the immediate vicinity of a fire, without being ordered there by the chief or his assistants or the officers in command of the department. Unauthorized persons shall be notified by the chief, assistants, captain or officer in charge to leave the area being used by the fire department. Any person refusing to obey such order and direction, shall be punished as prescribed in section 1-7 of this Code.

Sec. 9-4. Driving in vicinity of fire.

It shall be unlawful for any person to operate any vehicle in such a manner as to block or impede the streets and lanes in which the fire department is assembled for the purpose of extinguishing a fire. Should any person violate this chapter, the person may be arrested by any officer and on conviction be punished as prescribed in section 1-7 of this Code.

Sec. 9-5. Stealing goods during fire.

Any officer at a fire scene shall arrest any person who shall be caught stealing or removing goods or any article of value from any fire scene or area burned by a fire.

Secs. 9-6—9-20. Reserved.

ARTICLE II. FIRE CODE

Sec. 9-21. Adopted.

The International Fire Code is adopted by reference and may be amended for later editions as required by the Georgia Uniform Codes Act, O.C.G.A. § 8-2-25.

Sec. 9-22. Enforcement.

The fire code provisions hereby adopted shall be enforced by the fire chief or building inspector of the city.

Sec. 9-23. Definitions.

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

Fire official means the fire chief or building inspector of the city.

Municipality means this city.

(Ord. No. 1980-009, § 2, 3-3-1980)

Sec. 9-24. Waiver of provisions.

The fire chief or building inspector shall have the power to waive any of the provisions of the fire code hereby adopted upon application in writing by the owner or lessee, or his duly authorized agent, when there are practical difficulties in the way of carrying out the strict letter of the code, provided that the spirit of the code shall be observed, public safety secured, and substantial justice done. The particulars of such waiver when granted or allowed and the decision of the fire chief or building inspector thereon shall be entered upon the records of the department and a signed copy shall be furnished to the applicant.
(Ord. No. 1980-009, § 3, 3-3-1980)

Secs. 9-25—9-40. Reserved.

ARTICLE III. KEY LOCK BOXES*

Sec. 9-41. Key lock boxes for fire department emergencies.

Key lock boxes shall be required on all new and existing building sites (as provided for below) to allow the fire department to enter a building quickly in case of an emergency. The key boxes shall be marked, conspicuous, and accessible. The City of Rockmart Fire Department shall approve the key lock box used and its installation.
(Ord. No. 2008O-08, § 1, 8-12-2008)

Sec. 9-42. Definitions.

Restricted access multi-family means any multi-family building where access by the general public is restricted by a gated fence or other coded or keyed entry restriction device.

New construction means any commercial, industrial or restricted access multi-family building or complex permitted for construction after August 12, 2008.

Key lock box ("secure container", "the box") means exterior restricted access locked box of a type specified by the City of Rockmart Fire Department mounted to the exterior to allow rapid fire department entry into building. Only the City of Rockmart Fire Department shall have access to the box.

Major renovation means any commercial, industrial or restricted access multi-family renovation that requires the issuance of building permits and requires a plans review be conducted by the department of community development.

24-hour occupancy means any commercial or industrial building which is occupied by owner(s), employee(s) or other official personnel in a manner that in event of an emergency timely access by emergency personnel may be granted.

City of Rockmart Fire Department means as it pertains to approval of the installation and use of key lock boxes in this article shall mean the fire chief or official designee.
(Ord. No. 2008O-08, § 1, 8-12-2008)

Sec. 9-43. Requirements.

(a) All new commercial, industrial or restricted access multi-family construction or commercial, industrial or restricted access multi-family structure undergoing major renovation permitted after August 12, 2008 and served by the City of Rockmart Fire Department, shall install a key lock box approved by the City of Rockmart Fire Department.

(1) Those commercial or industrial facilities which provide 24-hour occupancy are exempted from this article.

(2) Any building with 24-hour occupancy that ceases 24-hour occupancy and is otherwise required by this article to install a key lock box shall do so within 90 days of notification by the City of Rockmart.

(b) The key lock box shall be:

(1) The Knox Box or other secure container approved by the City of Rockmart Fire Department;

(2) Located at or near the recognized primary entrance and shall be approved by the City of Rockmart Fire Department, typically the street side entrance;

*__Editor's note__—Ord. No. 2008O-08, § 1, adopted August 12, 2008, did not specifically amend the Code; hence, inclusion herein as Art. III, §§ 9-41—9-43, was at the discretion of the editor. See also the Code Comparative Table.

(3) Located at a height of not less than six feet and not more than 12 feet final grade;

(4) Located so that no steps, displays, signs or other fixtures, or structural protrusions shall be located under the box which would allow intruders to access the box without assistance or hinder access to the box by the City of Rockmart Fire Department.

(c) Key lock box shall contain clearly labeled keys, tools and access codes for the following:

(1) Locked points of egress, whether on interior or exterior (master key, when available is preferred);

(2) Locked mechanical, machine and electrical rooms;

(3) Locked alarm room area(s) and alarm panel;

(4) Locked elevator(s);

(5) Locked fence(s) or secured gate(s);

(6) Necessary to reset pull stations;

(7) Any other areas as directed by the City of Rockmart Fire Department.

(d) Only owners, management companies, managers and other authorized personnel as approved by the City of Rockmart Fire Department may purchase key lock boxes.

(e) Any building owner or operator violating any provision of this article shall be subject to a fine of not more than $100.00 for every violation of this article. The existence of a violation for a period of up to 30 continuous days shall constitute a single violation.
(Ord. No. 2008O-08, § 1, 8-12-2008)

Chapter 10

HEALTH AND SANITATION*

Article I. In General

Article II. Wells and Cisterns

Article III. Reserved

Article IV. Nuisances

Article V. Clean Air

***State law references—**Authority to provide for public health facilities and services, Ga. Const. art. IX, § 2, ¶ III(a)(1); power of county board of health to adopt and enforce rules and regulations, O.C.G.A. § 31-3-4(a)(4); rules and regulations of local application, O.C.G.A. § 31-3-6; promulgation of rules, regulations and standards by department of human resources and county boards of health, O.C.G.A. § 26-2-373.

Article VI. Hazardous Substances

Article VII. On-Site Sewage Management Systems

Article VIII. Mosquito Control

Article IX. Vacant Structures

ARTICLE I. IN GENERAL

Sec. 10-1. Authority of county board of health.

The county board of health shall have full authority to adopt and enforce such rules and regulations as it may deem necessary for the protection of the health of the city, which promulgated rules shall apply within the city.

Sec. 10-2. Hospital authority—Declaration of need.

There is a need for a hospital authority to function in the city under the provisions of the Hospital Authorities Law (O.C.G.A. § 31-7-70 et seq.).
(Code 1976, § 10-2; Res. of 3-2-1954, § 1)

Sec. 10-3. Same—Created.

There is hereby created and constituted a public body corporate and politic to be known as the Rockmart-Aragon Hospital Authority with all rights, powers, privileges and immunities provided for in the Hospital Authorities Law (O.C.G.A. § 31-7-70 et seq.).
(Code 1976, § 10-3; Res. of 3-2-1954, § 2)

Sec. 10-4. Same—Trustees.

(a) The Rockmart-Aragon Hospital Authority shall consist of a board of trustees of nine members designated as Trustee No. 1, Trustee No. 2, Trustee No. 3, Trustee No. 4, Trustee No. 5, Trustee No. 6, Trustee No. 7, Trustee No. 8, and Trustee No. 9. Trustees numbered 1, 2 and 3 shall serve from March 2, 1954 until March 31, 1955; trustees numbered 4, 5 and 6 shall serve from March 2, 1954 until March 31, 1956; trustees numbered 7, 8 and 9 shall serve from March 2, 1954 until day of March 31, 1957. At the expiration of the original and initial terms of said trustees, their successors shall be elected for a term of three years each as herein provided.

(b) Trustees numbered 3 and 6 shall be succeeded by persons resident in the Aragon militia district of the county; the other numbered trustees shall be succeeded by persons who are residents of the city.

(c) In the event of a vacancy in the board of trustees, said vacancy shall be filled for the unexpired term of the trustee in the same manner as herein provided for the succession in the office of trustee.

(d) All trustees shall hold office until their successors are elected and qualified.

(e) The succession in the office of the board of trustees shall be by election of the board of trustees who shall make said election not more than 60 days nor less than 30 days before the expiration of the term of office of the several members of the board, except in the event of a vacancy in the office of trustee, which vacancy shall be filled within 30 days from the date of the vacancy.

(f) Each trustee shall before assuming the duties of his office, take an oath to well and faithfully perform the duties of said office.
(Code 1976, § 10-4; Res. of 3-2-1954, §§ 3—9)

Secs. 10-5—10-20. Reserved.

ARTICLE II. WELLS AND CISTERNS*

Sec. 10-21. Authority of county board of health.

The county board of health shall have full authority to adopt and enforce such rules and regulations as they may deem necessary for the protection of the health of the city.
(Code 1976, § 10-12; Ord. No. 1981-005, § 1, 3-10-1981)

Sec. 10-22. Health officer designated.

The county health officer is hereby designated as city health officer.
(Code 1976, § 10-13; Ord. No. 1981-005, § 1, 3-10-1981)

Sec. 10-23. Analysis of water.

The board of health shall have full authority to procure samples of water from any well or cistern kept or maintained within the corporate limits of

*__State law reference—__Water well standards, O.C.G.A. § 12-5-120 et seq.

the city, and to have same analyzed by any chemist or assistant employed by the state and to obtain reports of such analysis.
(Code 1976, § 10-14; Ord. No. 1981-005, § 1, 3-10-1981)

Sec. 10-24. Impure well to be ordered closed.

The board of health, or the health officer of the city, shall have the authority and power to close or cause to be closed any well or cistern in the city shown by any analysis to be in an unsanitary condition, or where the water therefrom is shown by any such analysis to be impure, and to forbid the use of water therefrom thereafter until the board of health shall grant the right to reopen said well or cistern and to resume the use of water therefrom.
(Code 1976, § 10-15; Ord. No. 1981-005, § 1, 3-10-1981)

Sec. 10-25. Penalty for violation of order to close.

Any person, property owner, or person in possession or control of any well or cistern within the limits of the city, violating any rule or requirement of the board of health ordering any such well or cistern closed, or prohibiting the use of water therefrom shall upon conviction be punished as prescribed in section 1-7 of this Code.
(Code 1976, § 10-16; Ord. No. 1981-005, § 1, 3-10-1981)

Sec. 10-26. Notice of result of analysis constitutes order.

Notice to any property owner or person in possession or control of premises having a well or cistern thereon of the result of the analysis of the water taken from such well or cistern shall be sufficient evidence of the requirement of the board of health in regard to the further use of water therefrom, and it shall be the duty of any property owner, tenant or other person in possession or control of the premises or well or cistern immediately to close the well or cistern and to cease the use of water therefrom, and any person using or permitting the use of water from any well or cistern shown to be unsanitary or unhealthful by such analysis, shall be punished as provided in section 1-7 of this Code.
(Code 1976, § 10-17; Ord. No. 1981-005, § 1, 3-10-1981)

Sec. 10-27. Wells to be covered.

It shall be unlawful for any person to be in possession or control of any unenclosed well or cistern, or well or cistern that is not capped sufficiently to prevent persons or animals from falling or getting therein.
(Code 1976, § 10-18; Ord. No. 1981-005, § 1, 3-10-1981)

Sec. 10-28. Report of existence of well.

All persons are hereby required to report to the city manager the fact that he owns or is in possession or control of a well, whether capped or unenclosed.
(Code 1976, § 10-19; Ord. No. 1981-005, § 1, 3-10-1981)

Sec. 10-29. Compliance with sewage discharge standards.

Nothing contained herein shall be deemed to allow the introduction into the sewer system of the city any substance, water or waste which fails to comply with the requirements of the sewage discharge standards of the city contained in article III of chapter 21 of this Code.
(Code 1976, § 10-20; Ord. No. 1981-005, § 1, 3-10-1981)

Sec. 10-30. No new wells authorized.

(a) It shall be unlawful for any person, firm or corporation to bore, drill or otherwise install any well within the corporate limits of the city. In order to promote the proper consumption of safe drinking water; together with the use of water for commercial and/or industrial purposes which can be properly treated and regulated by the city, the use of water from any new well within the corporate limits of the city for any residential, commercial and/or industrial purpose is strictly prohibited; subject only to the exception of subsection (b) of this section.

(b) In the event any person, firm or corporation is unable to use treated water from the city for an industrial purpose, due to some specific and well documented reason that the use of processed water of the city's drinking water system will permanently damage or injure certain equipment, processes, or other industrial uses of the water, the city council may, under certain agreements and regulations reached with any industry, allow a limited use of untreated raw water from a well. Any industry requesting an exception shall pay all costs associated with such studies, tests, or reports required by the city in any application to drill a well. Any untreated well water shall be analyzed pursuant to the general provisions of the Safe Drinking Water Act of the United States and any regulations of the department of human resources (environmental protection division and other such agencies) of the state which govern the use of this water and its ultimate discharge into the wastewater treatment system of the city. No wells shall be authorized for any commercial or residential purposes.

(c) Existing wells used presently for any residential, commercial and/or industrial purpose may, as of the effective date of the ordinance from which this section derives, remain in use, provided that the well was approved and operated pursuant to this article prior to the effective date of the ordinance from which this section derives. However, on and after this date, no new wells shall be authorized in the city, except for wells authorized for limited industrial purposes which comply with the provisions of subsection (b) of this section.
(Ord. No. 006-1998, § 1, 5-12-1998)

Secs. 10-31—10-50. Reserved.

ARTICLE III. RESERVED*

Secs. 10-51—10-80. Reserved.

*__Editor's note—__At the discretion of the editor, Art. III, §§ 10-51—10-56, was repealed to facilitate inclusion of Ord. No. 2009O-02, § 1, adopted April 14, 2009, as Ch. 22, Art. II, Div. 2, §§ 22-41—22-45. Former Art. III pertained to wellhead protection and derived from Ord. No. 002-2000, §§ 1—6, 3-14-2000. See editor's note at Ch. 22, Art. II, Div. 2, regarding new wellhead protection ordinance.

ARTICLE IV. NUISANCES†

Sec. 10-81. Definitions.

The following conditions may be declared to be nuisances:

(1) Stagnant water on premises;

(2) Any dead or decaying matter, weeds or vegetation over 12 inches in height, any fruit, vegetable, rodent, animal or animal waste or feces, upon premises which is odorous or capable of causing disease or annoyance to the inhabitants of the city;

(3) The generation of smoke or fumes in sufficient amount to cause odor or annoyance to the inhabitants of the city;

(4) The pollution of public water;

(5) Maintaining a dangerous or diseased animal or fowl;

(6) Obstruction of a public street, highway or sidewalk without a permit;

(7) Loud or unusual noises which constitute violations of chapter 12, article V, division 2;

(8) All walls, trees and buildings that may endanger persons or property;

(9) Any business or building where illegal activities are habitually and commonly conducted in such a manner as to reasonably suggest that the owner or operator of the business or building was aware of the illegal activities and failed to reasonably attempt to prevent those activities;

(10) Unused iceboxes, refrigerators and the like unless the doors, latches or locks thereof are removed;

(11) Any trees, shrubbery or other plants or parts thereof, which obstruct clear, safe vision on roadways and intersections of the city;

(12) Any junk or inoperable motor vehicles, motorcycles or similar apparatuses;

†__State law references—__Nuisances generally, O.C.G.A. title 41; abatement of nuisances, O.C.G.A. § 41-2-7 et seq.

(13) Junk motor vehicle parts, including, but not necessarily limited to, tires, batteries, motors, transmission parts, frames, exterior car pieces, or similar automobile parts;

(14) Buildings or dwellings which are hazardous to life or property by reason of the building's condition, contents, or nonhabitability; building code violations and/or similar unsafe, unsanitary, or dangerous conditions;

(15) Personal property of any kind or nature, including but not limited to personal property of a tenant on the real property of a landlord following eviction or dispossessory proceedings, which has been abandoned, situated, or maintained so as to constitute an unsafe, unsanitary, or dangerous condition;

(16) Any other condition constituting a nuisance under state law or the ordinance of the city.

(Ord. No. 2017O-05, § 1, 10-10-2017)

Sec. 10-82. Complaint of nuisance; hearing.

(a) Any official or inhabitant of the city may direct a complaint of nuisance to the city police department, who shall investigate and may place the complaint on the municipal court docket for a hearing upon the basis of the investigation. The court after a summons to the party involved, shall hold a hearing thereon and upon finding that a nuisance does exist shall issue an order to the owner or agent in control of or tenant in possession, stating that a nuisance has been found to exist and that the nuisance must be abated within so many hours or days as the judge shall deem reasonable, having consideration for the nature of the nuisance and its effect on the public.

(b) Animal control officers, license and building inspectors shall and may also receive complaints, investigate the same and place on the court docket such complaints in the same manner as police officers.

Sec. 10-83. Abatement by city.

(a) In any case where the owner, agent or tenant fails to abate the nuisance in the time specified, or where the owner, agent or tenant cannot be served with notice, or where the nature of the nuisance is such, in the opinion of the judge that it must be immediately abated, the judge may issue an order to the chief of police directing the nuisance to be abated. The chief of police in such case shall keep record of the expenses and cost of abating same, and the costs shall be billed against the owner, agent or tenant for collection as for city revenues.

(b) Other city departments shall assist the chief of police as is necessary in abating nuisances hereunder.

Sec. 10-84. Nuisance per se, exception; summary abatement.

Nothing contained in this article shall prevent the mayor, after consultation with the manager and city council, from summarily and with minimal notice, as set forth in section 10-85 hereof, from ordering the abatement or partial abatement, as may be necessary, of any condition which is a nuisance per se in the law; or where the nuisance presents such exigent circumstances that the public health, safety, and/or welfare of the citizens of Rockmart or the surrounding community is endangered; or where any portion of the citizens of the community may be in some threat of imminent harm and/or danger.

Sec. 10-85. Service of notice.

(a) In connection with summary abatement pursuant to section 10-84, the chief of police or his designee shall attempt personally or by phone, e-mail, facsimile, or some intermediate method of notification, to provide notice to the owner, occupant, and/or person, firm, or corporation that allegedly is creating, a party to, or otherwise may be involved with any such nuisance per se and/or similar nuisance that may require summary abatement.

(b) Except in the case of such exigent circumstances, service of notice to abate a nuisance shall be accomplished by personal service within

the State of Georgia, certified or registered mail to the last known address of a non-resident citizen, together with personal notice to any occupant, tenant, or other party in possession of any property or area which may be subject to the potential abatement of a nuisance.

Sec. 10-86. Persons authorized to perform the removal or abatement of the nuisances.

After a nuisance has been ordered to be abated or removed, as provided in this section, it may be removed or otherwise abated by any employee or agent designated by the city manager.

Sec. 10-87. Violations.

It is hereby declared to be an offense for any owner, agent or tenant to maintain or allow a nuisance to exist. Each day a nuisance is continued shall constitute a separate offense.

State law reference—Failure to abate nuisance after order to do so, O.C.G.A. § 41-1-6.

Sec. 10-88. Costs of abatement of violation.

(a) Within 30 days after abatement of the violation, the owner of the property will be notified of the cost of abatement, including administrative costs.

(1) The property owner may file a written protest objecting to the assessment or to the amount of the assessment within ten days of such notice.

(2) If the amount due is not paid within 30 days after receipt of the notice, or if an appeal is taken, within 30 days after a decision on said appeal, the charges shall become a special assessment against the property and shall constitute a lien on the property for the amount of the assessment.

(b) Any person or business shall be liable to the city for the total amount of all costs and expenses incurred by the city in abating a violation.

Sec. 10-89. Collection by execution of cost of abatement of nuisance.

Where any person ordered to do any work for the purpose of abating a nuisance has failed or refused to do that work, and the work has been done by the employees or the agents of the city, the cost thereof may be collected by execution against that person and that person's property. Each execution shall be prepared by the department charged with the duty of abating or removing the nuisance, shall be signed by the city clerk and shall be delivered to the appropriate revenue collection administrator for collection as other executions are collected.

Secs. 10-90—10-110. Reserved.

ARTICLE V. CLEAN AIR

Sec. 10-111. Definitions.

For the purposes of this article, the following terms, phrases and words shall have the meanings given in this section unless the context clearly indicates otherwise:

Air pollution means the presence in the outdoor atmosphere of sufficient quantities of one or more air contaminants to injure, or to present a substantial danger of injuring, human health, plant or animal life or health, or property, or would injure or endanger property values or enjoyment of property.

Building official means the building official of the city, his agents or other city employees (including the city manager) who may be involved in any action concerning enforcement of this article.

Dust means solid particulate matter released into or carried in the air by natural forces, by any combustion, construction work, mechanical or industrial processes or devices.

Emission means the discharge of air contaminants.

Equipment malfunction means any departure from normal operating procedures which result in the temporary emissions of pollutant above the standards set forth in this article.

Existing source means an air contaminant source which is in being on the effective date of the ordinance from which this article derives.

Fuel burning equipment means any equipment, device, or contrivance and all appurtenances thereto, including ducts, breaching, fuel feeding equipment, ash removal equipment, combustion controls, stacks and chimneys, used primarily to burn any fuel for the purpose of indirect heating in which the material being heated is not contacted by, and adds no substance to the products of combustion.

Fugitive dust means solid airborne particulate matter emitted from any source other than the stack of a chimney.

Mist means a suspension of any finely divided liquid except unadulterated water in any gas or atmosphere.

New source (installation or equipment) means an air contaminant source which is not completed and ready for use on the effective date of the ordinance from which this article derives and any existing source which is altered, replaced, or rebuilt after the effective date of the ordinance from which this article derives such that the amount of air contaminant emissions is increased.

Opacity means the degree to which an emission of an air contaminants obstruct the transmission of light expressed as the percentage by which the vision is obstructed.

Open burning means the burning of combustible materials in such a manner that the products of combustion are emitted directly to the outside atmosphere.

Organic materials means chemical compounds of carbon excluding carbon monoxide, carbon dioxide, carbonic acid, metallic carbides, metallic carbonates, and ammonium carbonate.

Particulate matter means any matter, except unadulterated water, that exists in a finely divided form as a liquid or solid.

Process equipment means any equipment, device or contrivance for changing any material or for the storage or handling of any materials, the use or existence of which may cause any discharge of air contaminants into the open air, but not including that equipment specifically defined as fuel-burning equipment.

Smoke means any gas-borne or airborne particles resulting from combustion operations and consisting of carbon, ash and other products of combustion any or all of which is present in sufficient quantity to be observable.
(Ord. No. 002-1995, § 1(10.38), 9-12-1995)

Sec. 10-112. Zoning and planning reports.

(a) The building official shall gather and supply to the planning commission as necessary, facts concerning air pollution, which may pertain to any zoning and planning to be accomplished in the city. Notice of all proposed zoning changes, land use plans, site plans, or similar changes shall be given to the building official by the planning commission; or through initial requests by the building official, at least ten days prior to any public hearing or planning commission meeting in which a change is to be considered.

(b) The building official may make such report, after studying the effect (if any) that the proposed change, zoning plan, or similar activity, may have on the community's atmosphere. The building official shall consider such factors as meteorology, topography, the nature of any proposed change, the area in which the change is to be made and any and all other pertinent facts regarding pollution of the community's atmosphere. Any report and recommendation of the building official shall be given in writing to the planning commission, with a copy to the applicant; or at any public hearing in which the application is considered.
(Ord. No. 002-1995, § 1(10.38.1), 9-12-1995)

Sec. 10-113. Building permits.

The building official's office shall not issue a permit for occupancy, erection, construction, reconstruction, or alteration of any commercial, industrial or residential project (especially a multifamily project or structure), when the plans and specifications for any such structure, use or occupancy include any fuel-burning or refuse-burning equipment, any smokestack, or any operation which might result in the omission of

fugitive dust, smoke, fumes or similar emissions until such plans and specifications have been submitted to the building official for review, comments, modification, rejection or approval. Further, no building permit shall be issued by the building official if a finding is made that any emissions, fumes, fugitive dust or similar operations on the property from any building, structure, or storage facility violates (or could potentially violate) the provisions of this article. Failure of the building official to approve or reject any plans, specifications or other material furnished to him within 30 days shall be deemed approval.
(Ord. No. 002-1995, § 1(10.38.2), 9-12-1995)

Sec. 10-114. Air contaminant emissions prohibited; deemed a public nuisance.

No person shall cause or allow the discharge, emission or release into the atmosphere from any source whatsoever of such quantities of air contaminant or other material as may cause injury, endanger health, damage property, or affect public health, well being or safety. Such quantities shall be deemed a public nuisance and subject to penalty as hereinafter provided.
(Ord. No. 002-1995, § 1(10.38.3), 9-12-1995)

Sec. 10-115. Listing of devices and equipment.

(a) Upon written request by the building official, any person, firm or corporation constructing, operating or planning to operate in any manner any article, machine, device, equipment, storage facility, tank, pond, or similar contrivance or facility capable of causing or permitting any type of emissions into the outside atmosphere shall list said contrivance or device with the building official. The building official must approve said device, method of emission, and any similar matters related thereto as a part of the permit application and approval process within the city. Such list shall include information as to the ownership, location, design, construction, installation, operation and any alteration of any article, machine, device, equipment, contrivance or facility and information concerning the general composition thereof. Further, any and all such other pertinent information, which may result from the initial review of this material or of any matters furnished to the city, shall also be furnished to building inspection.

(b) Registration of potential air contamination.

(1) The owner or operator of any potential air contaminant source on the effective date of the ordinance from which this regulation is derived shall at such time as requested, file with the director information as to the nature of the air contaminant source including such information as would be needed or useful in evaluating the potential of the source for causing air pollution.

(2) The following information may be included for each source: total weight of the contaminant released per day; periods of operation; composition of the contaminant; physical state of the contaminant; temperature and moisture content of the air or gas stream at the point where released into the atmosphere and such other information as may be specifically requested by the director. Where an air- or gas-cleaning device is incorporated in the air or gas stream preceding discharge to the atmosphere, the weight of material removed by the cleaning device, as well as the weight emitted, shall be stated.

(c) Any equipment, device, storage facility or similar structure as defined in this section, or as otherwise defined in this article, shall not be maintained in such a manner that a nuisance is created. Nothing in this section relating to the regulation of air contaminants, nor any permit granted hereunder, shall in any manner be construed as authorizing or permitting the creation or maintenance of a nuisance.

(d) Emissions exceeding any of the limits established in this article, which are a direct result of any unusual conditions, malfunction or other, operational problems with, or any manner related to, any process, equipment, device, machine or facility controlled under this article, shall be considered a violation of this article. The building official shall have the authority to

stop, abate, control, suspend, place on probation or cause a technical violation, or exercise such other reasonable remedies, as may be necessary concerning

the devices or equipment used pursuant to this article, which cause emissions to the atmosphere within the city.

(e) No person, firm or corporation, shall build, erect, install, or use any article, equipment, device or other contrivance, the sole purpose of which is to conceal an unlawful emission without resulting in a reduction of the total release of air pollutants into the atmosphere.
(Ord. No. 002-1995, § 1(10.38.4), 9-12-1995)

Sec. 10-116. Smoke or other visible emissions, stationary sources.

(a) *Prohibited.* No owner shall cause, suffer, allow or permit the discharge into the outdoor atmosphere, from any source, visible emissions of greater than 20 percent opacity.

(b) *Exceptions.*

(1) When starting a new fire or flowing tubes or cleaning a firebox, a person may discharge into the atmosphere from any source emissions not greater than 60 percent opacity for brief periods not to exceed six minutes in any 60-minute period.

(2) The limits of subsection (a) of this section shall not apply when the opacity of the visible emissions is due to the presence of uncombined water.

(3) The limits of subsection (a) of this section shall not apply during periods of start up, shutdown and malfunction.

(c) *Traffic hazard.* No person shall discharge from any source whatsoever such quantities of air contaminants, uncombined water, or other materials which may cause a traffic hazard.
(Ord. No. 002-1995, § 1(10.38.5), 9-12-1995)

Sec. 10-117. General particulate emissions; state law.

No person, firm or corporation operating any residential, commercial and/or industrial facility which has an emission, as defined by this article, shall violate any air quality permit granted to said entity by the state. Further, any and all state statutes, regulations for air quality, or similar regulatory matters which deal with emissions into the atmosphere within the city are incorporated herein, and made a part of this article by reference.
(Ord. No. 002-1995, § 1(10.38.6), 9-12-1995)

Sec. 10-118. Objectionable odors.

(a) *Definitions*. The following words, terms and phrases when used in this article, shall have the meanings ascribed to them in this section, unless the context clearly indicates otherwise:

Odor means that property of an air contaminant that affects the sense of smell.

Odor concentration means the number of cubic feet that one cubic foot of sample will occupy when diluted to the odor threshold; that is, at further dilution no odor is detectable to the human nose. It is a measure of the number of odor units in one cubic foot of the sample and is expressed in odor units per cubic foot.

Odor unit means the quantity of any odorous substance or any mixture of odorous substances which when completely dispersed in one cubic foot of odor-free air, produces a threshold odor detection response in humans.

(b) *Prohibitions.* No person shall cause, suffer or allow the discharge from any device, machine, equipment, building, commercial operation or other facility of any gases, vapors, or gas-entrained effluents unless these emissions are controlled in such a manner as to abate any objectionable odor nuisance.

(c) *Objectionable odor nuisance determination.* An objectionable odor nuisance exists when an inspector, upon the receipt of a complaint, determines that the odor exists in the following concentrations:

(1) Odor is detectable in the ambient air after it is diluted with two or more volumes of odor-free air in areas on or adjacent to residential, recreational, institutional, retail sales, hotel or educational premises.

(2) Odor is detectable in the ambient air after it is diluted with 31 or more volumes of odor-free air in areas on or adjacent to industrial premises.

(3) Odor is detectable in the ambient air after it is diluted with seven or more volumes of odor-free air in areas on or adjacent to premises other than those mentioned above.

(d) *Location where measurement to be taken.* Any odor level measurements taken to arrive at a determination that an objectionable odor nuisance exists shall be at or near locations where human activity takes place but on or beyond the property line of the source where the odor is emitted.

(e) *Two positive determinations required.* For an objectionable odor nuisance to exist two positive determinations must be made by the building official at the required dilution in any one-hour period and at intervals of not less than 15 minutes.

(f) *Testing procedures.* Odor measurements may be made by use of the scentometer; by odor panel; or by other procedures approved by the building official and generally accepted by persons knowledgeable in the state of the art.

(g) *Determination of compliance.* In order to determine if a proposed facility will meet the limitations required by subsection (c) of this section, the ambient air odor concentration may be determined by the use of appropriate atmospheric diffusion estimates or any other suitable method as accepted by the building official from the estimates of odor concentration of the sources to be installed.
(Ord. No. 002-1995, § 1(10.38.7), 9-12-1995)

Sec. 10-119. Incinerators, open burning prohibited.

(a) It shall be unlawful for any person to operate an incinerator, of any type whatsoever, which discharges into the outdoor atmosphere smoke, particulates, or odors.

(b) No owner shall kindle or ignite, cause to be kindled or ignited, or maintain any open fire in any public or private place outside any building except as provided in subsection (e) of this section; however, such exceptions shall not allow the burning of rubber tires, asphaltic materials, crankcase oil, impregnated wood, or similar materials which produce dense smoke operations by open burning.

(c) Open burning under the exceptions of subsection (e) of this section does not exempt or excuse a person from the consequences, damages or injuries which may result from such conduct, nor does it excuse or exempt any person from complying with all applicable laws, ordinances, regulations and orders of the governmental entities having jurisdiction, even though the open burning is conducted in compliance with subsection (e) of this section.

(d) All open burning permitted under subsection (e) of this section shall be immediately terminated upon the declaration by a competent authority that the alert stage of an air pollution episode has been reached.

(e) Exceptions.

(1) Open fires may be set in performance of an official duty of any public health or safety officer, after notification of, and approval by, state and local air pollution control agencies, if the fire is necessary for one or more of the following reasons or purposes:

a. Prevention of a fire hazard which cannot be abated by other means.

b. Instruction of public firefighters under the supervision of a designated fire marshal.

c. Protection of public health.

(2) Fires may be used for cooking of food, provided no smoke violation or other nuisance is created.

(3) Open fires may be set for recreational purposes or for ceremonial occasions, provided no smoke violation or nuisance is created.

(4) The open burning of leaves and other organic yard debris, including trees and shrubbery trimmings not exceeding three inches in diameter, originating on the premises of individuals domiciled on the premises shall be permitted, provided no

hazardous or increased air pollution problems, are created, upon the following conditions:

a. The location of the burning shall be no less than 100 feet from any occupied building, unless written permission is obtained from the owner or adult occupants of all such buildings.

b. At no time shall the fire be unattended.

c. All forest fire laws of the state shall be complied with.

(5) Salamanders or other devices providing good combustion may be used for heating by construction or other workers, provided no smoke violation or other nuisance is created.

(6) For the clearing of land, provided a permit is first obtained from the building official and the state fire marshal (if applicable), and further provided that no nuisance is created by smoke. This type of open burning shall be conducted under conditions and limitations established by the state building official. Such open burning shall be conducted under conditions and limitations established by these state and/or local officials.

(7) Exclusions.

a. Nothing in this section shall be construed to prohibit the construction, reconstruction, repair or use of any interior fireplace of residential character for residential-type uses of heat, light or display.

b. This section does not apply to open burning using devices specifically designed to provide controlled conditions reducing the emission of contaminants resulting from combustion. All such devices and their locations shall be approved by the medical director or his designated representative prior to installation.

c. Where alternate means of disposal are not economical or practical and when it is in the best interest of the citizens of the city, the medical director with the concurrence of the state air pollution control board may permit open burning to dispose of debris caused by floods, tornadoes, hurricanes or other natural disasters under such conditions as may then be prescribed by the state air pollution control board.

(Ord. No. 002-1995, § 1(10.38.8), 9-12-1995)

Sec. 10-120. Malfunction of equipment and emergency conditions.

(a) *Purpose.* It is the purpose of this article to control air pollution during irregularities and malfunction of equipment and during emergency conditions.

(b) *Scheduled maintenance.* In the case of shut down of air pollution control equipment for necessary scheduled maintenance, the person responsible for this equipment shall report the intent to shut down such equipment to the building official at least 24 hours prior to any planned shutdown. Such prior notice shall include, but is not limited to the following:

(1) Identification of the specific facility to be taken out of service as well as its location and permit number.

(2) The expected length of time that the air pollution control equipment will be out of service.

(3) The nature and quantity of emissions of air contaminants likely to occur during the shutdown period.

(4) Measures such as the use of off-shift labor and equipment that will be taken to minimize the length of the shutdown period.

(5) The reasons that it would be impossible or impractical to shut down the source operation during the maintenance period.

(6) If the estimated or actual duration is greater than 72 hours, application shall be made for a variance from this article prior to any shut down.

(c) *Equipment malfunction*. In the event that any emission source, air pollution control equipment, or related facility malfunctions in such a manner as to cause the emission of air contaminants in violation of this article, the person responsible for such equipment shall immediately notify the director of such failure or breakdown and provide a statement giving all pertinent facts, including the estimated duration of the breakdown. The director shall be notified when the condition causing the failure or breakdown has been corrected and the equipment is again in operation. If the estimated or actual duration is greater than 72 hours, application shall be made for a variance.

(d) *Emergency provisions.* In the event that an air pollution emergency exists, the person in charge of the facility shall notify the director immediately. Notwithstanding any other provisions of this article, the director, upon receipt of evidence that a source of pollution or a combination of sources of pollution presents an air pollution emergency shall take such action as may be necessary to abate the pollution from the enforcement of this article.
(Ord. No. 002-1995, § 1(10.38.9), 9-12-1995)

Sec. 10-121. Control of fugitive dust.

(a) *Generally.* No person shall cause or permit the handling, transporting or disposition of any substance or material which is likely to be scattered by the air or wind, or is susceptible to being airborne or wind-borne; or operate or maintain or cause to be operated or maintained, any premises, open area, right-of-way, storage pile of materials, vehicle or construction, alteration, demolition or wrecking operation, or any other enterprise, which involves any material or substance likely to be scattered by the wind or air; or susceptible to being wind-borne or airborne that would be classified as air pollution, without taking reasonable precautions or measures to minimize atmospheric pollution.

(b) *Precautions.* The building official may require such reasonable precautions which may include, where applicable, but shall not be limited to, the following:

(1) Use, where possible, of water or chemicals for the control of dust in the demolition of existing buildings or structures, construction operations, the grading of roads, driveways and parking lots or the clearing of land;

(2) Application and maintenance of asphalt, road oil, water or suitable chemicals on dirt roads, driveways and parking lots, materials, stockpiles and other surfaces which can be the source of airborne dust;

(3) Installation and use of hoods, fans and dust collectors to enclose and vent the handling of dusty materials or the use of water sprays or other acceptable measures to suppress the dust emission during handling. Adequate containment methods shall be employed during sandblasting or other similar operations;

(4) Covering, at all times when in motion, open-bodied trucks transporting materials likely to become airborne;

(5) The prompt removal of earth or other material from paved roads, driveways and parking lots on which said earth or other material has been deposited by trucking, earth moving equipment or erosion by water;

(6) The planting and maintenance of vegetative ground cover.

(c) *Damage to adjacent properties.* No person shall cause or permit the discharge of any visible fugitive dust emissions beyond the property line on which the emissions originate in such a manner as to damage or to interfere with the use of adjacent properties, or the maintenance or attainment of ambient air quality standards, nor to create a nuisance.
(Ord. No. 002-1995, § 1(10.38.10), 9-12-1995)

Sec. 10-122. Control of emissions or organic material.

(a) *Scope.* This section covers the emission of organic material from stationary sources.

(b) *Storage.* No person shall build, sell, install, operate or permit the building, installation or operation of any stationary, permanent organic material storage tank with a capacity greater

than 250 U.S. gallons unless such tank is bottom filled or is equipped with a permanent submerged fill pipe (drop tube) and tight-fill cap or is equipped with an organic material vapor recovery system properly installed and operated.

(c) *Loading.* All loading of the above organic material storage tank shall be conducted by tight-fill.

(d) *Exemptions.* The above requirements will not apply to:

(1) Methane (CH_4).

(2) Any organic material with a vapor pressure less than 1.5 P.S.I.A. under actual storage temperatures and pressure.

(3) Crude oil defined as follows: Produced, nonrefined hydrocarbon which has a gravity equal to or less than 50 degrees API at 60 degrees Fahrenheit as measured in the stock tank and when flashed to the atmospheric stock tank from the final lease separator and/or tracing facility loses no more than 1.5 percent of the stock tank volume or 25 standard cubic feet per barrel of stock tank oil.

(4) The storage or loading of organic materials used for agricultural purposes on farms or ranches.

(e) *Permits.*

(1) *Required.* No person shall cause or permit the installation or construction of an organic material storage tank without first obtaining a permit to install or construct from the city building official. The building official will provide application forms and instructions for completing same. Each application must be signed by the applicant. This signature shall constitute an agreement that the applicant will assume responsibility for the construction, modification or use of the source concerned in accordance with applicable ordinances and requirements. The applicant shall notify the building official for the construction inspection prior to operating the source.

(2) *Installation or construction.* The building official shall issue a permit to install or construct within ten days of receipt of an application if the applicant shows to the satisfaction of the building official, that the source is designed and will be installed or constructed to operate without causing a violation of applicable federal, state and local law.

(3) *Operation.* The building official shall issue a permit to operate within 30 days after an inspection has determined that the source is constructed and operated according to applicable federal, state and local law.

(Ord. No. 002-1995, § 1(10.38.11), 9-12-1995)

Sec. 10-123. Control of air pollution from sulfur compounds.

(a) *Limitation of ambient conditions.* No person shall cause, suffer, allow or permit the emission of sulfur compounds from any premises in such a manner and amounts that the concentrations attributable to such emissions exceed the following at any place beyond the boundary of the property on which the source is located:

$S0_2$

1350 ug/m^3, 3 minutes

1200 ug/mg^3, 1 hour

650 ug/m^3, 3 hours

130 ug/m^3 (.05 ppm), 24 hours

H_2SO^4 and/or SO_3 in any combination calculated as H_2SO_4

10 ug/m^3 ($2.45\times10\text{-}^3$ppm)

H_2S

70 ug/m^3 (.05ppm)

Determination of violations may be made either by ambient air monitoring at the property line on which the source is located or by atmospheric diffusion modeling; testing procedures, diffusion models and equipment, to determine whether or not emissions standards required by this article are met. All such monitoring shall be approved by either the state or the building official of the city, state approval of monitoring shall be adopted to the city standard.

(b) *Emission limitation from point sources.* No person shall cause, suffer, allow or permit the discharge into the atmosphere of sulfur compounds from any stack, vent or other such exhaust system, in excess of the following:

(1) Existing installations:

SO_2

5.32 g/m^3 (2,000 ppm)

H_2SO_4 and/or SO_3 in any combination calculated as H_2SO_4

70 mg/m^3 (17 ppm)

H_2S

140 mg/m^3 (100 ppm)

(2) New installations:

SO_2

1.3 g/m^3 (500 ppm)

H_2SO_4 and/or SO_3 in any combination calculated as H_2SO_4

50 mg/m^3 (12.3 ppm)

H_2S

140 mg/m^3 (100 ppm)

Where:

G=grams

mg=milligrams

ug=micrograms

ppm=parts per million

Testing procedures and equipment to determine whether or not emissions standards required by this article are met shall be approved by the director.

(c) *Specific new source process weights limitations.* No person shall cause, suffer, allow or permit the emission of sulfur compounds into the atmosphere from the following specific new sources in excess of the amounts shown below:

(1) Sulfuric acid plants.

(2) SO_2-2kgm per metric ton (four pounds per ton) of H_2SO_4 produced, the total production being expressed as 100 percent H_2SO_4.

(3) H_2SO_4-.075 kgm per metric ton (0.15 pounds per ton) of acid produced, the production being expressed as one hundred percent H_2SO_4.

(4) Visible emissions of one-fourth Ringelmann (five-percent opacity).

(5) Fuel-burning equipment.

a. SOx measured as SO_2-.36 gm/10^6 calories (0.2 pound/10^6 Btu), heat input derived from gaseous fossil fuel.

b. SOx measured as SO_2-1.4 gm/10 calories (0.8 pound/10^6 Btu), heat input derived from liquid fossil fuel.

c. SOx measured as SO_2-2.2 gm/10 calories (1.2 pound/10^6 Btu), heat input from solid fossil fuel.

d. Where different states of fuels are burned simultaneously, the following formula will apply:

$$\frac{x\ (.36) + y\ (1.4) + z\ (2.2)}{x + y + z} = \text{Total Heat Input}$$

Where:

x is the percent of total heat input derived from gaseous fuels.

y is the percent of total heat input derived from liquid fuels.

z is the percent of total heat input derived from solid fuels.

(6) Nonferrous smelters. The emission of sulfur oxides, calculated as sulfur dioxide, from new nonferrous smelters is restricted according to the following equations as a maximum two-hour average:

a. Copper smelters: Y=0.2X

b. Zinc smelter: $Y=0.564X_0.85$

c. Lead smelters: $Y + 0.98X_077$

Where X is the total sulfur fed to smelter (lb/hr).

Where Y is the sulfur dioxide emissions (lb/hr).

(d) *Hydrogen sulfide emission limit from new petroleum or natural gas processing equipment.* No person shall cause, suffer or allow the discharge into the atmosphere of hydrogen sulfide

from any new petroleum or natural gas processing equipment without removal of the hydrogen sulfide from the exhaust gas or oxidizing it to sulfur dioxide in a system which ensures at all times, complete combustion of the hydrogen sulfide, with the exhaust gas then being emitted from a stack at least 50 feet in height. Efficiency of these removal or oxidation systems shall not allow emission of more than 0.3 pound per hour of hydrogen sulfide as two-hour maximum, with a maximum efficiency required of 95 percent and minimum efficiency required of 90 percent of the hydrogen sulfide in the exhaust gas, from any plant.

(e) *Applicability.* In any situation in which more than one requirement of this regulation is applicable, the more restrictive provision shall govern.
(Ord. No. 002-1995, § 1(10.38.12), 9-12-1995)

Sec. 10-124. Carbon monoxide.

(a) *Emission limits.* The emission of carbon monoxide from any foundry cupola, blast furnace, basic oxygen furnace, catalytic cracking unit, or other petroleum or natural gas process except stationary engines shall be reduced by use of complete secondary combustion of the waste gas generated. Removal of 93 percent or more of the carbon monoxide generated will be considered to be complete secondary combustion.

(b) *Performance testing.* Testing of equipment to determine if emission standards set in this regulation are met shall be performed by procedures as accepted by the director. Promulgated federal testing procedures for similar processes will be considered in making the determination of procedures to be used.
(Ord. No. 002-1995, § 1(10.38.13), 9-12-1995)

Sec. 10-125. Nitrogen oxides.

(a) *Fuel combustion.*

(1) No person shall cause, suffer or allow emissions of nitrogen oxides calculated as nitrogen dioxide from any new gas-fired fuel-burning equipment with a rated heat input of 50,000,000 BTU per hour or more, in excess of 0.20 pound per 1,000,000 BTUs (0.34 grams per 1,000,000 gram-calorie) heat input, two-hour maximum.

(2) No person shall cause, suffer or allow emissions of nitrogen oxides calculated as nitrogen dioxide from any new liquid-fired fuel-burning equipment with a rated heat input of 50,000,000 BTUs per hour or more, in excess of 0.30 pound per 1,000,000 BTUs (0.54 grams per million gram-calorie) heat input, two-hour maximum.

(3) No person shall cause, suffer or allow emissions of nitrogen oxides calculated as nitrogen dioxide from any new solid fossil fuel-burning equipment with a rated heat input of 50,000,000 BTUs per hour or more, in excess of 0.70 pound per 1,000,000 BTUs (1.26 grams per million gram-calorie) heat input, two-hour maximum. No person shall cause, suffer or allow any visible emissions from new nitric acid plants.

(b) *Performance testing.* Testing of equipment to determine if emission standards set in this regulation are met shall be performed by procedures as accepted by the director. Promulgated federal testing procedures for similar processes will be considered in making the determination of procedures to be used.
(Ord. No. 002-1995, § 1(10.38.14), 9-12-1995)

Sec. 10-126. Continuous monitoring of emissions, recording and reporting.

The building director may require the owner or operator of any air contaminant source to:

(1) Install, use and maintain continuous monitoring equipment, in situ, the design, method and calibration for which the building official shall approve.

(2) Sample and report emissions, in accordance with methods which the building official shall prescribe.

(3) Establish and maintain records of monitoring and data which shall be prepared and calculated daily, in units approved by

the building official or make the record of any state monitored testing available, as requested, to the building official.

(4) Make records and data available to the building official at any reasonable time.

(Ord. No. 002-1995, § 1(10.38.15), 9-12-1995)

Sec. 10-127. Sampling, testing and reporting.

(a) The building official may conduct tests of emissions of air contaminants from any source. Upon request of the city, the person responsible for the source to be tested shall provide necessary ports in stacks or ducts to provide compliance with procedures approved by the building official, and such other safe and proper sampling and testing facilities, including but not limited to, scaffolding and access but exclusive of instruments and sensing devices as may be necessary for proper determination of the emission of air contamination.

(b) The building official may require the owner or operator responsible for emissions of air contaminants to conduct tests of such emissions. Such tests shall be conducted, performed and reported in accordance with methods the building official shall prescribe.

(1) A pretest plan shall be submitted to the building official 20 working days prior to the proposed test date. Written approval or disapproval of a pretest plan shall be completed within not more than ten working days after receipt of the plan.

(2) The building official will furnish self-duplicating data sheets to the person responsible for performing each test. These data sheets must be completed during the sample and the duplicate copy given to the city's on-site representative immediately upon completion of each test run.

(Ord. No. 002-1995, § 1(10.38.16), 9-12-1995)

Sec. 10-128. Hearings.

Any person, firm or corporation aggrieved of any decision by the building official under this article may have a hearing before the city board of zoning appeals. The request for a hearing must be in writing and served upon the building official within ten days of the action complained of. The board of zoning appeals shall hold a hearing within 30 days of the receipt of the request for a hearing. The board of zoning appeals may affirm, reverse or modify any decision made by the building official. The decision by the board of zoning appeals shall be final.

(Ord. No. 002-1995, § 1(10.38.18), 9-12-1995)

Sec. 10-129. Penalties for violations of article.

Any person, firm or corporation violating any provision of this article shall be subject to section 1-7 of this Code, the general penalty provisions of the Code, as they from time to time may hereafter be amended, modified or altered. Further, in the event any provisions of state law allow for cumulative penalties, enforcement requirements or actions as a result of any violations of this article, state laws, regulations and provisions shall have full force and effect in the city, as if separately adopted herewith. Each day of any violation of this article shall be considered a separate offense under this article.

(Ord. No. 002-1995, § 1(10.38.19), 9-12-1995)

Secs. 10-130—10-180. Reserved.

ARTICLE VI. HAZARDOUS SUBSTANCES

Sec. 10-181. Prohibited activities.

This article, within the corporate limits of the city, shall prohibit the following conditions, operations or actions:

(1) *Discharge defined; prohibited.* No person, firm, owner, operator or other party shall discharge, or cause or commit the discharge of a hazardous substance, as that term is defined by the United States Environmental Protection Agency, and statutes promulgated by the federal government under said authority. This shall include CERCLA and RICA and any definitions promulgated in the federal register pursuant to said federal acts; or similar defined terms or conditions, which are contained in these federal acts dealing

with the protection of the environment. No such discharge to the soil, groundwater, surface water or atmosphere of the city shall occur.

(2) *Permit required.* Any discharge permitted by the United States Environmental Protection Agency (EPA) or the state environmental protection division (EPS), shall be pursuant to an authorized permit. All regulations, conditions and controls set forth in any permit concerning industrial wastewater treatment, air pollution control regulations, or any similar such discharge shall be fully applicable to all operations or any person, firm or corporation involving the storage, use and/or disposal of hazardous substances within the corporate limits of the city.

(3) *Knowledge of discharge to be reported.* Any person, firm or corporation knowing or having evidence of any discharge of hazardous substances shall report such information to the building official of the city.

(Ord. No. 003-1995, § 1, 9-12-1995)

Sec. 10-182. Abandonment, etc., of facility.

No person shall construct, modify, install, replace, operate, abandon or close a hazardous waste storage, treatment, or disposal facility or transport hazardous waste in conjunction with the operation of such a facility within the city. Further it shall be unlawful for any person to attempt to abandon any facility, structure or area in which hazardous materials may be stored, so as to create a hazardous waste condition, storage area, or disposal area within the corporate limits of the city.

(Ord. No. 003-1995, § 2, 9-12-1995)

Sec. 10-183. Transportation of hazardous substances.

It shall unlawful for any person, firm, corporation, owner or operator to transport, park or store a cargo of over 100 gallons; or over 1,000 pounds, of hazardous materials anywhere within the city, subject only to the following exceptions:

(1) Hazardous materials may be transported to, and stored by a large consumer of such materials, if that person, firm or corporation has first applied to the city council for an exception and variance from the conditions of this article. Any such exception shall specifically set forth the nature and rights of transportation, storage or similar matters within the corporate limits of the city.

(2) Nothing contained herein shall effect transportation through the city when the point of destination is not within the corporate limits. Further, this prohibition shall not affect retail outlet establishments, butane or propane deliveries to a residential customer, swimming pool deliveries, or deliveries to a municipal or county water, sewer plant or similar facility.

(Ord. No. 003-1995, § 3, 9-12-1995)

Sec. 10-184. Violation of article; penalty.

Any person, firm, corporation, owner or operator that violates any of the terms, provisions or conditions of this article shall be punished pursuant to the general penalty section of the Code, presently codified as section 1-7. Each day of said violation shall be considered a separate offense.

(Ord. No. 003-1995, § 4, 9-12-1995)

Secs. 10-185—10-205. Reserved.

ARTICLE VII. ON-SITE SEWAGE MANAGEMENT SYSTEMS

Sec. 10-206. Authorized; permit.

(a) No permit shall be issued by the city to build or rebuild any dwelling, house, apartment, apartment house, storehouse, manufacturing plant, or any other building where a sanitary sewerage connection cannot be made to the sewerage system of the city without any extension of such sewerage system or any sewerage line thereof; provided, however, that such permit may be granted if the owner of the building to be constructed or rebuilt shall state in his application for the permit that he will, at his expense and before the building is used or occupied, install for the use of the building an underground septic tank or other

underground sewage disposal system that will meet all health and sanitation requirements of the city and the state.

(b) It shall be unlawful for any person to commence the building or rebuilding of any building named in this section without having first obtained the permit referred to in this section.

Sec. 10-207. Size of tank.

Any septic tank installed in the city as an individual sewage disposal system shall be no less than a 735-gallon tank for a two- or three-bedroom house and no less than a 960-gallon tank for a four- or five-bedroom house.

Sec. 10-208. Nitrification field; percolation test.

The nitrification field shall be at least 250 square feet per bedroom, except where a percolation test is performed by a registered engineer or surveyor and if the nitrification field shall be in accordance with the results of the test, a copy of which shall be filed with the city clerk.

Sec. 10-209. Approval by county health department.

Prior to the installation of any septic tank as provided in this article within the city, the health department of the county will be notified by the builder so that the health department may inspect and approve the individual sewage disposal system at the time of its construction.

Sec. 10-210. Penalties for violation.

(a) Any person found guilty of violating any provisions of this article shall be punished as provided in section 1-7 of this Code.

(b) In addition to the punishments provided in subsection (a) of this section, the building inspector shall be authorized to obtain an injunction through the proper processes of law forbidding any person from constructing an individual sewage disposal system contrary to the requirements contained in this article.

Secs. 10-211—10-235. Reserved.

ARTICLE VIII. MOSQUITO CONTROL

Sec. 10-236. Standing water and high grass prohibited.

(a) It shall be unlawful to have, keep, maintain, cause or permit within the corporate limits of the city any collection of standing water or flowing water in which mosquitoes breed or are likely to breed, unless such collection of water is treated so as to effectually prevent such breeding, or any high grass, shrubbery or weeds in which mosquitoes might harbor or shelter.

(b) Collections of water prohibited by this section shall include those contained in ditches, pools, ponds, cisterns, tanks, shallow wells, barrels, troughs (except horse or watering troughs in frequent use), urns, cans, boxes, bottles, tubs, buckets, defective house roof gutters, tanks, flush toilets, new or used tires or other similar water containers.

Sec. 10-237. Methods of treating to prevent mosquito breeding.

The methods of treatment of any collection of water prohibited by this article shall be approved by the accredited 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 prevent the ingress and egress of mosquitoes.

(2) Complete emptying every seven days of unscreened containers, together with their thorough drying and cleaning.

(3) Using a larvicide approved and applied under the direction of the health officer.

(4) Covering completely the surface of the water with kerosene, petroleum or paraffin oil once in seven days.

(5) Cleaning and keeping sufficiently free of vegetation and other obstructions and stocking with mosquito destroying fish.

(6) Filling and draining to the satisfaction of the health officer or his accredited representative.

(7) Proper disposal by removal and destruction of tin cans, boxes, broken or empty bottles and similar articles likely to hold water.

Sec. 10-238. Treatment by city.

Should the person responsible for conditions giving rise to the breeding or harboring of mosquitoes fail or refuse to take necessary measures to prevent the same within 24 hours after due notice has been given to him, the health officer, or his authorized agent, is hereby authorized to do so and all necessary costs incurred by him shall be a charge against the property owner or other person offending, as the case may be.

Secs. 10-239—10-250. Reserved.

ARTICLE IX. VACANT STRUCTURES

Sec. 10-251. 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:

Code enforcement and *community development and planning* means the director of such department or his or her designee.

Statement of plan means a specific written document prepared by the property owner regarding the vacant structure and plans for the rehabilitation, maintenance and/or demolition of the property.

Vacant structure means a structure or building that is unoccupied for a period of 90 or more days.
(Ord. No. 2015O-01, § 1, 6-9-2015)

Sec. 10-252. Registration of vacant buildings.

Whenever code enforcement provides written notice to the owner of the existence of a vacant structure, the owner shall within ten days of such notice register said structure with the department of community development. Such registration will be for the purpose of the department of community development assessing whether a vacant building permit may be issued in accordance with the provisions of this article. The department of community development is authorized to establish a fee schedule so as to enable the city to offset reasonable expenses in providing notice and monitoring the information provided. This fee will be kept in the department of community development's office and in the office of the city clerk.

The department of community development and planning is authorized to prepare the necessary forms which shall include the owner's name, address and telephone number; the name, address and telephone number of any other responsible party or local representative of the owner, the common address of the structure as well as the tax map, map block and parcel tax identification.

Should the owner fail to respond to such notice, code enforcement may proceed against such owner pursuant to the provisions of the City of Rockmart's nuisance ordinance, section 10-81 et seq. of the City Code of Ordinances.
(Ord. No. 2015O-01, § 1, 6-9-2015)

Sec. 10-253. Statement of plan.

(a) At the time a structure is registered as required above, the owner shall submit to the department of community development a "statement of plan". The statement of plan shall include at least the following:

(1) The length of time the owner expects the vacancy to continue;

(2) The proposed rehabilitation or improvements to be made to the vacant structure so as to make the structure suitable for its intended use;

(3) A form in which the owner grants permission to the director of code enforcement or community development and planning or his/her designee to enter and inspect the property;

(4) A description of what will be done to secure the vacant structure so that it will not become open to the general public.

(b) Community development and planning is authorized to establish a fee schedule so as to be able to monitor the proposed statement of plan. This fee will be kept on file in the community development and planning office and the office of the city clerk.

Should the owner fail to submit a statement of plan or fail to comply with such a plan after it has been approved by community development and planning, code enforcement may file a complaint alleging that the property constitutes a nuisance and proceed against such owner pursuant to the provision of the City of Rockmart's nuisance ordinance, section 10-81 et seq. of the City Code of Ordinances.
(Ord. No. 2015O-01, § 1, 6-9-2015)

Sec. 10-254. Vacant buildings or structures that are open to the general public.

A vacant structure that is open to the general public by casual entry, is a public nuisance and subject to abatement as provided in City Code section 10-81 et seq., in the event that the provisions of this article are not complied with by the owner of the vacant structure. A vacant structure shall be considered properly maintained if it:

(1) Has all doors and windows and other openings weather-tight and secured against entry by the general public as well as animals.

(2) All roof and roof flashings shall be sound and tight such that no rain will penetrate the structure and must allow for appropriate drainage so as to prevent deterioration of the interior walls or other interior portions of the building.

(3) The building must be maintained in good repair, be structurally sound and free from rubbish, garbage, and other debris.

(4) Structured members of the building shall be capable of bearing both live and dead loads and the foundation walls likewise shall be capable of supporting an appropriate load.

(5) The exterior of the structure shall be free of loose and rotten materials as well as holes. Any exposed metal, wood, or other surface shall be protected from the elements by appropriate weather-coating materials (paint or similar treatment).

(6) Any balconies, canopies, signs, metal awnings, fire escapes or other overhanging extensions shall be in good repair, appropriately anchored. The exposed metal and wood surface of such overhanging extensions shall also be protected from the elements against rust or decay by appropriate application of paint or similar weather-coating.

(7) Any accessories or appurtenant structures, including but not limited to garages, sheds, and other storage facilities shall meet these same standards.

(Ord. No. 2015O-01, § 1, 6-9-2015)

Sec. 10-255. Inspection by code enforcement.

Upon request of code enforcement, the owner of a vacant structure shall permit inspection of the premises by code enforcement as well as appropriate police and/or fire officials. The reason for such inspection is to make sure that the vacant structure will support entry by police and fire personnel in cases of emergency. Should code enforcement have reason to believe an emergency situation exists such that there is an immediate danger to public health, welfare or safety, code enforcement may enter along with fire and/or police personnel to inspect the structure. Absent such an emergency, code enforcement will request permission from the owner to conduct such inspection and upon a refusal by the owner, code enforcement shall seek an appropriate search warrant.
(Ord. No. 2015O-01, § 1, 6-9-2015)

Sec. 10-256. Vacant building permits.

(a) Community development and planning will issue a vacant building permit upon being satisfied that the building or structure has been inspected and is in compliance with all provisions contained in this article. This permit will be valid for a period of six months.

(b) Said permit shall be renewable at the end of six months and at the end of each subsequent six-month period, provided that the property owner is in full compliance with the provisions of this article and that satisfactory progress is being made toward compliance with and completion of the statement of plan. In order to receive a renewal of the permit, the property owner shall apply for such permit no later than 30 days prior to the expiration of the initial six-month period and each subsequent six-month period. At the time of renewal, the property shall be subject to further inspection by code enforcement in order to insure compliance with the provisions of this article, which compliance shall be a prerequisite for the issuance of a renewal permit.
(Ord. No. 2015O-01, § 1, 6-9-2015)

Sec. 10-257. Board up permits.

(a) No person, firm, association or corporation shall erect, install, place or maintain boards over doors, windows, or other openings of any building or structure or otherwise secure such openings by a means other than the conventional method used in the original construction and design of the building or structure without first applying for and within 30 days of application, completing all steps necessary for the issuance of a boarding permit and thereafter having a valid and current boarding permit therefor from the director of community development and planning. Any properties with boards existing at the time of the adoption of this article will have one year from the date of the article's adoption to make application to continue to board.

(b) The director of community development and planning shall issue a boarding permit required by subsection (a) upon the submission of a written application by the owner of the property or his/her authorized representative or contractor, upon payment of the required fee and upon confirmation through inspection by the director or his/her designee that the boarding or other method of securing the building or structure has been done in compliance with this article. The director of community development and planning is authorized to establish a fee schedule so as to enable the city to offset its reasonable expense in reviewing the application and monitoring the boarding process.

(c) The boarding permit issued pursuant to this section shall authorize the boarding or other securing of a building or structure for an initial period of six months. If the structure is still boarded at the end of the sixth-month period, the boarding permit may be renewed upon the submission of a written application by the owner of the property or their authorized representative or contractor with the submission of the application occurring no later than 30 business days prior to the expiration of the original permit, upon the payment of the required fee and upon confirmation through inspection by the city code enforcement officer that the boarding or other method of securing the building or structure has been done in compliance with this article. The issuance of a renewal-boarding permit shall also be subject to all of the following conditions:

(1) The owner shall submit a detailed plan for correction, repair or rehabilitation of violations of state or local building and housing standards and for the securing of the doors, windows and other openings by the conventional method used in the original construction and design of the building or structure or, alternatively, a detailed plan for the sale of the property to another person or entity with the provision in the sale of correction, repair or rehabilitation; and

(2) The owner shall submit a timeline for applying for appropriate permits for such work and for completing such work prior to expiration of the renewal permit, or alternatively, a timeline for the sale of the property.

(3) The permit may be revoked by written notice by the director of community development and planning, at the recommendation of code enforcement officer(s), if the owner fails to comply with the plan for such work or fails to comport to the timeline submitted.

(d) A boarding permit may not be extended beyond the renewal period nor may a new application for the same property be accepted by the director within one year of the date of expiration of the prior permit, except upon the submission of a written application by the owner of the property or their authorized representative or contractor, upon the confirmation through inspection by a city code enforcement officer that the boarding or other method of securing the building or structure has been done in compliance with this chapter and upon determination that "good cause" for the removal exists. "Good cause" shall require a showing by the owner that the permit renewal is made necessary by conditions or events beyond the owner's control, such as inability to obtain financing for repair or rehabilitation, inability to locate a suitable buyer, unanticipated delays in repair or rehabilitation, or unanticipated damage to the property. In addition, where appropriate, "good cause" shall also require a showing by the owner that the owner has exercised reasonable and due diligence in attempting to complete the needed repair, rehabilitation or correction or is attempting to sell the property. In the event that the director of community development and planning determines that there exists good cause to renew the permit and that all other conditions are met, the permit may be renewed by the owner for an additional one year period, subject to all the same conditions imposed on the original renewal permit. There shall be no right of further renewal beyond this time.

(e) *Exceptions.* Board up permit shall not be required in the following circumstances:

(1) Temporary emergency situations, including but not limited to damage caused by vandalism, theft or weather and hurricane preparation.

(2) Seasonal residences, which shall be defined as residences not occupied by the property owner or their lessees, invitees, or licenses for a period of eight or more months out of the calendar year.

(Ord. No. 2015O-01, § 1, 6-9-2015)

Sec. 10-258. Standards for securing building.

(a) The boarding of the doors, windows or other openings of any building or structure by any means of securing such openings, other than by the conventional method used in the original construction and design of the building or structure, shall comply with the following minimum standard:

(1) *Securing by boarding.* Windows and similar openings shall be boarded with exterior grade plywood of a minimum thickness of five-eighths inch nominal or equivalent. Vent holes may be required, as deemed necessary by the city. The plywood shall be secured in place by two inches by four inches or four inches by four inches cross members, secured to the plywood by three-eighths-inch plated carriage bolts with large washers at each end and with the cross member turned so that the bolt goes through each end and with the cross member turned so that the carriage bolt goes through the larger dimension. Bolts used to secure the cross member shall be threaded to the correct length. A minimum of two cross members shall be used on each window and depending on the size of the opening, additional cross members may be required. Each cross member shall be a continuous piece of lumber, and each must extend at least one foot past the window opening in each direction. Bolts and nuts used to secure the cross members to the plywood must be tightened enough to slightly deflect the wood. Bolt heads must fit tightly against the wood and not give a surface for pliers or pry bars.

(2) *Exterior doors.* Exterior doors shall be boarded with exterior grade plywood of a minimum thickness of five-eighths inch nominal or its equivalent, fitted to the entry doorjamb with the maximum one-eighth inch clearance for the edge. The existing door should be removed and stored inside the building. The plywood shall be attached to three horizontal two inches by four inches wooden crossbars each with two three-eighths-inch carriage bolts and matching hardware. The plywood shall be attached to the door entry with three case hardened strap hinges of the types specified by code enforcement and the plywood

shall be secured by a case hardened steel hasp and minimum two-inch case hardened padlock also of the type specified by the city.

(3) *Painting of boarded openings.* All boarded openings shall be painted with a minimum of one coat of exterior paint, which is of a color compatible with the exterior of the building or structure.

(4) *Alternative methods of securing a building.* Upon application for a boarding permit, the department of community development and planning may approve alternative methods of securing the vacant and unoccupied building or structure. In making the determination to approve alternative method, the department of community development and planning shall consider the aesthetic and other impacts of such method on the immediate neighborhood and the extent to which such method provides adequate and long-term security against the unauthorized entry to the property.

(b) *Additional requirements.* In connection with the boarding of doors, windows or other openings of any building or structure or any means of securing such openings, other than by the conventional method used in the original construction and design of the building or structure, the owner shall also comply with all of the following requirements.

(1) All utility services to the building or structure shall be terminated by removal of the meters and termination of electrical power at the pole. Compliance with this subsection may be waived in writing by the city as to the electrical utility service in the event electricity is needed to power exterior security lighting, and alarm system or equipment to be used in connection with the rehabilitation of the building or structure for which there is an active and current building permit;

(2) The sewer shall be capped in a manner by the city so as to prevent the accumulation of methane gas in the building or structure;

(3) The interior of the building or structure shall be cleaned of all trash, junk, garbage, debris, and solid waste, and personal possessions shall be removed from the interior of the building or structure, so as to eliminate any fire or health hazard and prevent hindrance to firefighting equipment or personnel in the event of a fire. Disposal of such trash, etc., must comply with any and all provisions of the City Code and no such trash, etc., shall be placed on city right-of-way.

(Ord. No. 2015O-01, § 1, 6-9-2015)

Sec. 10-259. Violations.

In addition to any other actions that the city may take against a property owner who is in violation of any provision of this article, the city may punish such violations in accordance with section 1-7 of the Code of the City of Rockmart.

(Ord. No. 2015O-01, § 1, 6-9-2015)

Chapter 11

LICENSES AND BUSINESS REGULATIONS

Article I. In General

Article II. Business Licenses

Article III. Insurance Companies

Article IV. Professional Bondsmen

Division 1. Generally

Division 2. Certificate

Article V. Solicitors

Division 1. Generally

Division 2. Charitable Solicitations

Article VI. Self-Service Motor Fuel Dispensing Stations

Article VII. Solid Waste Collection and Disposal

Division 1. Generally

Division 2. Independent Solid Waste Collectors

Division 3. Scavengers

Article VIII. Junk Dealers

Article IX. Amusements

Division 1. Generally

Division 2. Billiard and Pool Rooms

Division 3. Game Rooms and Arcades

Article X. Peddlers and Itinerant Merchants

Article XI. Taxicabs

Article XII. Precious Metals or Gems

Division 3. Adult Videos

Article XV. Auctioneers

Article XVI. Dealers in Used Merchandise and Goods

Article XVII. Franchises

Article XVIII. Massage Practitioners

Article XIX. Reflexologists

Article XX. Tattoo Studios

Article XXI. Yard Sales

Article XXII. Film Permits

ARTICLE I. IN GENERAL

Sec. 11-1. Big box development.

(a) *Defined.* The term "big box," as used in this section, means any commercial, or office/commercial office building larger than 50,000 square feet.

(b) *Rental agreement for leased big box.* For any leased big box, the owner shall provide a copy of the current rental, or proposed rental agreement between the tenant and the landlord to the city attorney's office. The rental agreement must contain the following provisions:

(1) The tenant could not voluntarily abandon or vacate the premises during the term of the lease;

(2) The tenant may not cease conducting retail business of some type as a permitted use within the zoning code of the city, chapter 23, upon the premises, or perform any other use which is not authorized by the zoning code, chapter 23.

(c) *Vacancy.* No person, firm or corporation may continue to pay rent, or allow the building to be vacant, in order to prevent a business, which might be in competition with the previous business located upon the premises, from leasing the facility thus leaving the facility vacant. A vacant building shall not be re-leased to any person, firm or corporation that intends to leave the building vacant. If a building becomes vacant before a lease on the building expires, all provisions of this section are applicable during the remaining term of the lease including but not limited to the following:

(1) If a tenant voluntarily vacates the premises before the end of the lease term, the landlord is free to market and lease the premises to another business entity, without any covenant or restriction in the lease prohibiting them from leasing it to business potentially in competition with tenant's previous business on the property.

(2) When any big box is vacant for more than one year, then the following action can be taken by the municipality:

a. A fine against the owner of the premises not to exceed $20.00 per 1,000 square feet of floor space, the fine to be continuing on a monthly basis or so long as the premises is vacant; or

b. In lieu of a fine, the owner may allow the city's designated marketing entity, chamber of commerce, or other designated party to market the property for lease or sale; provided that the proposed rental value was not less than 80 percent below the market rent at the time the premises became vacant; or in the event of a sale, provided that the fair market value of the sale would not be less than 80 percent of the current appraised value. Proceeds from any rent or sale would first satisfy any unpaid fines or assessments, or reasonable costs incurred by the City in marketing the premises for lease/sale.

(d) *Applicability.* This section shall apply to all big box structures built within the last 30 years. This section will also immediately apply to any new structures built after the date of adoption of the ordinance from which this section is derived.
(Ord. No. 2006-12, § 2, 10-10-2006)

Secs. 11-2—11-25. Reserved.

ARTICLE II. BUSINESS LICENSES

Sec. 11-26. Licenses deemed privilege only.

The granting of a business license under the provisions of this chapter shall be deemed a privilege only, and nothing herein contained shall be construed as granting any person whose business is subject to municipal regulation any legal right to engage in such business.
(Code 1976, § 11-1; Ord. No. 1980-015, § 1(11-102(5)), 5-20-1980)

Sec. 11-27. Branch offices to acquire licenses; exceptions.

For the purposes of this chapter, each branch establishment or location wherein a representative of the owner is employed and is authorized to transact business for such owner shall be deemed a separate place of business for which a separate license shall be required, provided that warehouses and distributing plants used in connection with and incidental to a business licensed under the provisions of this chapter shall not be deemed to be separate places of business or branch offices. (Code 1976, § 11-2; Ord. No. 1980-015, § 1(11-110), 5-20-1980)

Sec. 11-28. Joint license for two or more businesses.

A person engaged in two or more businesses at the same location shall be required to obtain separate licenses for conducting each of such businesses for which a license is required. (Code 1976, § 11-3; Ord. No. 1980-015, § 1(11-111), 5-20-1980)

Sec. 11-29. Application for license.

(a) *Requirements*. Every person required to procure a license under the provisions of this chapter or any ordinance or law of this municipality shall submit an application for such license to the city clerk, which application shall conform to the requirements of this section:

(1) *Form of application*. Each application shall be a written statement upon forms provided by the city clerk.

(2) *Contents of application*. Each application shall contain the following information:

a. Name and home address of the applicant if an individual, or home office address if a corporation or partnership;

b. Place where the proposed business is to be located;

c. Kind of business to be carried on;

d. Name and home addresses of the partners, if a partnership;

e. Names and home addresses of the officers and directors, if a corporation;

f. Complete record of all arrests and convictions against the applicant and every partner, officer, or director of the applicant for violations of any and all laws and ordinances of the city, state, or federal government; and

g. Such additional information which the city clerk or council may find reasonably necessary to the fair administration of this chapter.

(3) *Verification*. Each application shall be sworn to by the applicant if an individual, or by a partner if a partnership, or by an officer if a corporation.

(4) *Payment of fee*. Each application shall be accompanied by the amount of the fee chargeable for such license.

a. *Issuance of receipts.* The city clerk shall issue a receipt to the applicant for the amount of the fee tendered with the application for a license, provided that such receipt shall not be construed as approval of the application nor shall it entitle or authorize the applicant to open or maintain any business contrary to the provisions of this chapter.

b. *Rebate of fee.* Upon the disapproval of any application for which a fee has been submitted under the provisions of this chapter, the city clerk shall refund such fee, provided that the applicant is not otherwise indebted to the city.

(b) *Confidentiality of information*. All information furnished or secured under the authority of this section shall be kept in strict confidence by the city clerk, shall not be subject to public inspection, and shall be utilized solely by the officers of the city responsible for administering the provisions of this chapter.

(c) *False statements*. False statements on any application for a license shall be grounds for immediate revocation of such license.
(Code 1976, § 11-6; Ord. No. 1980-015, § 1(11-101), 5-20-1980)

Sec. 11-30. Procedure for review of application.

(a) *Review by city officers*. If any provision of this chapter or any licensing ordinance of the city provides for the review of an application for a license by a city officer designated therein, the city clerk shall forward a copy of the application to such officer within 48 hours of the time of the receipt of the application. The officer charged with the duty of reviewing the application shall make a recommendation thereon, favorable or otherwise, and shall return such recommendation to the city clerk within seven days after receiving a copy of the application.

(b) *Council consideration*. Upon the receipt of the recommendation of the reviewing officer as hereinabove provided, or upon the receipt of the application if no reviewing officer is designated, the city clerk shall forward such recommendation and/or application to the city council for consideration and action at its next regularly scheduled public meeting.

(c) *Issuance by city clerk*. Upon the express approval of the city council, the city clerk shall issue a business license to the applicant therefor, which license shall state the nature of the business authorized and bear the date of issuance and the signatures of the mayor and city clerk.
(Code 1976, § 11-7; Ord. No. 1980-015, § 1(11-102(1), (2), (4)), 5-20-1980)

Sec. 11-31. Limitations on license issuance.

No license shall be issued to any applicant whose place of business is not in full compliance with all minimum standard building codes adopted by this municipality and which proposed place of business is not to be located in an acceptable zoning district under the zoning code adopted by the city.
(Code 1976, § 11-8; Ord. No. 1980-015, § 1(11-102(3)), 5-20-1980)

Sec. 11-32. Termination and renewal of licenses.

(a) All annual licenses shall terminate on June 30 of each year.

(b) Each licensee shall make a written application for renewal on forms supplied by the city clerk on or before June 1 of each calendar year, which application shall contain substantially the same information as the initial application and be accompanied by all required fees.

(c) An applicant for renewal of a license shall be entitled to a refund of fees tendered if he withdraws his application for renewal prior to final action on the same by the city council.
(Code 1976, § 11-9; Ord. No. 1980-015, § 1(11-105), 5-20-1980)

Sec. 11-33. Change of location of licensed premises.

In the absence of any provision to the contrary, the location of any licensed business or occupation may be changed, provided ten days' notice thereof is given to the city clerk, and provided that all building and zoning requirements are complied with.
(Code 1976, § 11-10; Ord. No. 1980-015, § 1(11-107), 5-20-1980)

Sec. 11-34. Transfer of licenses.

All licenses shall be personal to the licensee to whom issued, but in cases where the ownership is changed and both the name and location of the licensed business or occupation are maintained, the mayor and city council may allow the license to be transferred.
(Code 1976, § 11-11; Ord. No. 1980-015, § 1(11-108), 5-20-1980; Ord. No. 001-1995, § 25, 4-11-1995)

Sec. 11-35. Duplicate licenses.

A duplicate license shall be issued by the city clerk to replace a previously issued license which has been lost, stolen, defaced, or destroyed without any willful conduct on the part of the licensee,

upon the filing of a sworn affidavit attesting to such fact and the payment of a fee in the amount established by the city council to the city clerk.
(Code 1976, § 11-12; Ord. No. 1980-015, § 1(11-109), 5-20-1980)

Sec. 11-36. Display of license.

It shall be the duty of any person conducting a licensed business in the city to keep his license posted in a conspicuous place on the premises used for such business at all times.
(Code 1976, § 11-13; Ord. No. 1980-015, § 1(11-103), 5-20-1980)

Sec. 11-37. Inspections and testing of materials.

(a) *Search of premises authorized*. Whenever inspections of the premises used for or in connection with the operation of a licensed business or occupation are provided for or required by ordinance, or are reasonably necessary to secure compliance with any ordinance provision or to detect violations thereof, it shall be the duty of the licensee, or the person in charge of the premises to be inspected, to admit thereto for the purpose of making the inspection any officer or employee of the city who is authorized or directed to make such inspection at any reasonable time that admission is requested.

(b) *Testing of material authorized*. Whenever an analysis of any commodity or material is reasonably necessary to secure conformance with any ordinance provision or to detect violations thereof, it shall be the duty of the licensee of the municipality whose business is governed by such provision to give to any authorized officer or employee of the city requesting the same, sufficient samples of such material or commodity for such analysis.

(c) *Refusal to allow inspection*. In addition to any other penalty which may be provided, the mayor and council or the municipal judge may revoke the license of any licensed proprietor of a licensed business in the city who refuses to permit any officer or employee who is authorized to make such inspection or take such sample to make the inspection, or take an adequate sample of the commodity, or who interferes with such officer or employee while in the performance of his duty in making such inspection; provided that no license shall be revoked for such cause unless written demand is made upon the licensee or person in charge of the premises, in the name of the city, stating that such inspection or sample is desired at the time it is sought to make the inspection or obtain the sample.
(Code 1976, § 11-14; Ord. No. 1980-015, § 1(11-104), 5-20-1980)

Sec. 11-38. Revocation, suspension, etc., of license by council.

The city council, after affording the licensee notice of the charges and opportunity to be heard with respect to any revocation proceedings, may, if it finds this article to have been violated by the licensee, his agent, or employee, revoke such license in its entirety, suspend the same for a specified period of time, place the licensee on probation, or place other conditions thereon as the council may deem necessary.
(Code 1976, § 11-15; Ord. No. 1980-015, § 1(11-106), 5-20-1980)

Sec. 11-39. Moral character.

(a) In this Code the term "good moral character," when used with reference to a business license or a business permit, shall be construed to mean the propensity of the person to serve the public in the licensed area in a fair, honest and open manner.

(b) A judgment of guilt is a criminal prosecution or a judgment in a civil action shall not be used in and of itself as proof of a person's lack of good moral character. It may be used as evidence in the determination and when so used the person shall be notified and shall be permitted to rebut the evidence by showing that:

(1) At the current time he has the ability to, and is likely to, serve the public in a fair, honest and open manner; and

(2) He is rehabilitated, or that the substance of the former offense is not reasonably related to the occupation or profession for which he seeks a business license or business permit.

(c) The following criminal records shall not be used, examined, or requested by the township in a determination of good moral character when used as a requirement to obtain a business license or business permit:

(1) Records of an arrest not followed by a conviction.

(2) Records of a conviction which has been reversed or vacated, including the arrest records relevant to that conviction.

(3) Records of an arrest or conviction for a misdemeanor or a felony unrelated to the person's likelihood to serve the public in a fair, honest, and open manner.

(4) Records of an arrest or conviction for a misdemeanor for the conviction of which a person may not be incarcerated in a jail or prison.

Sec. 11-40. Penalties for chapter violations.

(a) Any person who shall conduct a business or occupation without having obtained a license therefor as required by this article, or who shall violate any other provisions of this article, shall, upon conviction therefor, be punished as provided in section 1-7 of this Code, as amended, and as authorized by section 6.03 of the city Charter, as amended, any and all of such penalties to be imposed in the discretion of the judge of the municipal court.

(b) In addition to the penalties provided in subsection (a) of this section, any person who shall conduct a business or occupation in violation of any of the provisions of this chapter shall be, upon conviction thereof, subject to having the license for such business revoked in the discretion of the judge of the municipal court.
(Code 1976, § 11-16; Ord. No. 1980-015, § 1(11-114), 5-20-1980)

Secs. 11-41—11-65. Reserved.

ARTICLE III. INSURANCE COMPANIES

Sec. 11-66. Insurer defined.

For the purposes of this article, the term "insurer" means a company which is authorized to transact business in any of the classes of insurance designated in O.C.G.A. § 33-3-5.
(Ord. No. 005-1994, § 1, 11-8-1994)

Sec. 11-67. Insurers license fees.

There is hereby levied an annual license fee upon each insurer doing business within the city in an amount established by the city council. For each separate business location in excess of one not covered by section 11-68, which is operating on behalf of such insurers within the city, there is hereby levied a license fee in an amount established by the city council.
(Ord. No. 005-1994, § 1, 11-8-1994)

Sec. 11-68. License fees for insurers insuring certain risks at additional business locations.

For each separate business location, not otherwise subject to a license fee hereunder, operated and maintained by a business organization which is engaged in the business of lending money or transacting sales involving term financing and in connection with such loans or sales offers, solicits or takes application for insurance through a licensed agent of an insurer for insurance said insurer shall pay an additional license fee per location in the amount established by the city council.
(Ord. No. 005-1994, § 2, 11-8-1994)

Sec. 11-69. Insurers agency license fees; independent insurance agencies, brokers, etc., not otherwise licensed.

There is hereby levied an annual license fee upon independent agencies and brokers for each separate business location from which an insurance business is conducted and which is not subject to the company license fee imposed by section 11-67 in the amount established by the city council for each such location within the city.
(Ord. No. 005-1994, § 3, 11-8-1994)

Sec. 11-70. Gross premiums tax imposed on life insurers.

There is hereby levied an annual tax based solely upon gross direct premiums upon each insurer writing life, accident and sickness insurance within the state in an amount equal to one percent of the gross direct premiums received during the preceding calendar year in accordance with O.C.G.A. § 33-8-8.1. Gross direct premiums as used in this section shall mean gross direct premiums as used in O.C.G.A. § 33-8-4. The premium tax levied by this section is in addition to the license fees imposed by section 11-67.
(Ord. No. 005-1994, § 4, 11-8-1994)

Sec. 11-71. Gross premiums tax imposed on all other insurers.

There is hereby levied an annual tax based solely upon gross direct premiums upon each insurer, other than an insurer transacting business in the class of insurance designated in O.C.G.A. § 33-3-5(1), doing business within the state in an amount equal to 2.5 percent of the gross direct premiums received during the preceding calendar year in accordance with O.C.G.A. § 33-8-8.2. Gross direct premiums as used in this section shall mean gross direct premiums as used in O.C.G.A. § 33-8-4. The premium tax levied by this section is in addition to the license fees imposed by section 11-67.
(Ord. No. 005-1994, § 5, 11-8-1994)

Sec. 11-72. Due date for license fees.

License fees imposed in sections 11-67—11-69 shall be due and payable on January 1 of each year.
(Ord. No. 005-1994, § 6, 11-8-1994)

Secs. 11-73—11-95. Reserved.

ARTICLE IV. PROFESSIONAL BONDSMEN

DIVISION 1. GENERALLY

Sec. 11-96. 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:

Professional bondsmen means all persons who hold themselves out as signers or sureties of bail bonds for compensation.

State law reference—Similar provisions, O.C.G.A. § 17-6-50.

Sec. 11-97. Employee termination.

Any professional bondsman who terminates the appointment of any employee authorized to sign bonds shall immediately file written notice thereof with the chief of police and the city clerk, together with a statement that he has given or mailed notice to the employee. Such notice filed shall state the reasons, if any, for such termination. Information so furnished shall be privileged and shall not be used as evidence in any action against the professional bondsman.

Sec. 11-98. Payment for bail bonds; prenumbered receipt as evidence of payment by client.

Any professional bondsman engaged in the bail bond business, who accepts money or any other consideration for any bail bond which he executes, must for each payment received, give to the person paying the money or giving the consideration a prenumbered receipt as evidence of payment, which receipt shall state the date, name of the principal, amount of money or consideration received and purpose for which received, number of the power of attorney form attached to the bond, penal sum of the bond, and the name of the person making payment or giving compensation. A professional bondsman must retain a duplicate copy of each receipt issued as part of his records.

Sec. 11-99. Power of attorney.

A professional bondsman must attach to each bail bond a duly executed power of attorney in an amount of at least the penal sum of the bond. This section shall not apply to any card or certificate of membership of any automobile club.

Sec. 11-100. Condition of bond.

When a person is admitted to a bond for an appearance in municipal court, the condition of the bond shall be that such person will appear at the time and date specified to answer the charges, and will submit to the orders and processes of the judge until a disposition is made in the case.

Sec. 11-101. Canceling the bond.

When the condition of the bond is satisfied or the forfeiture of the bond has been discharged or remitted, the judge shall make an order canceling the bond. Conviction or acquittal of the defendant shall satisfy the terms of the bond written by any bail bondsman.

Sec. 11-102. Display of signs.

(a) Each professional bondsman duly licensed by the city shall be allowed to display a sign of his own making in a place designated by the chief of police, at or near the book-in-book-out section of the city jail.

(b) One sign per licensee shall be permitted and shall be limited to lettering and numbering of no more than three inches high and 1½ inches in width for each letter or numeral.

(c) Signs shall be limited to two lines to allow the name of the business at the top and the phone number at the bottom.

(d) Signs shall be restricted to black and white in coloring and shall be hung in the place so designated on a first come, first served priority.

Sec. 11-103. Equal access to jail.

All professional bondsmen who hold a currently effective certificate issued by the city clerk shall be entitled to equal access to the jail for the purpose of making bond.

Sec. 11-104. Miscellaneous illegal acts.

No professional bondsman shall:

(1) Pay a fee or rebate or give or promise anything of value to a jailor, police officer, peace officer, judge or any other person who has power to arrest or to hold in custody; or to any city official or city employee in order to secure a settlement, compromise, remission or reduction of the amount of any bail bond thereof.

(2) Pay a fee or rebate or give anything of value to an attorney in bail bond matters, except in defense of any action on a bond.

(3) Pay a fee or rebate or give or promise anything of value to the principal or anyone in his behalf.

(4) Sign or countersign in blank any bond; nor shall he give a power of attorney to, or otherwise authorize, anyone to countersign his name to bonds unless the person so authorized is directly employed by the bondsman giving such power of attorney.

Secs. 11-105—11-130. Reserved.

DIVISION 2. CERTIFICATE

Sec. 11-131. Required; qualifications of applicant.

A person doing business in the city as a bail bondsman must have a city certificate. To qualify for certificate as a professional bondsman in the city it must affirmatively appear that:

(1) The applicant is a natural person who has reached the age of 21 years.

(2) The applicant is a citizen of the United States.

(3) The place of business of the applicant will be located in this county, and such applicant will be actively engaged in the bail bond business and maintain a place of business accessible to the public.

(4) A fee in the amount established by the city council shall be submitted with each application as the cost of conducting character investigation of applicant.

(5) The applicant shall furnish with the application a complete set of his fingerprints and a recent credential-size, full face photograph of himself. The applicant's fingerprints shall be certified by the chief of police.

(6) The applicant shall justify the sufficiency of his bonding ability by affidavit and attachments of certified copies of arrangements with surety bonding companies that he possesses the qualifications and sufficiency to become a surety, and in such affidavit shall describe his property to which he proposes to justify as to his sufficiency, stating the encumbrances thereon, according to the standards as promulgated by the sheriff of the county.

(7) The applicant shall be required to post security with the city prior to the authorization of such bondsmen and/or bonding company to post bonds for the release of prisoners from the jails of the city, in one of the following manners:

a. The security may be in the form of cash deposits in a joint checking account between the bondsmen and/or bonding company and the city clerk in an amount equal to ten percent of the total face amount of all bonds that any bondsmen and/or bonding company shall be allowed to write in the city.

b. The bondsmen and/or bonding company shall file with the city clerk a surety bond running to the city in the amount of $10,000.00, with surety acceptable to and approved by the mayor and council and the chief of police.

(8) The applicant shall be required to provide a schedule of all bonds of every description upon which the applicant, at that time, appears as surety, showing the date and penal sum of each bond separately.

(9) The applicant shall be required to provide a subschedule of all bonds upon which the applicant, at that time, appears as surety, which have been forfeited and not paid.

(10) The applicant shall furnish a list of names and addresses of all partners, if a partnership; officers, directors and stockholders, if a corporation.

(11) The applicant shall furnish a complete record of all arrests and convictions against the applicant and every partner, officer and director for violations of any and all laws of any city, state or federal government.

Sec. 11-132. Denial; suspension; refusal to renew; revocation.

The mayor and council may deny, suspend, revoke or refuse to renew any bail bondsman's certificate for any of the following causes:

(1) For any cause for which issuance of a certificate could have been refused had it then existed and been known to the mayor and council.

(2) Material misstatement, misrepresentation or fraud in obtaining the certificate.

(3) Misappropriation, conversion or unlawful withholding of money belonging to others and received in the conduct of business under the certificate.

(4) Conviction of a felony or lack of good moral character, as defined in this chapter.

(5) Fraudulent or dishonest practices in the conduct of business under the certificate.

(6) Willful failure to comply with the provisions of this article.

(7) Willful failure to return collateral security to the principal when the principal is entitled thereto.

(8) When, in the judgment of the mayor and council, the licensee has, in the conduct of affairs under the certificate, demonstrated incompetency, untrustworthiness, conduct or practices rendering him unfit to

carry on the bail bond business, making his continuance in such business detrimental to the public interest, no longer in good faith carrying on the bail bond business, guilty of rebating or offering to rebate, offering to divide his compensations, and for any of such reasons, is found by the mayor and council to be a source of detriment, injury or loss to the public.

(9) For failure to meet the obligations or standards set forth by any other city or county in which the bondsmen and/or bonding company is licensed to do business.

Sec. 11-133. Termination on ceasing operation.

Any professional bondsman who discontinues writing bail bonds during the period for which he is licensed shall notify the chief of police and the city clerk and immediately return his certificate.

Secs. 11-134—11-160. Reserved.

ARTICLE V. SOLICITORS

DIVISION 1. GENERALLY

Secs. 11-161—11-185. Reserved.

DIVISION 2. CHARITABLE SOLICITATIONS

Sec. 11-186. Applicability.

This article shall not apply to any locally established organization or church operated exclusively for charitable or religious purposes if the solicitations are in the form of collections or contributions at the regular assemblies of any such organization or church.
(Code 1976, § 11-66; Ord. No. 1980-015, § 1(11-204(3)), 5-20-1980)

Sec. 11-187. Registration, permit—Generally.

(a) *When required*. Any person who wishes to solicit donations or contributions for, or to sell any insignia or novelty on the streets of the city on behalf of, or under the sponsorship of, any charitable, religious, social, patriotic, or civic club or organization shall be required to register such solicitation or sale with the chief of police at least 48 hours in advance of such event and to obtain a permit therefor.

(b) *Form, verification, contents of registration*. The registration required by subsection (a) of this section shall be in writing, shall be signed by the chief officer of the club or organization, and shall contain the following information:

(1) The name and object of the charitable, religious, social, patriotic, or civic club or organization conducting or sponsoring the solicitation or sale to which the registration relates;

(2) The day on which the solicitation or sale will take place;

(3) The object for which the funds to be derived from the solicitation or sale will be utilized; and

(4) The name and address of the chief officer of the club or organization conducting or sponsoring the solicitation or sale.

(Code 1976, § 11-67; Ord. No. 1980-015, § 1(11-204(1), (2)), 5-20-1980)

Sec. 11-188. Same—Roadblock solicitations.

Notwithstanding any other provision of this article to the contrary, charitable solicitors desiring to solicit donations or contributions by means of roadblocks located in the street rights-of-way within the city shall be required to register such solicitation with the city clerk at least 45 days in advance of such event for approval or disapproval thereof by the mayor and council of the city. In no event shall such a charitable solicitor be entitled to operate such a roadblock more than once per year. In addition to the registration requirements of subsection 11-187(b), the applicant shall specify the location of the roadblock desired and the number of persons anticipated to man said location.
(Code 1976, § 11-68; Ord. No. 1980-015, § 1(11-204(6)), 5-20-1980)

Sec. 11-189. Same—False statements in registration.

It shall be unlawful for any person to execute a registration which contains a false statement.
(Code 1976, § 11-69; Ord. No. 1980-015, § 1(11-204(5)), 5-20-1980)

Sec. 11-190. Same—Duty to exhibit permit upon demand.

Charitable solicitors shall be required to exhibit their permits at the request of any person.
(Code 1976, § 11-70; Ord. No. 1980-015, § 1(11-204(4)), 5-20-1980)

Sec. 11-191. Solicitation on behalf of nonexistent organization prohibited.

It shall be unlawful for any person to solicit donations or contributions or sell any insignia or novelty on the streets of the city purportedly in behalf of, or under the sponsorship of, any charitable, religious, social, patriotic, or civic club or organization which does not in fact exist.
(Code 1976, § 11-71; Ord. No. 1980-015, § 1(11-204(5)), 5-20-1980)

Secs. 11-192—11-215. Reserved.

ARTICLE VI. SELF-SERVICE MOTOR FUEL DISPENSING STATIONS

Sec. 11-216. License required; duration.

(a) Each person, firm or corporation operating self-service fuel dispensing pumps within the corporate limits of the city shall be required to obtain a regulatory license from the city clerk in the manner specified in this chapter.

(b) A license granted to operate self-service motor fuel dispensing pumps within the corporate limits of the city shall be effective from January 1 to December 31 of each year, and the owner of each station shall reapply before the termination of said year for another annual license for each station to operate self-service pumps under the provisions of this chapter.
(Code 1976, § 11-111; Ord. No. 1980-015, § 1(11-209(1), (9)), 5-20-1980)

State law reference—Similar provisions, O.C.G.A. § 36-60-1.

Sec. 11-217. License fee.

The annual business license fee for each person, firm or corporation authorized by the city to operate self-service motor fuel dispensing pumps under the provisions of this chapter shall be as established by the city council.(Code 1976, § 11-112; Ord. No. 1980-015, § 1(11-209(2)), 5-20-1980)

Sec. 11-218. State rules and regulations for flammable and combustible liquids adopted by reference.

The Rules of Safety Fire Commissioner, Chapter 120-3-11, "Rules and Regulations for Flammable and Combustible Liquids," as they presently exist, and as they may be from time to time amended, are incorporated by reference and expressly made a part of this article.
(Code 1976, § 11-113; Ord. No. 1980-015, § 1(11-209(3)), 5-20-1980)

Sec. 11-219. Permit from state fire marshal required.

No person shall be granted a license to operate a self-service motor fuel dispensing pump within the corporate limits of the city unless and until he has obtained a permit from the state fire marshal which states that his motor fuel distribution station is in full compliance with all applicable state rules and regulations for the operation of such stations, including, but not limited to, those regulations regarding self-service fuel pumps. Details relating to number, design, location and operation of self-service fuel pumps shall be governed by the applicable regulations of the state fire marshal's office.
(Code 1976, § 11-114; Ord. No. 1980-015, § 1(11-209(3)), 5-20-1980)

Sec. 11-220. Attendants required; qualifications.

It shall be unlawful for any person to operate a self-service motor fuel dispensing pump unless an attendant is present at the pump's location. The attendant shall be at least 18 years of age, experienced with and physically capable of performing the required duties. In addition, he must be careful, capable and able to read and write the English language. He shall also be familiar with

the provisions and regulations of the state fire marshal regarding the operation of self-service motor fuel dispensing pumps.
(Code 1976, § 11-115; Ord. No. 1980-015, § 1(11-209(4)), 5-20-1980)

Sec. 11-221. Pump requirements.

(a) *Dispenser type; control devices*. All self-service stations must have either remote-control or key lock pumping dispensers. The remote-control systems must have a two-way intercom from an office or island house to each pump dispensing island or individual pump. Key lock pumping dispensers must not be cleared for dispensing until a customer is ready to use the dispenser.

(b) *Instructions for use, other information and warning signs; fire extinguishers*. Each motor fuel dispensing pump shall have step-by-step operating instructions attached to either the nozzle side or top of the pump. Each pump island shall have posted, before dispensing gasoline, a sign with letters not less than four inches high stating "Self-Service," "No Smoking" and "Cut Off Engine." In addition, at least one fire extinguisher shall be placed on each island where motor fuel dispensing pumps are located.

(c) *Emergency power-cutoff system*. A clearly identifiable and easily accessible switch shall be installed, not more than 100 feet from dispensers, that will operate as an emergency power cutoff for each motor fuel dispensing pump. This emergency cutoff device must be capable of cutting off power to lighting, as well as any and all other low-voltage circuits.
(Code 1976, § 11-116; Ord. No. 1980-015, § 1(11-209(6)—(8)), 5-20-1980)

Sec. 11-222. Restrictions on individuals allowed to operate dispensers.

It shall be unlawful for any person under the age of 16 years, or any person under the influence of intoxicants, narcotics or drugs, or not capable because of mental or physical incapacity, to operate any self-service motor fuel dispensing pump.
(Code 1976, § 11-117; Ord. No. 1980-015, § 1(11-209(5)), 5-20-1980)

Secs. 11-223—11-250. Reserved.

ARTICLE VII. SOLID WASTE COLLECTION AND DISPOSAL

DIVISION 1. GENERALLY

Secs. 11-251—11-275. Reserved.

DIVISION 2. INDEPENDENT SOLID WASTE COLLECTORS

Sec. 11-276. License required.

Each person engaged in the business of solid waste collection and disposal in this municipality shall be required to obtain a license from the city clerk in the manner specified in this chapter.
(Code 1976, § 11-136; Ord. No. 1980-015, § 1(11-203(1)), 5-20-1980)

Sec. 11-277. License fee.

The annual regulatory license fee for solid waste collectors doing business within this municipality shall be as established by the city council.
(Code 1976, § 11-137; Ord. No. 1980-015, § 1(11-203(3)), 5-20-1980)

Sec. 11-278. Application requirements for license.

Application for a license to engage in the business of solid waste collection and disposal shall be made as provided in article I of this chapter, except that such application shall contain the following additional information:

(1) Number, type, and size of waste collection vehicles to be used;

(2) Number of employees to be assigned to each waste collection vehicle;

(3) Name and location of commercial and industrial establishments and/or the number of residences to be served;

(4) Types of wastes to be collected; and

(5) State permit number of each disposal site to be used.

(Code 1976, § 11-138; Ord. No. 1980-015, § 1(11-203(1), (2)), 5-20-1980)

Sec. 11-279. Review of application by director of public works.

No action on any application for a license to engage in the business of solid waste collection and disposal shall be taken by the city council until the director of public works has reviewed such application and forwarded his recommendation thereon to the city clerk, in the manner specified in this chapter.

(Code 1976, § 11-139; Ord. No. 1980-015, § 1(11-203(4)), 5-20-1980)

Sec. 11-280. Standards for collection vehicles.

No license shall be issued to any person whose solid waste collection vehicles do not meet the standards established for such vehicles in the solid waste management ordinance of the city, codified in chapter 17 of this Code.

(Code 1976, § 11-140; Ord. No. 1980-015, § 1(11-203(5)), 5-20-1980)

Sec. 11-281. Compliance with Code.

It shall be the duty of all persons issued a license under this section to conform to the requirements of the solid waste management ordinance of this city, codified in chapter 17 of this Code, and failure to so conform shall be grounds for revocation of said license. Further, any proposed license holder shall comply with any and all federal and/or state statutory requirements concerning waste collection and/or disposal.

(Code 1976, § 11-141; Ord. No. 1980-015, § 1(11-203(6)), 5-20-1980)

Secs. 11-282—11-305. Reserved.

DIVISION 3. SCAVENGERS

Sec. 11-306. License required.

Each person who salvages or collects, for resale, or use, any garbage, paper, cardboard, boxes, crates, or other wastes which are being or are to be disposed of from any residence, establishment where people reside, congregate or are employed, or business establishment, shall be required to obtain a regulatory license from the city clerk in the manner specified in this article.

(Code 1976, § 11-146; Ord. No. 1980-015, § 1(11-208(1)), 5-20-1980)

Sec. 11-307. License fee.

The annual business license fee for each scavenger in the city shall be as established by the city council.

(Code 1976, § 11-147; Ord. No. 1980-015, § 1(11-208(2)), 5-20-1980)

Sec. 11-308. Regulation of operation.

Every scavenger shall conduct his operations in such a manner as not to hinder or interfere with garbage and trash collection and disposal by city garbage trucks. Trash, waste and garbage shall not be scattered by the scavenger at the place of collection or upon any street, alley or walkway in the city, nor shall such trash, waste and garbage be left by the scavenger in such a condition that it may be scattered by other persons, animals, or natural causes, and all scavenger trucks shall have a cover approved by the sanitary superintendent.

(Code 1976, § 11-148; Ord. No. 1980-015, § 1(11-208(3)), 5-20-1980)

Sec. 11-309. Compliance with Code.

Every scavenger shall comply with all ordinances of the city relating to garbage and trash collection and disposal and to all standard codes adopted by reference in this Code relating to fire and health protection.

(Code 1976, § 11-149; Ord. No. 1980-015, § 1(11-208(4)), 5-20-1980)

Secs. 11-310—11-335. Reserved.

ARTICLE VIII. JUNK DEALERS

Sec. 11-336. Definitions.

For the purpose of this article, the following words and phrases shall have the meanings respectively ascribed to them herein:

Business premises or *premises* means the area of a junkyard as described in a junk dealer's license or application for license, as provided for in this section.

Junk means old iron, steel, brass, copper, tin, lead, or other base metals; old cordage, ropes, rags, fibers, or fabrics; old rubber; old bottles or other glass; bones; wastepaper and other waste or discarded material which might be prepared to be used again in some form; and motor vehicles, no longer used as such, to be used for scrap metal or stripping of parts; but the term "junk" shall not include materials or objects accumulated by a person as by-products, waste, or scraps from the operation of his own business, or materials or objects held and used by a manufacturer as an integral part of his own manufacturing processes.

Junk dealer means a person who operates a junkyard, as defined in this section, within the city.

Junkyard means a yard, lot, or place, covered or uncovered, outdoors or in an enclosed building, containing junk as defined in this section, upon which occurs one or more acts of buying, keeping, dismantling, processing, selling, or offering for sale any such junk, in whole units or by parts, for a business or commercial purpose, whether or not the proceeds from such acts are to be used for charity.
(Code 1976, § 11-161; Ord. No. 1980-015, § 1(11-205(2)), 5-20-1980)

Sec. 11-337. License required.

Each junk dealer, as such term is defined in section 11-336, who does business within this municipality shall be required to obtain a regulatory license from the city clerk in the manner specified in this article.
(Code 1976, § 11-162; Ord. No. 1980-015, § 1(11-205(1)), 5-20-1980)

Sec. 11-338. License fee.

The annual business license fee for each junk dealer doing business in this municipality shall be as established by the city council.
(Code 1976, § 11-163; Ord. No. 1980-015, § 1(11-205(5)), 5-20-1980)

Sec. 11-339. License application requirements.

Application for a license under this article shall be made as provided in article I of this chapter, except that such application shall contain the following additional information:

(1) Trade names used during the previous five years by the applicant and each person signing the application, along with the locations of prior establishments;

(2) Names and addresses of employers of each person signing the application during the previous five years;

(3) Name, residence address, and telephone number of each person employed or intended to be employed in the business as of the time the application is filed;

(4) A sketch of the actual premises to be used in connection with the business, giving distances in feet and showing adjoining roads, property lines, buildings, and uses; and

(5) A description of the materials with which any buildings to be used in connection with the licensed business are, or are to be, made; a sketch giving distances, showing the location of such buildings on the business premises; and a diagram or plan giving distances and heights, showing floors, exits, entrances, windows, ventilators, and walls.

(Code 1976, § 11-164; Ord. No. 1980-015, § 1(11-205(3)), 5-20-1980)

Sec. 11-340. General operating requirements.

The following general operating requirements shall apply to all junk dealers licensed in accordance with the provisions of this article:

(1) The junkyard, together with things kept therein, shall at all times be maintained in a sanitary condition.

(2) No space not covered by the license shall be used in the licensed business.

(3) No water shall be allowed to stand in any place on the premises in such manner as to afford a breeding place for mosquitoes.

(4) No weeds shall be permitted to attain a height of more than four inches.

(5) No garbage or other waste liable to give off a foul odor or attract vermin shall be kept on the premises; nor shall any refuse of any kind be kept on the premises unless such refuse is junk as that term is defined in section 11-336 and is in use in the licensed business.

(6) No junk shall be allowed to rest upon or protrude over any public street, walkway, or curb, or become scattered or blown off the business premises.

(7) Junk shall be stored in piles not exceeding ten feet in height and shall be arranged so as to permit easy access to all such junk for firefighting purposes.

(8) No combustible material of any kind not necessary or beneficial to the licensed business shall be kept on the premises; nor shall the premises be allowed to become a fire hazard.

(9) Gasoline and oil shall be removed from any scrapped engines or vehicles on the premises.

(10) No junk or other material shall be burned on the premises in any incinerator not meeting the requirements of the building code; and no junk or other material shall be burned on the premises in the open except in accordance with the provisions of chapter 9.

(11) No noisy processing of junk or other noisy activity shall be carried on in connection with the licensed business on any Sunday, Christmas, Thanksgiving, or at any time between the hours of 6:00 p.m. and 7:00 a.m.

(12) The licensee shall permit inspection of the business premises by any police officer at any reasonable time.

(13) No junkyard shall be allowed to become a nuisance; nor shall any junkyard be operated in such a manner as to become injurious to the health, safety, or welfare of the community or of any residents close by.

(Code 1976, § 11-166; Ord. No. 1980-015, § 1(11-205(6)), 5-20-1980)

Sec. 11-341. Standards for vehicles used by dealers.

Every vehicle used by a junk dealer in the conduct of his business shall bear thereon in legible characters the name and address of the owner and proprietor thereof.

(Code 1976, § 11-167; Ord. No. 1980-015, § 1(11-205(10)), 5-20-1980)

Sec. 11-342. Records of acquisitions; availability for inspection.

Each acquisition of junk shall be recorded in a permanent-type register kept on the business premises, giving the name and residence address of the person from whom the acquisition was made, a description of the junk acquired, and the date of the transaction. Such data shall be held available for inspection by any police officer.

(Code 1976, § 11-168; Ord. No. 1980-015, § 1(11-205(7)), 5-20-1980)

Sec. 11-343. Dealing with, employing minors; minors ineligible for license.

No junk dealer shall have any business dealings as a junk dealer with a minor, nor shall a junk dealer's license be issued to a minor; nor shall a junk dealer employ a minor to assist him in his business.

(Code 1976, § 11-169; Ord. No. 1980-015, § 1(11-205(8)), 5-20-1980)

Sec. 11-344. Inspection of goods believed lost or stolen.

Every junk dealer who shall receive or be in possession of any goods, articles, or things of value which may have been lost or stolen shall,

upon demand, produce such article or thing to any member of the police department for examination.
(Code 1976, § 11-170; Ord. No. 1980-015, § 1(11-205(9)), 5-20-1980)

Secs. 11-345—11-370. Reserved.

ARTICLE IX. AMUSEMENTS

DIVISION 1. GENERALLY

Secs. 11-371—11-400. Reserved.

DIVISION 2. BILLIARD AND POOL ROOMS*

Sec. 11-401. License required.

Each person keeping, operating, or maintaining a billiard table, pool table, or any other table of like character within the corporate limits of the city for use by the public shall be required to obtain a license from the city clerk in the manner specified in this article.
(Code 1976, § 11-206; Ord. No. 1980-015, § 1(11-206(1)), 5-20-1980)

Sec. 11-402. License fee.

The annual business license fee for each operator of a billiard or pool room in the city shall be as established by the city council.
(Code 1976, § 11-207; Ord. No. 1980-015, § 1(11-206(2)), 5-20-1980)

Sec. 11-403. Standards for issuance of license.

An application for a billiard or pool room license may be denied on the basis of any one of the following standards in addition to the standards and requirements of article I of this chapter:

(1) Evidence that the activity to be conducted involves illegal conduct.

(2) Evidence that the location, type of structure or activity could create unreasonable difficulty in police supervision.

(3) Evidence that a license for the location would be unreasonably detrimental to the property values in the area.

(4) Evidence that a license in that location would be detrimental to traffic conditions or that there is a lack of sufficient parking spaces for automobiles.

(5) Evidence that the conducting of the business creates an unreasonable disturbance, congregation of intoxicated persons, nuisance, or causes the police to answer an unreasonable number of complaints or conduct extra surveillance of the premises.

(Code 1976, § 11-208; Ord. No. 1980-015, § 1(11-206(2)(a))), 5-20-1980)

Sec. 11-404. Personal qualifications of applicant.

In addition to the standards provided in section 11-403, and in determining whether or not any license applied for shall be granted, the following shall be considered in the public interest and welfare:

(1) The applicant's reputation, character, mental and physical capacity to conduct this business.

(2) If the applicant is a previous holder of a license to operate a business of this type, whether or not he has violated any law, regulation or ordinance relating to the business.

(3) If the applicant is a previous holder of a license to operate a business of this type, the manner in which he conducted the business thereunder as to the necessity for unusual police observation and inspection in order to prevent the violation of any law, regulation or ordinance relating to the business.

(4) If the applicant is a person whose license for the operation of a business of this type has been previously suspended or revoked.

(Code 1976, § 11-209; Ord. No. 1980-015, § 1(11-206(2)(b)), 5-20-1980)

*__State law references__—Poolrooms, O.C.G.A. § 48-3-1 et seq.; local licensing and regulation of pool rooms, O.C.G.A. § 48-3-2.

Sec. 11-405. Hours of operation; variances.

(a) It shall be unlawful for the owner, operator, manager or employee of any billiard or pool room licensed to operate within the city to engage in the operation of said business except during the following hours:

(1) Monday: 6:00 a.m. to 12:00 midnight.

(2) Tuesday: 6:00 a.m. to 12:00 midnight.

(3) Wednesday: 6:00 a.m. to 12:00 midnight.

(4) Thursday: 6:00 a.m. to 12:00 midnight.

(5) Friday: 6:00 a.m. to 1:00 a.m.

(6) Saturday: 6:00 a.m. to 1:00 a.m.

(7) Sunday: 6:00 a.m. to 8:00 p.m.

(b) Any license holder operating a billiard or pool room who has not violated any terms, provisions or conditions of the license may apply to the city manager for a variance in the event he wishes to operate during times of special events, such as Super Bowl Sunday, New Year's Day, football games or other special occasions, not within the hours contemplated in such subsection (a) of this section. Such a variance may be granted by the city manager in consultation with the mayor and/or council, within his sole and absolute discretion.
(Code 1976, § 11-210; Ord. No. 1980-015, § 1(11-206(3)), 5-20-1980; Ord. No. 1992-003, § 1, 5-12-1992)

Sec. 11-406. Clear view of premises required.

The owner, operator, or manager of any billiard or pool room in the city shall not permit to be used on such premises any screens, shades, partitions, or other devices of like character which shall have the effect of obstructing the view through the windows or doors of the place where the billiard or pool tables are kept.
(Code 1976, § 11-211; Ord. No. 1980-015, § 1(11-206(4)), 5-20-1980)

Sec. 11-407. Doors to be kept unlocked.

The doors of all billiard or pool rooms licensed under this division shall be kept unlocked whenever the tables are in use or when any person other than the room proprietor, or his agent, is present in such place.
(Code 1976, § 11-212; Ord. No. 1980-015, § 1(11-206(5)), 5-20-1980)

Sec. 11-408. Consumption and/or possession of malt beverages, intoxicating liquors, and wines prohibited.

(a) It shall be unlawful for any person to consume, or possess any malt beverage, intoxicating liquor, or wine upon the billiard or pool room premises.

(b) It shall be unlawful for the owner, operator, or manager or any billiard or pool room to allow the consumption by any person of any malt beverage, intoxicating liquors or wine upon the billiard or pool room premises.

(c) This section does not apply to those premises exempted under the provisions of O.C.G.A. § 43-8-2(b)(3).
(Code 1976, § 11-213; Ord. No. 1980-015, § 1(11-206(8)), 5-20-1980)

Sec. 11-409. Gambling prohibited.

It shall be unlawful for the owner, operator, or manager of any billiard or pool room open for public use to allow gambling of any kind to occur upon such premises.
(Code 1976, § 11-214; Ord. No. 1980-015, § 1(11-206(6)), 5-20-1980)

State law reference—Gambling, O.C.G.A. § 16-12-23.

Sec. 11-410. Regulations to be posted on premises.

A notice shall be posted on the premises in clear view, for inspection by the public, consisting of a summary of the regulations which constitute grounds of revocation of a billiard and pool room license.
(Code 1976, § 11-215; Ord. No. 1980-015, § 1(11-206(7)), 5-20-1980)

Sec. 11-411. Inspection of premises.

The chief of police is authorized toinspect or cause the inspection of any place or building on

which any billiard or pool table is operated in order to ensure compliance with the provisions of this chapter.
(Code 1976, § 11-216; Ord. No. 1980-015, § 1(11-206(9)), 5-20-1980)

Secs. 11-412—11-435. Reserved.

DIVISION 3. GAME ROOMS AND ARCADES

Sec. 11-436. Definitions.

As used in this division, unless the context clearly requires otherwise, the following words and phrases shall have the following meanings:

Coin-operated amusement device means any amusement machine or device operated by means of the insertion of a coin, token, or similar object, for the purpose of amusement or skill and for the playing of which a fee is charged. The term does not include vending machines in which are not incorporated gaming or amusement features. The term also does not include any coin-operated mechanical musical devices, regular pool tables, or miniature pool tables. Such devices shall not pay off with anything except additional free games.

Game room means an establishment that allows or provides coin-operated electronic devices or other devices to be used for pleasure purposes. The entire establishment may be used for other purposes, except that gambling shall be prohibited as provided in section 11-452.

Operator is hereby defined to be any person, firm, corporation, partnership or association who sets up for operation by another, or leases or distributes for the purpose of operation by another, any device as herein defined, whether such setting up for operation, leasing or distributing is for a fixed charge or rental, or on the basis of a percentage of the income derived from such device, or otherwise.

Proprietor is hereby defined to be any person, firm, corporation, partnership, association or club who, as the owner, lessee, or proprietor, has under his or its control any establishment, place or premises in or at which such a coin-operated amusement device is placed or kept for use or play, or on exhibition for the purpose of use or play.
(Code 1976, § 11-226; Ord. No. 1980-015, § 1(11-207(2)), 5-20-1980)

Sec. 11-437. License required.

Each person keeping, operating, maintaining or engaged in the business of an operator or proprietor of coin-operated amusement devices, as that term is defined in section 11-436, within the corporate limits of the city for use by the public shall be required to obtain a license from the city clerk in the manner specified in this article.
(Code 1976, § 11-227; Ord. No. 1980-015, § 1(11-207(1)), 5-20-1980)

Sec. 11-438. Application for license.

(a) Application for a license hereunder shall be filed in writing with the city clerk, on a form to be provided by the city, and shall specify:

(1) The name and address of the applicant, and if a firm, corporation, partnership, or association, the principal officers thereof and their addresses.

(2) The address of the premises where the licensed device is to be operated, together with the character of the business as carried on at such place.

(3) The trade name and general description of the device to be licensed, the name of the manufacturer and the serial number, and, if the applicant is a proprietor, the number of devices to be licensed. In the event that new devices are added or old devices are replaced, the previously detailed information shall be supplied about such devices in writing to the city clerk within ten days of their installation.

(4) The name and address of the operator of the device, if other than the proprietor.

(5) The general plan and layout of how the area concerned is to be used. Such plan and layout shall include parking facilities; proof of liability insurance; inspections and approval by the fire, building,

plumbing and electrical inspectors; and such other related information as may be required by the city clerk.

(b) The proper license fee shall accompany such application.
(Code 1976, § 11-229; Ord. No. 1980-015, § 1(11-207(4)), 5-20-1980)

Sec. 11-439. Procedure for review of application.

Application for license hereunder shall be first referred by the city clerk to the mayor and council who shall make or cause to be made such investigation as they deem necessary. If the application is approved by the mayor and council, the license shall be issued by the city clerk, and the city clerk shall remit the fee to the city treasurer. If the license is denied the fee shall be returned to the applicant.
(Code 1976, § 11-230; Ord. No. 1980-015, § 1(11-207(4)), 5-20-1980)

Sec. 11-440. Standards for issuance of license.

In the issuance of licenses for the purposes of operating a game room, an application may be denied on the basis of any one of the following standards, in addition to standards stated elsewhere in this division:

(1) Evidence that the activity to be conducted involves illegal conduct.

(2) Evidence that the location, type of structure or activity could create unreasonable difficulty in police supervision.

(3) Evidence that a license for the location would be unreasonably detrimental to the property values in the area.

(4) Evidence that a license for the location would be detrimental to traffic conditions or that there is a lack of sufficient parking spaces for automobiles.

(5) Evidence that the conducting of the business creates an unreasonable disturbance, congregation of intoxicated persons, nuisance, or causes the police to answer an unreasonable number of complaints or conduct extra surveillance of the premises.
(Code 1976, § 11-231; Ord. No. 1980-015, § 1(11-207(6)(a)), 5-20-1980)

Sec. 11-441. Personal qualifications of applicants.

In addition to the standards set forth in section 11-440, and in determining whether or not any license applied for shall be granted, the following shall be considered in the public interest and welfare:

(1) The applicant's reputation, good moral character, mental and physical capacity to conduct this business.

(2) If the applicant is a previous holder of a license to operate a business of this type, whether or not he has violated any law, regulation or ordinance relating to the business.

(3) If the applicant is a previous holder of a license to operate a business of this type, the manner in which he conducted the business thereunder as to the necessity for unusual police observation and inspection in order to prevent the violation of any law, regulation or ordinance relating to the business.

(4) If the applicant is a person whose license for the operation of a business of this type has been previously suspended or revoked.
(Code 1976, § 11-232; Ord. No. 1980-015, § 1(11-207(6)(b)), 5-20-1980)

Sec. 11-442. Moral character of applicants; effect of criminal record.

No person shall be granted a license to conduct a game room unless the person, or the officer and directors of any corporation, shall be of good moral character. This shall mean that in no event shall any such license be granted to any corporation where the person or any officer or director of the corporation has been convicted or has pled guilty or entered a plea of nolo contendere to any

crime involving moral turpitude within a period of ten years immediately prior to the date of application for the license.
(Code 1976, § 11-233; Ord. No. 1980-015, § 1(11-207(5)), 5-20-1980)

Sec. 11-443. Expiration of license.

All licenses under this division shall expire on June 30 following their issuance.
(Code 1976, § 11-234; Ord. No. 1980-015, § 1(11-207(4)), 5-20-1980)

Sec. 11-444. Nontransferability of license.

A license issued under the provisions of this article shall be nonassignable and nontransferable, and, in the case of a proprietor, shall apply only to the premises for which the license is issued.
(Code 1976, § 11-235; Ord. No. 1980-015, § 1(11-207(4)), 5-20-1980)

Sec. 11-445. Filing evidence of ownership of devices prerequisite to operation.

Any proprietor who owns such devices shall file with the city clerk evidence of such ownership prior to the issuance of a license.
(Code 1976, § 11-236; Ord. No. 1980-015, § 1(11-207(7)), 5-20-1980)

Sec. 11-446. Hours of operation.

(a) It shall be unlawful for the owner, operator, manager or employee of any game room or arcade licensed to operate within the city to engage in the operation of said business except during the following hours:

(1) Monday: 8:00 a.m. to 12:00 midnight.

(2) Tuesday: 8:00 a.m. to 12:00 midnight.

(3) Wednesday: 8:00 a.m. to 12:00 midnight.

(4) Thursday: 8:00 a.m. to 12:00 midnight.

(5) Friday: 8:00 a.m. to 1:00 a.m.

(6) Saturday: 8:00 a.m. to 1:00 a.m.

(7) Sunday: 12:00 noon to 8:00 p.m.

(b) For those business establishments used for purposes other than and in addition to use as a game room or arcade, the prohibited hours of operation herein established shall apply only to that portion of the business premises used for a game room or arcade; and provided further, that the proprietor shall cause all coin-operated amusement devices to be locked or rendered inoperable so as to prohibit the operation thereof during said prohibited hours of operation.

(c) Any license holder operating a game room or arcade who has not violated any terms, provisions or conditions of the license may apply to the city manager for a variance in the event he wishes to operate during times of special events, such as Super Bowl Sunday, New Year's Day, football games or other special occasions, not within the hours contemplated in such subsection (a) of this section. Such a variance may be granted by the city manager in consultation with the mayor and/or council, within his sole and absolute discretion.
(Code 1976, § 11-237; Ord. No. 1980-015, § 1(11-207(8)), 5-20-1980; Ord. No. 1982-003, § 1, 2-9-1982; Ord. No. 1982-010, § 1, 6-8-1982; Ord. No. 1992-003, § 2, 5-12-1992)

Sec. 11-447. Clear view of premises required.

The owner, operator, or manager of any game room or arcade in the city shall not permit to be used on such premises any screens, shades, partitions, or other devices of like character which shall have the effect of obstructing the view through the windows or doors of the place where the games are kept.
(Code 1976, § 11-238; Ord. No. 1980-015, § 1(11-207(9)), 5-20-1980)

Sec. 11-448. Doors to be kept unlocked.

The doors of all game rooms or arcades licensed under this article shall be kept unlocked whenever the games are in use or when any person other than the proprietor or his agent is present in such place.
(Code 1976, § 11-239; Ord. No. 1980-015, § 1(11-207(10)), 5-20-1980)

Sec. 11-449. Condition of premises.

All premises shall be kept clean and in proper sanitary condition.
(Code 1976, § 11-240; Ord. No. 1980-015, § 1(11-207(11)), 5-20-1980)

Sec. 11-450. Disturbance of peace, obscenity, lewd and illegal conduct, etc., prohibited.

It shall be unlawful to permit any disturbance of the peace or obscenity or any lewd and illegal entertainment, conduct or practices on the game room premises.
(Code 1976, § 11-241; Ord. No. 1980-015, § 1(11-207(11)), 5-20-1980)

Sec. 11-451. Consumption of malt beverages, intoxicating liquors and wines prohibited.

(a) It shall be unlawful for any person to consume any malt beverage, intoxicating liquor or wine upon the game room premises.

(b) It shall be unlawful for the owner, operator, or manager of any game room or arcade to allow the consumption by any person of any malt beverage, intoxicating liquors or wine upon the game room premises.
(Code 1976, § 11-242; Ord. No. 1980-015, § 1(11-207(14)), 5-20-1980; Ord. No. 1982-003, § 2, 2-9-1982)

Sec. 11-452. Gambling prohibited.

It shall be unlawful for the owner, operator, or manager of any game room or arcade open for public use to allow gambling of any kind to occur upon such premises.
(Code 1976, § 11-243; Ord. No. 1980-015, § 1(11-207(13)), 5-20-1980)

State law reference—Gambling, O.C.G.A. § 16-12-23.

Sec. 11-453. Regulations to be posted on premises.

A notice shall be posted on the premises in clear view, the regulations which constitute grounds for revocation of for inspection by the public, consisting of a summary of a game room license.
(Code 1976, § 11-244; Ord. No. 1980-015, § 1(11-207(12)), 5-20-1980)

Sec. 11-454. Inspection of premises.

The chief of police shall inspect or cause the inspection of any place or building in which any such devices are operated or set up for operation and inspect, investigate and test, or cause the inspection, investigation and testing of, such devices.
(Code 1976, § 11-245; Ord. No. 1980-015, § 1(11-207(15)), 5-20-1980)

Secs. 11-455—11-480. Reserved.

ARTICLE X. PEDDLERS AND ITINERANT MERCHANTS

Sec. 11-481. Definitions.

For the purposes of this article, the following words shall have the meanings specified:

Itinerant merchant is defined as any person, firm, or corporation, whether as owner, agent, consignee or employee, whether a resident of the city or not, who engages in a temporary business of selling and delivering goods, wares, merchandise and photographs, within the city, and who, in furtherance of such purpose, hires, leases, uses, or occupied any building, structure, motor vehicle, tent, railroad boxcar, boat or public room in any hotel, lodginghouse, apartment, shop or temporary floor space made available by another business establishment within the city for the exhibition and sale of such goods, wares, merchandise, and photographs, either privately or at public auction.

Peddler includes any person, whether a resident of this city or not, traveling by foot, wagon, automotive vehicle or any other type of conveyance from place to place, from house to house, or from street to street, carrying, conveying or transporting goods, wares, merchandise, meats, fish, vegetables, fruits, garden produce, farm products, ice cream, snow-cones, ices, drinks, other foods or provisions, who offers and exposes the same for sale, or who, without traveling from place to place, sells or offers the same for sale from a wagon, automotive vehicle, railroad car, or other vehicle or conveyance.
(Code 1976, § 11-252; Ord. No. 1980-023, § 1(11-212(2)), 7-15-1980)

Sec. 11-482. Persons exempt from article requirements.

This section shall not be applicable to traveling salesmen or nonresident merchants nor to newsboys, nor to bona fide merchants who merely deliver goods in the regular course of business, nor to bona fide charitable, religious or philanthropic organizations.
(Code 1976, § 11-253; Ord. No. 1980-023, § 1(11-212(3)), 7-15-1980)

Sec. 11-483. License required.

Each peddler and itinerant merchant, as such terms are defined herein, who does business within this municipality shall be required to obtain a license from the city clerk in the manner specified in this article.
(Code 1976, § 11-251; Ord. No. 1980-023, § 1(11-212(1)), 7-15-1980)

Sec. 11-484. Application.

Application for a regulatory license under this section shall be made as provided in article I of this chapter, except that such application shall contain the following additional information:

(1) The description and number of vehicles, if any, intended to be operated;

(2) The kind of merchandise to be sold;

(3) The permanent address of the peddler or itinerant merchant; and

(4) Written permission from property owner where peddler shall operate.

(Code 1976, § 11-254; Ord. No. 1980-023, § 1(11-212(4)), 7-15-1980)

Sec. 11-485. License fee established.

The business license fee for each peddler and itinerant merchant doing business in the city shall be as established by the city council. There shall be no licenses issued on less than a yearly basis.
(Code 1976, § 11-255; Ord. No. 1980-023, § 1(11-212(5)), 7-15-1980)

Sec. 11-486. Locations authorized for business.

No peddler or itinerant merchant shall ply his vocation on any street, sidewalk, park, parkway or in any other public place, except in such places, locations, and zones as specifically allowed in said license.
(Code 1976, § 11-256; Ord. No. 1980-023, § 1(11-212(6)), 7-15-1980)

Sec. 11-487. Obstruction prohibited.

Peddlers and itinerant vendors of merchandise, wares, goods or photographs who have no regular fixed place of business and who do not make sales from a house or building shall conduct their business so as not to obstruct in any way the streets and sidewalks of the city, by themselves or by their customers who stop at such places as may be located off the streets and sidewalks. The business shall be conducted so as to be far enough away from the streets and sidewalks for their customers to step off the sidewalks in order to reach their place of business, and to be out of the way of the traveling public.
(Code 1976, § 11-257; Ord. No. 1980-023, § 1(11-212(7)), 7-15-1980)

Sec. 11-488. Fraud, misrepresentation, etc., prohibited.

Any licensed peddler or itinerant merchant who shall be guilty of any fraud, cheating or misrepresentation, whether through himself or an employee, while acting as a licensee in the city or who shall barter, sell or peddle any goods, merchandise or wares, other than as allowed in his license, shall be deemed guilty of a violation of this Code.
(Code 1976, § 11-258; Ord. No. 1980-023, § 1(11-212(8)), 7-15-1980)

Sec. 11-489. Loud noises and amplifying devices.

No licensee under this article, nor anyone in his behalf, shall shout, make any outcry, blow a horn, ring a bell or use any other sound device including any loud speaking, radio or amplifying system upon any of the streets, alleys, parks or other public places of the city or upon any private

premises in the city where sound of sufficient volume is emitted or produced therefrom capable of being plainly heard upon the streets, avenues, alleys, parks or other public places for the purpose of attracting attention to any goods, wares or merchandise which such licensee proposes to sell, unless approved by the chief of police as being not offensive.
(Code 1976, § 11-259; Ord. No. 1980-023, § 1(11-212(9)), 7-15-1980)

Sec. 11-490. Display of license.

Every licensee shall post his license in such a place as to be in full view of the public.
(Code 1976, § 11-260; Ord. No. 1980-023, § 1(11-212(10)), 7-15-1980)

Sec. 11-491. Hours of operation.

It shall be unlawful for any peddler or itinerant merchant to operate his business in the city between the hours of 9:00 p.m. and 8:00 a.m.
(Code 1976, § 11-261; Ord. No. 1980-023, § 1(11-212(11)), 7-15-1980)

Secs. 11-492—11-520. Reserved.

ARTICLE XI. TAXICABS

Sec. 11-521. 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:

Cruising means the operation of a taxicab upon public streets, when not employed by a passenger and when through its operation by words or actions seeks patronage.

Driver's permit means permission granted by the city to any person to drive any licensed taxicab upon the streets of the city.

Operator means any person owning or having control of the use of one or more taxicabs used for hire on the streets of the city, or engaged in the business of operating a taxicab.

Police or *police department* means the police or police department of the city under the supervision and authority of the chief of police or his designated representative, who may be any employee of the police department or the license inspector.

Private livery cab means any vehicle carrying persons at rates at special instance and request, per unit of time, by the hour, day, week or fraction thereof.

Street means any street, alley, avenue, court, bridge, lane, or public right-of-way in the city.

Taxicab means any motor vehicle engaged in the business of carrying persons for hire where charges are determined by agreement, contract, mileage or by length of time the vehicle is used, except vehicles under control of the state public service commission. No vehicle less than an intermediate size four-door sedan or station wagon shall be licensed as a taxicab.

Taxicab driver means any person who drives a taxicab, whether such person is the owner of such taxicab or employed by a taxicab owner or operator.

Sec. 11-522. Regulatory permit required.

Taxicab operators and drivers shall not operate or conduct taxicab business in the streets of the city without having first obtained a taxicab permit from the police department through the licensing authority governing taxicabs; and the person operating the taxicab must have an approved taxicab driver's permit, even if the operator is the licensee. No permit shall be issued or renewed unless the holder thereof has paid the annual regulatory fee established by the city council and all other provisions of this article have been met.

Sec. 11-523. Conducting business.

For the purposes of this article only, taxicab operators and drivers shall be deemed doing business in the city if such person is picking up and transporting passengers in the incorporated limits of the city and accepting or soliciting any consideration, charge or fee which is determined by agreement, by mileage, by the length of time the vehicle is used or by contract for the use of any motor vehicle or other vehicle designed or used for

the purpose of transporting passengers where such vehicles are operating from a fixed termini in the city. Any person shall also be deemed as doing business in the city if such person has established a business relationship with independent contractors or operates vehicles for hire on such person's own behalf for the purpose of picking up and transporting passengers in the city, where such vehicles are operating from a fixed termini in the city.

Sec. 11-524. Application for permit.

Application for a taxicab permit shall be filed by the owner and driver. If the owner and driver of the vehicle are the same person only one application is required on a form furnished by the city through the police department. All information on the form shall be full and truthful. Any false or omitted information by the applicant may be considered cause for denial of the permit.

Sec. 11-525. Permit renewal.

The annual renewal of taxicab permits shall be filed with the proper authority during the month of February of each year. Any permit not renewed by March 1 (unless such day is on a weekend then renewal can occur on the next business day) shall be considered revoked.

Sec. 11-526. Inspection of vehicle.

(a) No vehicle shall be licensed as a taxicab until it has been found to be in a thoroughly safe condition, clean, fit, of good appearance, safe mechanical condition and well painted. The police department shall make, or cause to be made, such examination and inspection before a permit is issued. The owner of a licensed taxicab shall cause such vehicle to be submitted for inspection during February and August of each year; or the police department may inspect any taxicab at any time. A permit shall be denied, or, if already in effect, may be suspended or revoked in accordance with section 11-535 if the vehicle is found to be unfit, unsafe, or unsanitary.

(b) When the vehicle is approved and permit has been issued, the police department shall issue a decal sticker which shall be applied to the lower, right corner of the vehicle windshield on the inside of the glass. The decal number shall be entered on the official license and on the application. A new decal shall be issued each year and each permitted taxicab must display a decal sticker for the current year.

(c) If a permitted taxicab is replaced by another vehicle, upon proof submitted by the owner that such permitted taxicab has been taken out of service and will not be further used in connection with his taxicab operation, a replacement decal sticker will be furnished without cost. The replacement decal sticker number shall be duly recorded on the police and permit clerk's records.

Sec. 11-527. Taxicab driver's permit and state driver's license required.

No taxi driver nor operator shall operate a taxicab nor shall permit a taxicab to be driven at any time for hire unless the driver of said taxicab shall have first obtained and be the holder of a taxicab driver's permit, which is then in full force and effect, from the police department; and provided, further, that said driver shall be the permittee or an employee or agent of the permittee or the holder of the taxicab permit. Every person applying for a taxicab driver's permit must be the possessor of an unrestricted state driver's license in full force and effect under the motor vehicle laws of this state.

Sec. 11-528. Qualifications of applicants for driver's permits.

Each applicant for a taxicab driver's permit under the terms of this article must conform to the following regulations in that they:

(1) Must be 21 years of age or over;

(2) Must be of sound physique, with good eyesight, and not subject to epilepsy, vertigo, heart trouble or any other infirmity of body or mind, which might render them unfit for the safe operation of a public vehicle;

(3) Must be able to read and write in a manner sufficient to pass and possess a state driver's license;

(4) Must be clean in dress, neat in personal appearance, and must not use illegal amounts of intoxicating liquor or illegal drugs while driving;

(5) Must not owe the city any delinquent taxes, licenses or fees of any kind whatsoever;

(6) Must not have been convicted of public drunkenness or driving under the influence of alcohol or drugs within the last 24 months;

(7) Must not have been convicted of quarreling and fighting, disorderly conduct or any misdemeanor within the last 12 months;

(8) Must not have been convicted of three or more traffic violations within the last 36 months;

(9) Must fill out, upon a blank form provided by the city, giving full and truthful information as required. Any false statement by the applicant shall be considered cause for denial of his driver's permit. Application shall be accompanied by the appropriate fee; and

(10) Must not have any conviction of a felony, or any crime involving violence, dishonesty, deceit, indecency, degeneracy or moral turpitude.

Sec. 11-529. Photograph of applicant for driver's permit.

Each applicant for a driver's or operator's permit must file with his application three unmounted passport style photographs of himself, taken within 30 days preceding the filing of his application and/or such size as may be easily attached to his permit and application. If approved, each driver must display his permit and photograph in the taxicab he drives. If a permit is denied, two copies of the photograph shall be returned to the applicant.

Sec. 11-530. Issuance of driver's permit; photograph and signature required thereon.

An approved applicant for a driver's permit shall be issued a permit in such form as to contain a photograph and signature of the applicant.

Sec. 11-531. Fee for driver's permit.

A fee shall be paid for an operator's and driver's permit or renewal thereof. If the driver is also the operator only one application and/or origination fee shall be filled out and paid, and one fee annually thereafter if renewal is approved.

Sec. 11-532. Identification of vehicle.

Every permitted taxicab, except a private livery cab, shall be plainly marked on both sides for identification as follows:

(1) The word "taxi," "taxicab" or "cab" shall be printed in letters at least three inches high with at least a three-eighths-inch stroke. A company name including one of these words may be used;

(2) The name of the permitted owner of the vehicle shall be printed under the above in letters at least 1½ inches high;

(3) The official permit number as assigned by the police department shall appear on the next line in letters at least 1½ inches high, and said number shall be proceeded by the abbreviation letters "LIC." (Example: "LIC.-123");

(4) The taxicab telephone number, fax and website may also be used if desired;

(5) Each taxicab shall have a taxicab style dome light installed on top of the vehicle, said light shall be lighted whenever the taxicab is in use at night. The telephone number or the word taxi or taxicab may be printed on the light globe;

(6) All lettering referred to in subsections (1), (2), (3) and (4) of this section shall be painted in a contrasting color to the color of the taxicab, painted on both sides, and in plain, distinct lettering for easy, quick identification; and

(7) No taxicab shall be operated without being properly marked as required by the provisions of this article. If any provision of this article shall conflict with the sign ordinance, the sign ordinance shall be deemed to prevail.

Sec. 11-533. Limit on number of taxicabs licensed.

No person shall be granted a permit to operate a taxicab without it being determined by the police department approving authority that public convenience and necessity shall be limited based on the ratio of number of taxicabs per population of the city. The maximum number of taxicabs which shall be licensed to operate within the city shall be limited to one taxicab for each 200 persons living in the city, according to the current applicable census or any future census plus any estimated increase in population which the mayor and council may from time to time determine to have occurred. This estimated increase shall be taken from the state department of labor or other reliable source.

Sec. 11-534. Applicability of article to drop off fares.

This article shall not be deemed to apply to taxicab operators or drivers who are delivering passengers for drop off in the city, and who do not pick up passengers in the city.

Sec. 11-535. Suspension or revocation of license, permit.

Where it is not specifically stipulated elsewhere in this article, suspension or revocation of a taxicab permit or a driver's permit shall be as follows for the various charges:

(1) Where the applicant furnishes fraudulent or untruthful information or omits information requested in the application for a license or permit;

(2) Failure to pay all fees, taxes or other charges imposed by the provisions of this article;

(3) Failure to maintain all of the general qualifications applicable to the initial issuance of a license or driver's permit;

(4) Violation of any provision of this article;

(5) Charging a fare in excess of those fares on file with the police department;

(6) Refusing to accept a passenger solely on the basis of race, color, national origin, religious belief, sex or sexual orientation. The term "sexual orientation" shall mean the state of being heterosexual, homosexual, bisexual or other. Operators shall not refuse to accept a passenger unless the passenger is obviously intoxicated or disorderly; and

(7) Allowing the required insurance coverage to lapse or allowing a vehicle to operate in the city without a city inspection sticker.

Sec. 11-536. Hearings.

(a) Except where a refusal to approve an application for a driver's permit or an application for renewal thereof or revocation thereof or suspension of such permit is based solely on a judicial conviction, a licensee, permit holder, or applicant shall have an opportunity to be heard. Such hearing shall be held by the mayor and council of the city at such time and place as the mayor shall prescribe.

(b) Wherever a hearing is provided in this section before the permit holder shall be given written notice of the hearing.

(1) The hearing shall be held as soon as a quorum of the mayor and council is available.

(2) At the hearing, the police and other witnesses and the accused shall present any evidence or facts they desire. The appearance of the permittee shall be voluntary. Without any attempt to determine a verdict of guilty or not guilty on any pending court action, the mayor and council shall decide what to do or not do regarding the status of the taxicab permit. The action of the mayor and council to suspend, revoke or reinstate said permit is independent of the outcome of any possible court action. Misdemeanor violations of this article not including hearings on suspensions and revocations shall be held in municipal court.

(3) Immediately upon any conviction in court, if necessary, the mayor and council shall again convene to decide if the driver's permit involved should be restored, re-

voked or remain in suspension; and if suspension is continued, for what length of time.

a. If a not guilty verdict should result in court, any suspension shall be automatically and immediately lifted.

b. Any bond forfeiture or nolo contendere plea, for the purpose of this article, shall be construed in the same light as a conviction by the court.

(4) The mayor and council may suspend a permit for up to 12 months.

(5) If a permit is revoked by the mayor and council such revocation may be appealed to the superior court.

Sec. 11-537. Rate schedule, rate changes to be filed with city clerk.

It shall be unlawful for any person to operate a taxicab within the city without first filing with the city clerk a copy of such operator's rate schedule, and any changes from time to time as and when such changes are made must also be filed with the city clerk. No permittee shall charge a flag pull rate in excess of $1.50. Copies of all fares and charges shall be posted in each taxicab and shall be of such size and positioned in such a manner as to be plainly visible to passengers being transported in the taxicab.

Sec. 11-538. Sharing taxicabs.

No driver of a licensed taxicab shall carry any other person than the passenger first employing a taxicab, without the consent of such passenger.

Sec. 11-539. Receipts.

Any taxicab driver must give a passenger a receipt when they ask for it; said receipt shall show the amount, the trip made, the signature of the driver, the number of the taxicab, and the time and date.

Sec. 11-540. Cruising cabs to keep moving.

A cruising taxicab shall keep moving.

Sec. 11-541. Double-parking; waiting in loading zone.

No taxicab is authorized to double-park or to wait in a loading zone.

Sec. 11-542. Allowing passengers in front seat.

No person shall be allowed to ride in the front seat of a taxicab with the driver except a paying customer, unless such passenger is a member of the driver's or operator's immediate family. Any driver who violates this section shall have his permit revoked.

Sec. 11-543. Delivering alcoholic beverages.

It shall be unlawful for the driver of any taxicab to deliver alcoholic beverages in such taxicab.

Sec. 11-544. Misplaced articles in taxicabs.

Every driver of a taxicab must make a diligent effort to return to the rightful owner any property lost or left in his taxicab. If such owner is not found and the property properly returned within 24 hours, the driver of said taxicab shall report such finding to the police department with a description of the article found.

Sec. 11-545. License and permit not assignable.

Every person to whom a license, or permit has been issued, shall return same to the police department upon discontinuing or abandoning the operation or driving of a taxicab. Such licenses, or permit shall not be assigned or transferred.

Sec. 11-546. Notice of drivers changing employers.

Persons holding driver' permits who change employment from one company to another company shall notify the police department before starting to drive for the new employer.

Sec. 11-547. Call jumping.

Licensees shall not participate in nor allow their drivers to practice call jumping or the act of intercepting a passenger who has requested service from another company.

Sec. 11-548. Trip sheets or logs.

Drivers must maintain daily trip sheets or logs of all passengers, the time, place of entry, the destination of each passenger, the amount charged and an itemization of any personal property left in the vehicle for hire. Trip sheets must be maintained at the licensed business premises for a period of time to be specified by the police department.

Sec. 11-549. Drivers smoking, playing radios, etc.

A driver while operating a vehicle for hire is not to smoke or play a radio or tape player if objected to by a passenger.

Sec. 11-550. Insurance.

(a) An applicant for a license required by the provisions of this article shall provide with the application proof of motor vehicle insurance covering public liability and property damage issued by an insurer approved and licensed by the state. Such insurance shall insure passengers and third persons against personal injury and property damage in amounts specified by this section.

(b) Any applicant for a license to operate a taxicab service shall maintain minimum insurance coverage in the following amounts:

(1) One hundred thousand dollars bodily injury per person;

(2) Three hundred thousand dollars bodily injury per occurrence; and

(3) One hundred thousand dollars property damage.

(c) Before the policy is canceled for nonpayment of premium or other cause, notice thereof shall be given in writing to the city clerk at least 30 days before the policy lapses. The policy shall further provide that it shall not be canceled or rendered unenforceable because the insured failed to notify the insurer of an accident or injury, or any other condition upon which notice of claim is ordinarily required.

Sec. 11-551. Waiting list for license applications; procedure.

Any applicant to be placed on the waiting list for a taxicab license shall file a regular application form with the police department, together with a deposit in the amount of the required license fee. The application will be processed, and:

(1) If turned down, the deposit will be immediately returned;

(2) If approved, the deposit will be held to pay the license fee when the applicant becomes eligible for a license;

(3) If an applicant should become disqualified while on the waiting list due to misconduct, law violations, or any other cause, the deposit shall be immediately returned and the applicant removed from the waiting list; and

(4) An applicant may withdraw from the waiting list and request refund of his deposit at any time.

Applicants shall appear on the waiting list in order of priority in which they are filed.

Sec. 11-552. Penalties.

In addition to suspension and revocation of permits, violations of this article shall be punishable as set forth in the general punishment section of this Code, contained in section 1-7.

Sec. 11-553. Use for unlawful purposes.

It shall be unlawful for any driver of any taxicab to knowingly receive or transport any persons who intend to commit any unlawful act during the voyage or at the destination or termination thereof, whether within such vehicle or not. No driver of any taxicab shall use such vehicle himself in the commission of any act that violates any local ordinances or state laws.

Sec. 11-554. Visibility from vehicle.

All windows of taxicabs shall be kept in a condition for clear vision. Nothing shall be put on or over windows, including the back glass, to mar any vision at any time.

Sec. 11-555. Licensees, permittees to give notice of change of address.

Changes of address of owners of licenses or drivers' permits shall be reported to the police department within three days of the address change.

Secs. 11-556—11-580. Reserved.

ARTICLE XII. PRECIOUS METALS OR GEMS*

Sec.11-581. 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:

Precious metals dealer means a dealer in precious metals or gems as defined in O.C.G.A. § 40-37-1.

Sec. 11-582. Notification to police of altered goods and lost or stolen items.

If any articles sold to any person regulated by this article, which normally carry or have a serial number or other means of identification, which shall have the serial number or other means of identification removed, mutilated, defaced, destroyed or melted down, such fact shall be immediately reported by the dealer to the chief of police or his duly authorized agent. It shall be the duty of every person holding a license under this article to report to the police any articles sold to him which he has reason to believe were stolen or lost and found by the person attempting to sell it to the license holder.

*__State law references—__Precious metals dealers, O.C.G.A. § 43-37-1 et seq.; local regulation of precious metals dealers, O.C.G.A. § 43-37-3.

Sec. 11-583. Persons under 18 years of age.

No precious metals dealer covered by this article shall have any business dealings with any person less than 18 years of age, except with the written consent of the parent or guardian of the minor to each particular transaction. No license shall be issued to any person who is less than 18 years of age. No precious metals dealer shall employ a person less than 18 years of age to assist him in a business.

Secs. 11-584—11-610. Reserved.

ARTICLE XIII. PAWNBROKERS AND DEALERS IN USED OR SECONDHAND GOODS†

DIVISION 1. PAWNSHOPS AND PAWNBROKERS

Sec. 11-611. 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 means any person who works in a pawnshop, whether on a part-time basis, regardless of whether remuneration is received or not.

Pawnbroker means a person lending money on personal property, taking possession of such property and holding it as defined in O.C.G.A. § 44-12-130, for the security of a loan, or one who purchases property with the right of repurchase or redemption. Any person who purchases jewelry, guns, pistols, household effects or other articles of merchandise or personal property, and at

†**Editor's note—**Ord. No. 2014O-01, § I, adopted July 8, 2014, repealed the former Art. XIII, §§ 11-611—11-617, and enacted a new Art. XIII as set out herein. The former article pertained to pawnbrokers and derived from Code 1976, §§ 11-301, 11-302, 11-304—11-308; Ord. No. 1985-004, adopted May 14, 1985; Ord. No. 1986-001, adopted March 28, 1986. See also the Code Comparative Table.

State law references—Pawnbrokers, O.C.G.A. § 44-12-130 et seq.; local regulation of pawnbrokers, O.C.G.A. § 44-12-136.

the time thereof gives the seller the privilege of redeeming the same thereafter, shall be held and deemed a pawnbroker.

Pawnshop means any business that takes or receives by way of pledge, pawn or exchange, any goods, wares, merchandise or personal property of any kind as security for the repayment of money lent thereon.

Pawn transaction means any loan on the security of pledged goods or any purchase of pledged goods on the condition that the pledged goods may be redeemed or repurchased by the pledgor, or seller, for a fixed price within a fixed period of time.

Pledged goods means tangible personal property, including, without limitation, all types of motor vehicles or any other motor certificate of title which property is purchased by, deposited with, or otherwise actually delivered into the possession of a pawnbroker in connection with a pawn transaction. However, for purposes of this article, possession of any motor vehicle certificate of title which has come into the possession of a pawnbroker through a pawn transaction made in accordance with law shall be conclusively deemed to be possession of the motor vehicle. The pawnbroker shall retain physical possession of the motor vehicle certificate of title for the entire length of the pawn transaction, but shall not be required in any way to retain physical possession of the motor vehicle at any time. "Pledged goods" shall not include choses in action, securities or printed evidences of indebtedness.
(Ord. No. 2014O-01, § I, 7-8-2014)

Sec. 11-612. Annual license required.

(a) Before operating a pawnshop or becoming an employee of a pawnshop, any person must first file an application with the city clerk for a license to operate or be employed in the pawnshop, under the following guidelines:

(1) The application shall be made on an annual basis;

(2) No license shall be issued until a fee in an amount established by the mayor and city council, a copy of which is on file in the office of the city clerk, is paid to the city;

(3) The application shall state the address of the pawnshop; and

(4) The application shall contain the full name, address, phone number, date of birth and social security number of any employee or pawnbroker;

(b) The chief of police, or any other officer of the city designated by the city council, shall investigate each applicant for such license and shall report to the council whether such applicant is a person of good character and has not been convicted of a criminal offense as indicated in this article.

(c) In addition to the requirements of this article, all pawnbrokers or employees of a pawnshop shall comply with and be subject to all other provisions of this Code and Charter, equally regarding occupation taxes and regulatory fees.
(Ord. No. 2014O-01, § I, 7-8-2014)

Sec. 11-613. Responsibility for enforcement.

The city police department, code enforcement officials, or authorized law enforcement personnel shall ensure that the provisions of this article are observed and enforced.
(Ord. No. 2014O-01, § I, 7-8-2014)

Sec. 11-614. Character of persons connected with pawnshop business; investigation.

No owner, employee, pawnbroker or any person connected in any manner with a pawnshop for which a license is sought, or who otherwise may work in any manner, or own any portion of the business operations; shall have been convicted of a felony under the laws of the State of Georgia and/or any specific type of offenses prohibited by this article concerning the conduct of pawnbrokers or dealers in used or secondhand goods. Any person who is an employee or pawnbroker shall be fingerprinted and have their criminal background checked by authorization by designated officials of the city. Further, it shall be the duty of the pawnbroker to insure compliance by all interested parties with the provisions of this section.
(Ord. No. 2014O-01, § I, 7-8-2014)

Sec. 11-615. Records of transactions.

(a) Every pawnbroker shall maintain a permanent electronic record of its pawn transactions in which an accurate description of all property traded or sold to the pawnshop can be transmitted to the city police department via an electronic automated reporting system. Each of these transactions shall contain an accurate description of all property pledged, traded or sold to the pawnshop and shall be made at the time of each transaction, provided that the following information is included:

(1) The date and time of the purchase, pawn or sale of the property.

(2) The name, address and telephone number of the customer making the pledge, trade or sale.

(3) A description of the customer, including their sex, race, date of birth, height and weight, as well as the driver's license number of the customer or some other identification card which contains a photograph of the customer.

(4) A description of the pledged or purchased property by serial, model or other number, if available, and by any identifying marks (e.g., brand name, color, style, etc.).

(5) The number of the receipt or pawn transaction issued for the property pawned or bought.

(6) The price paid or the amount loaned. If payment is made by check, the number of the check issued for the purchase price or loan.

(7) The maturity date of the transaction, if a pawn.

(8) A photograph of the customer and the item pawned or bought which will be taken with the electronic automated reporting system at the time of the transaction.

(9) The signature of the customer.

(b) Every pawnshop shall enter each transaction as it occurs into the electronic automated reporting system or may elect to upload electronically via the internet a batch file of all transactions for each business day to the administrator of the electronic automated reporting system immediately at the conclusion of each business day. The administrator of the electronic automated reporting system shall electronically transmit all transactions to the city police department

(c) In the event that the electronic automated reporting system becomes temporarily or permanently disabled, pawnshops and pawnbrokers will be notified as soon as possible. In this event, the pawnbrokers will be required to make records of transactions in paper form. Such paper forms must include all information as enumerated in paragraph (a) of this section. Pawnbrokers shall maintain an adequate supply of these paper forms and advise the police department when the electronic system shall again be operational. Failure to diligently pursue repair of the electronic system shall be grounds for revocation of any license granted hereunder.

(d) Any duly authorized law enforcement officer may, during the ordinary hours of business or any other reasonable time, inspect any pawnbroker's electronic records, or other forms, at the pawnbroker's place of business to ensure compliance with this section.

(e) The chief of police or his designee shall select and designate the required automated reporting system. There will be a fee assessed to the pawnshop for each reported transaction, a copy of which fee schedule is on file in the office of the city clerk. 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.
(Ord. No. 2014O-01, § I, 7-8-2014)

Sec. 11-616. Waiting period for disposal of articles.

Any pawnbroker or employee of a pawnshop who makes a loan on pledged goods, or buys pledged goods on the condition that the seller may repurchase said goods, shall hold said goods for at least 30 days before disposing of them by sale, transfer, shipment or otherwise. Nonpledged goods

bought under this section shall be held for at least seven calendar days before disposing of them by sale, transfer, shipment or otherwise.
(Ord. No. 2014O-01, § I, 7-8-2014)

Sec. 11-617. Dealing with minors.

It shall be unlawful for any pawnbroker or employee of a pawnshop to receive goods in pawn, trade, purchase or sale from a person under 18 years of age.
(Ord. No. 2014O-01, § I, 7-8-2014)

Sec. 11-618. Lost or stolen items.

(a) It shall be the duty of every person operating as or employed by a pawnbroker to report to the chief of police or his duly authorized agent any article or goods sold or pawned to him if he shall have a reason to believe that the article or goods were stolen or lost when presented by the seller or customer.

(b) With respect to any items which would normally have a serial number or other means of identification, if any pawnbroker or employee or a pawnshop becomes aware that such items have had the identification removed, defaced, altered, or destroyed, such fact shall be immediately reported to the chief of police or his duly authorized agent.

(c) If it is determined that an item bought, sold, traded or pawned by a seller or customer to the pawnbroker or his employee is the subject of any reported theft, then the pawnbroker or employee of the pawnshop shall immediately surrender said item to the chief of police or his duly authorized agent upon demand.
(Ord. No. 2014O-01, § I, 7-8-2014)

Sec. 11-619. Violations.

(a) It shall be unlawful for any pawnbroker or employee of a pawnshop to violate any of the provisions of this article, whether or not such person or employee is the holder of a current valid permit issued according to the terms of this article. Further, the city council may revoke, suspend, or take other action against the license of any person failing to comply with any provision of this article or other rules, ordinances and regulations as may be passed by the police department or city council for conduct of the business of a pawnbroker.

(b) It shall be unlawful for any pawnbroker or employee of a pawnshop to:

(1) Make any false statement in an application for any permit provided for in this article.

(2) Make any false entry in any record book, ledger or form required by the terms of this article.

(3) Violate any criminal law of this state involving moral turpitude while acting in the course of business as a pawnbroker or employee of a pawnbroker.

(c) Persons who violate this article shall be punished as provided in section 1-7 of this Code. Pawnbrokers and their employees who violate this article shall also be subject to revocation of any licenses or permits issued under this chapter.

(d) It shall also be deemed a violation of this article for any pawnbroker, employee, or other interested person in the operations of the business to violate any of the provisions of state law governing pawnbrokers as presently contained in O.C.G.A. § 44-12-130 et seq.; or other provisions of state law governing pawnshop operation as presently enacted or hereafter amended. Further, all interested persons shall comply with any federal, state, and/or local laws, ordinances, and regulations which govern the general operations of this business.
(Ord. No. 2014O-01, § I, 7-8-2014)

DIVISION 2. DEALERS IN USED OR SECONDHAND GOODS

Sec. 11-620. Secondhand dealers.

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 means any person who works for a secondhand dealer, whether on a part-time or full-time basis, regardless of whether remuneration is received or not.

Exempt items means clothing, music and video compact discs, any consignment item, motor vehicles, motorcycles, motorized water craft, waste paper, books, magazines, tires, lumber or wood products, and any recycled goods.

Purchase means buying, exchanging, transferring, collecting, or otherwise acquiring regulated secondhand property from another person not a secondhand dealer, for resale, exchange, or transfer by the purchaser. This includes taking possession of regulated property with an express or implied agreement or understanding that the regulated property shall be returned at a subsequent time at a stipulated price or in exchange for payment of a storage or handling fee.

Regulated secondhand items means articles or merchandise of any kind, including: hand tools, power tools, sporting equipment, electronic equipment, watches, jewelry, precious stones, precious metals, scrap gold, coins, musical instruments, electrical appliances, washers, dryers, refrigerators, or any other items not specifically exempt under this section that have been previously sold or put into action or service.

Secondhand dealer means any sole proprietorship, partnership, limited partnership, family limited partnership, joint venture, association, cooperative, trust, corporation, personal holding company, limited liability company, limited liability partnership, or any other form or organization whose business is dealing in, purchasing, selling, or trading regulated secondhand items.
(Ord. No. 2014O-01, § I, 7-8-2014)

Sec. 11-621. Annual license required.

Before operating as a secondhand dealer, or becoming an employee of such a dealer, any person must first file an application with the city clerk for a license to operate, or be employed in a position with a secondhand dealer, under all of the applicable guidelines for licensing of a pawnshop set forth in section 11-612 of division 1 of this article.
(Ord. No. 2014O-01, § I, 7-8-2014)

Sec. 11-622. Responsibility for enforcement; character of persons connected with pawnshop business; investigation; records of transactions; related provisions.

Due to the similarity of operations of pawnshops and secondhand dealers, the provisions of sections 11-613, 11-614, 11-615, 11-617, and 11-618 of division 1 of this article are incorporated herein by reference; and made requirements for secondhand dealers so that those dealers comply with all of the same terms, provisions, and conditions of pawnbrokers in connection with the operation of their business activities within the city pursuant to this article.
(Ord. No. 2014O-01, § I, 7-8-2014)

Sec. 11-623. Tagging regulated property for identification.

Each secondhand dealer shall affix a tag to every item of regulated property, which must contain a unique, legible number. That unique number must either be the same as the transaction report number for the item or be referenced to the transaction report required by the Rockmart Police Department or assigned by the approved reporting method described in the records of transactions. After the holding period has expired, the transaction number must remain identifiable on the property until sold.
(Ord. No. 2014O-01, § I, 7-8-2014)

Sec. 11-624. Waiting period for disposal of articles.

Any secondhand dealer who purchases goods under this section shall hold such goods for at least 30 calendar days before disposing of them by sale, transfer, shipment or otherwise.
(Ord. No. 2014O-01, § I, 7-8-2014)

Sec. 11-625. "Secondhand dealers" not included.

The following shall not be considered secondhand dealers and are exempt from the provisions of this article:

(1) A business whose acquisitions of regulated secondhand items consist exclu-

sively of donated items purchased from nonprofit, religious, charitable, or 501(c)(3) organizations; or

(2) A person whose only business transactions with regulated secondhand items in the City of Rockmart consist of the sale of personal property acquired for household or personal use; or

(3) A person whose only business transactions with regulated secondhand items in the City of Rockmart consist of a display space, booth, or table maintained for displaying or selling merchandise at any trade show, convention, festival, fair, circus, market, flea market, swap meet, antique mall or similar event; or

(4) Regulated secondhand items sold by a licensed auctioneer at an auction; or

(5) Regulated secondhand items sold at an estate sale, yard sale or similar event.

(Ord. No. 2014O-01, § I, 7-8-2014)

Sec. 11-626. Fixed physical location.

No person or business may operate as a secondhand dealer within the City of Rockmart unless the person or business maintains a fixed physical business location.

(Ord. No. 2014O-01, § I, 7-8-2014)

Sec. 11-627. Violations.

All general violations set forth in section 11-619 of division 1 of this article dealing with pawnbrokers shall apply to secondhand dealers; provided however, that the provisions incorporating by reference certain state laws governing pawnbrokers do not apply to secondhand dealers. Should there be any state laws that apply to secondhand dealers specifically; or in general, all interested persons to which this division applies shall comply with any federal, state and/or local laws, ordinances and regulations which govern the general operations of secondhand dealers.

(Ord. No. 2014O-01, § I, 7-8-2014)

Secs. 11-628—11-645. Reserved.

ARTICLE XIV. ADULT ENTERTAINMENT

DIVISION 1. GENERALLY

Secs. 11-646—11-670. Reserved.

DIVISION 2. ADULT BUSINESSES

Sec. 11-671. Definitions.

The following words, terms and phrases when used in this division shall have the meanings ascribed to them in this section unless the context clearly indicates otherwise:

Church means a body of communicants gathered into a church order united under one form of government by the profession of the same faith and the observance of the same ritual and ceremonies; a place where persons regularly assemble for worship; congregation; organization for religious purposes.

Good moral character means a person of good moral character according to this division if that person has not been convicted of a felony, or any crime not a felony if it involves moral turpitude, in the past five years. The city may also take into account such other factors as are necessary to determine the good moral character of the applicant or employee. Conviction shall include pleas of nolo contendere, Alford pleas, First Offender pleas, or bond forfeiture when charged with such crime.

Minor, for the purposes of this division, means any person who has not attained the age of 18 years.

Specified anatomical areas means any of the following:

(1) Less than completely and opaquely covered human genitals or pubic region; buttock; 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.

(3) Specified sexual activities shall be defined as any of the following:

a. Actual or simulated sexual intercourse, oral copulation, anal intercourse, oral anal copulation, bestiality, direct physical stimulation of unclothed genitals, flagellation or torture in the context of a sexual relationship, or the use of excretory functions in the context of a sexual relationship and any of the following sexually oriented acts or conduct: anilingus, buggery, coprophagy, coprophilia, cunnilingus, fellatio, necrophilia, pederasty, pedophilia, piquerism, sapphism, zooerasty;

b. Clearly depicted human genitals in a state of sexual simulation, arousal or tumescence;

c. Use of human or animal ejaculation, sodomy, oral copulation, coitus or masturbation;

d. Fondling or touching of nude human genitals, pubic region, buttocks or female breast;

e. Masochism, erotic or sexually oriented torture, beating or the infliction of pain;

f. Erotic or lewd touching, fondling or other sexual contact with an animal by a human being; or

g. Human excretion, urination, menstruation, vaginal or anal irrigation.

(Ord. No. 11-2002, § 3, 11-12-2002)

Sec. 11-672. Adult businesses enumerated.

Under this division, the term "adult business" shall include, without limitation, the following types of establishments, which shall be defined as follows:

(1) *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 the emphasis on matter depicting, describing, or relating to specified sexual activities or specified anatomical areas or an establishment with a segment or section, comprising 30 square feet of its total floor space, devoted to the sale or display of such materials or at least 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.

(2) *Adult dancing establishment* means a business that features dancers displaying or exposing specified anatomical areas.

(3) *Adult motion picture theatre* means an enclosed building with the capacity of 25 or more persons used for presenting material distinguished or characterized by an emphasis on matters depicting, describing or relating to specific sexual activities or specified anatomical areas for observation by patrons therein.

(4) *Adult minimotion picture theatre* means an enclosed building with the capacity of less than 25 persons used for presenting material distinguished or characterized by an emphasis on matters depicting, describing or relating to specific sexual activities or specified anatomical areas for observation by patrons therein.

(5) *Adult hotel or motel* means a hotel or motel where material is presented which is distinguished or characterized by an emphasis on matter depicting, describing or relating to specific sexual activities or specified anatomical areas.

(6) *Adult motion picture arcade* means any place to which the public is permitted or invited wherein coins 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 matter depicting, describing or relating to specific sexual activities or specified anatomical areas.

(7) *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 30 square feet 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 by an emphasis on matter depicting, describing or relating to specific sexual activities or specified anatomical areas.

(8) *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.

(9) *Encounter center* or *rap establishment* 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.

(10) *Adult dancing establishment* means a business that features dancers displaying or exposing specified anatomical areas.

(11) *Escort bureau* or *introduction services* means any business, agency or person and who, for a fee, commission, hire, reward or profit, furnishes or offers to furnish names of persons, or who introduces, furnishes or arranges for persons who may accompany other persons to or about social affairs, entertainments or places of amusement, or who may consort with others about any place of public resort or within any private quarters.

(Ord. No. 11-2002, § 2, 11-12-2002)

Sec. 11-673. Regulations.

(a) No person, firm, partnership, corporation or other entity shall advertise or cause to be advertised an adult business without a valid adult business license issued pursuant to this division.

(b) No later than March 1 of each year, an adult business 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) No adult business licensee shall employ a person under the age of 18 years.

(d) No person under the age of 18 years shall be admitted to an adult business establishment.

(e) An adult business may be open only between the hours of 8:00 a.m. and 12:00 a.m. Monday through Saturday. No adult business shall be open on Christmas Day.

(f) An adult business licensee shall conspicuously display all licenses required by this division.

(g) All dancing shall occur on a platform intended for that purpose which is raised at least two feet from the level of the floor.

(h) No dancing shall occur closer than ten feet to any patron.

(i) No dancer shall fondle or caress any patron, and no patron shall fondle or caress any dancer.

(j) No patron shall directly pay or give any gratuity to any dancer.

(k) No dancer shall solicit any pay or gratuity from any patron.

(l) 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 5/10 footcandles per square foot.

(m) 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.

(Ord. No. 11-2002, § 4, 11-12-2002)

Sec. 11-674. 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, of any portion of a person's genitals, pubic area or buttocks in a lewd and obscene fashion.

(Ord. No. 11-2002, § 5, 11-12-2002)

Sec. 11-675. License 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 adult business without a license 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.

(Ord. No. 11-2002, § 6, 11-12-2002)

Sec. 11-676. Operation of unlicensed premises unlawful.

It shall be unlawful for any person to operate an adult business unless such business shall have a currently valid license or shall have made proper application for renewal within the time required therefor under this division, which license shall not be under suspension or permanently or conditionally revoked.

(Ord. No. 11-2002, § 7, 11-12-2002)

Sec. 11-677. Admission of minors unlawful.

It shall be unlawful for a licensee to admit or permit the admission of minors within a licensed premises.
(Ord. No. 11-2002, § 8, 11-12-2002)

Sec. 11-678. Sales to minors unlawful.

It shall be unlawful for any person to sell, barter or give or 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 theatre, adult massage parlor, adult dancing establishment or other adult business.
(Ord. No. 11-2002, § 9, 11-12-2002)

Sec. 11-679. Location.

No adult business or use restricted hereunder shall be located:

(1) Within 1,000 feet of any parcel of land which is either zoned or used for residential purposes;

(2) Within 1,000 feet of any parcel of land upon which a church, school, governmental building, library, civic center, public park or playground is located;

(3) Within 1,000 feet of any parcel of 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 adult business is located;

(5) Within any zoning category other than the following categories:

a. Commercial or industrial planned shopping district (PUD);

b. Light industrial; and

c. Heavy industrial.

For the purposes of this section, distance shall be by airline measurement from any door of the establishment to the closest property lines of the parcels of land involved. The term "parcel of land" shall be defined as any quantity of land capable of being described by location and boundary, designated and used or to be used as a unit.
(Ord. No. 11-2002, § 10, 11-12-2002)

Sec. 11-680. Application for license.

(a) Any person, association, partnership or corporation desiring to obtain a license to operate, engage in, conduct or carry on any adult business shall make application to the city clerk or his designated representative. Prior to submitting such application, a nonrefundable fee, established by the city council, shall be paid to the city clerk to defray, in part, the cost of investigation and report required by this division. The city clerk shall issue a receipt showing that such application fee has been paid.

(b) The application for license does not authorize the engaging in, operation of, conduct of or carrying on of any adult business.
(Ord. No. 11-2002, § 11, 11-12-2002)

Sec. 11-681. Application contents.

Each application for an adult business license shall contain the following:

(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 21 years 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 a previous operation in this or any other city, state or territory under license, has had such license or permit for an adult 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 criminal convictions, including ordinance violations, exclusive of moving traffic violations (but not excluding DUI convictions), stating the dates, places, and courts of any such convictions;

(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 a corporation 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 division, 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, 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 the 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 by blood or marriage 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, municipal code violation, or other crime involving moral turpitude in the past five years. The licensing officer shall prepare forms consistent with the provi-

sions 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 business license shall be verified and acknowledged under oath to be true and correct by:

a. The individual, if the applicant is an individual;

b. The manager or general partner, if the applicant is a partnership;

c. The president of the corporation, if the applicant is a corporation;

d. The chief administrative official, if the applicant is any other organization or association.

(Ord. No. 11-2002, § 12, 11-12-2002)

Sec. 11-682. Applicant to appear.

The applicant, if an individual, or designated responsible managing officer, if a partnership or corporation, shall personally appear before the city clerk and produce proof that a nonrefundable application fee has been paid; that the application containing the aforementioned and described information has been presented to the city clerk; and that all information contained therein is true and correct.

(Ord. No. 11-2002, § 13, 11-12-2002)

Sec. 11-683. Investigation of application.

The city clerk shall have 45 days to investigate the application and the background of the applicant. Upon completion of the investigation, the city council shall upon two readings, grant the license if it finds:

(1) The required fee has been paid;

(2) The applicant conforms in all respects to the provisions of this division;

(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 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 business license or other 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 the application;

(7) The building, structure, equipment or location of such business as proposed by the applicant complies 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 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 business 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 license 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 within a prohibited distance from any church, school, library, governmental building or site or any other business restricted hereunder;

(12) That the grant of such license will not cause a violation of this division or any other ordinance or regulation of the city, or the United States;

(13) Any other inquiry deemed necessary or desirable by the city to ensure the health, safety and welfare of the citizens of the city or the preservation of its neighborhoods.

(Ord. No. 11-2002, § 14, 11-12-2002)

Sec. 11-684. Persons prohibited as licensees.

(a) No license provided for by this division shall be issued to or held by:

(1) An applicant who has not paid all required property taxes, fees, and taxes for a business at that location;

(2) Any person who is not of good moral character;

(3) Any corporation, any of whose officers, directors or stockholders holding over five percent of the outstanding issued shares of capital stock are not of good moral character;

(4) Any partnership or association, any of whose officers or members holding more than five percent interest therein are not of good moral character;

(5) Any person employing, assisted by or financed in whole or in part by any person who is not of good moral character;

(6) Any applicant who is not qualified to hold and conduct a business according to the laws of the United States, this state or this 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 issue. 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., 427 U.S. 50, or its progeny.

(Ord. No. 11-2002, § 15, 11-12-2002)

Sec. 11-685. Denial of license; appeal.

If the city clerk, following investigation of the applicant, deems that the applicant does not fulfill the requirements as set forth in this division, he shall notify the applicant by certified mail of such denial. Any applicant who is denied a license may appeal such denial as provided herein.

(Ord. No. 11-2002, § 16, 11-12-2002)

Sec. 11-686. License renewal.

Licenses for adult business may be renewed by the city clerk on a year-to-year basis, provided that the licensees continue to meet the requirements set out in this division. The renewal fees for the adult business licenses shall be established by resolution of the city council.

(Ord. No. 11-2002, § 17, 11-12-2002)

Sec. 11-687. License not transferable.

No adult business license may be sold, transferred or assigned by a licensee, or by operation of law, to any other person. Any such sale, transfer, assignment or attempted sale, transfer or assignment shall be deemed to constitute a voluntary surrender of such license, the license shall thereafter be null and void; provided and excepting, however, that if the licensee 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 license, and in such case the permit, upon notification to the city, shall be placed in the name of the surviving partner. An

adult business license 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 license or any stock authorized but not issued at the time of the granting of a license is thereafter issued and sold, transferred or assigned.
(Ord. No. 11-2002, § 18, 11-12-2002)

Sec. 11-688. Change of location or name.

(a) No adult business establishment shall move from the location specified on its license 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 clerk. Such approval shall not be given unless all requirements and regulations as contained in the Code have been met.

(b) No licensee shall operate, conduct, manage, engage in or carry on an adult business under any name other than his name and the name of the business as specified on the license.

(c) Any application for an extension or expansion of a building or other place of business where an adult business is located shall require inspection and shall comply with the provisions and regulations of this division.
(Ord. No. 11-2002, § 19, 11-12-2002)

Sec. 11-689. Appeal procedure.

The licensee shall, within ten days after he has been notified of an adverse determination by the city clerk, submit a notice of appeal to the city clerk. 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 council, and the name and address of the applicant. The city 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 council's action.
(Ord. No. 11-2002, § 20, 11-12-2002)

Sec. 11-690. Council action on appeal.

When an appeal is placed on the council's agenda, the council may take either of the following actions:

(1) Set a hearing date and instruct the city clerk to give such notice of hearing as may be required by law; or

(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 city clerk shall assume responsibility for such publication of notice of the hearing as may be required by law. If a hearing officer is appointed, the hearing shall be conducted in accordance with the procedures set out in this division.

(Ord. No. 11-2002, § 21, 11-12-2002)

Sec. 11-691. City council hearing; action final.

Whenever the city clerk has scheduled an appeal before the city council, at the time and date set therefore, the council shall receive all relevant testimony and evidence from the licensee, 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.
(Ord. No. 11-2002, § 22, 11-12-2002)

Sec. 11-692. Powers of hearing officer.

The hearing officer appointed pursuant to the procedure set out in this division may receive and rule on admissibility of evidence, hear testimony under oath and call witnesses as he may deem advisable with respect to the conduct of the hearing.
(Ord. No. 11-2002, § 23, 11-12-2002)

Sec. 11-693. Rules of evidence inapplicable.

The city council and the hearing officer shall not be bound by the traditional rules of evidence in hearings conducted under this division. Rules of evidence as applied in an administrative hearing shall apply.
(Ord. No. 11-2002, § 24, 11-12-2002)

Sec. 11-694. Report by hearing officer to city council.

The hearing officer shall, within a reasonable time not to exceed 30 days from the date a hearing before the hearing officer is terminated, submit a written report to the 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 and shall be considered public records. A copy of such report shall be forwarded by certified mail to the licensee/appellant the same day it is filed with the city clerk, with additional copies furnished the city manager and chief of police. The city clerk shall place the hearing officer's report on the agenda of the next regular council meeting occurring not less than ten days after the report is filed and shall notify the licensee/appellant of the date of such meeting at least ten days prior to the meeting unless the licensee/appellant stipulates to a shorter notice period.
(Ord. No. 11-2002, § 25, 11-12-2002)

Sec. 11-695. Action by city council on hearing officer's decision.

The council may adopt or reject the hearing officer's decision in its entirety or may modify the proposed recommendation. If the council does not adopt the hearing officer's recommendation, it may:

(1) Refer the matter to the same or another hearing officer for a completely new hearing or for the taking of additional evidence on specific points; in either of such cases, the hearing officer shall proceed as provided in this division; or

(2) Decide the case upon a review of the entire record before the hearing officer with or without taking additional evidence.

(Ord. No. 11-2002, § 26, 11-12-2002)

Sec. 11-696. Unlawful operation declared nuisance.

Any adult business operated, conducted or maintained contrary to the provisions of this division shall be and the same is hereby declared to be unlawful and a public nuisance. The city may, in addition to or in lieu of prosecuting a criminal action hereunder, commence an action or 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 business and restrain and enjoin any person from operating, conducting or maintaining an adult business contrary to the provisions of this article. In addition, violation of the provisions of this article shall be per se grounds for suspension or revocation of a license granted hereunder.
(Ord. No. 11-2002, § 27, 11-12-2002)

Sec. 11-697. Cleaning of licensed premises.

Each licensed premises shall be maintained in a clean and sanitary condition and shall be cleaned at least once daily and more frequently when necessary. This activity shall be supervised by the person in charge of the licensed premises. There shall be provided adequate facilities, equipment and supplies on the licensed premises to meet this requirement, and adequate ventilation and illumination shall be provided to permit thorough, complete cleaning of the entire licensed premises. Trash and garbage shall not be permitted to accumulate or to become a nuisance on or in the immediate vicinity of the licensed premises but shall be disposed of daily or as often as collections permit.
(Ord. No. 11-2002, § 28, 11-12-2002)

Sec. 11-698. Self-inspection of premises; record of findings; sanitation schedule.

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.
(Ord. No. 11-2002, § 29, 11-12-2002)

Sec. 11-699. 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 article resulting in an unsanitary or unsafe condition. Prior to sealing, the 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.
(Ord. No. 11-2002, § 30, 11-12-2002)

Secs. 11-700—11-725. Reserved.

DIVISION 3. ADULT VIDEOS

Sec. 11-726. Percentage of business derived from sale of adult videos.

This division shall serve to regulate those businesses that derive less than five percent of their revenue from the sale of adult videos. Any business which derives more than five percent of its revenues from the sale of adult videos shall be deemed an adult video store and shall be subject to any such regulation as the council may enact to regulate such businesses.
(Ord. No. 12-2002, § 2, 11-12-2002)

Sec. 11-727. Definitions.

The following words, terms and phrases when used in this division shall have the meanings ascribed to them in this section unless the context clearly indicates otherwise:

Adult videos shall be defined as any videocassette tape, DVD or other motion picture medium which contains material which appeals to a prurient interest in sex, is patently offensive according to contemporary community standards, and has no serious literary, artistic, political or scientific value.

Specified anatomical areas shall be defined as:

(1) Less than completely and opaquely covered human genitals or pubic region, cleft of the 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.

(Ord. No. 12-2002, § 3, 11-12-2002)

Sec. 11-728. Area in which videos may be displayed.

All adult videos shall be segregated from the area in which nonadult videos are displayed, such as behind the counter, check out area or some other general area under the control of management of the business establishment, so that these adult videos are not openly displayed and accessible to the general public and may not be purchased by minors. The area in which adult videos are displayed shall not comprise more than 30 square feet of the proprietor's floor space.
(Ord. No. 12-2002, § 4, 11-12-2002)

Sec. 11-729. Packaging and display.

These adult videos must be discreetly packaged and shall not display, in public view, any specified anatomical areas as defined herein.
(Ord. No. 12-2002, § 5, 11-12-2002)

Secs. 11-730—11-755. Reserved.

ARTICLE XV. AUCTIONEERS*

Sec. 11-756. 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:

Auctioneer means any person selling by auction in the city any real or personal property, or conducting the sale of such property by auction in the city.

*__State law reference—__*Auctioneers, O.C.G.A. § 43-6-1 et seq.

Sec. 11-757. Permit prerequisite to license; application.

Before any auctioneer shall conduct any sale of real or personal property, he shall have first applied for and received (in addition to the payment of the annual or daily license tax) from the city council a permit to engage in the business of auctioneer. The auctioneer shall make an application in writing to the city council for such permit. The application shall be signed by the auctioneer, and if the auctioneer is a partnership, the application shall be signed by all partners comprising the partnership. If the auctioneer is a corporation, the application shall be signed by the duly authorized officers of the corporation. The application shall state the address of the auctioneer.

Sec. 11-758. Proof of state requirements.

Simultaneously with the filing of the application and payment of the required license fee, the applicant under this article shall furnish to the city clerk written proof that all state requirements have been met, including the posting of the required auctioneer's bond.

Secs. 11-759—11-785. Reserved.

ARTICLE XVI. DEALERS IN USED MERCHANDISE AND GOODS*

Sec. 11-786. 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:

Used merchandise or *goods* means any and all personal property, of whatever kind, nature or description, which has been used, was previously new or which has been transferred from the original manufacturer, producer, wholesale or retail distributor to a third party prior to such property being sold, exchanged or bartered at the location of any secondhand dealer; provided that this definition shall not include those items excluded under the definition of used merchandise dealer.

Used merchandise dealer means any person who operates any store, shop or other place of business within the city where secondhand, used or formerly owned personal property may be bought, sold, exchanged or bartered. This definition shall not apply to retail establishments which deal in new furniture or goods and do not offer for sale used merchandise or goods, and it shall further not apply to automobiles, tires, or any other type of goods which may be specifically dealt with in license fee schedules of the city.

Sec. 11-787. License required.

Each used merchandise dealer, or dealer in secondhand goods of any type or description, shall, as a condition precedent to operating his business activity within the city, purchase and maintain a valid current business license from the city for the purpose of operating such business activities of the secondhand dealer.

Sec. 11-788. Records required to be kept.

(a) Every person engaged in dealing with used merchandise or goods shall keep a well-bound record book or register, which shall contain a copy of every bill of sale issued by that dealer. Further, this bill of sale shall contain information sufficient to appropriately identify all used merchandise or goods bought, sold or exchanged at the dealer's place of business. The book shall contain information sufficient to minutely describe all such goods, the time when this property was received, bought, sold or exchanged, the person selling, trading, pledging or giving such property to the dealer, or to whom the dealer sells the property; and a general description of the person shall be obtained, together with that person's driver's license number and social security number.

(b) The entries contained in the aforesaid record book shall be made at the time of the purchase, sale or exchange of the property and shall be kept

*__State law references__—Junk or metal dealers records, O.C.G.A. § 10-1-350 et seq.; purchase and resale of used motor vehicles and used parts, O.C.G.A. § 40-4-40 et seq.; junk dealers, O.C.G.A. § 43-22-1; Used Motor Vehicle Dismantlers, Rebuilders and Salvage Dealers Registration Act, O.C.G.A. § 43-48-1 et seq.

in the consecutive order in which such transactions take place. The book shall contain columns appropriately identified so that all of the information required is kept in a legible form. The description of all secondhand merchandise or goods shall include all manufacturers' trade names, serial numbers, cleaning marks, laundry marks or such other type of identifying marks thereon so that this sufficiently describes such property, thus allowing the property to be recognized by this description.

(c) It shall be unlawful for any dealer or other person to remove, obliterate or to allow to be removed, obliterated or destroyed, any part or portion whatsoever of the record entries made pursuant to this section.

Sec. 11-789. Inspection of record book or register; inventory.

Each secondhand dealer, during the course of business or otherwise when requested by the chief of police or any other police officer or agency, shall submit and exhibit such record book or register to such officer for inspection, and the record shall always be kept upon the premises. Upon demand, any used merchandise dealer shall exhibit any goods or personal property which may be in the place of business of such dealer to the chief of police or other duly authorized law enforcement officer.

Sec. 11-790. Restrictions on sales and exchanges.

It shall be unlawful for any used merchandise dealer to sell, exchange or otherwise remove from the dealer's place of business any of the goods or property, which have been listed as inventory to the chief of police pursuant to a description thereof contained in section 11-788, within a period of ten days after making the report of purchasing the used merchandise. This restriction on sale or exchange shall not apply if the chief of police or his designate has made an inspection of any property described in detail pursuant to this article and the police have determined that there is no reason to believe that such personal property, goods or secondhand merchandise was stolen and the dealer receives a written authorization for the sale of the specific goods or property as requested.

Sec. 11-791. Notification to police of altered goods.

If any used merchandise or goods are sold to any dealer and the dealer finds this property to have altered serial numbers, or any other type of altered, mutilated or destroyed means of identification as to that article, such facts shall be immediately reported, notwithstanding any other reporting requirements contained in this article, in writing by the dealer to the chief of police or his duly authorized representatives. This report shall in no event be made later than 48 hours after such articles have been received by the dealer and shall contain descriptions of the information set forth in this article concerning the goods purchased and the person from whom the articles were so purchased.

Sec. 11-792. Penalty for violation of article.

Any person who willfully violates any provisions of this article may, upon conviction, have his business license subject to revocation and may be punished in accordance with the provisions of section 1-7 of this Code. Each and every item of goods required to be registered or controlled by this article shall be deemed as a separate and distinct transaction, for which a violation may subject any violator to separate offenses as to each such article and each transaction.

Secs. 11-793—11-820. Reserved.

ARTICLE XVII. FRANCHISES*

Sec. 11-821. 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:

Cable and/or video franchise fee. The city hereby requires a franchise fee of five percent of gross

*__State law references__—Power to grant franchises or make contracts with public utilities, O.C.G.A. § 36-34-2(7); limitation on action expanding the power of regulation over any business activity regulated by the Public Service Commission, O.C.G.A. § 36-35-6(5).

revenues generated within the city for any cable or video state franchise issued in its corporate boundaries by the State of Georgia. In the event the state authorized fee increases above five percent then the city shall be entitled to charge the highest fee allowable by federal and/or state law.

Fees means the costs incurred by the city in the process of awarding, renewing, enforcing, reviewing, and/or terminating a franchisee's service agreement for, but not limited to, the payment of bonds, security funds, letters of credit, insurance, indemnification, penalties, or liquidated damages, the costs of attorneys, consultants, experts, outside counsel and certain government costs without any deduction from other permissible fees, taxes, charges and/or assessments the city has previously and lawfully entered into with the franchisee. In addition, "fees" includes the costs incurred by the city to initiate, engage or otherwise direct outside contractors to remove, demolish and/or salvage any equipment or facilities owned or used or formerly owned or used by a franchisee.

Franchisee means a business or service engaged in regularly supplying the public with electric, gas, water, transportation, telephone or telegraph service, television service, entertainment or any other business or service requiring the city to issue a franchise, in order to allow such business to conduct operations.
(Ord. No. 2008O-03, § 1, 1-8-2008)

Sec. 11-822. Franchisee reimbursement of city expenses.

(a) It shall be the responsibility of the franchisee to reimburse the city for all costs and expenses incurred by the city incidental to the award, enforcement, renewal and/or termination of the franchisee's service agreement and the removal, demolition or salvage of the franchisee's equipment within the corporate limits of the city.

(b) At any time the city is impelled to incur expenses in the administration of the terms of this article, such expenses shall be billed to the owner and the owner shall pay the city the amount billed 30 days from the date of invoice.

Sec. 11-823. Equipment removal, demolition or salvage; submission of plan; examination, approval.

A written plan for the removal, demolition or salvage of any equipment or facilities owned or used or formerly owned or used by a franchisee shall prior to any removal, demolition or salvage be presented to the city for examination and approval. The written plan shall contain the following:

(1) The name and address of the owner of the facilities and equipment to be removed, demolished or salvaged.

(2) An itemized list of all facilities and equipment which the owner intends to have removed, demolished or salvaged.

(3) The owner's designated on-site representative.

(4) The name and address of all employees of the owner to be engaged in the work.

(5) The name and address of all independent contractors which the owner intends to employ.

(6) The name and address of all employees of any independent contractor which the owner intends to employ.

(7) A list of major equipment to be used either by the owner or his independent contractors, for example, trucks, tractors, forklifts or other heavy machinery.

(8) A proposed daily schedule of work to be done which shall include the following:

a. Location of work to be done.

b. Personnel involved in the work to be done by location.

c. Facilities and equipment to be removed, demolished or salvaged.

(9) No work shall proceed except in accordance with the aforementioned written plan of removal, demolition or salvage except that minor variations may be made with the permission of the city's on-site representative.

Sec. 11-824. Modification and finalization of plan.

(a) The written plan of removal, demolition or salvage may be changed in any reasonable manner at any time by the owner of the facility and equipment subject only to the city's approval prior to work proceeding in accordance with the modified plan.

(b) Finalization of the proposed daily work schedule must be made in writing and submitted to the city no later than 4:30 p.m. prior to the next working day. The daily work schedule may be reasonably modified at any time during a particular day by notifying the city's on-site representative of the change in work scheduling.

Sec. 11-825. Proof of financial responsibility.

No work shall begin by the owner or the person responsible for the removal, demolition or salvage until there has been filed with the city proof of ability of the person responsible for removal, demolition or salvage to respond in damages for liability on account of accidents arising out of the removal, demolition or salvage in the amount of $200,000.00 because of bodily injury to or death of one person resulting from any one accident, and subject to such limit for one person in the amount of $500,000.00 because of bodily injury to or death of two or more persons resulting from any one incident, and in the amount of $150,000.00 because of injury to or destruction of property of others resulting from any one incident. The proof of responsibility may be given by filing with the city a certificate of insurance or a bond in the required amount.

Sec. 11-826. Owner's designated representative.

The owner of the facility shall have on the worksite a designated representative, who shall have the responsibility of finalizing the proposed daily work schedule, who shall represent the owner with contracts with the city and who shall be primarily responsible to ensure that work is done in accordance with the requirements of this article. If the owner's designated representative cannot be present at the worksite at all times, the owner will appoint a substitute who will have the same authority and responsibility as the designated representative. The owner will immediately notify the city's on-site representative of any change in the owner's representative.

Sec. 11-827. Safety.

All federal, state, county and city safety laws, rules and procedures will be complied with by the owner, its agents or employees.

Sec. 11-828. Cleanup.

All real property owned by the city shall be returned to it in the same condition that it was in prior to the installation of the facility or equipment. All work areas will be thoroughly policed and cleaned up daily to ensure the total removal of all scrap pieces, hardware, bolts, nuts, wire, fittings and any other equipment being removed, demolished or salvaged, or trash shall be removed from the worksite at the owner's expense.

Sec. 11-829. Requirements to remove facilities and equipment; consequences of abandonment.

All facilities and equipment formerly owned or used by a franchisee shall be removed, demolished, or salvaged within 90 days from the termination of service pursuant to the service franchise agreement. Upon good cause shown, the owner may apply to the city council for an extension of time for removal. If the facilities and equipment have not been removed within the 90-day period and no application for an extension of time has been made by the owner, the facilities and equipment will be considered abandoned and shall become the property of the city. The fact that the owner elects to abandon its property within the city does not relieve the owner of its responsibility of removing same, and the city may pursue appropriate legal action against an owner for the failure to remove facilities and equipment.

Sec. 11-830. Authorized designee.

The city hereby authorizes the city clerk upon receipt of notice to the city of its right to designate a franchise fee for an applicant for, or holder of, an existing state franchise, to provide written notice

to the Secretary of State and each applicant for, or holder of, a state franchise within a service area that is wholly or partially located within the city limits of the franchise fee rate applicable to such applicant or holder of a state franchise.
(Ord. No. 2008O-03, § 2, 1-8-2008)

Secs. 11-831—11-855. Reserved.

ARTICLE XVIII. MASSAGE PRACTITIONERS*

Sec. 11-856. 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:

Apprenticeship means a regulated program taught by a certified massage practitioner. This program must be at least two years in length and conducted within a state that has a regulatory body which established state apprentice programs and standards.

License means the authority to perform services under the terms of this article, which is hereby deemed to be a privilege license granted at the sole discretion of the city council with no vested right of the licensee.

Licensee means any person holding a license granted under this article.

Massage means the manipulation of the human body's soft tissue through manual, mechanical or electrical means or similar treatment to the human trunk or limbs.

Massage practitioner includes, but is not limited to, masseurs, masseuses and massage therapists and includes any person who manipulates the body's soft tissue through manual, mechanical or electrical massage or similar treatment to the human trunk or limbs. However, it shall not include any person who diagnoses or performs a service, who holds an unlimited license to practice medicine, surgery, chiropractic or podiatry or any employee or athletic trainer, technical or physical therapist who acts under the prescription or supervision of a medical doctor, chiropractor or podiatrist.

*__State law references—__Deceptive trade practices with respect to health spas, O.C.G.A. § 10-1-392 et seq.; Georgia Physical Therapy Act, O.C.G.A. § 43-33-1 et seq.; levy of occupational tax on practitioners of massage and physiotherapy only at place of principal office, O.C.G.A. § 48-13-5; giving massages in places used for lewdness, prostitution, assignation or masturbation for hire, O.C.G.A. § 16-6-17; establishment, maintenance or use of building, structure or place for unlawful sexual purposes, O.C.G.A. § 41-3-1.

Sec. 11-857. Violations; penalty.

(a) Any person violating any of the provisions of this article shall be guilty of a misdemeanor punishable pursuant to the provisions of section 1-7 of this Code.

(b) Any person violating any of the provisions of this article subjects other license under this article to revocation or suspension.

(c) Every violation of the terms of this article shall be deemed a nuisance and a continuing nuisance for each day so long as such violation may be continued, and such violation may be subject to abatement as a nuisance as provided by the laws of the state.

(d) The violation of any provision of this article may be enjoined by proceedings in courts of competent jurisdiction in this state. Such actions may be maintained notwithstanding that other adequate remedies at law exist.

(e) Each of the above is cumulative and is not to be construed as curtailing the right of any person, resident, property owner or other persons from bringing any proper action of enforcement of this article.

Sec. 11-858. License required; application.

Any person desiring to engage in the business, trade or profession of a masseur shall, before engaging in such business, trade, or profession, file an application for a license addressed to the city council. Such application shall be in writing and shall set forth the following:

(1) The applicant must be fingerprinted by the police department and a character reference run on the applicant and all persons to operate as massage practitioner and all employees, supervisors or work-

ing owners who have interest in the operation. Fingerprints must be made not more than 15 days prior to issuance of the license to allow for investigation of the applicant and employees.

(2) Name and address of the applicant.

(3) Name and address and phone number of any person having previously employed the applicant during the previous two years.

(4) If the applicant is a corporation, the addresses of the corporation as well as the names and addresses of agents and employees of the corporation including all persons who will conduct the proposed massage business for a period of two years immediately prior to the filing of the application.

(5) Qualifications must be plainly stated, together with the required exhibits annexed to the application.

(6) A certificate certifying as to the good moral character of the applicant signed by three currently qualified and registered voters of good moral character of the county. Such letters shall not be required for annual renewals of licenses issued under this article.

(7) If the applicant is a corporation, the corporation shall also submit with the application a certificate, executed as described in subsection (6) of this section, certifying as to the good moral character of the employees and agents of the corporation who are actually engaged in the business for the corporation.

(8) The applicant shall be required to sign an acknowledgment that he has received, read and understands the provisions of this article prior to the issuance of any license.

Sec. 11-859. Regulatory fee.

The massage practitioner regulatory fee shall be as established by the city council. Said fee shall be nonrefundable.

Sec. 11-860. Investigation.

The police department shall investigate the criminal record, background and credentials reference check of the applicant and each employee of the applicant prior to the issuance of any license under this article.

Sec. 11-861. Qualifications of applicant.

(a) An applicant under this article, prior to making application for a license, must have the following qualifications:

(1) The applicant must be of good moral character, and if the applicant is a corporation, the corporation must be created in or licensed to do business in the state. As to such corporate applicant, all employees or agents of the corporation who shall conduct the massage business shall likewise be of good moral character.

(2) The applicant must furnish a current health certificate, within 90 days of exam, from a medical doctor which shall accompany such application as an exhibit. Should the applicant be a corporation, it shall furnish two certificates for all of its agents or employees actually engaged and working under such license for each year of operation.

(3) The applicant must furnish a photostatic copy of a diploma of graduation from a school accredited by the state board of education and meeting American Massage Therapy Association (AMTA) accreditation or equivalent criteria as an exhibit to such application. The diploma must be representative of the fact that the applicant attended a course of study of not less than six months wherein such course of study consisted of a curriculum of physical culture, massage, hydrotherapy, electrotherapy, hygiene, health service management and other such subjects. If the applicant is a corporation, the employee or agent of the corporation who is to be the manager of the establishment must furnish a photostatic copy of the diploma of graduation as set forth in this subsection.

(4) If the applicant should not have such diploma, the applicant must have had an apprenticeship and practical experience for a period of not less than two years in a regularly licensed massage or physical culture studio in which the applicant has received training and experience in physical culture, massage, hydrotherapy, electrotherapy, hygiene, health service management and other such subjects. If the applicant is a corporation and if the agent or employee who is to be the manager of the establishment does not have such diploma, then such manager must have had the apprenticeship and practical experience as set forth in this subsection.

(b) The applicant, or the manager if the applicant is a corporation, must furnish with the application his affidavit of previous employment together with an affidavit of the persons under whom such apprenticeship or practical experience was obtained, specifying that the applicant has satisfied the above requirements.

Sec. 11-862. License issuance; fee; display.

(a) If an application under this article is submitted in proper form and is approved by the city council, the business license department or officer is authorized to issue a business license to such applicant upon the payment of a regulatory fee in the amount established by the city council.

(b) The license shall be prominently displayed in the licensee's place of business so as to be capable of being viewed by clients and customers.

Sec. 11-863. Information concerning employees to be filed with business license department.

It shall be the duty of all persons holding a license under this article to file with the business license department the names of all employees, their home addresses, home telephone numbers and places of employment. Changes in the list of employees with the names of new employees must be filed with the business license department or officer within ten days from the date of any such change. All new employees shall meet the criteria for holding a license.

Sec. 11-864. Hours and place of operation.

(a) No massage shall be performed by any massage practitioner or any of his employees as a part of the conduct of the business in the home of any client or in any place except the place of business of a licensee under this article, unless a written memorandum is first made in a log or record book kept at the place of business for the purpose of recording consecutively the date, time of treatment, place of treatment, name and address of the person to receive treatment, type of treatment to be received, name of the person to render treatment and the time the practitioner leaves to render treatment. The practitioner shall record the time each treatment was completed immediately upon return to the place of business.

(b) No business of a massage practitioner shall be located upon any realty unless it is zoned a commercial classification under the zoning ordinance of the city, chapter 94 of this Code.

(c) No business of a massage practitioner shall be engaged in and no place of business shall be open for business except within and between the hours of 7:00 a.m. and 10:00 p.m.

Sec. 11-865. Prohibited contact.

No massage practitioner nor any of his employees shall manipulate, fondle or handle the sexual organs of any person.

Sec. 11-866. Right of inspection.

The city, through its employees of the police department, license department or code enforcement division shall have the right to inspect the place of business and records of any licensee under this article, during the hours authorized under this article for conduct of business, to ensure compliance with this article.

Sec. 11-867. Restrictions on license transfers.

No license under this article shall be transferable.

Secs. 11-868—11-895. Reserved.

ARTICLE XIX. REFLEXOLOGISTS

Sec. 11-896. Construction and definitions.

For the purposes of this article, the following terms shall have the following meanings:

Apprenticeship means a regulated program taught by a certified reflexologist. This program must be conducted within a state that has a regulatory body which establishes state apprentice programs and standards.

License means the authority to perform services under the terms of this Code, which is

hereby deemed to be a privilege license granted at the sole discretion of the city council of the city, with no vested right of the licensee therein.

Licensee means any person holding a license issued hereunder.

Reflexologist includes, but is not limited to, certified or licensed reflexologists or any person who applies pressure or utilizes finger and thumb techniques to various reflex points on the feet and hands in an effort to relieve stress or tension throughout the rest of the body. The term shall not, however, include any person who diagnoses or performs a service, who holds an unlimited license to practice medicine, surgery, chiropractic, massage, podiatry, or any acts under the prescription or supervision of a medical doctor, chiropractor, or podiatrist.

Reflexology means the application of pressure or specific finger and thumb techniques to the feet and hands in an effort to relieve or lessen stress or tension throughout the body. The term shall not include massage or other forms of manual manipulation of parts of the body other than the hands and feet except in those areas directly related to specific areas of body zones and reflex points necessary in treatment goals. The term shall not include podiatry or chiropractic. (Not intended to include any zones related to sexual organs.)

Sec. 11-897. License—Application; information to be given.

Any person desiring to engage in the business, trade or profession of a reflexologist shall, before engaging in such occupation, file an application for a license addressed to the city council. Such application shall be in writing and shall set forth the following:

(1) The applicant must be fingerprinted by the police department and a character reference run on the applicant and all persons to operate as a reflexologist and all employees, supervisors or working owners who have any interest in the business operations. Fingerprints must be made at least ten days prior to issuance of the license to allow for investigation of the applicant and employees;

(2) Name and address of the applicant;

(3) Name and address and phone number of any person having previously employed the applicant during the previous two years;

(4) If the applicant is a corporation, the address of such corporation as well as the names and addresses of agents and employees of such corporation who have performed reflexology in N.W. Georgia for a period of two years immediately prior to the filing of such application;

(5) Qualifications must be plainly stated and the required exhibits annexed to said application;

(6) A certificate certifying as to the good moral character of the applicant signed by three currently qualified and registered voters of good moral character of the county. Such letters shall not be required for annual renewals of licenses issued hereunder;

(7) Should the applicant be a corporation, such corporation shall also submit with such application a certificate, executed as described in subsection (6) of this section, certifying as to the good moral character of the employees and agents of the corporation who are actually engaged in such business for the corporation contemplated to be operated in the city;

(8) The applicant shall be required to sign an acknowledgment of understanding of the provisions of this article, prior to issuance of any license.

Sec. 11-898. Same—Investigation.

The city police department shall investigate the background and perform a credentials reference check of the applicant and each employee of the applicant prior to the issuance of any license. The department shall prepare a report of its findings for review by the city council prior to the council's consideration of the application.

Sec. 11-899. Same—Qualifications of applicant.

(a) An applicant hereunder, prior to making application for a license, must have the following qualifications:

(1) The applicant must be of good moral character, and in case the applicant is a corporation, such corporation must be created or licensed to do business under the laws of the state. As to such corporate applicant, all employees or agents of the corporation who shall conduct reflexology services in the city shall likewise be of good moral character.

(2) Such applicant must furnish a current health certificate, within 90 days of exam, from a medical doctor which shall accompany such application as an exhibit. Should the applicant be a corporation, it shall furnish two certificates for all of its agents or employees actually engaged and working under the proposed city license for each year of operation.

(3) Such applicant must furnish a photostatic copy of a certificate, diploma of graduation, or similar certification from a school, institute, or other academy which offers a degree or certification in reflexology. This certificate or diploma, and the criteria for obtaining it, together with the general qualifications of the applicant, shall be reviewed by the council in connection with the application. Such certificate or diploma must be representative of the fact that such applicant attended a course of study which consisted of a curriculum of physical therapy, reflexology, hygiene, health service management and other such subjects. If such an applicant should be a corporation, then the employee or agent of the corporation who is to be the manager of the establishment must furnish a photostatic copy of the diploma of graduation as set forth in this subsection.

(4) In the event such applicant should not have such certificate or diploma, then the applicant must have had an apprenticeship and practical experience for a period of not less than one year in a regularly licensed reflexology business in which the applicant has received training and experience in reflexology, hygiene, health service management and other such subjects. If the applicant is a corporation and if the agent or employee who is to be the manager of said establishment does not have such diploma, then such manager must have had the apprenticeship and practical experience as set forth in this subsection.

(b) The applicant, or the manager in the event the applicant is a corporation, must furnish with such application his affidavit of previous employment together with an affidavit of the persons under whom such apprenticeship or practical experience was obtained, specifying that the applicant has satisfied the above requirements.

Sec. 11-900. Same—Issuance, fee.

(a) If such application is submitted in proper form and is approved by the city, a business license shall be issued to such applicant upon the payment of an annual regulatory fee in the amount established by the city council.

(b) Such license shall be prominently displayed in the licensee's place of business so as to be capable of being viewed by clients and customers.

Sec. 11-901. Same—Transferability.

No license hereunder shall be transferable.

Sec. 11-902. Information concerning employees to be filed with business license department.

It shall be the duty of all persons holding a license under this article to file with the business license department the names of all employees, their home addresses, home telephone numbers and places of employment. Changes in the list of employees with the names of new employees must be filed with the business license department or officer within ten days of the date of any such change.

Sec. 11-903. Hours and place of operation.

(a) No reflexology techniques shall be performed by any reflexologist or any employee as a part of the conduct of the business in the home of any client or in any place except the place of business of a licensee hereunder, unless a written memorandum is first made in a log or record book kept at the place of business for the purpose of recording consecutively the date, time of treatment, place of treatment, name and address of the person to receive treatment, type of treatment to be received, name of the person to render treatment and the time the practitioner leaves to render treatment. The practitioner shall record the time each treatment was completed immediately upon return to the place of business.

(b) No business of a reflexologist shall be located upon any realty unless it is zoned in a commercial classification under appendix A to this Code.

(c) No business operated by a reflexologist shall be open for business except within and between the hours of 7:00 a.m. and 10:00 p.m., Eastern Standard Time or Daylight Saving Time, as the case may be at the time.

Sec. 11-904. Prohibited contact.

No reflexologist nor any employee shall manipulate, fondle, or handle the sexual organs of any person.

Sec. 11-905. Right of inspection.

The city, through its employees of the city police department, city license department or code enforcement division shall have the right to inspect the place of business and records of any licensee hereunder, during the hours authorized hereunder for conduct of business, to ensure compliance with this chapter.

Sec. 11-906. Violations and enforcement.

(a) Any person, firm or corporation violating any of the provisions of this chapter shall be guilty of a misdemeanor punishable pursuant to the provisions of section 1-7 of this Code.

(b) Any person, firm or corporation violating any of the provisions of this article will subject any license issued hereunder to revocation or suspension.

(c) Every violation of the terms of this article shall be deemed a nuisance and a continuing nuisance for each day so long as such violation may be continued, and such violation may be subject to abatement as a nuisance as provided by the laws of the state.

(d) The violation of any provision of this article may be enjoined by proceedings in courts of competent jurisdiction in this state. Such actions may be maintained notwithstanding that other adequate remedies at law exist.

(e) Each of the above is cumulative and is not to be construed as curtailing the right of any person, firm, or corporation, resident, property owner, or other persons from bringing any proper action of enforcement of this article.

Secs. 11-907—11-935. Reserved.

ARTICLE XX. TATTOO STUDIOS

Sec. 11-936. Definitions.

The terms "tattoo," "tattoo artist" and "tattoo studio" shall have the definitions which apply to these terms in the definitions in O.C.G.A. § 31-40-1, as presently codified or hereafter amended. Further, should there be additional defined terms under state law which apply to tattoo establishments, these terms are likewise incorporated into this article by reference.

Sec. 11-937. Regulatory fee and insurance.

(a) A regulatory fee is hereby imposed for the granting of a tattoo studio license within said city in the amount established by the city council. This regulatory fee shall apply for a year, or such portions of a year as any person, firm or corporation operates a tattoo studio within the corporate limits of the city. Regulatory fees are not prorated.

(b) Any person operating a tattoo studio within the corporate limits shall maintain a general public liability policy, covering any acts, errors or

omissions in connection with the operation of the studio in an amount of not less than $50,000.00 property damage, $250,000.00 per person liability coverage and $500,000.00 per occurrence coverage. Further, medical payments coverage of not less than $100,000.00 shall be obtained, so as to adequately protect the public against injury, death, medical complications, sickness or other matters which might occur as a result of negligent failure of operations, or similar tortuous conduct, of any tattoo studio. Evidence of the certificate of insurance, meeting the minimum requirements of this section shall be provided to the city prior to the issuance of a license.

Sec. 11-938. Prohibited locations.

It shall be unlawful for a tattoo studio to operate in any location which is presently a prohibited location for the operation of malt beverage establishments. In addition to these prohibited locations, it shall be unlawful for any tattoo parlors to operate within the C-1 or C-2 zoning district or any residential district, as those districts are defined and zoned within the corporate limits of the city.

Sec. 11-939. Application procedure and requirements.

No license to operate a tattoo studio shall be granted to an applicant, unless the applicant meets all standards and qualifications which apply to the granting of an alcoholic beverage license. The forms for applications, standards of review and qualifications contained in the alcoholic beverage code are incorporated into this section by reference and shall apply as to the procedure and requirements for applications for a tattoo studio license.

Sec. 11-940. State permit requirements, rules and regulations.

No person, firm or corporation shall be authorized to operate a tattoo studio within the corporate limits of the city without first having obtained a valid permit for said operations by the duly authorized representative of the department of human resources, through the county board of health or such other agency as might review the permit procedure. The provisions concerning the issuance of permits, suspensions, revocations, and rules and regulations concerning tattoo studios as contained in O.C.G.A. § 31-40-2 et seq. are incorporated herein by reference and made a part of this article. Further, the rules of the department of human resources governing tattoo studios and artists, presently promulgated in Chapter 290-5, as currently enacted or as hereinafter amended, are incorporated herein by reference and made a part of this article. Any applicant and/or license holder shall comply with all terms, provisions and conditions of both state law and the state regulatory authority concerning the operation of a tattoo studio; and first obtain a state permit prior to applying for a city license.

Sec. 11-941. Transferability of license.

A license may only be granted to a person (or if a partnership to a managing partner, and if a corporation, a local outlet manager of the corporation) for any tattoo studio. Such license is not transferable, without express agreement of the city council.

Sec. 11-942. Revocation.

Any person who shall conduct a tattoo studio, or otherwise engage in the business of tattooing without first securing a state permit license and city license; or operating in violation of the permit and/or license shall be subject to revocation of the license upon appropriate notice and hearing by the city. Where public health and emergency exist, the license may be forthwith, in only exigent circumstances, suspended; provided that a hearing is conducted within ten days of the exigent suspension concerning the reason for emergency suspension, and for a decision affecting partial or permanent revocation of the license. Grounds for revocation of a license shall be violations of the provisions of this article, the provisions and regulations of state law; or similar violations of federal, state or local laws governing tattoo studios and these establishments in general.

Secs. 11-943—11-970. Reserved.

ARTICLE XXI. YARD SALES

Sec. 11-971. 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:

Yard, garage, estate or rummage sales means the displaying of wares, clothing, merchandise and goods for the purpose of sale or trade to the public.
(Ord. No. 3-2006, § 3, 1-10-2006)

Sec. 11-972. General provisions.

(a) Four yard, garage, estate or rummage sales are allowed per calendar year per residential owner/occupant and/or location on residential property.

(b) One sale shall consist of not more than two consecutive days.

(c) Four yard, garage, estate or rummage sales are allowed per calendar year per commercial owner/occupant and/or location on commercial property.

(d) Outdoor sales are prohibited on commercial property without prior written approval of the owner.
(Ord. No. 3-2006, § 4, 1-10-2006)

Sec. 11-973. Signs/advertisement.

(a) Signs shall not exceed four square feet of sign area and three feet in height and may be double faced.

(b) Signs shall be mounted on independent single or double support pole devices.

(c) Signs shall not be affixed in any manner to trees, natural objects, street lamp poles, utility poles, bridge rails, other signs or other sign structures.

(d) There shall be only one sign for any given place, activity or event per 100 feet of road frontage.

(e) No sign shall be located closer than one foot from the public right-of-way.

(f) All signs must be displayed on private property and with the property owner's permission.

(g) Signs shall be placed no earlier than 24 hours prior to the event or sale and must be removed upon the close of the event or sale.
(Ord. No. 3-2006, § 5, 1-10-2006)

Sec. 11-974. Penalty.

Any person, firm or corporation violating or failing to comply with the provision of this article shall be in violation of a misdemeanor and subject to penalty under the Code for the city as prescribed in section 1-7 of this Code.
(Ord. No. 3-2006, § 6, 1-10-2006)

Secs. 11-975—11-989. Reserved.

ARTICLE XXII. FILM PERMITS

Sec. 11-990. Title and purpose.

This article shall be known as the "Film Permit Ordinance." It is designed to provide a procedure to authorize filming of motion pictures on public property while protecting the public interest and to regulate filming on private property.
(Ord. No. 2019O-02, § 1, 2-12-2019)

Sec. 11-991. Definitions.

Film production means any and all motion picture production, television production, videography or web video (meaning video production for distribution on the internet).
(Ord. No. 2019O-02, § 1, 2-12-2019)

Sec. 11-992. Permit required.

No person shall engage in, conduct or carry on the business of film production on private or public property within the incorporated area of Rockmart, Georgia, including but not limited to rights-of-way, without first receiving a film production permit from the city. This is in addition to any permit that may be required by the International Fire Code or any other provisions of the City of Rockmart Code. Use of a city facility or building (other than a road) shall also

require the applicant for the permit to enter into a "location agreement" contract with the city, governing the use of city property.
(Ord. No. 2019O-02, § 1, 2-12-2019)

Sec. 11-993. Application.

Any person seeking the issuance of a film production permit shall complete a written application form provided by the city and shall provide all information requested thereon, not less than five nor more than 180 days prior to the commencement of film production. The application must be signed by an authorized representative of the applicant.
(Ord. No. 2019O-02, § 1, 2-12-2019)

Sec. 11-994. Exemptions.

The following film production activities are exempt from permit requirements:

Film production by news media; personal or family videos (weddings, etc.); studio filming inside a movie studio; student film productions; low impact productions (utilizing ten or fewer crew for three or fewer days and taking place entirely on private property); and such other productions as are exempted by the city manager.

However, if any of the exempt activities listed above desire to use city facilities or block or interfere with a city street, property or right-of-way, then the article shall apply, and a permit must be obtained.
(Ord. No. 2019O-02, § 1, 2-12-2019)

Sec. 11-995. Administration and regulations.

(a) *Administrator.* This article shall be administered by the city manager or their designee.

(b) *Conditions.* A permit may be issued with special conditions unique to the particular film production based on the circumstances of the request and location or other special factors.

(c) *Safety and notice standards.*

(1) *Roads and traffic.* If roads or lanes are to be blocked or traffic disrupted in any manner, off-duty City of Rockmart police officers must be hired to provide safety supervision. Requirements of the RPD for flagging and lane closures shall be observed. Filming on State highways requires permission of the Georgia Department of Transportation and the process is initiated through the Rockmart Police Department. Removal, cutting or trimming of vegetation on the right-of-way is prohibited unless specifically approved in the permit.

(2) *Fire department.* The City of Rockmart Fire Department shall have full access to any film production to ensure safety for crew members, the public and surrounding properties. No film activity involving the use of explosives, pyrotechnics, smoke machines or fire shall be permitted without approval of the fire chief or his/her designee.

(3) *Public notice.* Adjacent property owners shall be notified in advance of the filming and provided a contact number for any complaints or concerns. At least seven days' notice shall be posted in a manner approved by the public works director of any full or partial road closure; a detour route must be posted for full road closures.

(d) *Fees.* See adopted fee schedule for current fees.
(Ord. No. 2019O-02, § 1, 2-12-2019)

Sec. 11-996. Liability provisions.

(a) *Liability insurance.* Before a permit is issued, a certificate of insurance will be required in an amount of $1,000,000.00 minimum naming the city and its officers and employees as additional insureds for protection against claims of third persons for personal injury, wrongful death and property damage. The certificate shall not be subject to cancellation or modification until after 30 days written notice to the city. A copy shall remain on file.

(b) *Workers' compensation insurance.* An application shall conform to all applicable federal and state statutes and requirements for workers' compensation insurance for all persons under the permit.

(c) *Hold harmless agreement.* The applicant's acceptance of the permit shall constitute a hold harmless agreement, holding the City of Rockmart and its officers and employees harmless from all damages, suits, actions or liabilities, including attorney's fees, arising out of or resulting from the filming activity, or from the acts of the filming company or its agents during the filming activity or occurring as a result of the use of filming locations by the filming company.

(d) *Security deposit.* To ensure cleanup and restoration of the site, an applicant may be required to submit a refundable deposit (amount to be determined). Upon completion of filming and inspection of the site by the city, if no verifiable damage has occurred, the security deposit shall be returned to the applicant.

(e) *Damage to property.* Any damage to city-owned property, facilities or infrastructure, including roads, arising from or relating to the film production, shall be the responsibility of the permit holder who shall repair all such damage or pay the city the costs of repair.
(Ord. No. 2019O-02, § 1, 2-12-2019)

Sec. 11-997. Violations/revocation.

If an applicant violates any provisions of this article or any conditions to the permit, the city may provide the permit holder verbal or written notice of the violation. If the applicant fails to correct the violation, the city may revoke the permit and all activity must cease immediately. Activity that threatens public safety will result in an immediate revocation of the permit.
(Ord. No. 2019O-02, § 1, 2-12-2019)

Sec. 11-998. Primary contact.

The applicant shall provide one primary contact of competent authority to maintain communication with and be responsive to the city manager during the entire period of filming. Minimum communication types shall be phone, text, and e-mail. The City Manager and/or his designee shall be the primary contact for the applicant.
(Ord. No. 2019O-02, § 1, 2-12-2019)

Chapter 12

OFFENSES AND MISCELLANEOUS PROVISIONS

Article I. In General

Article II. Unlawful Assembly, Picketing, Demonstrations and Parades

Article III. Littering

Article IV. Offenses Involving Property

Article V. Offenses Involving Public Peace and Order

Division 1. Generally

ARTICLE I. IN GENERAL

Sec. 12-1. Prosecution of state offenses.

Any municipal law enforcement officer shall have the right, pursuant to general arrest powers granted under the laws of the state, or the Charter or Code of Ordinances of the city, to arrest all persons for a violation of the criminal laws of this state or violation of any ordinances of the city.

Sec. 12-2. Resisting police officer.

It shall be unlawful for any person to resist, obstruct or oppose the chief of police or any police officer, in making or attempting to make an arrest of any person in the city, or in serving or attempting to serve any legal process or order issued by the authorities of the city. It shall also be unlawful and a violation of this section for any person to approach or stay within 30 feet of an arresting officer, after said officer has lawfully placed any other person under arrest, and after the officer has given a warning to stay away from the immediate area of the arrestee.

Sec. 12-3. Parking of vehicle and loitering of individuals in certain parking lots and on certain premises declared nuisance.

(a) *Illegal parking.*

(1) It shall be unlawful and it is hereby declared to be a nuisance for any person to park or stand any private or commercial vehicle upon any premises to which the public has access, without the owner's permission, including, but not limited to, such premises as shopping center parking lots, church parking lots, service station parking lots, private business establishment parking lots, public or private school parking lots, and private individuals' driveways within the city between the hours of 7:00 p.m. and 7:00 a.m., each night, where the vehicle's presence upon such premises is unrelated to the normal activity, use or business for which such premises are made available to the public, and in the case of public or private school parking lots, it shall be unlawful for any person to stand or park any private or commercial vehicle upon such premises without the school principal's permission when school is not in session unless such presence is related to a school sponsored function; and when:

a. The owner of the premises has made a dedication of his premises to the city for the limited purpose of enforcement of this section;

b. The owner of the premises has made a written request to the city that the provisions of this section be enforced as to his premises; and

c. The owner of the premises has erected, at his expense, signs on his premises giving notice to the public in substantially the following form:

"No parking or loitering is allowed on these premises between the hours of 7:00 p.m. and 7:00 a.m. by order of the police department of the city."

d. In the case of a private or public school parking lot, the principal of the school premises has erected, at school expense, signs on the premises giving notice to the public in substantially the following form:

"No parking or loitering is allowed on school premises while school is not in session unless such presence is related to a school sponsored activity by order of the police department of the city.

(2) Whenever any vehicle shall be found on any premises within the city in violation of the provisions of subsection (a)(1) of this section, such vehicle may be removed and conveyed by any member of the police department by means of towing the same, or otherwise, to a vehicle pound. Immediate recording of the impounding is to be made in the office of the city clerk. Fees for removal, impounding and storage of vehicles removed for violation of this section may be charged as set and determined by the city manager and the chief of police. The vehicle so impounded under the terms of this subsection shall not be

released until either the fees have been paid in full, or good and sufficient bond has been given for the fees as set by the judge of the municipal court. The impounding of vehicles under the provisions of this section shall neither prevent nor preclude prosecution for violation of the penal provisions of this section or any other ordinance relating to traffic.

(3) It shall be unlawful and it is hereby declared to be a nuisance for any person to allow, permit or suffer any vehicle registered in his name to stand or park on any premises to which the public has access in violation of the provisions of subsection (a)(1) of this section. Such person shall be equally liable with the operator for such violation.

(b) *Illegal loitering*. It shall be unlawful and it is hereby declared to be a nuisance for any person to remain or loiter upon any premises to which the public has access, including, but not limited to, such premises as shopping center parking lots, church parking lots, service station parking lots, private business establishment parking lots, and private individuals' driveways within the city between the hours of 7:00 p.m. and 7:00 a.m., each night, where the person's presence upon such premises is unrelated to the normal activity, use or business for which such premises are made available to the public, and when:

(1) The owner of the premises has made a written request and limited dedication of his premises of the city that the provisions of this section be enforced as to his premises; and

(2) The owner of the premises has erected signs on his premises giving notice to the public in substantially the following form:

"No parking or loitering is allowed on these premises between the hours of 7:00 p.m. and 7:00 a.m. by order of the Police Department of the city."

(c) *Duties of police*. Whenever any vehicle without a driver is found parked or stopped in violation of any of the provisions set out in this section, whether or not the vehicle is removed and impounded as provided above, the officer finding such vehicle shall take its registration number and may take any other information displayed on the vehicle and place a notice, in writing, on the vehicle for the driver to answer the charge against him at the time and place specified in the notice.

(d) *Additional violations*. Each day, following the day notice is affixed to the vehicle as prescribed in subsection (c) of this section, that said vehicle is in violation of this section shall constitute a separate violation of this section and no further notice is required. Each offense shall carry the same punishment on conviction as provided for the first offense.

(e) *Penalties*. A charge or violation of this section shall be made by the city, as for any other lawful act, and, on conviction, the defendant shall be required to pay a fine as set forth in section 1-7 of this Code, all in the discretion of the court. (Code 1976, § 10-42; Ord. No. 1990-004, § 1(10-5.10), 4-10-1990; Ord. No. 1991-003, 5-14-1991)

Sec. 12-4. Loitering.

(a) It shall be unlawful and a violation of this section for any person or group of persons to remain idle, stand idly around, linger or behave in a dilatory fashion in, on or about any public street, alley, park, playground, building or any privately-owned residence, or place of business, if such person or group of persons:

(1) Is creating a hindrance to vehicular or foot traffic on the streets or sidewalks or in building entrances;

(2) Is unable to give a proper accounting of themselves or refuse to identify themselves;

(3) Is engaged in disorderly, disruptive, obscene or other obnoxious conduct; or

(4) Would warrant a justifiable and reasonable alarm or immediate concern for the general health, safety or welfare of persons or property in the immediate vicinity.

(b) Any person found guilty of violating this section shall be punished, upon conviction, as provided in section 1-7 of this Code.

Sec. 12-4.1. Loitering for the purpose of using, possessing or selling any controlled substances; unlawful criminal activity.

(a) It shall be unlawful for any person to loiter in a public place in a manner and under circumstances manifesting the purpose of illegal using, possessing or selling any controlled substance as that term is defined in O.C.G.A. § 16-11-36, as now enacted or hereafter amended. Among the circumstances which may be considered in determining whether such a purpose is manifested are:

(1) The person is a known illegal user, possessor or seller of controlled substances, or the person is at a location frequented by persons who illegally use, possess, transfer or sell controlled substances and several prior arrests and/or surveillance activities have occurred at the location concerning these drug activities; and

(2) The person repeatedly beckons cars or passersby to stop, attempts to stop or engage in conversation with passersby; whether such passersby are on foot or in a motor vehicle, for the purposes of inducing, enticing , soliciting or procuring another to illegally possess, transfer or buy any controlled substances; or

(3) The person repeatedly passes to or receives from passerby, whether such passerby are on foot or in a motor vehicle, money, objects or written material for the purpose of inducing, enticing, soliciting or procuring another to illegally possess, transfer or buy any controlled substance.

(b) In order for there to be a violation of subsection (a), the person's affirmative language or observed conduct must be such as to demonstrate by its expressed or implied content or appearance a specific intent to induce, entice, solicit or procure another to illegally possess, transfer or buy a controlled substance.

(c) No arrest shall be made for a violation of subsection (a), unless the arresting officer first affords the person an opportunity to explain his conduct, and no one shall be convicted of violating subsection (a), if it appears at trial that the explanation given was true and disclosed a lawful purpose.

(d) For the purposes of this section, a "known illegal user, possessor or seller of controlled substances" is a person who, within three years previous to the date of arrest for violation of this section, has, within the knowledge of the arresting officer, been arrested, charged or convicted of illegally manufacturing, using, possessing, purchasing or delivering a controlled substance.

(e) Any person violating the provisions of this section shall be guilty of a misdemeanor, punishable by a fine not to exceed $500.00 per violation or by imprisonment for a period not to exceed six months, or both such fine and imprisonment.
(Ord. No. 2008O-04, 3-11-2008)

Sec. 12-5. Begging and soliciting alms.

(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:

Accosting means approaching or speaking to someone in such a manner as would cause a reasonable person to fear imminent bodily harm or the commission of a criminal act upon his person, or upon property in his immediate possession.

Ask, beg or *solicit* means and includes, without limitation, the spoken, written or printed word or such other acts as are conducted in furtherance of the purpose of obtaining alms.

Forcing oneself upon the company of another means continuing to request, beg or solicit alms from a person after that person has made a negative response, blocking the passage of the individual addressed or otherwise engaging in conduct which could reasonably be construed as intended to compel or force a person to accede to demands.

(b) *Prohibited activity.* It shall be unlawful for any person to solicit money or other things of value:

(1) On private property if the owner, tenant, or lawful occupant has asked the person

not to solicit on the property, or has posted a sign clearly indicating that solicitations are not welcome on the property;

(2) Within 15 feet of the entrance to or exit from any public toilet facility;

(3) Within 15 feet of an automatic teller machine, provided that when an automated teller machine is located within an automated teller machine facility, such distance shall be measured from the entrance or exit of the automated teller machine facility;

(4) Within 15 feet of any pay telephone, provided that when a pay telephone is located within a telephone booth or other facility, such distance shall be measured from the entrance or exit of the telephone booth or facility;

(5) In any public transportation vehicle, or in any bus or subway station, or within 15 feet of any bus stop or taxi stand;

(6) From any operator of a motor vehicle that is in traffic on a public street; provided, however, that this subsection shall not apply to services rendered in connection with emergency repairs requested by the owner or passengers of such vehicle;

(7) From any person who is waiting in line for entry to any building, public or private, including, but not limited to, any residence, business, or athletic facility; or

(8) Within 15 feet of the entrance or exit from a building, public or private, including, but not limited to, any residence, business, or athletic facility.

(c) *Prohibited behavior.* It shall be unlawful for any person to solicit money or other things of value:

(1) By accosting another; or

(2) By forcing oneself upon the company of another.

Sec. 12-6. Possession or control of marijuana.

(a) As authorized by O.C.G.A. § 36-32-6, it shall be unlawful for any person to possess or have under his control within the corporate limits of the city one ounce or less of marijuana in violation of the provisions of O.C.G.A. § 16-13-30, as amended, which are hereby adopted by reference.

(b) Any person charged with possession of an ounce or less of marijuana in the municipal court of the city shall be entitled on request to have the case against him transferred to the court having general misdemeanor jurisdiction in the county, pursuant to the provisions of O.C.G.A. § 36-32-6, which are hereby adopted by reference.
(Code 1976, § 12-10; Ord. No. 1983-009, § 1, 10-11-1983)

Sec. 12-7. Alcoholic beverages on city property.

(a) No person, firm, or corporation who rents, occupies, or otherwise uses any city-owned facility, park, building, or any other city property shall possess, use, consume, or make available for consumption any alcoholic beverages at any time on said city property, either before, during, or after any activity for which the property is being used; except as provided in this section and in general compliance with all applicable federal, state and local laws and/or ordinances.

(b) *Definitions.* For purposes of this section:

(1) *Food caterer.* Any person who prepares food for consumption off the premises and has a license to do so.

(2) *Licensed alcoholic beverage caterer.* Any retail dealer who has been licensed pursuant to applicable city ordinances and O.C.G.A. § 3-11-2.

(3) *Private function.* Any social gathering, reception, meeting, or similar function organized in connection with a central cause or purpose for which attendees are present only upon personal and individual invitation and is not open to the public or by open invitation and for which there is no fee or any other consideration as a

condition of attendance. Private function is intended to mean wedding receptions, corporate meetings/receptions, family and class reunions and other similar uses.

(4) *Premises.* The interior of an approved city owned building and a perimeter equal to 20 feet around the building.

(5) Other definitions pertaining to the consumption of alcoholic beverages, as defined in section 3-1 of this Code, shall be equally applicable to this section except where otherwise indicated.

(c) *Limited rights concerning alcoholic beverages.* Alcoholic beverages may be served for consumption on the premises on city property provided the following criteria are met.

(1) Alcoholic beverages may be served for consumption on the premises only and may not be removed from the premises.

(2) Alcoholic beverages may be served only at those locations set out in the fee schedule of the city.

(3) Alcoholic beverages may be served only at private functions for which all proper approval has been granted.

(4) Alcoholic beverages shall be served without charge, tickets or other consideration. Cash or cash equivalent bars are not permitted at private functions on city property.

(5) Alcoholic beverages served at private functions must be furnished by the person(s) having signed the rental agreement. A food caterer or licensed alcoholic beverage caterer, however, *may* serve the alcoholic beverages.

(6) The person(s) signing the rental application/agreement shall indicate whether alcoholic beverages will be served. If so, the applicant(s) shall undergo a background check and pay a fee in addition to the rental fee to cover additional administrative costs. This fee shall be determined by the mayor and council, shall be made part of the city's fee schedule and is nonrefundable once the background check has begun.

(7) The person(s) signing the rental agreement is/are entirely responsible for attendees' conduct and adherence to this and other city ordinances and state laws.

(8) Brown bagging is prohibited at private functions.

(Ord. No. 2012O-07, § 1, 10-18-2012)

Sec. 12-8. Open containers.

It shall be unlawful and a violation of this section for any person to possess in any public place within the corporate limits of the city any open container containing an alcoholic beverage. For purposes of this section, the term "open container" shall mean any container which is immediately capable of being consumed from, or the seal of which has been broken, including but not limited to, bottles, cans, glasses, pitchers, cups, and similar containers.

Sec. 12-9. Wearing of masks, hoods.

(a) *Statement of purpose*. The city council hereby expressly declares that public appearances, whether in motor vehicles or otherwise, of persons who are masked or hooded and unidentifiable, threaten the supremacy of the law and cannot be permitted in the city. The city council herein exercises its police power to protect its citizens from intimidation, the public from crime by masked and hooded persons, and to give to the police fullest opportunity to detect, apprehend, and bring to justice violators of the law.

(b) *Definitions*. For the purpose of this section:

Mask includes any mask, device or hood whereby any portion of the face is so hidden or covered as to conceal the identity of the wearer.

Public place includes all walks, alleys, streets, boulevards, avenues, lanes, roads, highways, or other ways or thoroughfares dedicated to public use or owned or maintained by public authority; all buildings owned, leased or operated for the use of organizations enjoying any tax exempt privilege as a charitable use.

(c) *Prohibited*. No person, while masked, shall be or appear on or in any public place in the city.

(d) *Exceptions*. The following are exempted from the provisions of this section:

(1) All workers while engaged in a work wherein a covering is worn for physical safety and protection against occupational hazards or because of the nature of the occupation, trade or profession.

(2) Persons while wearing traditional holiday costumes.

(3) Persons while engaged in theatrical productions or masquerade balls.

(4) Persons wearing gas masks prescribed in civil defense drills and exercises or emergencies.

(Code 1976, § 12-18; Ord. No. 1988-008, § 2, 10-4-1988)

State law reference—Similar provisions, O.C.G.A. § 16-11-38.

Secs. 12-10—12-35. Reserved.

ARTICLE II. UNLAWFUL ASSEMBLY, PICKETING, DEMONSTRATIONS AND PARADES

Sec. 12-36. General prohibition.

It shall be unlawful and a misdemeanor for any person to knowingly participate in any assembly, demonstration, picketing, or parade on or through the streets and/or alleys of the city, at public places, or upon private property under certain conditions and without a permit as set forth in this article. A person guilty of violating these provisions shall, upon conviction, be punished as prescribed in section 1-7 of this Code. Each separate act, occurrence or conduct violative of this article, even if committed on the same date, shall be punishable as a separate offense.

(Code 1976, § 12-14.1; Ord. No. 1988-008, § 2, 10-4-1988)

Sec. 12-37. Types.

The following courses of conduct, acts or occurrences, by any person who knowingly participates

in said acts or occurrences, shall be considered unlawful and subject that person, upon conviction, to the punishment prescribed in section 1-7 of this Code. The acts or occurrences are as follows:

(1) The assembly of two or more persons for the purposes of committing an unlawful act;

(2) The failure of two or more persons to withdraw or disburse from any assembly, picketing, demonstration, or parade on being lawfully commanded to do so by a peace officer and before any member of the assembly has inflicted injury to the person or property of another;

(3) The gathering of two or more persons, without authority of law or without a permit pursuant to the provisions contained in sections 12-40 through 12-44 hereof for the issuance of such permit, for the purpose of doing violence to the person or property of one supposed by the accused to have been guilty of a violation of the law;

(4) The assembly of two or more persons, without authority of law or without a permit pursuant to the provisions hereinafter contained, for the purpose of exercising correctional or regulative powers over any person by violence, threat or intimidation;

(5) Any persons who shall assemble, loiter, or remain, in sufficient numbers, or in such a manner as to be an obstruction to free passage on the streets, sidewalks, highways, or within any public place, within the corporate limits of the city;

(6) Any person who, upon being assembled, picketing, parading or otherwise engaging in any acts covered by this article, shall engage in any acts, statements, or other public utterance by which they attempt to incite a riot, revolt, a general disturbance of the peace, or otherwise engage in any conduct which tends to incite or provoke riots, public disturbances, affrays, or other similar conduct prohibited by law; or

(7) Any persons who have previously gathered within the corporate limits of the city, upon proper authority and with a permit, and have, on that occasion, committed any unlawful acts, or engaged in any conduct, which incited a public disturbance, created an affray, a breach of the peace, or otherwise disrupted the good order and peace of citizens within the corporate limits of the city.

(Code 1976, § 12-14.2; Ord. No. 1988-008, § 2, 10-4-1988)

Sec. 12-38. Exceptions and defenses to prosecution.

(a) It shall be an affirmative defense to a prosecution for unlawful conduct as defined in section 12-37, that the accused withdrew from the assembly, parade, picketing or other acts, on being lawfully commanded to do so by a peace officer or before any member of the assembly had inflicted injury to the person or property of another.

(b) Any person who has applied, and received prior approval, for a permit pursuant to this article, and conducts the demonstration, parade, assembly, or other act under the supervision of the police department of the city, or other law enforcement officials who may be involved in the supervision of the conduct to ensure that it does not violate any conditions or provisions of the permit, or city ordinance or any of the laws of the state.

(Code 1976, § 12-15.1; Ord. No. 1988-008, § 2, 10-4-1988)

Sec. 12-39. Conduct included.

For the purposes of this article, the acts or conduct which are to be controlled by these sections shall include any march, ceremony, demonstration, picketing, exhibition, assembly, or procession of any kind upon any public street, highway, sidewalk, public place, or other public gathering

on private property (where violations of this article occurred) within the corporate limits of the city.
(Code 1976, § 12-15.2; Ord. No. 1988-008, § 2, 10-4-1988)

Sec. 12-40. Permits—Generally.

(a) *Registration.* Any person who wishes to organize, form, or conduct any march, demonstration or assembly, as defined in this article, shall be required to register with the chief of police at least 48 hours in advance of the event, on forms to be provided by the chief of police, to obtain a permit therefor.

(b) *Application; contents.* An application for a permit to conduct the acts set forth herein shall be made to the chief of police in writing, shall be signed by the person responsible for the conduct of the event, and shall contain the following information:

(1) The date and time proposed for the event;

(2) The route, place, or other area of the proposed event;

(3) The number of vehicles, if any, and the approximate number of persons who would participate in the proposed event;

(4) The name and address of the person, firm, corporation or organization sponsoring or promoting the proposed event;

(5) The name and address of the person making the application for the permit, and proper identification of that person;

(6) The name and address of at least five principal parties who will also be responsible for, or who may participate in, the event; including proper identification of these parties;

(7) If the parade, demonstration or other activity is designed to be held by, or on behalf of or for, any person, organization, or other group other than the applicant, the name, address and telephone number of the headquarters of this organization shall be furnished together with the authorization from said organization allowing the activity and the names of the responsible heads of such organization;

(8) A statement as to whether the parade, assembly or other activity will occupy all or only a portion of the width of the streets, the location of such streets, and any assembly areas for the group; and

(9) Any additional information which the chief of police shall find reasonably necessary to make a fair determination as to whether a permit should issue.

(Code 1976, § 12-16.1; Ord. No. 1988-008, § 2, 10-4-1988)

Sec. 12-41. Same—Review of application; procedure for approval or denial.

(a) If the chief of police determines that the application has failed to meet the criteria set forth in section 12-40, the application shall be returned to the applicant and no permit shall be granted until the application is completed in proper form.

(b) Upon proper completion of the application, the chief of police shall forward the application to the mayor and city manager, together with an investigation as to the applicant and other persons named in the application, to determine if they have ever been guilty of violating any state and federal laws, or crime against moral turpitude, concerning the applicant or the persons principally responsible for the promoting of the event as listed in subsection 12-40(b).

(c) The mayor shall have authority, in consultation with the chief of police or designated officer in charge and pursuant to authority granted him by the city council pursuant to this article, to approve the permit after consideration of the criminal record, if any, of the applicant and the following criteria:

(1) The extent of vehicular and pedestrian traffic and use by the group to be anticipated at the time and place of, and on the route of the proposed occurrence;

(2) The availability of appropriate police forces and other law enforcement agency protec-

tion to escort the proposed group or assembly, to direct traffic in conjunction with the proposed event, and to otherwise properly handle the assembly to protect the general welfare of the participants, the public who may be watching the event, and other persons who may be affected by the conducting of this event within the city;

(3) Whether this group, or a similar group of persons affiliated with this group, has, within the past five years, been issued a permit within the corporate limits of the city for any event, at which time of the event there has been a disturbance, occurrence, act, or other conduct of any persons within the assembly which has been unlawful and in violation of any criminal statutes of the state or ordinances of the city;

(4) Whether the proposed event will unreasonably burden or interfere with the normal use of the streets, sidewalks or other public areas of the city;

(5) Whether the concentration of persons, animals and/or vehicles at assembly points, or anticipated to be a part of the activity, will not unduly interfere with the movement of ambulances, police protection equipment, firefighting equipment, and similar emergency vehicles;

(6) Whether the conduct of the event would be reasonably likely to cause injury to persons or property, to provoke disorderly conduct or create a disturbance; and

(7) Whether the event is to be held for the sole purpose of advertising any product, goods or event, and is designed to be held purely for private profit.

(Code 1976, § 12-16.2; Ord. No. 1988-008, § 2, 10-4-1988)

Sec. 12-42. Same—Disposition.

In the event the chief of police approves the forwarded application to the mayor and city manager; pursuant to the criteria established above and the mayor determines, in view of the criteria, that the proposed event meets the criteria established pursuant to the provisions of subsection 12-41(c), he may grant the request instanter. In the event there remains some determination concerning the criteria of the preceding section being met by the application, then the mayor may, in his discretion, set the matter over for a determination by the city council at its next regular or specially scheduled meeting. The council shall, upon a review of the application in conjunction with the criteria of the preceding section, make a final decision concerning the application. Any party aggrieved of a denial of a permit may, upon formal notification of the council in writing of the denial and the reasons therefor, appeal to the superior court of the county for authorization of the proposed event.

(Code 1976, § 12-16.3; Ord. No. 1988-008, § 2, 10-4-1988)

Sec. 12-43. Regulations.

(a) All assemblies, parades, picketing or other conduct shall be peaceful and unattended by noise and boisterousness, and there shall be no shouting, clapping or singing of such a nature as to disturb the peace and tranquility of the community.

(b) Any picketing and demonstrations shall be conducted only on public sidewalks or within five feet of the curb (edge) of any street. No picketing, assembly or demonstration shall be conducted on the remaining portion of the sidewalks, if any; the remaining city right-of-way; or on that portion of the street used primarily for vehicular traffic.

(c) Any marching or picketing shall be in single file, and pickets or demonstrators shall be spaced at a distance of not less than ten feet apart. No more than ten persons shall be permitted to picket or demonstrate before any given place of business or any public facility.

(d) Pickets, demonstrators, or other persons assembled for the purpose of promoting the same objective may picket or demonstrate in front of only one place of business or public facility within a city block at any one time. The term "block" as used herein shall mean the portions of a street lying between intersections.

(e) Pickets, demonstrators, or other persons assembled shall carry only cardboard or paper placards or signs and the words used thereon shall not be defamatory in nature and shall not be such that they would tend to produce violence. No metal or wood may be attached to the placards or signs and the placards or signs shall not be more than 36 inches in length and not more than 36 inches in width.

(f) No picket, demonstrator, or person involved in the activity, or supervising same, or in any way accompanying the activity, shall make any statement, remark or verbal utterance to any person traveling on the sidewalks or streets of the city. Any message that the picket or demonstrator wishes to convey to the public must be printed or written on the aforesaid placards or signs.

(g) No persons under the age of 16 years shall be permitted to march, picket, or demonstrate within the corporate limits of the city. This shall not apply to a parade, provided any persons under that age are properly supervised in the opinion of the chief of police.

(h) No vehicle shall be used in connection with any picket or demonstrating line, and all pickets or demonstrators shall be afoot.

(i) There shall be no picketing, assembly or demonstrating in front of any building in which the following are located, affecting the normal operations thereof:

(1) A church;

(2) A school; and

(3) A hospital, nursing home or rest home.

(Code 1976, § 12-16.4; Ord. No. 1988-008, § 2, 10-4-1988)

Sec. 12-44. Exemptions.

(a) Any parade which is conducted under the supervision of a practicing mortician in conjunction with a funeral shall be exempt from the permit provisions contained herein.

(b) Students going to and from school classes or participating in educational activities, providing such conduct is under the immediate direction and supervision of the proper school authorities.

(Code 1976, § 12-17; Ord. No. 1988-008, § 2, 10-4-1988)

Secs. 12-45—12-70. Reserved.

ARTICLE III. LITTERING*

Sec. 12-71. Declaration of intent.

It is the intent of the mayor and council, by the provisions of this article, to provide for uniform prohibition throughout the city of any and all littering on public or private property, to curb thereby the desecration of the beauty of the city and harm to the health, welfare and safety of its citizens caused by individuals who litter.

(Code 1976, § 12-66; Ord. No. 1978-007, § 1, 8-7-1978)

Sec. 12-72. Definitions.

As used in this article, unless the context clearly requires otherwise, the following words and phrases shall have the following meanings:

Litter means all sand, gravel, slag, brickbats, rubbish, waste material, tin cans, bottles, refuse, garbage, trash, debris, dead animals or discarded materials of every kind and description.

Public or private property means the right-of-way of any road or highway, any body of water or watercourse, or the shores or beaches thereof; any park, playground, building, refuge, or conservation or recreation area; public or private parking lots; business or commercial properties, sidewalks; and residential or farm properties, timberlands or forests.

(Code 1976, § 12-67; Ord. No. 1978-007, § 2, 8-7-1978)

Sec. 12-73. Prohibited acts.

It shall be unlawful for any person to dump, deposit, throw or leave, or to cause or permit the

*__State law reference—__Littering, O.C.G.A. § 16-7-40 et seq.

dumping, depositing, placing, throwing or leaving of litter on any public or private property in this city, or any waters in this city, unless:

(1) Such property is designated by the city for the disposal of such litter, and such person is authorized by the proper public official to use such property;

(2) Such litter is placed into a litter receptacle or container installed on such property;

(3) Such person is the owner or tenant in lawful possession of such property or has first obtained consent of the owner or tenant in lawful possession, or the act is done under the personal direction of said owner or tenant, or in a manner consistent with the public welfare.

(Code 1976, § 12-68; Ord. No. 1978-007, § 3, 8-7-1978)

Sec. 12-74. Prima facie evidence of article violation.

Whenever litter is thrown, deposited, dropped or dumped from any motor vehicle, boat, airplane or other conveyance in violation of this article, it shall be prima facie evidence that the operator of said conveyance shall have violated this article.
(Code 1976, § 12-69; Ord. No. 1978-007, § 4, 8-7-1978)

Sec. 12-75. Littering public buildings, grounds, etc.

It shall be unlawful for any person to drop or deposit on any floor, corridor, passageway, steps, porch, or portico, or any other part of any public building, office, grounds, park or other area, any fruit, nuts, meat, bread, grease, or other articles of food, litter, garbage, refuse or in anyway stain or discolor any part of any public building.

Secs. 12-76—12-110. Reserved.

ARTICLE IV. OFFENSES INVOLVING PROPERTY

Sec. 12-111. Interference with public or private property.

It shall be unlawful for any person to interfere with, injure or deface public or private property in this city.

Sec. 12-112. Defacing buildings; billposting.

(a) It shall be unlawful for any person to write, paint, draw or carve, or cut letters of any kind or words or devices or in any way mutilate or deface any church, school, private house, wall or fence, belonging to another in this city, or to post any bills on the same without the owner's consent.

(b) It shall also be unlawful to mark, write, carve, scratch, or in any manner deface any part of the city hall or other public building in the city, or the furniture and fixtures therein contained, or in anyway disfigure or mutilate the same.

Sec. 12-113. Selling, distributing merchandise, circulars, other matter in front of auditorium; exception.

It shall be unlawful for any person to sell or give away any goods, wares or merchandise, or distribute any literature or circulars upon the street or sidewalk immediately in front of the auditorium, except with the express written consent of the cultural arts director or designee. It is declared that the purpose of this section is to prevent annoyance and obstruction to persons entering or leaving the auditorium, and the littering of the lobby of the building and the area immediately surrounding the auditorium.
(Ord. No. 2013O-03, § 4, 8-13-2013)

Sec. 12-114. Defacing streets, sidewalks.

It shall be unlawful for any person to write, print or draw, with any material whatever, on the streets or sidewalks of the city.

Sec. 12-115. Interference with utility property.

(a) It shall be unlawful for any person intentionally and without authority to injure or destroy any meter, pipe, conduit, wire, line, post, lamp or other apparatus belonging to a company, the city, other political subdivision or governmental entity which is engaged in the manufacturing or sale of electricity, gas, water, telephone or other public services; intentionally and without authority to prevent a meter from properly registering the quantity of such service supplied; in any way to interfere with the proper action of such company,

municipality or political subdivision; intentionally to divert any services of such company, municipality or political subdivision; or otherwise intentionally and without authority to use or cause to be used, without the consent of the company, municipality or political subdivision, any service manufactured, sold or distributed by the company, municipality or political subdivision.

(b) Where there is no evidence to the contrary, the person performing any of the illegal acts set forth in subsection (a) of this section and the person who, with knowledge of such violation, receives the benefit of such service without proper charge as a result of the improper action shall be presumed to be responsible for the act of tampering or diversion.

(c) Proof that any of the acts hereinabove specified were done on premises in possession of the accused or that the accused received the benefit of any such act shall be prima facie evidence that the accused committed such act or aided or abetted in the commission thereof.

(d) Each day in which these acts occur or in which some person receives the benefit of any such acts shall be cumulatively and be considered separate violations of this section.

(e) Any person found guilty of violation of this section shall be punished pursuant to the general penalty provisions, section 1-7 of this Code.
(Ord. No. 1988-010, § 1, 11-9-1988)

Sec. 12-116. Use of school property, grounds.

It shall be unlawful for any person to make any improper use of the school buildings or grounds; or to go on or over the school property or grounds between 7:00 p.m. and 6:00 a.m., except on business in connection with the schools.

Secs. 12-117—12-150. Reserved.

ARTICLE V. OFFENSES INVOLVING PUBLIC PEACE AND ORDER

DIVISION 1. GENERALLY

Sec. 12-151. Disorderly conduct.

(a) Any person who shall do or engage in any of the following within the corporate limits of the city shall be guilty of disorderly conduct:

(1) Act in a violent or tumultuous manner toward another, whereby any person is placed in danger or safety of his life, limb, or health.

(2) Act in a violent or tumultuous manner toward another, whereby public property or the property of any other person is placed in danger of being destroyed or damaged.

(3) Endanger the lawful pursuits of another by acts of violence or threats of bodily harm.

(4) Cause, provoke or engage in any fight, brawl or riotous conduct so as to endanger the life, limb, health, or property of another or public property.

(5) Assemble or congregate with another or others and cause, provoke or engage in any fight or brawl.

(6) Collect in bodies or in crowds and engage in unlawful activities.

(7) Assemble or congregate with another or others and engage or attempt to engage in gaming.

(8) Frequent any public place and obtain money for another by an illegal and fraudulent scheme, trick, artifice or device, or attempt to do so.

(9) Assemble with another or others and engage in any fraudulent scheme, device, or trick to obtain any valuable thing in any place or from any person, or attempt to do so.

(10) Utter, in a public place or any place open to the public, any obscene words or epithets.

(11) Frequents any place where gaming or the illegal sale or possession of alcoholic beverages or narcotics or dangerous drugs is practiced, allowed or tolerated.

(12) Use fighting words directed towards any person who becomes outraged and thus creates turmoil.

(13) Assemble or congregate with another or others and do bodily harm to another.

(14) By acts of violence, interfere with another's pursuit of a lawful occupation.

(15) Congregate with another or others in or on any public way so as to halt the flow of vehicular or pedestrian traffic and refuse to clear such public way when ordered to do so by a peace officer or other person having authority.

(16) Damage, defile, or disturb public property or the property of another so as to create a hazardous, unhealthy, or physically offensive condition.

(17) In any way interfere with any police officer or other arresting officer, while arresting or attempting to arrest any person for a violation of any ordinance of the county or penal laws of the state, or who interferes with the officers in any way in the discharge of any duty incumbent on them as such officers.

(18) By and in any manner, create loud noises which disrupt, disturb, or otherwise interfere with the peace and tranquility of the public.

(19) After having been directed by a police officer to move away therefrom, remain or loiter in front of any church or other place of public worship during services therein, or in front of any theater, concert hall, or in front of any business house in the county, or obstruct any public street, public highway, public sidewalk or any other public place or building by hindering or impeding or tending to hinder or impede the free and uninterrupted passage of vehicles, traffic or pedestrians.

(20) Fails or refuse to remove himself from the private property of another when requested to do so by the owner or occupant thereof.

(21) Recklessly or knowingly throw or propel any stone, brick, piece of wood, or other object at any person, vehicle, house, building or other structure or object, or across or upon any private or public property.

(22) Defecate or urinate on or adjacent to any street or sidewalk, or in the halls, elevators, stairways, or any other area designated for public passage within any public or commercial buildings, or on any property open to the public view.

(23) Knowingly and willfully harass or attempt to harass or mislead any police officer by false alarms or unauthorized use of any device of whatever nature to summon police aid without reasonable cause.

(24) Enter or remain in any public, private or parochial school building, when not a regularly enrolled student, teacher or employee at that school, unless the person shall have first and immediately proceeded to the administrative or principal's agent and received permission to remain on the premises.

(25) Enter and remain in any public, private, or parochial school or on the surrounding school grounds after being directed to leave by the principal of the school or by someone with lawful authority.

(26) Create a disturbance in any public, private or parochial school or on the surrounding school grounds lawfully used for school activities while such recreational areas are in use or other activities are in progress thereon.

(b) Any person failing to comply with the mandatory provisions of this section or doing any act prohibited by this section shall be guilty of an offense and punished as provided in section 1-7 of the Code.

Secs. 12-152—12-185. Reserved.

DIVISION 2. NOISE

Sec. 12-186. Excessive, unnecessary or unusually loud noise.

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 sensitivity residing within the city limits.
(Code 1976, § 12-20; Ord. No. 1976-010, § 1, 8-17-1976)

Sec. 12-187. Specific act declare violation of article.

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, televisions 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 11:00 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 loudspeakers or sound-amplifying devices 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.

(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 7:00 p.m. and 7:00 a.m., unless a permit for such construction or repair work between such hours has been obtained from the mayor or chief of police.

(5) *Exhausts*. The discharging into the open air of the exhaust of any internal combustion engine, motorboat, or motor vehicle except through a muffler or other device which will effectively prevent loud or explosive noises therefrom.

(6) *Animals and birds*. The keeping of any animal or bird which, by frequent or continuous barking, chirping, or other means of communication, disturbs the comfort or repose of the residents of any residential neighborhood.

(7) *Vehicle repair in residential areas*. The repairing, rebuilding, or testing of any motor vehicle between the hours of 7:00 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 workings 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.

(Code 1976, § 12-21; Ord. No. 1976-010, §§ 1, 2, 8-17-1976; Ord. No. 2017O-01, § 1, 3-14-2017)

Sec. 12-188. Exemptions from noise regulations.

The following uses and activities shall be exempt from the noise regulations set forth in sections 12-186 and 12-187:

(1) Noises of safety signals and warning devices.

(2) Noises resulting from any authorized emergency vehicle, when responding to an emergency call or acting in time of emergency.

(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.

(4) Noise resulting from, or generated by, any and all lawful activities being performed by any federal, state, or local public entity; including but not limited to, national events that may occur within the city, state sponsored events; and/or events sponsored or permitted by the county government, a local board of education, or other similar public organization.

(Code 1976, § 12-22; Ord. No. 1976-010, § 3, 8-17-1976; Ord. No. 2016O-02, § 1, 4-12-2016)

Sec. 12-189. Violations; injunctions.

The operation or maintenance of any device, vehicle, or machinery in violation of any provision of section 12-186 or 12-187 which causes discomfort or annoyance to reasonable persons of normal sensitivity or which endangers the comfort, repose, health, or peace of residents of this city shall be deemed, and is declared to be, a public nuisance, and may be subject to abatement summarily by a restraining order or injunction issued by a court of competent jurisdiction; this remedy to be in addition to being subject to punishment as provided in section 1-7 of this Code.

(Code 1976, § 12-23; Ord. No. 1976-010, §§ 4, 5, 8-17-1976)

Secs. 12-190—12-220. Reserved.

ARTICLE VI. OFFENSES INVOLVING PUBLIC SAFETY

Sec. 12-221. Discharging firearms.

(a) It shall be unlawful for any person to discharge any firearms, such as pistols, shotguns, rifles, machine guns, dynamite caps or other explosives within the corporate limits of the city unless:

(1) In defense of person or habitation.

(2) By an officer engaged in the discharge of his official duties.

(3) By persons engaged in military duties.

(4) With permission of the city manager.

(5) By persons lawfully engaged in hunting who have a valid hunting license.

(b) It shall be unlawful for any person to discharge a BB, pellet pistol, paintball guns or similar type firearm from or into any public property, including but not limited to, city parks, streets or alleys. Also, it shall be unlawful for any person to discharge a BB, pellet pistol or other firearm from or into the property of another person without the expressed permission of the property owner.

Secs. 12-222—12-255. Reserved.

ARTICLE VII. OFFENSES INVOLVING PUBLIC MORALS

Sec. 12-256. Gambling.

(a) A person commits the offense of gambling when he:

(1) Makes a bet upon the partial or final result of any game or contest or upon the performance of any participant in such game or contest;

(2) Makes a bet upon the result of any political nomination, appointment, or election or upon the degree of success of any nominee, appointee, or candidate; or

(3) Plays and bets for money or other thing of value at any game placed with cards, dice, or balls.

(b) A person who commits the offense of gambling shall be punished as provided in section 1-7 of this Code.

Sec. 12-257. Keeping a gambling place prohibited.

(a) A person who knowingly permits any real estate, building, room, tent, vehicle, boat, or other property whatsoever owned by him or under his control to be used as a gambling place or who rents or lets any such property with a view or expectation that it be so used commits the offense of keeping a gambling place.

(b) A person who commits the offense of keeping a gambling place shall be punished as provided in section 1-7 of this Code.

Sec. 12-258. Public indecency.

(a) A person commits the offense of public indecency when he performs any of the following acts in a public place:

(1) An act of sexual intercourse;

(2) A lewd exposure of the sexual organs;

(3) A lewd appearance in a state of partial or complete nudity; or

(4) A lewd caress or indecent fondling of the body of another person.

(b) A person convicted of the offense of public indecency as provided in subsection (a) of this section shall be punished as provided in section 1-7 of this Code.

Sec. 12-259. Abatement of lewd houses.

Upon complaint being made by any citizen that any house or part of a house in this city is being operated as a lewd house, or assignation house, the chief of police shall forthwith issue a warrant against the occupants of the house, arrest them and carry them before the municipal court for trial. Should it appear that the complaint is true, the court shall declare such house a nuisance and issue an order directing the chief of police to abate the same by ejecting the occupants therefrom, unless such occupants shall vacate the same within two days. The cost of the proceeding shall be paid by the defendant, or in default thereof such defendant shall be sentenced to work upon the public works of this city for a period not exceeding 60 days. Circumstances from which it may be reasonably inferred that such house, or part of a house is inhabited by disorderly persons of immoral character, and notoriously bad fame, shall be sufficient to establish the fact that such house is a lewd or assignation house.
(Code 1904, § 122; Code 1976, § 12-29)

Sec. 12-260. Adult magazines, books and material; public sale.

It shall be unlawful for any person doing business in the city to openly and by purposes of any type of display, rack or other prominent merchandising devise, place in public view within any business establishment adult books, literature, magazines, or other such material. For purposes of this section, the term "adult books" means any printed and/or pictorial work which appeals to a prurient interest in sex, is patently offensive according to contemporary community standards, and has no serious literary, artistic, political or scientific value. All such works shall be kept behind the counter, checkout area, or some other general area under control of management of the business establishment, so that these adult books are not openly displayed and accessible to the general public and may not be openly viewed by minors.

Sec. 12-261. Distribution of matter.

It shall be unlawful for any person to distribute or cause to distribute to the occupants of any house, to place or cause to be placed in any areaway or yard, in front of, or along the side of any house, or upon the doorstep thereof, any newspaper, paper, periodical, book, magazine, circular, or pamphlet, unless the same has been previously ordered by the person in actual

occupancy of the house or unless the material placed in a manner so as to prevent it from being blown about or scattered by the elements.
(Code 1976, § 12-39; Ord. No. 1978-002, §§ 1, 2, 3-14-1978)

Secs. 12-262—12-290. Reserved.

ARTICLE VIII. DRUG PARAPHERNALIA

Sec. 12-291. 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:

Controlled substance means a drug, substance, or immediate precursor in schedules I through V of O.C.G.A. §§ 16-13-25 through 16-13-29 and schedules I through V of 21 CFR 1308. For the purposes of this article, the term "controlled substance" shall include marijuana as defined by O.C.G.A. § 16-13-21(16).

Dangerous drug shall have the same meaning as defined in O.C.G.A. § 16-13-71.

Drug related object means any machine, instrument, tool, equipment, contrivance, or device which an average person would reasonably conclude is intended to be used for one or more of the following purposes:

(1) To introduce into the human body any dangerous drug or controlled substance under circumstances in violation of the laws of this state;

(2) To enhance the effect on the human body of any dangerous drug or controlled substance under circumstances in violation of the laws of this state;

(3) To conceal any quantity of any dangerous drug or controlled substance under circumstances in violation of the laws of this state; or

(4) To test the strength, effectiveness, or purity of any dangerous drug or controlled substance under circumstances in violation of the laws of this state.

Knowingly means having general knowledge that a machine, instrument, tool, item of equipment, contrivance, or device is a drug related object or having reasonable grounds to believe that any such object is or may, to an average person, appear to be a drug related object. If any such object has printed thereon or is accompanied by instructions explaining the purpose and use of such object and if following such instructions would cause a person to commit an act involving the use or possession of a dangerous drug or controlled substance in violation of the laws of this state, then such instructions shall constitute prima facie evidence of knowledge that the object in question is a drug related object.

Minor means any unmarried person under the age of 18 years.

Object or *material* means any Chronic Candy, reefer papers, glass tubes, bowls, butane turbo lighters or similar products used for illegal and/or unlawful purposes in violation of this article. As listed by exhibit "A" attached to Ordinance No. 3, 2005 from which this article is derived and made a part hereof by reference.
(Ord. No. 3-2005, § 1, 7-12-2005)

Sec. 12-292. Transactions in drug related objects; evidence as to whether object is drug related.

(a) It shall be unlawful for any person or corporation to sell, rent, lease, give, exchange, otherwise distribute, or possess with intent to distribute any object or materials of any kind which such person or corporation intends to be used for the purpose of planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, containing, concealing, injecting, ingesting, inhaling, or otherwise introducing into the human body marijuana, cocaine, crack, ice, methamphetamine or other controlled substances.

(b) Unless stated within the body of the advertisement or notice that the object or materials that are advertised or about which information is disseminated are not available for distribution of any sort in this state, it shall be

unlawful for any person or corporation to sell, rent, lease, give, exchange, distribute, or possess with the intent to distribute any advertisement of any kind or notice of any kind which gives information, directly or indirectly, on where, how, from whom, or by what means any object or materials may be obtained or made, which object or materials such person or corporation intends to be used for the purpose of planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, containing, concealing, injecting, ingesting, inhaling, or otherwise introducing into the human body marijuana, cocaine, crack, ice, methamphetamine or other controlled substances.

(c) In determining whether any object or material are intended for any of the purposes listed in subsections (a) and (b) of this section, a court or other authority shall consider all logically relevant factors. In a trial under this section, any evidence admissible on this question under the rules of evidence shall be admitted. Subject to the rules of evidence, when they are the object of an offer of proof in a court proceeding, the following factors are among those that should be considered by the court or other authority on this question:

(1) Statements by an owner or anyone in control of the object or materials;

(2) Instructions provided with the object or materials;

(3) Descriptive materials accompanying the object or materials;

(4) National and local advertising or promotional materials concerning the object or materials;

(5) The appearance of, and any writing or other representations appearing on, the object or materials;

(6) The manner in which the object or materials are displayed for sale or other distribution;

(7) Expert testimony concerning the object or materials; and

(8) Any written or pictorial materials which are present in the place where the object or materials are located.

(Ord. No. 3-2005, § 2, 7-12-2005)

Sec. 12-293. Sale or possession of drug mimicking paraphernalia.

It shall be unlawful for any person, firm or corporation to sell, use, or possess with the intent to use, any object or material that emits an order, color, smell, taste or otherwise is designed to have properties similar to illegal drugs and are designed to simulate illegal drugs or substances.

(Ord. No. 3-2005, § 3, 7-12-2005)

Sec. 12-294. Possession and use of drug related objects.

It shall be unlawful for any person to use, or possess with the intent to use, any object or materials of any kind for the purpose of planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, containing, concealing, injecting, ingesting, inhaling, or otherwise introducing into the human body marijuana, cocaine, crack, ice, methamphetamine or other controlled substance.

(Ord. No. 3-2005, § 4, 7-12-2005)

Sec. 12-295. Objects and materials forfeited.

All objects and/or materials forfeited under this section shall be done in accordance with the procedures and requirements set forth in O.C.G.A. § 16-13-49.

(Ord. No. 3-2005, § 5, 7-12-2005)

Sec. 12-296. Violations and enforcement.

Any person, firm or corporation that violates any provision of this article, for a first offense, may be fined up to $500.00, imprisoned or otherwise punished pursuant to the general penalty provisions in section 1-7 of this Code. Further, for a second offense punishment may include imprisonment up to six months and a

fine up to $1,000.00. Third offenses are treated as felonies and shall be transferred to the superior court for prosecution.
(Ord. No. 3-2005, § 6, 7-12-2005)

Chapter 13

PERSONNEL

Sec. 13-1. Personnel ordinance adopted by reference.

Attached as Exhibit "A" to Ordinance No. 2, 2003 is the newly adopted personnel ordinance of the city commencing with section 1, general purpose and scope, and continuing through section 9, discipline and termination. The entire ordinance, as to each and every portion and section thereof, is adopted by reference and made a part hereof.
(Ord. No. 2-2003, § 2, 2-11-2003; Ord. No. 2018O-04, § 1, 6-12-2018)

Sec. 13-2. Adoption of additional personnel policies.

The city may adopt certain policies involving vacation time, family medical leave (FMLA), Americans with Disabilities Act (ADA) provisions, and similar policies concerning employment. All policies, job classifications or other matters which may be implemented pursuant to this chapter, and which are hereafter promulgated and/or duly adopted by the mayor and council, shall become a part of the personnel system of the city and need not be amendatory to this chapter.
(Ord. No. 2-2003, § 3, 2-11-2003)

Chapter 14

PLANNING AND DEVELOPMENT*

Article I. In General

Article II. City Planning Commission

Article III. Rockmart Development Authority

*__State law references__—Planning authority, Ga. Const. art. IX, § II, ¶ IV; creation of Rockmart Development Authority, 1965 Ga. Laws, p. 3150; constitutional amendment authorizing, 1963 Ga. Laws, p. 676.

ARTICLE I. IN GENERAL

Sec. 14-1. Development regulations.

There is incorporated herein by reference, guidelines for the development of properties within the City of Rockmart, formerly known as the Rockmart Development Regulations. These regulations were approved by action of the city council on January 13, 1998. The regulations are incorporated herein by reference as presently existing, or as these regulations may, by action of the city council, be amended.
(Ord. No. 2009O-01, § 1, 2-10-2009)

Editor's note—Ord. No. 2009O-01, § 1, adopted Feb. 10, 2009, did not specifically amend the Code; hence, inclusion herein as § 14-1 was at the discretion of the editor.

Secs. 14-2—14-20. Reserved.

ARTICLE II. CITY PLANNING COMMISSION

Sec. 14-21. Created.

Pursuant to the constitution of the state, and the general laws governing municipalities within this state, there is hereby adopted and created a planning commission for the city.
(Code 1976, § 14-1; Ord. No. 1989-005, § 1, 6-13-1989)

Sec. 14-22. Membership.

(a) *Composition.* The city planning commission shall consist of six members appointed by the mayor, by and with the advice and consent of the city council.

(b) *Terms.* The terms of all members shall be for three years each, with the terms being staggered so that two members of the commission shall be appointed each year by the mayor and council. Members shall continue to serve until their successors are duly appointed.

(c) *Vacancies.* Vacancies shall be filled by appointments for unexpired terms in the same manner as for original appointments.

(d) *Removal from office.* Any member of the planning commission may be removed by the mayor and council after notice and hearing.

(e) *Compensation.* All members shall serve without compensation.

(f) *Alternate member.*

(1) The planning commission shall also include one alternate member appointed by the mayor, by and with the advice and consent of the city council. The term of the alternate member shall be for three years and until a successor is duly appointed. The alternate member shall be fully vested with all powers and duties of members of the planning commission as set forth in section 14-24. The alternate member shall attend planning commission meetings but shall not vote on any issues before the commission unless one or more of the planning commission members is absent or restricted from voting due to a conflict of interest or any other reason.

(b) The alternate member's presence at any planning commission meeting shall count towards any requirements for a quorum or majority necessary to conduct a meeting or vote at any duly constituted meeting.

(c) Eligibility for service on the planning commission as a member or alternate member shall be restricted to resident voting citizens (resident electors) of the city, or persons owning real property within the corporate limits of the city.

(Code 1976, § 14-2; Ord. No. 1989-005, § 1, 6-13-1989; Ord. No. 001-2001, § 4.17, 2-13-2001; Ord. No. 9-2006, § 2, 5-9-2006)

Sec. 14-23. Officers, bylaws and general rules of procedure; meetings.

(a) Appointment, terms of office.

(1) The planning commission shall elect one of its members as chairperson, who shall serve for one year or until such person is reelected or a successor is elected.

(2) A second appointive member shall be elected as vice-chairperson and shall serve for one year or until such person is re-elected or a successor is elected.

(3) The commission shall appoint a secretary who may be an officer or employee of the city or a member of the planning commission.

(b) The planning commission shall promulgate bylaws concerning conducting its meetings, the duties of officers and other general procedures that might be necessary to accomplish the orderly function of the commission and any hearings that may be conducted before the body.

(c) The commission shall meet at least once quarterly at the call of the chairperson and at such other times as the chairperson or commission shall determine.
(Code 1976, § 14-3; Ord. No. 1989-005, § 1, 6-13-1989)

Sec. 14-24. Powers and duties.

The planning commission shall make careful and comprehensive surveys and studies of existing conditions and probable future developments both within the corporate limits of the city and within any areas that may be expanded and annexed into the corporate limits of the city. It shall prepare for physical, social and economic growth in an effort to promote the public health, safety, morals, convenience, prosperity or general welfare of the city. In carrying out its objectives, the planning commission shall have the following specific powers and duties:

(1) To prepare, review or recommend any master plans or parts thereof for the development of the city;

(2) To prepare and recommend for adoption any changes, amendments or comprehensive revisions of the zoning ordinances and maps of the city;

(3) To prepare and recommend for adoption any changes, modifications, revisions or other regulations for the subdivision of land within the city or within areas to be annexed to the city and to generally administer the regulations that may be adopted;

(4) To prepare and recommend for adoption any plats, official maps or other boundaries that might be necessary to show the exact locations of the boundary line of existing, proposed, extended, unlined or unopened streets, public open spaces or public building sites and to generally provide for the regulation of construction of buildings and other structures within such lines or similar development thereon;

(5) To cooperate with, contract with or accept funds from federal, state, local, public or quasipublic agencies and to expend such funds; and

(6) To exercise any and all other powers, duties and functions as may be authorized pursuant to the laws of the state and the Code of Ordinances of the city as presently enacted or as may be, from time to time, later amended, modified or adopted.

(Code 1976, § 14-4; Ord. No. 1989-005, § 1, 6-13-1989)

Sec. 14-25. Limitation on authority.

It is not intended by this chapter, or any of the provisions hereof, to delegate to the board any legislative authority on behalf of the city council and mayor. No approval, disapproval or suggestion of the board shall have more than advisory effect and shall, in no way, bind the city council with regard to any recommendations made. However, the planning commission's recommendation shall be necessary as a condition precedent to any action of the city council which might come within the powers and duties granted by the city council to the planning commission to review, regulate and make recommendations to the council concerning such matters.
(Code 1976, § 14-5; Ord. No. 1989-005, § 1, 6-13-1989)

Secs. 14-26—14-40. Reserved.

ARTICLE III. ROCKMART DEVELOPMENT AUTHORITY

Sec. 14-41. Need declared; purpose.

There is hereby determined and declared to be a pressing, existing and future need for the city

development authority to function in the city for the purpose of assisting, promoting, establishing and developing new industry, and assisting, promoting and expanding existing industry, agriculture, trade and commerce within the territory embraced within a radius of seven miles as measured from the center of the city, for the public good and general welfare of said city and its citizens.
(Code 1976, § 14-31; Res. No. 1983-C, 8-9-1983)

Sec. 14-42. Activated.

There is hereby activated in the city the public body corporate and politic known as the "Rockmart Development Authority" which was created upon the adoption and approval of an amendment to the Constitution of the state (House Resolution No. 42-107), 1963 Ga. Laws, pages 676 through 679, inclusive.
(Code 1976, § 14-32; Res. No. 1983-C, 8-9-1983)

Sec. 14-43. Membership.

(a) *Appointment; term.* There are hereby appointed as members of the city development authority five persons, one for a term of one year, one for a term of two years, one for a term of three years, one for a term of four years, one for a term of five years; each of whom resides and is able to serve within a radius of seven miles as measured from the center of the city as it is now situated or may hereafter be situated.

(b) *Successors.* Each of said members shall, upon proper oath, serve in such capacity and if at the end of any term of office of any member, a successor thereto shall not have been elected, then the member whose term of office shall have expired shall continue to hold office until his successor shall be so elected.
(Code 1976, § 14-33; Res. No. 1983-C, 8-9-1983)

Sec. 14-44. Organization.

The members of said authority shall organize the authority, carry out its duties and responsibilities and exercise its powers contained in the act of the General Assembly of the State of Georgia contained in 1965 Ga. Laws (Act No. 423), pages 3150 through 3159, inclusive.
(Code 1976, § 14-34; Res. No. 1983-C, 8-9-1983)

Sec. 14-45. Not to affect prior body.

The action taken by the mayor and council as hereinbefore specified is not intended in any way to affect the development authority of the city adopted and approved by the mayor and council of the city on September 8, 1981, including, without limitation, its existence, purpose, organization, powers or function.
(Code 1976, § 14-35; Res. No. 1983-C, 8-9-1983)

Chapter 15

RECREATION, PARKS, PLAYGROUNDS, PUBLIC PROPERTY AND CULTURAL FACILITIES*

Article I. In General

Article II. Rockmart Cultural Arts Advisory Committee

Article III. Use of and Conduct in Parks, Public Property, Recreation Areas, Etc.

Article IV. Recreation Advisory Committee

---

*__State law reference—__Authority to provide for parks, recreational areas, programs and facilities, Ga. Const. art. IX, § 2, ¶ III(a)(5).

ARTICLE I. IN GENERAL

Secs. 15-1—15-30. Reserved.

ARTICLE II. ROCKMART CULTURAL ARTS ADVISORY COMMITTEE*

Sec. 15-31. Established; membership; appointment, term, compensation of members; filling of vacancies.

(a) There is hereby established an advisory committee, known as the Rockmart Cultural Arts Advisory Committee, that shall operate in coordination with the city cultural arts department and shall function in an advisory capacity to the City of Rockmart (city) regarding city sponsored art programs, projects and activities. Any committee vacancies shall be filled by appointment of the mayor and council.

(b) The membership shall consist of the following seven individuals and their successors in office, to any positions referred to herein.

(1) Five individuals from the community who shall be designated to advise on certain art areas and shall have experience and interest in the area of appointment:

a. *Visual arts.* Primarily dealing with two and three dimensional art;

b. *Performing arts.* Primarily dealing with dramatic and musical performances;

c. *Literary arts.* Primarily dealing with written and spoken word;

d. *Education.* Primarily dealing with city provided arts education;

e. *Business.* A member with business acumen and interest in the arts.

f. All community members shall serve without compensation.

g. Appointments for the five community members shall be made by the cultural arts director, with art advisory committee advice, subject to confirmation and approval by the mayor and council at their regular meeting in January of each year except that the initial appointees shall serve after appointment until January 1 of the year following appointment, subject to the staggered term requirements of subsection (c) hereof.

(2) One city council member, appointed by the mayor as part of the mayor's standing committee appointments, who shall function as liaison and an advisory member and shall not vote.

(3) The cultural arts director (a city employee) who shall oversee and lead committee functions and shall not vote.

(c) Terms.

(1) Committee members shall be appointed for two-year terms with limits set at three consecutive terms not to exceed six continuous years.

(2) A committee member whose consecutive terms have expired shall not be eligible for reappointment for one calendar year, at which time the individual may again be appointed for up to three additional consecutive two-year terms. As long as a member is not reappointed for one year after three consecutive terms of service; any member may serve as many terms as they desire, so long as the member is continually confirmed by the mayor and council.

(3) Terms shall start on January 1 and expire on December 31 two years later.

(4) So that terms may be staggered, initial appointments shall be made with ineligibility for reappointment in two years for one member, in four years for two members and in six years for the remaining two members.

(Ord. No. 2013O-03, § 3, 8-13-2013)

*__Editor's note—__Ord. No. 2013O-03, §§ 2, 3, adopted Aug. 13, 2013, repealed the former Art. II, §§ 15-31—15-35, and enacted a new Art. II as set out herein. The former article pertained to the civic auditorium and civic arts commission and derived from Code 1976, §§ 15-31—15-35; Ord. No. 1980-004, adopted Jan. 15, 1980; Ord. No. 1991-002, adopted May 14, 1991. See also the Code Comparative Table.

Sec. 15-32. Selection of officers; adoption of bylaws and regulations for activities.

Immediately after appointment, the members of the committee shall meet and may organize by electing one of their members as chair, and such other officers as the committee determines. The committee shall have power to adopt bylaws, rules and regulations for the proper conduct of its duties and the city's cultural arts programs.
(Ord. No. 2013O-03, § 3, 8-13-2013)

Sec. 15-33. Duties.

(a) The arts advisory committee shall endeavor to help develop and oversee city sponsored art projects, programs and activities. In particular, and in concert with the cultural arts director, it shall have the following responsibilities:

(1) To review and recommend art programs, projects and activities to be conducted in public art facilities and other facilities owned or controlled by the city;

(2) To investigate any request for expenditures for arts purposes and make such reports as are necessary to the mayor and council of its findings and recommendations;

(3) To recommend the setting aside, leasing or acquisition of lands or buildings within or without the city limits for use as art centers or for other arts purposes, and to make recommendations for the maintenance and improvements of such areas;

(4) To recommend appropriate uses for the cultural arts facilities, including the city auditorium;

(5) To exercise such other powers and duties as may be delegated to it from time to time by the mayor and council.

(b) Except for the business member, each committee member shall function as the art area respective subcommittee chair.

(1) Each subcommittee shall consist of an area respective advisory committee member, who shall function as subcommittee chair, and at least two non-committee members who shall be appointed by the cultural arts director and subcommittee chair.

(2) The subcommittee shall develop, recommend and oversee programs, projects and activities related to its respective art area as directed by the cultural arts director and full committee.

(3) The subcommittee shall meet at least quarterly and report to the full advisory committee.
(Ord. No. 2013O-03, § 3, 8-13-2013)

Sec. 15-34. Budget, additional expense; reports.

(a) The cultural arts director, with art advisory committee advice, shall submit to the city council recommendations for the city's annual capital and operating budget for its approval not later than April 1 of each year. The cultural arts director, with art advisory committee advice, shall also submit from time to time, and as necessary, supplemental recommendations for non-budgeted expenses. The mayor and council shall be responsible for the administration of the provisions of the cultural art department's portion of the city's budget.

(b) The cultural arts director shall meet with the arts advisory committee at least quarterly, or more often as needed, and make a quarterly report to the city council which shall include a financial statement of monies received and expended and a description of all activities sponsored by the cultural arts department during the year, and make such other reports as may be required by the mayor and council from time to time.
(Ord. No. 2013O-03, § 3, 8-13-2013)

Sec. 15-35. Cultural arts director.

The city manager may appoint and employ a cultural arts director who shall be responsible for carrying out art programs, projects and activities prescribed by the city, with the advice of the arts advisory committee. The arts director shall be a city employee and subject to all personnel policies and regulations of the city.
(Ord. No. 2013O-03, § 3, 8-13-2013)

Sec. 15-36. Solicitation of contributions prohibited; participation and entry fees; grants, commissions and sales.

(a) In the interest of the city's citizens and businesses, soliciting of contributions for the operation of the cultural arts department is specifically prohibited, unless approved by the mayor and council. This, however, shall not prohibit acceptance of unsolicited contributions, gifts or endowments.

(b) The arts director, with art advisory committee advice, may establish a schedule of membership, entry and participation fees, except that facility rental fees shall be determined by the city. The funds derived from such participation fees may be used to defray the expenses of the operation of the city's cultural arts department.

(c) The arts director, with art advisory committee advice, may establish sales commission rates and shall oversee sales of art objects for which the city may collect appropriate commissions.

(d) The arts director, with art advisory committee advice, may request and apply for participation in various grant programs to help fund city arts operations, projects, programs and activities.

(e) All funds shall be received to and paid from the city's general fund in accordance with city procurement procedures and policies.
(Ord. No. 2013O-03, § 3, 8-13-2013)

Sec. 15-37. Arts facilities regulations, leases.

Policies, procedures and regulations governing the use of arts facilities owned or controlled by the city, including schedules and leases, shall be established by the mayor and council in a manner consistent with other city owned or controlled facilities.
(Ord. No. 2013O-03, § 3, 8-13-2013)

Secs. 15-38—15-70. Reserved.

ARTICLE III. USE OF AND CONDUCT IN PARKS, PUBLIC PROPERTY, RECREATION AREAS, ETC.

Sec. 15-71. Applicability of article.

This article shall apply in all parks, recreation areas, and yards to public buildings under the jurisdiction of the city, unless expressly exempted. For the issuance of permits, temporary designations, authorizations, granting of approval and other actions, the approving governing agency shall be the recreation advisory committee or its designee.
(Code 1976, § 15-41; Ord. No. 1980-029, § 1-1, 10-14-1980)

Sec. 15-72. Definitions.

In the interpretation of this article and all succeeding park and recreation area ordinances, the following words shall have the following meanings:

Arts and handicraft means painting, sculpture, drawing, weaving, pottery, leatherwork, handmade furniture, woodcrafts, creative work, etc., made and sold by the same individual.

Merchandise means goods, commodities and wares for resale.

Park means and includes all parks, recreation areas, and public grounds owned or supervised by the city.

Permit means any written license issued by or under the authority of the recreation advisory committee or its designee permitting a special event or activity on park facilities.

Recreation advisory committee's designee means that individual who is designated by the recreation advisory committee to be responsible for carrying out the activities and granting of permits prescribed herein. Unless otherwise designated by the recreation advisory committee, the city manager shall be the recreation advisory committee's designee.
(Code 1976, § 15-42; Ord. No. 1980-029, § 1-2, 10-14-1980)

Sec. 15-73. Hours of operation.

All city parks shall be closed from 10:00 p.m. until 7:00 a.m. of each day, unless otherwise authorized by the recreation advisory committee or its designee.
(Code 1976, § 15-43; Ord. No. 1980-029, § 1-3, 10-14-1980)

Sec. 15-74. Use of grounds and facilities in general.

Each person, firm or corporation using the public parks and grounds shall clean up all debris, extinguish all fires when such fires are permitted, and leave the premises in good order and the facilities in a neat and sanitary condition.
(Code 1976, § 15-44; Ord. No. 1980-029, § 1-4, 10-14-1980)

Sec. 15-75. Prohibited acts.

It shall be unlawful for any person, firm or corporation, in a public park, recreation area, or on public grounds:

(1) To mark, deface, disfigure, injure, tamper with, displace or remove any buildings, bridges, tables, benches, fireplaces, railings, pavings or paving materials, water lines or other public utilities or parts or appurtenances thereof, signs, notices or placards, whether temporary or permanent, monuments, stakes, posts, or other boundary markers, or other structures or equipment, facilities or park property or appurtenances whatsoever, either real or personal.

(2) To build a fire except in established fireplaces, barbecue pits, or in portable units brought in or set up for the purpose of fireplaces or broilers. Fires must be completely extinguished after use.

(3) To dig or remove any soil, rocks, sand, stones, trees, shrubs, plants or other wood or materials, or make any excavation by tool, equipment, blasting or other means or agency.

(4) To construct or erect any building or structure of whatever kind, whether permanent or temporary, or run or string any public service utility into, upon, or across such lands, except upon special written permit issued hereunder.

(5) To be intoxicated so as to be unable to care for his own safety, or by reason of intoxication to make a nuisance of himself, or to interfere with the peace and enjoyment of others.

(6) To operate an unlicensed motor vehicle in the park.

(7) To operate a licensed motor vehicle in areas other than authorized streets and parking lots.

(8) To park vehicles except in areas indicated and marked as parking areas.

(9) To bring pets into the park and let them run at large; or to leave any pet unattended.

(10) To place or leave any rubbish, litter, garbage, refuse or debris of any nature within any park of the city except within the designated receptacles provided by the city. No person shall throw or deposit any type of debris or waste material on or along any city park roadway or park area.

(11) To post or distribute any circulars or pamphlets or place any circulars or pamphlets in or on any vehicle whether the vehicle is occupied or not, except in a manner that will prevent the circulars or pamphlets from being blown about or scattered by the elements.

(12) To willfully or maliciously injure, cut down or destroy any fruit, shade or ornamental tree or shrub standing or being within any park of the city.

(13) To conduct an exhibition without a permit from the superintendent of recreation.

(14) To operate any musical instrument, sound track or drum, except when used for personal use and not to convey messages to others.

(15) To hunt, shoot or trap within any park boundaries.

(16) To climb on any park buildings or any park equipment not specifically made for climbing on.

(17) [Reserved.]

(18) To expose or offer for sale in any park or recreation area, or on any public property any merchandise, yard sale items, or other items formerly used by his family.

(19) To construct, set up or erect tents, structures or buildings on the yards or grounds immediately surrounding city hall.

(20) To disobey or disregard the orders of any police officer when commanding any person to desist in violation of any provisions of this section or the regulations prescribed by the city or state statutes.

(Code 1976, § 15-45; Ord. No. 1980-029, § 1-5, 10-14-1980; Ord. No. 2013O-01, § 1, 3-12-2013)

Sec. 15-76. Group activities; festivals; assemblages; exhibitions.

(a) No person shall do any of the following without a permit, provided that no permit shall be required for any action or event sponsored by the city or the recreation advisory committee:

(1) Conduct arts and handicraft festivals.

(2) Hold public assemblages.

(3) Hold a parade.

(b) Groups desiring to hold such activities shall make reservation for use of the appropriate recreation area at least ten days, but not more than 180 days before the event, with the recreation advisory committee or its designee. If the recreation advisory committee or its designee determines that an undue financial burden will be placed on the city by the size and the purpose of the group to be gathered, then he may refuse the application of the group, or require them to post a bond in an amount great enough to defray any additional expenses that will result to the city directly or indirectly, by the group using the park facilities.

(Code 1976, § 15-46; Ord. No. 1980-029, § 1-6, 10-14-1980)

Secs. 15-77—15-110. Reserved.

ARTICLE IV. RECREATION ADVISORY COMMITTEE

Sec. 15-111. Established; membership; appointment, term, compensation of members; filling of vacancies.

(a) There is hereby established a recreation advisory committee that shall operate in coordination with the city recreation department, this committee shall consist of a nine-member board with all appointments being made by the mayor and city council.

(b) The terms of office for these appointed positions shall be made up of one member of the city council's parks, recreation and arts' standing committee, the recreation director and seven members selected at large from the community by the city council. The seven members at large shall serve staggered three-year terms. Two members will serve the initial appointment for one year, two members will serve their initial appointment for two years and the remaining three will serve their initial appointment for three years. All subsequent appointments shall be for three years or the completion of an existing term which ever comes first. None of the seven "at large" members shall serve more than two consecutive terms.

In January of each year, the advisory committee shall submit a recommendation to the mayor and city council for appointment or re-appointment for those individual's completing their final year for approval to a new three-year appointment.

(Code 1976, § 15-51; Ord. No. 1981-014, § 3(1), 12-8-1981; Ord. No. 1986-008, § 1, 11-11-1986; Ord. No. 2009O-07, § 2, 11-10-2009)

Sec. 15-112. Selection of officers; adoption of bylaws and regulations for activities.

Immediately after their appointment, the members of the committee shall meet and organize and shall be granted the authority and power to adopt bylaws, rules and regulations for the proper conduct of its duties. The councilmember from the

council standing committee for parks, recreation and arts shall also serve as the chairman of the recreation advisory committee.
(Code 1976, § 15-52; Ord. No. 1981-014, § 3(2), 12-8-1981; Ord. No. 2009O-07, § 2, 11-10-2009)

Sec. 15-113. Duties and powers.

The recreation committee shall assist the mayor and council, as directed, in establishing, conducting and maintaining a recreation system for the city in such a way as to employ the leisure of the people in a wholesome and constructive manner. In particular, it shall have the following responsibilities:

(1) To review and recommend to the mayor and council recreational programs and activities to be conducted on public playgrounds, indoor recreation centers, and other recreational facilities owned, controlled, or accessible by the city;

(2) To investigate any request for expenditures for recreational purposes, and make such reports as are necessary to the mayor and council of its findings and recommendations;

(3) To recommend the setting aside, leasing or acquisition of lands or buildings within or without the city limits for use as parks, playgrounds, recreation centers, or for other recreational purposes, and to make recommendations for the maintenance and improvements of such areas;

(4) To cooperate with the local school board in the establishment, conduct and maintenance of a recreational system;

(5) To exercise such other powers and duties as may be delegated to it from time to time by the mayor and council.

(Code 1976, § 15-53; Ord. No. 1981-014, § 3(3), 12-8-1981; Ord. No. 2009O-07, § 2, 11-10-2009)

Sec. 15-114. Budget, additional expense; reports.

(a) The recreation department is a function of the general government activities of the City of Rockmart comprised of both regular full-time employees and volunteers that carry out the various programs within the city's recreation delivery system. The advisory committee shall submit recommendations for the city's annual capital and operating budget for its consideration and approval not later than April 1 of each year. The recreation committee shall also submit from time to time, and as necessary, supplemental recommendations for unbudgeted expenses. The mayor and council shall be responsible for the administration of the provisions of the recreation department's portion of the city's budget.

(b) The recreation director shall provide to the city council, at least quarterly, a report which shall include a financial statement of the monies received and expended, by the program, and a description of all activities sponsored by the recreation department or conducting such programs using city facilities during the year, and make such reports as may be required by the mayor and council from time to time.
(Code 1976, § 15-54; Ord. No. 1981-014, § 3(4), 12-8-1981; Ord. No. 2009O-07, § 2, 11-10-2009)

Sec. 15-115. Recreation director.

The city manager may appoint and employ a recreational director who shall be responsible for carrying out the recreation activities prescribed by the city and the recreation committee. The recreation director shall be considered a city employee and subject to all personnel policies and regulations of the city.
(Code 1976, § 15-55; Ord. No. 1981-014, § 3(5), 12-8-1981; Ord. No. 1982-018, § 1, 12-14-1982; Ord. No. 2009O-07, § 2, 11-10-2009)

Sec. 15-116. Fundraising campaigns prohibited; participation fees.

(a) In the interest of the city's citizens and businesses, fundraising campaigns for the operation of the recreation department are specifically prohibited, unless authorized and approved by the recreation committee and the mayor and council.

(b) The recreation director, with committee advice, shall establish a schedule of participation fees for each recreational activity. The funds de-

rived from such participation fees shall be used to defray the expenses of the operation of the city's recreation department.
(Code 1976, § 15-56; Ord. No. 1981-014, § 3(6), 12-8-1981; Ord. No. 2009O-07, § 2, 11-10-2009)

Chapter 16

RETIREMENT*

*__State law reference—__Authority to establish retirement systems, Ga. Const. art. IX, § II, ¶ III(a)(14).

Sec. 16-1. Retirement system of the city.

By previous ordinances, and contractual agreements with the Georgia Municipal Association, the city has implemented a retirement system for all employees of the city who are eligible to participate in the retirement program, according to the plan as amended. All participants, and any vested benefits to be received in case of retirement, or separation from the city, shall be governed by the terms, provisions and conditions of the plan in effect at the time of their retirement, and all of the latest amendments thereto.

Sec. 16-2. Adoption of provisions by reference.

The ordinance establishing retirement benefits previously adopted by the city and as amended, modified and revised is hereby codified in its entirety by reference, as though fully set forth herein. The retirement of all employees is contractually determined and governed by this retirement plan as revised. The original, latest revised version, shall remain on file with the clerk of the city, who is designated as the principal officer and plan administrator of the city for purposes of the administration of the retirement system of the city. All amendments to the plan shall be accomplished by ordinance. Decisions affecting general plan administration are vested within the authority of the city council.

Chapter 17

SOLID WASTE*

Article I. In General

Article II. City Collection and Disposal Services

Division 1. Generally

***State law references—**Georgia Comprehensive Solid Waste Management Act, O.C.G.A. § 12-8-20 et seq.; local, multijurisdictional and regional solid waste plans, O.C.G.A. § 12-8-31.1; scrap tire disposal restrictions, O.C.G.A. § 12-8-40.1; yard trimmings disposal restrictions, O.C.G.A. § 12-8-40.2; Georgia Hazardous Waste Management Act, O.C.G.A. § 12-8-60 et seq.; Litter Control Law, O.C.G.A. § 16-7-40 et seq.; transporting garbage or waste across state or county boundaries without permission, O.C.G.A. § 36-1-16; littering highways, O.C.G.A. § 40-6-249; transportation of biomedical waste, O.C.G.A. § 40-6-253.1; solid waste management education program, establishment of Georgia Clean and Beautiful Advisory Committee and Interagency Council on Solid Waste Management, O.C.G.A. § 50-8-7.3; authorization to provide garbage and solid waste collection and disposal, Ga. Const. art. IX, § II, ¶ III(a)(2).

ARTICLE I. IN GENERAL

Sec. 17-1. 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:

Carts means mobile devices with wheels which are used to store garbage and which can be rolled to the edge of the street for mechanized emptying into authorized garbage trucks.

City garbage or trash trucks means any vehicles owned or used by the city, either itself or through an independent contractor, for the collection of garbage or trash within the city.

Commercial cart means the authorized cart device used by any commercial business or other business establishment in lieu of a dumpmaster container.

Dumpmaster container means a stationary (nonmobile) containerized unit for holding substantial amounts of garbage, trash and other debris which is emptied by means of picking the container up and over the top of a garbage truck and emptying the contents thereof.

Garbage means domestic waste composed of meat, vegetable and fruit scraps, cans, bottles, paper, cardboard, rags, ashes and other such waste matter normally to be disposed of from residences, churches, schools, small business establishments and similar places. Animal, fowl and fish entrails, bones and carcasses, whether in whole or in part, from business establishments such as slaughterhouses and meat and fish markets shall not be considered as garbage but as other waste.

Industrial wastes means all waste byproducts of manufacturing, wholesale establishments, warehouses and similar businesses.

Landfill means any tract of land designated by the city as a site for the disposal of garbage, trash and other wastes.

Landfill user fees means a fee assessed for solid waste disposal at a designated landfill, which may also be referred to as tipping fees.

Lift charge means the rate of charge made each time a garbage truck raises or lifts a dumpmaster container for purposes of emptying the contents thereof.

Other wastes means animal, fowl and fish excrement, entrails, bones, carcasses in whole or in part and small dead animals.

Public works director means the public works director or official in charge of health and sanitation or his authorized representative.

Residential unit means each separate residence address, apartment residence or other dwelling occupied by residents of the city to which garbage service is available.

Scavenger means any person who salvages or collects, for resale or use, any garbage, paper, cardboard, boxes, crates or other wastes which are being or are to be disposed of from any residence or establishment where people reside, congregate or are employed.

Trash means garden and yard wastes such as weeds, grass and hedge trimmings, leaves, brush, tree limbs, garden plants and similar items.
(Code 1976, § 17-1; Ord. No. 1980-001, § 1(17-1), 1-8-1980; Ord. No. 1990-007, § 1, 5-8-1990)

Sec. 17-2. Uncovered garbage prohibited.

It shall be unlawful to place or permit to remain anywhere in the city any garbage, or other material subject to decay other than leaves or grass, excepting in receptacles complying with section 17-51.
(Code 1976, § 17-2; Ord. No. 1980-001, § 1(17-2), 1-8-1980)

Sec. 17-3. Accumulations of wind-blown refuse prohibited.

It shall be unlawful to cause or permit to accumulate any dust, ashes, or trash of such a material that it can be blown away by the wind anywhere in the city, except in a covered container.
(Code 1976, § 17-3; Ord. No. 1980-001, § 1(17-3), 1-8-1980)

Sec. 17-4. Deposits on streets prohibited.

It shall be unlawful to deposit or permit to fall from any vehicle any garbage, refuse or ashes on any public street or alley in the city; provided that this section shall not be construed to prohibit placing garbage, refuse or ashes in a container complying with the section 17-51 preparatory to having such material collected and disposed of in the manner provided herein.
(Code 1976, § 17-4; Ord. No. 1980-001, § 1(17-4), 1-8-1980)

Sec. 17-5. Construction, loading of vehicles hauling garbage, refuse, etc., on streets.

All vehicles used in the removal, collection or transportation of garbage, trash, waste, paper, refuse, rubbish, building material, or concrete shall be constructed in such a manner that will prevent any portion of the garbage, trash, waste, paper, refuse, rubbish, building material, or concrete from leaking, spilling, falling, or blowing out of said vehicles or onto any public highway, street, avenue, boulevard, alley, or other public or private place. All vehicles used in transportation of such material shall be so constructed as to prevent the material from blowing or falling onto any street, avenue, alley, highway, boulevard, or other public or private place in the city. Such vehicle being drawn or driven over the public ways or streets shall not be loaded above a point that will result in any portion of the contents being spilled therefrom.
(Code 1976, § 17-5; Ord. No. 1980-001, § 1(17-14), 1-8-1980)

Sec. 17-6. Discharging refuse onto public property prohibited.

It shall be unlawful for any person to throw, discharge or dump refuse, trash, paper, rubbish, boxes, cartons or containers upon any public street, alley, public park, civic auditorium grounds, or public square of the city.
(Code 1976, § 17-6; Ord. No. 1980-001, § 1(17-5), 1-8-1980)

State law reference—Littering, O.C.G.A. § 16-7-40 et seq.

Sec. 17-7. Depositing refuse into creeks, etc., prohibited.

It shall be unlawful for any person to dump or throw any garbage, trash or other refuse of any kind into any creek, slough, or ditch any place in the city.
(Code 1976, § 17-7; Ord. No. 1980-001, § 1(17-6), 1-8-1980)

Sec. 17-8. Dumping or placing garbage, etc., on private property without consent of owner prohibited.

It shall be unlawful to dump or place any garbage, refuse or ashes on any premises in the city without the consent of the owner of such premises.
(Code 1976, § 17-8; Ord. No. 1980-001, § 1(17-7), 1-8-1980)

Sec. 17-9. Permissible methods of disposal for garbage, ashes, refuse or trash.

It shall be unlawful to dispose of any garbage, refuse, ashes, or trash anywhere in the city except in receptacles complying with section 17-51, in incinerators or disposal devices properly constructed and operated in compliance with chapter 9 of this Code, or in the county landfill. (Code 1976, § 17-9; Ord. No. 1980-001, § 1(17-8), 1-8-1980)

Sec. 17-10. Removal of bulky items not collected by city.

(a) The regular collection service used by the city shall not pick up, or remove from any street right-of-way, any large bulky items not normally associated with common household garbage and refuse. These bulky items shall be defined for purposes of this provision, to include but not necessarily be limited to, tires; crates, refrigerators, appliances, bicycles, mattresses, window air conditioner units, dishwashers, end tables, commodes, furniture, TV's, grills, frames, microwaves, hot water heaters, lawn mowers, swing sets, or similar like items as described in this section, or other sections of the city Code, such as section 17-12.

(b) The owner or occupant of any building, property or other structure shall not deposit items generally described herein on the right-of-way of the city, unless a special sticker (tag) has been purchased, and the removal and disposal of these items has been preapproved by the superintendent of public works. The owner or occupant shall have the right to remove and deposit said items, at that party's expense, as may be authorized by ordinances governing the disposal of such materials and/or bulky items within the county.

(c) Should the owner or occupant desire for the city to cause any bulky items, as defined in this section or other portions of this chapter to be removed, the superintendent of public works shall authorize the removal, provided that a fee as imposed by the city council and posted with the city clerk for the cost per item to be charged to the owner or occupant requesting removal by the city shall be paid prior to removal. Each bulky item shall have a separate sticker for removal.
(Code 1976, § 17-10; Ord. No. 1980-001, § 1(17-16.2), (17-67), 1-8-1980; Ord. No. 002-2001, § 1, 12-13-2000)

Sec. 17-11. Duty of owner to remove refuse not collected by city from rights-of-way adjacent property.

The owner or occupant of any building, house, structure or land shall cause to be removed all refuse items of the nature which are prohibited to the regular collection service, and which are located, owned or deposited on the property or on the public right-of-way adjacent to the property, and the existence of refuse or any other item on the property or the adjacent public right-of-way shall be prima facie evidence that such owner or occupant failed to remove, as provided by this chapter, at his own expense, the refuse or other item so stored or located thereon. Removal within three days of notice by the city is required.
(Code 1976, § 17-11; Ord. No. 1980-001, § 1(17-15.11(B)), 1-8-1980)

Sec. 17-12. Removal of building debris.

Notwithstanding anything to the contrary contained in this chapter, it is specifically required that all debris, refuse, waste, scraps and other things and articles from buildings or other construction, remodeling, carpentry, painting, plumbing, or from burned, damaged, or destroyed structures shall not be placed on any of the city's street or alley rights-of-way (including sidewalks, walkways, grassplots, curbs, or guttering); and such debris, refuse, etc., as aforesaid, shall not be removed or hauled away by the city or at its expense, but shall be removed and hauled away by and at the expense of the person, firm, or corporation owning or responsible for the same, said removal and hauling away, as aforesaid, to be done within one week after the substantial completion of the project undertaken.
(Code 1976, § 17-12; Ord. No. 1980-001, § 1(17-16.11), 1-8-1980)

Secs. 17-13—17-40. Reserved.

ARTICLE II. CITY COLLECTION AND DISPOSAL SERVICES

DIVISION 1. GENERALLY

Sec. 17-41. Exclusive right and authority of city.

(a) *Reservation of right*. The city reserves the exclusive right and authority to collect and dispose of garbage, refuse, and trash within the city limits through its department of public works or duly approved and licensed independent contractors.

(b) *Unusual wastes beyond city capability*. In the event that an individual business location should require unusual collection services outside of the capabilities of the city's department of public works, the city may authorize by permit the independent collection of such discarded items or material by a duly licensed independent contractor. Such authorization and approval shall not relieve the business location from paying regular charges for collection as described in section 17-91.
(Code 1976, § 17-21; Ord. No. 1980-001, § 1(17-9), 1-8-1980)

Sec. 17-42. Authority of city to enter into private contracts for collection and disposal.

The mayor and council reserves the authority to enter into a private contract for garbage and trash collection and disposal, under such terms and conditions as the mayor and council shall deem reasonable and proper. Any person, firm, or corporation who contracts with the city for garbage and trash collection and disposal shall act as an independent contractor for the city pursuant to the terms and provisions of this article.
(Code 1976, § 17-22; Ord. No. 1980-001, § 1(17-19), 1-8-1980)

Sec. 17-43. Unauthorized removal of garbage and trash prohibited; exception.

It shall be unlawful for any person other than a duly authorized employee of the city to collect or remove any garbage or trash from garbage and trash receptacles used in the regular city collection service or from any container utilized in the city container collection service, unless otherwise authorized and licensed by the mayor and council.
(Code 1976, § 17-23; Ord. No. 1980-001, § 1(17-15.3), 1-8-1980)

Sec. 17-44. Scavenging prohibited; exception.

It shall be unlawful for any person to remove refuse from receptacles unless authorized under the provisions of section 11-306 et seq.
(Code 1976, § 17-24; Ord. No. 1980-001, § 1(17-15.4), 1-8-1980)

Sec. 17-45. Establishment of collection service schedules.

The superintendent of the department of public works shall establish the following collection service schedules, which shall be posted in the city clerk's office:

(1) Container collection service schedule for removal of garbage and refuse in receptacles provided by the sanitation department.

(2) Regular collection service schedule for removal of refuse and trash by the sanitation department.

(Code 1976, § 17-25; Ord. No. 1980-001, § 1(17-16.1), 1-8-1980)

Sec. 17-46. Simultaneous service by both refuse collection and container collection systems.

The sanitation department shall provide refuse collection or container collection system services according to the type and volume of refuse and garbage to be removed, economies of operation, and capability within the department. Normally, refuse collection and container collection service will be provided to the same installation only at the discretion of the sanitation department superintendent.
(Code 1976, § 17-26; Ord. No. 1980-001, § 1(17-16.5), 1-8-1980)

Sec. 17-47. Frequency of regular collection service.

Regular city collection service shall be provided at least one time per week for the protection of public health and the control of flies, insects and rodents. Such service shall not be on successive days.
(Code 1976, § 17-27; Ord. No. 1980-001, § 1(17-16.3), 1-8-1980)

Sec. 17-48. Additional collection service.

(a) *More frequent service*. City container collection service shall be provided one time per week for the protection of public health and control of flies, insects and rodents, as provided in section 17-47. Additional collections may be provided on special order, according to availability in the sanitation department, at a charge for the additional collection in conformity with section 17-91.

(b) *Service to locations outside established routes*. Service to locations outside established routes may be provided at special charges as in section 17-92.
(Code 1976, § 17-28; Ord. No. 1980-001, § 1(17-16.6), 1-8-1980)

Sec. 17-49. Placement of dumpmasters by city manager.

(a) It shall be within the discretion of the city manager to cause to be placed at various locations in and around the commercial area of the city, dumpmaster containers for the purpose of receiving garbage, trash and other refuse.

(b) It shall be within the discretion of the city manager to assign, guided by locations, environment and practical experience, the containers to parties, stores and retail businesses, to be used in lieu of the pickup service provided by the city.

Sec. 17-50. Containerization of garbage required.

All garbage, refuse and household domestic wastes for collection shall be placed in carts furnished by the city or its garbage contractor. All city residents shall use these designated carts in the storage and disposal of residential garbage. With the approval of the designated city official, residents may utilize metal or durable solid plastic containers complying with the specifications of section 17-51 when carts are damaged and/or unavailable.
(Code 1976, § 17-29; Ord. No. 1980-001, § 1(17-15), 1-8-1980; Ord. No. 1990-007, § 2, 5-8-1990)

Sec. 17-51. Specifications for container construction.

Receptacles used for the storage of garbage and refuse materials shall be watertight and meet the following specifications:

(1) Trash cans shall be of a durable grade of galvanized metal or durable solid plastic approved by the superintendent of the sanitation department, from ten to 30 gallons' capacity and weighing less than 25 pounds empty or 75 pounds fully loaded with normal refuse. They shall be provided with two lifting handles on opposite sides and a tightly fitting cover with a lifting handle. The can shall be without inside protrusions, and the refuse shall be loosely packed so that the contents shall discharge freely when the receptacle is inverted.

(2) Garbage bags shall be made of heavy, multiple-ply paper or polyethylene or ethylene copolymer resin and designed for the outdoor storage of refuse. Bags must be securely tied or sealed to prevent the emission of odors, be of a material so liquids and greases will not be able to penetrate through the material, and be of sufficient thickness and strength to contain the refuse enclosed without tearing or ripping under normal handling. In the event that multiple complaints should be made by city employees or by city residents of garbage bags being torn open by dogs or destroyed for other reasons at a particular collection point, the superintendent of public works may require that only trash cans be used at that location for collection of garbage and prohibit at said location the use of uncanned garbage bags.

(Code 1976, § 17-30; Ord. No. 1980-001, § 1(17-15.5), 1-8-1980)

Sec. 17-52. Doors and lids of containers to be kept closed.

Except when refuse is being loaded into containers, the doors and lids shall be kept closed except at certain locations approved by the superintendent of the sanitation department.
(Code 1976, § 17-31; Ord. No. 1980-001, § 1(17-16.10), 1-8-1980)

Sec. 17-53. Damaged or deteriorated receptacles to be removed.

Receptacles which have deteriorated, or have been damaged to the extent that the covers will not fit securely, or those having jagged or sharp edges capable of causing injury to refuse collectors or other persons whose duty it is to handle containers, are declared a nuisance and shall be condemned by the sanitation department superintendent, the city health department, or their authorized representatives. If such receptacles are not removed within five days after notice of such defective conditions to the owner or user, then such receptacles shall be confiscated.
(Code 1976, § 17-32; Ord. No. 1980-001, § 1(17-15.6), 1-8-1980)

Sec. 17-54. Number of receptacles.

Any person using or occupying any building, house or structure within the city shall provide and maintain in good order and repair garbage or trash receptacles of sufficient number to contain the garbage or trash that will accumulate on the premises.
(Code 1976, § 17-33; Ord. No. 1980-001, § 1(17-15.1), 1-8-1980)

Sec. 17-55. Separation of wastes by type; separate containers to be provided.

Refuse, which is flammable, shall not be mixed or mingled with refuse that is nonflammable. Garbage shall be kept separate from all other types of refuse.
(Code 1976, § 17-34; Ord. No. 1980-001, § 1(17-13), 1-8-1980)

Sec. 17-56. Drainage, other preparation of wastes placed in receptacles.

Garbage or trash that is mixed with water or other liquids shall be drained before being placed in a garbage or trash receptacle. Animal matter that is subject to decomposition shall be wrapped in paper or other combustible material before being placed in a garbage receptacle. Grease in a free-flowing state shall be reduced to a solid.
(Code 1976, § 17-35; Ord. No. 1980-001, § 1(17-15.8), 1-8-1980)

Sec. 17-57. Certain matter not to be placed in receptacles.

(a) Bulky items as defined in section 17-10, dead animals, feces, materials impregnated with urine, poisons, explosives, dangerous or corrosive chemicals, clothing taken from persons with infectious diseases, heavy metals or metal parts, lumber, dirt, rocks, bricks, concrete blocks, tires, crates and other refuse from construction or remodeling, shall not be placed in receptacles used for regular collection service or the city container collection service.

(b) It shall be unlawful for any person to place or permit another to place in any refuse container used in the city container collection service, bulky or heavy items such as tires, crates, refrigerators, stoves, air conditioners, sofas, chairs, auto parts weighing more than five pounds or 2.27 kilograms, mufflers, tree limbs greater than three feet or 0.91 meters in length, heavy pipe or metal and other like items.
(Code 1976, § 17-36; Ord. No. 1980-001, § 1(17-15.10), (17-16.7), 1-8-1980; Ord. No. 002-2001, § 2, 12-13-2000)

Sec. 17-58. Noncollectible garbage, trash, other wastes.

Notwithstanding anything to the contrary contained in this article, it is specifically required that every person who disposes of dead animals (except dogs, cats, fowl, fish or other small or similar animals), junk cars, dirt, rocks, cement, manufacturing byproducts, hazardous wastes, building material, equipment and machinery shall make such disposal at the city-designated landfill or such site as specified by the public works director. Such removal of the aforesaid shall be done within 24 hours after the matter has been abandoned or after the completion of the project undertaken.

Sec. 17-59. Placing garbage, trash, or rubbish in receptacle for other premises prohibited.

It shall be unlawful for any person to place, or permit another to place, any garbage or trash in any receptacle, at any refuse collection point or in any refuse container collection service unless the refuse is from the premises served by the container or from the premises at which the receptacle or collection point is located.
(Code 1976, § 17-37; Ord. No. 1980-001, § 1(17-15.11(A)), 1-8-1980)

Sec. 17-60. Unauthorized disposal of trash, garbage, other wastes.

It shall be unlawful to place garbage, trash, litter or other wastes for collection in a container owned by another person without the express consent or authorization of the owner or to place garbage, trash, litter or other wastes for collection in a dumpmaster assigned to another party, store or retail business without the express consent or authorization of the city manager.

Sec. 17-61. Receptacle contents to be removed weekly, responsibility of owner.

It shall be the duty of every owner of a garbage or trash receptacle to remove or to have removed the contents of the same in accordance with this article at least once a week.
(Code 1976, § 17-38; Ord. No. 1980-001, § 1(17-15.2), 1-8-1980)

Sec. 17-62. Supervision of receptacles; notice to sanitation department of failure to empty receptacles.

Each owner, manager, occupant, tenant or lessee of a house or building used for residential, business or commercial purposes shall maintain supervision and surveillance over the garbage or trash receptacles serving such premises, and if such receptacles are not emptied and the contents removed by an employee of the city or other duly authorized person for a period of seven days, he shall notify the sanitation department of the fact within seven days.
(Code 1976, § 17-39; Ord. No. 1980-001, § 1(17-15.12), 1-8-1980)

Sec. 17-63. Placement of carts for collection.

(a) All carts shall be placed at the street side curb or roadside area adjacent to the front of the property of any city resident or at such other place designated by the city so as to accomplish the efficient collection of garbage. It shall be unlawful for any person to use any other device or method of disposal of garbage except by the cart method unless authorized by the city.

(b) Placement of garbage and trash receptacles as required in subsection (a) of this section shall be made only on designated collection days. It shall be unlawful for any person to permanently locate carts at curb side at any other time unless authorized by the city.

(c) In the business districts served by container service or dumpster service, the route foreman will designate the area for placement of the containers for removal.

(d) If any street becomes impassable due to inclement weather or other conditions, the city may notify any affected person or business to place carts at the nearest collection point which is accessible to refuse removal vehicles.
(Code 1976, § 17-40; Ord. No. 1980-001, § 1(17-15.7), 1-8-1980; Ord. No. 1990-007, § 3, 5-8-1990)

Sec. 17-64. Placing trash, cartons, boxes, brush, cuttings for collection.

(a) If trash which is to be collected by the city is of such nature that it cannot be placed in the required trash receptacles, it shall be carefully placed beside the trash receptacle. Refuse such as paper cartons or wood boxes that cannot be placed in a receptacle shall be prepared for collection by placing the smaller cartons and boxes in the larger cartons and boxes until the larger cartons and boxes are completely filled. After the large cartons and boxes are completely filled, they shall be securely tied. Cartons and boxes shall not be larger than 36 inches or 91.44 centimeters along any side, so they can be placed in regular collection trucks.

(b) Brush, long stems of bushes, tree limbs and cuttings will be cut into four-foot or 1.22-meter lengths weighing not more than can be easily lifted by one man. All brush shall be collected from the street side curb at the regular collection point, or, where there is no street side curb or the street side curb is inaccessible to trucks from the parkway, at such point as is designated for placement of receptacles pursuant to section 17-63; brush on the street side curb shall be placed so it does not in any way block or hinder the passage of or damage vehicles.
(Code 1976, § 17-41; Ord. No. 1980-001, § 1(17-15.9), 1-8-1980; Ord. No. 1990-007, § 4, 5-8-1990)

Sec. 17-65. Disposal of other wastes.

Other wastes as defined in this article shall be disposed of by placing the wastes in a plastic or other waterproof bag or container and placed in proper garbage containers or assigned dumpmasters for collection or taken to a designated landfill.

Sec. 17-66. Parking in a manner which interferes with access to containers.

It shall be unlawful for any person to park a vehicle of any nature within six feet or 1.83 meters of any container used in the city container collection service in such a manner which would interfere with the removal of refuse from such container, or block the approach to such container. Proof of ownership of any vehicle violating this section shall be prima facie proof that such owner parked such vehicle.
(Code 1976, § 17-42; Ord. No. 1980-001, § 1(17-16.8), 1-8-1980)

Sec. 17-67. Damaging containers, other city property provided for refuse collections.

It shall be unlawful for any person to damage, either willfully or through negligence, any property of the city used in the city container service.
(Code 1976, § 17-43; Ord. No. 1980-001, § 1(17-16.9), 1-8-1980)

Sec. 17-68. Power to issue citations.

The building inspector, fire chief, public works director, city manager, or any of their agents or designees shall have the authority to issue citations on a form prescribed by the city to any person, firm, or corporation who violates any section contained in this chapter. Furthermore, the municipal court is authorized to impose fines and/or penalties for violations of these sections, as authorized under section 1-7 of this Code.
(Ord. No. 8-2002, § 1, 8-13-2002)

Secs. 17-69—17-90. Reserved.

DIVISION 2. RATES, CHARGES, BILLING AND COLLECTION

Sec. 17-91. Rate of charge imposed.

(a) There is hereby assessed and levied against each individual residential unit, commercial business or industry located within, or using the collection facilities of, the city, a fee for garbage service. This rate shall be based upon garbage pickups, sanitary and health service charges, dumpmaster container servicing or other charges as indicated by the city in its monthly garbage collection rates.

(b) The charges assessed and levied shall be according to a categorized listing of garbage collection rates, promulgated and published in the office of the city clerk. These rates, as promulgated, are incorporated herein by reference for the exact amount of charge for garbage customers within the corporate limits of the city. These charges shall continue unless amended, modified or otherwise changed by action of the city council.

(c) This fee as presently promulgated, or hereafter changed, shall be assessed and levied against the head of each housekeeping operation, residence, commercial or industrial location. These general charges, adopted by reference in the schedule referred to in subsection (b) of this section, shall be in addition to any other fees or charges set forth in the other provisions of the Code of the city.
(Code 1976, § 17-61; Ord. No. 002-1989, § 1, 3-14-1989)

Sec. 17-92. Charges for unusual locations, types and accumulations.

Refuse collection, garbage service and collection of bulky items may be provided within the capabilities of the department to installations with unusual locations, types or accumulations of refuse, at a charge established by the mayor and council based on actual cost and approved by the superintendent of the department of public works.
(Code 1976, § 17-62; Ord. No. 1980-001, § 1(17-16.4), 1-8-1980; Ord. No. 002-2001, § 3, 12-13-2000)

Sec. 17-93. Special rates for collections exceeding normal amounts.

Whenever the collection of garbage from any establishment or place shall exceed the normal amount for such a place, so that the fee prescribed for such collection is not fair and reasonable as applied to that particular place, the superinten-

dent of public works (or other designated officer) shall recommend to the city council the establishment of a special rate for such place.
(Code 1976, § 17-63; Ord. No. 1980-001, § 1(17-11), 1-8-1980)

Sec. 17-94. Discontinuance of water services for nonpayment of garbage bills.

If any bill for charges for garbage collection as hereinabove provided is not paid within 60 days of the due date, the water services to that residence or business location at which the garbage pickup is made shall be cut off, and in no case shall it be reinstated to the same property until the delinquencies shall have been paid in full.
(Code 1976, § 17-64; Ord. No. 1980-001, § 1(17-12), 1-8-1980)

Chapter 18

STREETS AND SIDEWALKS*

Article I. In General

Article II. Sidewalk Sales

*__State law references__—Obstructing sidewalks or other public passages, O.C.G.A. § 16-11-43; damaging public property, O.C.G.A. § 16-7-25; Georgia Code of Public Transportation, O.C.G.A. § 32-1-1 et seq.; governmental authorization for construction or maintenance of any private road unlawful, O.C.G.A. § 32-1-8; municipal street systems, O.C.G.A. § 32-4-90 et seq.; powers with respect to municipal street system, O.C.G.A. § 32-4-92; regulation of maintenance and use of public roads generally, O.C.G.A. § 32-6-1 et seq.; grant by municipal corporation of right to obstruct public street prohibited, O.C.G.A. § 36-30-10; power of city to open, close or extend public streets, alleys and sidewalks, O.C.G.A. § 36-34-3; municipal street improvements, O.C.G.A. § 36-39-1 et seq.; executions for collection of municipal assessments for paving streets and laying sewers, O.C.G.A. § 48-5-358; power to construct and maintain roads, including curbs, sidewalks, street lights and devices to control the flow of traffic, Ga. Const. art. IX, § II, ¶ III(a)(4).

ARTICLE I. IN GENERAL

Sec. 18-1. Excavating or obstructing street, sidewalk or other public way.

(a) *Permit required; fee.* It shall be unlawful for any person to alter any street, sidewalk or other public way or cut any ditch across the same or make any excavation in or under, or place any obstruction in, any street, sidewalk, or other public way, without first obtaining a permit from the city manager, the fee to be as prescribed.

(b) *Restoration.* When any excavation or opening is made in any street, sidewalk or other public way for the purpose of making water connections or for any other purpose, it shall be the duty of the person making such excavation or opening to immediately fill in and replace any paving or other surface disarranged or taken up, so as to leave said street, sidewalk or other public way in as good condition as it was before said excavation or opening was made.

(c) *Lights and barricades.* All such permittees shall place lights and barricades at the work site sufficient to protect passersby from injury.
(Code 1904, §§ 87, 152, 154, 160; Code 1976, § 18-2)

Sec. 18-2. Encroachments.

It shall be unlawful for any person to encroach on any of the streets, sidewalks or other public ways of the city by any building, porch, steps, cellar door, railing, palings, platform or enclosure, of any kind, except with the consent of the city council, which consent may be revoked at any time in the discretion of the city council.
(Code 1904, § 153; Code 1976, § 18-4)

Sec. 18-3. Culverts or bridges to private property; responsibility of owner and occupant.

All culverts or bridges from any street for the purpose of letting any person have a way for vehicles into his private property, shall be put in by the property owner, at his expense, paying the city for all material and the work. It shall be the duty of the owner and occupants of said property to keep said crossings or bridges in good order and repair and rebuild the same when necessary, and to prevent trash and litter from filling up the open sewers in front thereof or from collecting against such bridges or pipes so as to close them up.
(Code 1904, § 163; Code 1976, § 18-5)

Sec. 18-4. Gutters or projecting eaves.

All buildings, the eaves of which extend over the streets, sidewalks or other public ways, shall be provided by their respective owners with good and sufficient guttering to prevent the discharge of water from the roofs of said buildings onto the streets, sidewalks, or other public ways.
(Code 1976, § 18-6; Ord. No. 20, 10-1-1907)

Sec. 18-5. Digging up gravel, etc.

No person shall dig or scrape up or carry away gravel, earth, dirt, rocks or sand from any street, lane, alley or sidewalk in the city.
(Code 1904, § 157; Code 1976, § 18-7)

Sec. 18-6. Lights and barricades at excavations at or near streets.

It shall be unlawful for any person making an excavation adjoining the streets, sidewalks or other public ways to neglect to place a barricade, and warning lights at night, next to the street, sufficient to protect passersby from injury.
(Code 1904, § 161; Code 1976, § 18-8)

Sec. 18-7. Barbed wire fences.

It shall be unlawful for any person to build or maintain any barbed wire fence along or adjacent to any sidewalk, street or other public way.
(Code 1904, § 132; Code 1976, § 18-9)

Sec. 18-8. Gates.

It shall be unlawful for any person to hang or maintain any gate on or near any sidewalk, street or other public way, opening out onto the sidewalk, street or other public way.
(Code 1904, § 133; Code 1976, § 18-10)

Secs. 18-9—18-40. Reserved.

ARTICLE II. SIDEWALK SALES

Sec. 18-41. Restrictions; compliance required.

It shall be unlawful for any business, firm, corporation, merchant or individual to vend, sell, dispose of, or offer to vend, sell, dispose of or display any goods, wares, or merchandise on any sidewalk within the city limits, between the front property lines of their business and any street adjoining said sidewalk except as otherwise provided herein.
(Code 1976, § 18-21; Ord. No. 1985-007, § 1, 9-10-1985; Ord. No. 1987-002, § 1, 1-13-1987)

Sec. 18-42. Penalty.

Any person, firm or corporation violating any provision of this article shall, upon conviction thereof, be punished as provided in section 1-7 of this Code.(Code 1976, § 18-22; Ord. No. 1985-007, § 7, 9-10-1985; Ord. No. 1987-002, § 8, 1-13-1987)

Sec. 18-43. Exceptions for certain sponsored events.

The restrictions of section 18-41 shall not apply to any merchant-sponsored events recognized by the city such as the event commonly referred to as the Rockmart Merchants Annual Sidewalk Sale.
(Code 1976, § 18-23; Ord. No. 1985-007, § 2, 9-10-1985; Ord. No. 1987-002, § 2, 1-13-1987)

Sec. 18-44. Exemptions for decorative items.

Nothing contained in this article shall prohibit any decorative items which are intended to beautify the city from remaining or from being placed upon the city sidewalk subject to the restrictions set forth in section 18-46.
(Code 1976, § 18-24; Ord. No. 1985-007, § 3, 9-10-1985; Ord. No. 1987-002, § 3, 1-13-1987)

Sec. 18-45. Permits required for certain sales.

Any church or charitable organization desiring to sponsor or conducting sales for fundraising purposes must first obtain a permit therefor and must comply with all applicable provisions contained in this article and with any restrictions set forth in the permit.
(Code 1976, § 18-25; Ord. No. 1985-007, § 4, 9-10-1985; Ord. No. 1987-002, § 4, 1-13-1987)

Sec. 18-46. Placement and operational requirements.

No sidewalk shall be blocked by any merchandise offered for sale hereunder or by any items placed on the sidewalk for beautification of the city. A sufficient clearance shall be allowed for pedestrian travel at all times and all merchandise or other items shall be securely and adequately placed so that it will not endanger any passersby, or fall, or extrude into any streets or alleys. Any such sidewalk sales permitted hereunder shall not be operated in any manner which would cause a nuisance or fire hazard.
(Code 1976, § 18-26; Ord. No. 1985-007, § 5, 9-10-1985; Ord. No. 1987-002, § 6, 1-13-1987)

Sec. 18-47. Inspections.

The chief of police and the chief of the fire department shall make, or cause to be made, sufficient inspections to ensure the compliance with the provisions of this article and other applicable provisions of the city ordinances by the personnel conducting such sales. The chief of police shall have the right to clear the sidewalk at any time that may be necessary including during parades or during special events conducted in the city.
(Code 1976, § 18-27; Ord. No. 1985-007, § 6, 9-10-1985; Ord. No. 1987-002, § 7, 1-13-1987)

Sec. 18-48. Variances for organizations for profit.

(a) *Application procedure.* Any business, firm, corporation, merchant or individual desiring a variance to conduct sidewalk sales shall be required to do the following:

(1) *Application*. Apply to the city manager in writing and pay the sum established by the city council to cover the cost of processing the same;

(2) *Insurance required*. Provide proof of liability insurance which must be in the

form of a binder or actual policy which shows on its face that the applicant is covered while conducting sidewalk sales in the city. Should the binder or policy not reflect coverage for sidewalk sales on its face, the applicant shall furnish a notarized statement from his insurance carrier that he is covered for any injuries which might occur as a result of sidewalk sales; and

(3) *Indemnification agreement*. The applicant shall indemnify and hold the city harmless for any claims, causes of actions, damages and injuries which occur as a result of sidewalk sales conducted by the applicant in the city. The indemnification agreement shall either be in the form approved by the city or on a form drafted by the city attorney.

(b) *Minimum clearance required*. Should the above requirements be met, the mayor and council may grant a variance up to 3½ feet, provided there is a minimum clearance of five feet for pedestrian travel. Prior to final review and action by the full council, the property committee shall have the right to review all applications made by any business, firm, corporation, merchant or individual.

(c) *Sidewalk sales during merchant-sponsored events.* No sidewalk sales shall be conducted during any merchant-sponsored events such as the Home Spun Festival or Rockmart Merchants Annual Sidewalk Sale, except as may be permitted by such event or when such sidewalk sales are part of applicant's approved participation in such sales. Furthermore, no sidewalk sales shall be conducted during any parades.

(Code 1976, § 18-28; Ord. No. 1987-002, § 5, 1-13-1987)

Chapter 19

TAXATION*

Article I. In General

Secs. 19-1—19-20. Reserved.

Article II. Occupation Tax

Secs. 19-45—19-70. Reserved.

Article III. Insurance Companies' Gross Premium Tax

Secs. 19-76—19-100. Reserved.

Article IV. Financial Institutions Business License Tax

Secs. 19-103—19-120. Reserved.

---

*__State law references—__Limitation on taxing power of municipalities and counties, Ga. Const. art. IX, § II, ¶ VIII; taxation power of municipal and county governments, Ga. Const. art. IX, § IV, ¶ I; taxation generally, O.C.G.A. § 48-1-1 et seq.

Article V. Excise Tax on Hotel-Motel Rooms, Lodgings and Accommodations

Article VI. Ad Valorem Taxation

Article VII. Blighted Property

ARTICLE I. IN GENERAL

Secs. 19-1—19-20. Reserved.

ARTICLE II. OCCUPATION TAX*

Sec. 19-21. 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.
(Ord. No. 001-1995, § 7, 4-11-1995)

Sec. 19-22. Definitions.

The following words, terms, and phrases, when used in this article, shall have the meanings respectively ascribed to them below, except when the context clearly indicates a contrary meaning:

Administrative fee means a component of any occupation tax which approximates the reasonable cost of handling and processing the occupation tax.

Business means any person who has a business location within the corporate limits of the city and who engages in, causes to be engaged in, and/or represents himself to be engaged in, any occupation or activity with the object of gain, benefit or advantage, either directly or indirectly, and shall include any person advertising by any means, including, but not limited to, signs, cards, circulars, newspapers, etc., that he is engaged in a business of any kind.

Dominant line means the type of business, within a multiple-line business from which the greatest amount of income is derived.

Employee means an individual whose work is performed under the direction and supervision of the employer and whose employer withholds FICA, federal income tax, or state income tax from such individual's compensation or whose employer issues to such individual for purposes of documenting compensation a form I.R.S. W-2 but not a form I.R.S. 1099. The term "employee" includes an individual who performs work under the direction and supervision of one business or practitioner in accordance with the terms of a contract or agreement with another business which recruits such individual is an employee of the business or practitioner which issues to such individual for purposes of documenting compensation a form I.R.S. W-2.

Engaged in business or carrying on business means doing or performing any act of selling any goods or services or soliciting business, or offering any goods or services for sale primarily in an attempt to make a profit, either as an owner, operator, or agent of any business, trade, profession, or occupation within the city.

Equivalent number of full-time employees means the number of full-time employees. For purposes of determining the number of employees of a business or practitioner as computed for a full time position basis or full time employment basis, an employee who works 40 or more hours weekly shall be considered a full-time employee. The average weekly hours of employees who work less than 40 hours weekly shall be added and such sum shall be divided by 40 to produce full-time position equivalents. In determining employee numbers, in the event there has been a fluctuation of employees during the calendar year, the average number of employees for the last 12 months shall be used.

Full workweek means the number of hours per week which it takes for an occupation or business to perform its business or service.

Location or *office* includes any structure or vehicle where a business, profession, or occupation is conducted, but does not include a temporary or construction worksite which serves a single customer or project or a vehicle used for sales or delivery by a business or practitioner of a profession or occupation which has a location or office. The renter's or lessee's location which is the site of personal property which is rented or

*__State law reference—__Occupation taxes, O.C.G.A. § 48-13-5 et seq.

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.

Manufacturer means a person who, either directly or by contracting with others for the necessary labor or mechanical services, manufactures for sale or commercial use any articles, substances or commodities, including, but not limited to, the following: materials upon which commercial activities have been applied, by hand or machinery, so that as a result thereof a new, different, or useful article of tangible personal property or substance of trade or commerce is produced; the production or fabrication of special or custom-made articles; the making, fabrication, processing, refining, mixing, slaughtering, packing, aging, curing, preserving, canning, preparing, and freezing of fresh foods, fruits, vegetables, and meats.

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 includes sole proprietor, corporations, partnerships, nonprofit, associations, or any other form of business organization. Person shall not include charitable organizations exempt from taxation pursuant to section 19-27.

Practitioner of professions and occupations means one who by state law requires state licensure regulating such profession or occupation. The term "practitioner of professions and occupations" shall not include a practitioner who is an employee of a business, if the business pays an occupation tax.

Regulatory fees means payments, whether designated as license fees, permit fees, or by another name, which are required by a 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. Development impact fees as defined by O.C.G.A. § 36-7-1-2(8) or other costs or conditions of zoning or land development are not regulatory fees.

Retailer means a person who sells to the consumer or any other person for any purpose other than for resale anything in the form of tangible personal property.

Traveling salesman means all traveling salesmen entitled to exemption under the provisions of Georgia Code Annotated, section 91A-1504 (O.C.G.A. § 48-5-354), as amended.

Wholesaler means a person who sells to jobbers or to persons other than consumers anything in the form of tangible personal property.
(Code 1976, § 19-17; Ord. No. 1980-012, § 2, 3-11-1980; Ord. No. 001-1995, § 2, 4-11-1995; Ord. No. 006-1995, § 1, 12-12-1995)

Sec. 19-23. Fixing, levying, and collection to be in addition to other taxes.

The fixing, levying and collecting of occupation and business taxes as provided in this article shall not prohibit the city from fixing, levying and collecting other taxes and assessments which it is authorized so to do by law or its Charter.
(Code 1976, § 19-16; Ord. No. 1980-012, § 11, 3-11-1980)

Sec. 19-24. Levy and scope.

There is hereby set and levied, upon each person, partnership, or corporation carrying on a business, profession or occupation within the corporate limits of this municipality an annual occupation tax, such tax to be determined in accordance with the provisions of this article.
(Code 1976, § 19-18; Ord. No. 1980-012, § 1, 3-11-1980)

Sec. 19-25. Amount of fee or tax due for businesses commencing after July 1.

When any business commences operation on and after July 1 in any tax year, the regulatory fee and the occupation tax for the remaining portion of that year, shall be 50 percent of the tax imposed for the entire year. The city shall collect any administrative fee due as a component of an occupation tax charge, without reduction.
(Ord. No. 001-1995, § 10, 4-11-1995)

Sec. 19-26. Exemptions.

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) Individual farmers who raise, grow, or cultivate edible food from the soil of the state; provided, however, farm, milk, or other farmer cooperatives are not exempted when they engage in selling goods and/or services to the public in competition with persons taxed by virtue of the provisions of this article.

(2) Religious, charitable, and fraternal organizations chartered or operated for nonprofit purposes and which are not engaged in daily selling of goods or services to the public in competition with persons taxed by virtue of the provisions of this article.

(3) Persons traveling in air commerce exempted under the provisions of O.C.G.A. § 48-13-4.

(4) Traveling salesman engaged in taking orders for the sale of goods when no delivery of goods is made at the time of taking the order, as provided in O.C.G.A. § 48-5-354.

(5) Merchant or dealer, the situs of whose business is outside the municipality, who delivers goods to wholesale or retail customers in the municipality either on orders previously taken by his salesmen or on orders previously given directly to him by the wholesale or retail customer as provided in O.C.G.A. § 48-5-354(a)(2).

(6) Employees of any merchant or dealer doing business in the municipality in a manner defined by subsection (5) of this section who are engaged in the delivery of the goods to wholesale or retail customers as provided in O.C.G.A. § 48-5-354(a)(3).

(7) State and national banking associations, federal savings and loan associations and state building and loan associations exempted under the provisions of O.C.G.A. § 48-6-93(f).

(8) Pest control licenses exempted under the provisions of O.C.G.A. § 43-45-15.

(9) Persons or activities exempted from taxation by virtue of the constitution or any statute of the United States or any statute of the state.

(10) Persons who are subjected to an occupation tax by another city or by a county when an agreement of reciprocal tax exemption exists between the city or county imposing the tax to which such person is subjected and the mayor and council of this city.

(11) Any person exempted from the requirement of paying an occupation tax by any general ordinance heretofore or hereafter passed by the mayor and council.

(12) Any person engaging in casual or isolated activity and commercial transactions, where such involve personal assets and are not the principal occupation of the individual.

(13) Those businesses regulated by the state public service commission.

(14) Those electrical service businesses organized under O.C.G.A. title 46, ch. 3 (O.C.G.A. § 46-3-1 et seq.).

(15) Cooperative marketing associations governed by O.C.G.A. § 2-10-1105.

(16) Insurance companies governed by O.C.G.A. § 33-8-8 et seq.

(17) Motor common carriers governed by O.C.G.A. § 46-7-15.

(18) Those business governed by O.C.G.A. § 48-5-355. (Businesses that purchase carload lots of guano, meats, meal, flour, bran, cottonseed, or cottonseed meal and hulls.)

(19) Agricultural products and livestock raised in the state governed by O.C.G.A. § 58-5-356.

(20) Depository financial institutions governed by O.C.G.A. § 48-6-93.

(21) Facilities operated by a charitable trust governed by O.C.G.A. § 48-13-55.

(Code 1976, § 19-19; Ord. No. 1980-012, § 9, 3-11-1980; Ord. No. 1983-008, § 1, 10-11-1983; Ord. No. 001-1995, § 22, 4-11-1995)

Sec. 19-27. Exemption for state and local authorities or nonprofit organizations.

The city shall not levy any occupation tax or administrative fee on any state or local authority nor any nonprofit organization. In this section the term "authority" includes all authorities created under any and all provisions of state law, such authorities being duly registered with the state department of community affairs. In this section the term "nonprofit organization" means any organization which is exempt from federal and state income tax purposes by virtue of a nonprofit status and Internal Revenue Service or similar nonprofit certification. Evidence of this certification shall be furnished, upon request, to the city. (Ord. No. 001-1995, § 9, 4-11-1995; Ord. No. 006-1995, § 2, 12-12-1995)

Sec. 19-28. Separate business locations to be taxed separately.

For the purposes of this article, if a business is conducted at more than one location or place within the city limits, each such location or place shall be considered a separate business upon which a separate occupation tax shall be levied and paid.

(Code 1976, § 19-20; Ord. No. 1980-012, § 7, 3-11-1980)

Sec. 19-29. Taxes levied upon businesses, practitioners and occupations with one or more locations or offices; restrictions.

(a) *Offices within the city*. An occupation tax shall be levied upon those businesses, practitioners and occupations with one or more locations or offices in the corporate limits of the city or 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, trade, profession, or occupation. The owner of a business shall be counted as an employee.

(b) *Tax based on number of employees, schedule*. There is hereby set and levied upon each person, partnership, or corporation having a business location within the corporate limits of the city and engaged in or carrying on a business or occupation within said corporate limits an occupation tax based upon the number of persons employed by said person, partnership, or corporation, in accordance with the schedule established by the city council.

(c) *Computation of number of taxable employees*. For the purpose of determining the tax herein levied, the number of taxable employees shall be deemed to be the total number of persons employed during the second and third quarters (April 1 to September 30, inclusive) of the calendar year, except that the total number shall be adjusted to reflect employee turnover, part-time employment and overtime, so that the number upon which the tax shall be based will be the "equivalent number of full-time employees" for the two quarters. The owner of the business, his spouse or any relative, whether receiving direct compensation or not, shall be considered to be an employee of the business to the extent of the amount of time spent working with the business during the second and third quarters of the calendar year. Further, in determining the total number of employees, where part-time employment is to be considered, after combining fractional portions of employment, any remaining portion of one-half or more is to be considered one employee, while any part less than one-half is to be omitted.

(d) *Businesses with more than one location or with location outside city jurisdiction.*

(1) In the event said business has more than one location, each separate location shall be subject to the tax pursuant to section 19-21.

(2) No occupation tax shall be required from those real estate brokers, real estate agents, or real estate companies whose offices are located outside the jurisdiction of the city and who sell property inside the jurisdiction.

(e) *Standard deduction; minimum tax*. Notwithstanding any other provision of this section, each business shall be entitled to a standard deduction of one employee against its total number of employees; provided, however, that every business shall pay a minimum occupation tax in the amount established by the city council.

(f) *Maximum tax for certain occupations*. Notwithstanding any other provisions of this section to the contrary, the occupational tax herein levied shall not exceed the sum of the amount established by the city council per year upon practitioners of law, medicine, osteopathy, chiropractic, podiatry, dentistry, optometry, applied psychology, landscape architecture, land surveying, masseur, public accounting, embalming, funeral directors, civil, mechanical, hydraulic, or electrical engineering, or architecture, all as provided under the provisions of Georgia Code Annotated, section 91A-6004(a) (O.C.G.A. § 48-5-354(a)(1)).
(Code 1976, § 19-21; Ord. No. 1980-012, §§ 3(a), (b), 9(h), 3-11-1980; Ord. No. 001-1995, § 4, 4-11-1995)

Sec. 19-30. Payment of occupation tax by newly established businesses.

In the case of a business subject to the 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 the occupation tax shall estimate the number of employees from commencing date to the end of the calendar year and such tax shall be paid.
(Ord. No. 001-1995, § 12, 4-11-1995)

Sec. 19-31. Occupation tax due from professionals as classified in O.C.G.A. § 48-13-9(c)(1)—(18).

Practitioners of professions as described in O.C.G.A. § 48-13-9(c)(1)—(18) shall elect as their entire occupation tax one of the following:

(1) The occupation tax based on number of employees as set forth in section 19-29.

(2) A fee per practitioner who is licensed to provide the service in the amount established by the city council. 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 who 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 by October 1 for the following year taxation.
(Ord. No. 001-1995, § 6, 4-11-1995)

Sec. 19-32. Paying occupation tax of business with no location in this state.

Registration and assessment of an occupation tax is hereby imposed on those businesses and practitioners of professions with no location or office in this 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.
(Ord. No. 001-1995, § 5, 4-11-1995)

Sec. 19-33. Administrative and regulatory fee structure; occupations tax structure.

(a) A nonrebated, nonrefundable administrative fee in the amount established by the city council shall be required on all business and occupation tax accounts for the initial startup, renewal or reopening of those accounts.

(b) A regulatory fee in the amount established by the city council shall be imposed, as authorized by state law on all applicable businesses. A regulatory fee shall not include an administrative fee.

(Ord. No. 001-1995, § 3, 4-11-1995)

Sec. 19-34. Due date, payment of taxes, etc.

(a) Any registration, occupation tax, administrative or regulatory fee shall be payable January 1 of each year. Any such tax, fee or charge imposed by this section and not paid by February 1 of each year, shall be subject to a late payment assessment and charge of 1½ percent per month. In the event any such tax, fees or charges are not paid by April 1 of each year, there shall be assessed an additional penalty for delinquency in the amount of ten percent of the amount due. The penalty shall be assessed on the original amount due, exclusive of interest.

(b) The tax registration herein provided for shall be issued by the city. 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 this city, any kind of profession, trade, business or calling subject to this article without having first obtained registration; such offender shall, upon conviction by the municipal court of the city, be punished by a fine not to exceed $1,000.00 or imprisonment not to exceed 90 days, either or both in the discretion of the municipal court. Each day of a violation of this article shall be considered a separate offense.

(Code 1976, § 19-22; Ord. No. 1980-012, §§ 4, 13(b), 3-11-1980; Ord. No. 001-1995, § 8, 4-11-1995)

Sec. 19-35. City clerk to administer and enforce.

(a) The city clerk shall be responsible for the administration and enforcement of this article and shall have the power to make and publish reasonable rules and regulations not inconsistent with this article, or other laws of the city or the state, or with the constitution of the state or of the United States, to effectuate the provisions of this article and provide for the collection of the tax herein levied.

(b) In carrying out his responsibilities hereunder, the city clerk shall have the following duties:

(1) To prepare and provide the necessary forms for the registration of a business;

(2) To audit periodically the books and records of businesses subject to the provisions of this article, and to require the submission of such additional information as may be necessary to determine correctly the amount of the occupation tax due and to ensure the collection of same.

(Code 1976, § 19-23; Ord. No. 1980-012, § 10, 3-11-1980)

Sec. 19-36. Confidentiality and use of information acquired by city clerk.

Any and all information furnished or secured under the authority of this article shall be kept in strict confidence by the city clerk, shall not be subject to public inspection, and shall be utilized solely by the officers of the city responsible for administering the provisions of this article.

(Code 1976, § 19-24; Ord. No. 1980-012, § 6, 3-11-1980)

Sec. 19-37. Registration of business or occupation—Generally.

(a) *Required; verification; information to be provided*. The owner, proprietor, manager, executive officer, or legal representative of every business or occupation within this municipality upon which a tax is levied by this article shall register said business or occupation on or before November 15 of each calendar year, except for new businesses which commence operations within the city for the first time, in which case the date of registration shall be on or before the date of commencing operations. Such registration shall

be signed and sworn to by the appropriate person set forth above and shall include the following information:

(1) Name, address, and business classification of the concern for the preceding and current years;

(2) Number of actual employees of the business for the second and third quarters of the preceding year, or, in the case of a new business, the number of estimated employees for the second and third quarters of the current year;

(3) Average total hours considered to be a full workweek by the business;

(4) Total hours worked by all employees of the business during the second and third quarters (April 1 to September 30, inclusive) of the preceding calendar year, or, in the case of a new business, the estimated total number of hours to be worked by all employees of the business during the second and third quarters of the current year;

(5) The business's state sales tax number and federal ID number; and

(6) Such other information as may be required by the city clerk for the purpose of determining the amount of the occupation tax and administering its collection.

(b) *Failure to register*. Any person upon whom a tax is levied by this article who fails to register his business or occupation on or before the date required for such registration shall be subject to a fine not to exceed $300.00. A separate violation shall be deemed committed each day during or upon which the failure to register continues.
(Code 1976, § 19-25; Ord. No. 1980-012, §§ 3(c), 12, 3-11-1980)

Sec. 19-38. Same—When registration and tax due; effect of transacting business without registration and/or 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 February 1 of each year. Every person commencing business in the city after January 1 of each year shall obtain the registration and license fees required before commencing business. Any person transacting or offering to transact in the city any business, trade, profession, or occupation without first having obtained said registration shall be subject to the penalties provided in section 1-7 of this Code. Said penalties shall be in addition to all other penalties, civil and criminal herein provided. These penalties 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, or staff person of the city. 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 business, trade, profession, or occupation without having first obtained said registration, such offender shall be subject to the penalties provided in subsection (a) of this section.
(Ord. No. 001-1995, § 10, 4-11-1995)

Sec. 19-39. Same—Change of address.

Any person herein required to register his business or occupation shall notify the city clerk in writing of any change of address of such business.
(Code 1976, § 19-26; Ord. No. 1980-012, § 8, 3-11-1980)

Sec. 19-40. Inspection of records.

(a) All persons subject to taxation under the provisions of this article shall, upon request, furnish the city clerk or his authorized representative during regular business hours at the taxpayer's place of business all personnel records or other information from which the correct amount of the occupation tax to which he is subject may be determined, including specifically, but without limitation, quarterly employer return 941.

(b) Any person, firm or corporation subject to the occupation tax established by this article shall produce any and all documents, business information or other appropriate business records as might be necessary and required by the city, subject to the confidentiality provisions of O.C.G.A. § 48-13-15, for inspection by the city. Any person failing or refusing to produce said pertinent information or who participates in a false or fraudulent representation hereunder, shall be subject to all civil and criminal penalties provided in this article.
(Code 1976, § 19-27; Ord. No. 1980-012, § 5, 3-11-1980; Ord. No. 001-1995, § 23, 4-11-1995)

Sec. 19-41. Lien taken for delinquent occupation tax.

In addition to the other remedies herein provided for the collection of the occupation tax herein levied, the city clerk, upon any tax 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 execution shall bear interest at the rate of 12 percent per annum from the date when such tax or installment becomes delinquent, and the lien shall cover the property in the city of the person, partnership, or corporation liable for said tax. 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 marshal or other appropriate officer of said city upon the property of the defendant located in said jurisdiction, and sufficient property shall be advertised and sold to pay the amount of said execution, with interest and costs. All other proceedings in relation thereto shall be accomplished by the Code of the city and the laws of the state. 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 nulla bona entry has been entered by proper authority upon an execution issued by the city clerk against any person defaulting on the occupation tax, the person against whom 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 nulla bona. If, at any time after the entry of nulla 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.
(Ord. No. 001-1995, § 13, 4-11-1995)

Sec. 19-42. Amend, repeal of provision.

This article shall be subject to amendment or repeal, in whole or in part, at any time, and no such amendment or repeal shall be construed to deny the right of the city to assess and collect any of the taxes or other charges prescribed. Said amendment may increase or lower the amounts and tax rates of any occupation and may change the classification thereof. The payment of any occupation tax provided for shall not be construed as prohibiting the levy or collection by the city of additional occupation taxes upon the same person, property, or business.
(Ord. No. 001-1995, § 14, 4-11-1995)

Sec. 19-43. Requirement of public hearing before tax increase.

The mayor and council shall, if required by law, conduct at least one public hearing before adopting any ordinance or resolution which will increase the rate of occupation tax as set forth in this article and pursuant to O.C.G.A. § 48-13-6(c).
(Ord. No. 001-1995, § 17, 4-11-1995)

Sec. 19-44. Option to establish exemption or reduction in occupation tax.

The city may by subsequent ordinance or resolution provide for an exemption or reduction in occupation tax to one or more types of businesses, practitioners of occupations, or professions as part of a plan for economic development, or attracting or encouraging newly created types of businesses, or practitioners or selected reductions in occupation tax shall not be arbitrary or capricious, and the reasons shall be only for newly created businesses as set forth in the minutes of the governing authority.
(Ord. No. 001-1995, § 18, 4-11-1995)

Secs. 19-45—19-70. Reserved.

ARTICLE III. INSURANCE COMPANIES' GROSS PREMIUM TAX

Sec. 19-71. Levy and scope.

(a) *Gross premiums tax imposed on life insurers.* There is hereby an annual tax based solely upon gross direct premiums upon each insurer writing life, accident and sickness insurance within the city in an amount equal to one percent of the gross direct premiums received during the calendar year in accordance with O.C.G.A. § 33-8-8.1. The term "gross direct premiums" as used in this subsection shall mean gross direct premiums as used in O.C.G.A. § 33-8-4. The premium tax levied by this subsection is in addition to the license fees imposed by section 11-68.

(b) *Gross premiums tax imposed on all other insurers.* There is hereby leviedan annual tax upon each insurer, other than an insurer transacting business in the class of insurance designated in O.C.G.A. § 33-3-5(1), doing business within the city in an amount equal to 2½ percent of the gross direct premiums received during the calendar year, in accordance with O.C.G.A. § 33-8-8.2. The term "gross direct premiums" as used in this subsection shall mean gross direct premiums as used in O.C.G.A. § 33-8-8.2(a).
(Code 1976, § 19-42; Ord. No. 1980-018, §§ 1, 2, 5-20-1980; Ord. No. 1983-007, §§ 4, 5, 10-11-1983)

Sec. 19-72. When due and payable; interest penalty for delinquency.

(a) The taxes levied by subsections 19-71(a), (b) are due and payable on January 1 of each year.

(b) Any tax herein imposed that is not paid on or before March 1, for each respective year, shall be considered delinquent and shall, from said date, bear interest at the rate of nine percent per annum.
(Code 1976, § 19-43; Ord. No. 1980-018, §§ 3(a), 5(b), 5-20-1980; Ord. No. 1983-007, § 8, 10-11-1983)

Sec. 19-73. Registration.

(a) Any person upon whom a tax is levied by this article shall register his business or occupation with the city clerk on or before November 15 of the year in which the tax is due and payable.

(b) Any person upon whom a tax is levied by this article who fails to register as provided in subsection (a) of this section shall be subject to a fine of $300.00. A separate violation shall be deemed committed each day during or upon which the failure to register continues.
(Code 1976, § 19-44; Ord. No. 1980-018, § 4, 5-20-1980; Ord. No. 1980-025, § 1, 8-28-1980)

Sec. 19-74. Reports.

(a) *Required; contents; verification; filing*. Every insurance company doing business within the city and subject to the taxes herein imposed shall file with the city clerk, on forms prescribed by him, a report showing the names and addresses of its agents representing such company in the city; the location and person in charge of each and every business location within the city operated and maintained by such company; the classes of insurance written; and such other reasonable information as may be required, and, in addition, shall furnish complete information regarding the premiums received, by class, from policies written on risks residing or located within the city. Such report shall be made over affidavit of an officer of such company. Said report shall be filed at the time of paying the license fee and premium tax.

(b) *Confidentiality; use of information*. All reports required to be filed under this article shall be confidential, and the information contained therein shall be solely for the use of the officers of the city responsible for administering this article.

(c) *False statements*. It is hereby declared to be a violation of this article for any person, firm or corporation, or their agents, to knowingly give false or incomplete information on any report required to be filed under this section.
(Code 1976, § 19-45; Ord. No. 1980-018, § 3(b), 5-20-1980)

Sec. 19-75. Enforcement of unpaid taxes.

The taxes levied hereinabove in this article may be enforced by execution in the same manner as other taxes of the city.
(Code 1976, § 19-46; Ord. No. 1980-018, § 5(a), 5-20-1980)

Secs. 19-76—19-100. Reserved.

ARTICLE IV. FINANCIAL INSTITUTIONS BUSINESS LICENSE TAX

Sec. 19-101. Tax levied; amount.

Pursuant to O.C.G.A. § 48-6-93 there is hereby levied upon state and national banking associations, federal savings and loan associations and state building and loan associations an annual business license tax in the amount of 0.25 percent on the gross receipts of the institution. The term "gross receipts" shall mean gross receipts as defined in O.C.G.A. § 48-6-93. Notwithstanding any other provisions of this article, the minimum amount of business license tax due from any depository financial institution pursuant to this article shall be $1,000.00 per year.

Sec. 19-102. Due date; filing of return.

Each depository financial institution within the city shall file a return of its gross receipts with the city on March 1 of the year following the year in which such gross receipts were measured. The returns shall be in the manner and in the form prescribed by the commissioner of the department of banking and shall be based upon the allocation method set forth in O.C.G.A. § 48-6-93(d). The tax levied pursuant to this article shall be assessed and collected based upon the information provided in the return. The due date of taxes levied by this article shall be April 1 of each year.

Secs. 19-103—19-120. Reserved.

ARTICLE V. EXCISE TAX ON HOTEL-MOTEL ROOMS, LODGINGS AND ACCOMMODATIONS*

Sec. 19-121. 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:

Clerk means the clerk of the city council.

Due date means the 20th day after the end of the quarterly period for which tax is to be computed.

Guestroom means a room occupied, or intended, arranged, or designed for occupancy, by one or more occupants in a motel for the temporary purpose of living quarters or residential use.

Motel means any structure or any portion of a structure, including any motel, lodginghouse, roominghouse, dormitory, hotel, motor hotel, auto court, inn, bed and breakfast inn, public club, or private club, containing guestrooms and which is occupied, or is intended or designed for occupancy by guests, whether rent is paid in money, goods, labor, or otherwise. Such term does not include any jail, hospital, asylum, sanitarium, orphanage, prison, detention center, or other building in which human beings are housed and detained either involuntarily or under legal restraint.

Occupancy means the use or possession of the furnishings or the services and accommodations accompanying the use and possession of the room.

Occupant or *guest* means any person who, for a consideration, uses, possesses, or has the right to use or possess any room in a motel under any lease, concession, permit, right of access, license to use, or other agreement, or otherwise.

Operator means any person operating a motel in the city, including, but not limited to, the owner or proprietor of such premises, the lessee, sublessee, lender in possession, licensee, or any other person otherwise operating such motel.

***State law reference—**Local hotel taxes, O.C.G.A. § 48-13-50 et seq.

Person means an individual, firm, partnership, joint venture, 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, excepting the United States of America, the state, and any of their political subdivisions upon which the city is without power to impose the tax herein provided.

Quarterly period means a period of three calendar months.

Rent means the consideration received for occupancy, valued in money, whether received in money or otherwise, including all receipts, cash, credits, and property or service of any kind or nature, and also the amount for which credit is allowed by the operator to the occupant, without any deduction therefrom whatsoever.

Return means any return filed or required to be filed as herein provided.

Tax means the tax imposed by this chapter.
(Ord. No. 005-1999, § 2(19-61), 9-14-1999)

Sec. 19-122. Imposition and rate of tax.

(a) There is hereby levied and imposed, and there shall be paid to the city clerk a tax of three percent of the rent for every occupancy of a guestroom in a motel in the city.

(b) Where rent is paid, or charged or billed, or falls due on either a weekly, monthly or other term basis, the rent so paid, charged, billed or falling due shall be subject to the tax herein imposed to the extent that it covers any portion of a monthly period.

(c) No tax shall be levied as provided in this section upon the fees or charges of any rooms, lodgings, or accommodations furnished for a period of more than ten consecutive days or for use as meeting rooms only and not as guestrooms for lodging purposes.
(Ord. No. 005-1999, § 2(19-62), 9-14-1999)

Sec. 19-123. Collection of tax by operator.

It shall be the duty of every operator of a motel located within the city to collect from the occupants the tax levied and imposed upon the occupancy of guestrooms by the provisions of this chapter.
(Ord. No. 005-1999, § 2(19-63), 9-14-1999)

Sec. 19-124. Exemptions.

Notwithstanding any other provisions of this chapter, no tax shall be levied as provided by this chapter upon the fees or charges of any room, lodgings, or accommodations:

(1) Furnished for use by state or local government officials or employees when traveling on official business; or

(2) Furnished to any persons who certify that they are staying at such location as the result of the destruction of or significant damage to their home or residence by fire, storm, or other casualty.

(Ord. No. 005-1999, § 2(19-64), 9-14-1999)

Sec. 19-125. Registration of operator.

(a) Every person engaging or about to engage in business as an operator of a motel in this city shall immediately register with the city clerk on a form provided by said city clerk. Persons engaged in such business must so register not later than 15 days after the date this chapter becomes effective, but such privilege of registration after the imposition of such tax shall not relieve any person from the obligation of payment or collection of the tax on and after the date of imposition of payment or collection of the tax on and after the date of imposition thereof. Such registration shall set forth the name under which such person transacts business or intends to transact business, the location of this place of business and such 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; by a member or partner in case of ownership by an association or partnership; and by an executive officer in the case of ownership by a corporation.

(b) A separate registration shall be required for each place of business of an operator, if he maintains or operates more than one such place of business in the city.

(c) In order to facilitate registration, the city clerk may prescribe administrative provisions other than those provided in this section. Such provisions shall be made to effect the purposes of this article, and, once adopted, shall be specifically incorporated herein and made a part hereof by reference.
(Ord. No. 005-1999, § 2(19-65), 9-14-1999)

Sec. 19-126. Certificate of taxing authority.

Upon the consideration of an operator as hereinbefore provided, the city clerk shall issue to such operator without charge a certificate of authority to collect the tax from the occupants, stating the name and location of the business to which it is applicable. Such certificates shall be nonassignable and nontransferable, and shall be returned immediately to the secretary upon the cessation of business by the registered operator at the location named, or upon sale or transfer of such business at said location.
(Ord. No. 005-1999, § 2(19-66), 9-14-1999)

Sec. 19-127. Due date of taxes.

All taxes levied and imposed by this chapter shall be due and payable to the city on a quarterly basis, on or before the 20th day of the month next succeeding each respective quarterly period in which such taxes are collected.
(Ord. No. 005-1999, § 2(19-67), 9-14-1999)

Sec. 19-128. Returns and time of filing; remittance of tax.

(a) On or before the 20th day of the month following each quarterly period, a return for the preceding monthly period shall be filed with the city clerk in such form as the city clerk may prescribe, by every operator liable for the payment of taxes hereunder.

(b) All returns shall show the gross rent, exempt rent, taxable rent, amount of tax collected or otherwise due for the quarterly period for which filed, and such other information as may be required by the city clerk, and shall be accompanied when filed by remittance of the net amount of tax due.
(Ord. No. 005-1999, § 2(19-68), 9-14-1999)

Sec. 19-129. Collection fee allowed operator.

Operators collecting the tax levied hereunder 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 said amount is not delinquent at the time of payment. The rate of the deduction shall be the same rate authorized for deductions from state sales and use tax under O.C.G.A. § 48-8-50, as now or hereafter amended.
(Ord. No. 005-1999, § 2(19-69), 9-14-1999)

Sec. 19-130. Deficiency determinations.

(a) *Recomputation of tax; authority to make; basis of recomputation.* If the city clerk is not satisfied with the returns of the tax or the amount of the tax required to be paid to the city by any operator, he may compute and determine the amount required to be paid upon the basis of any information which is or may come into his possession. One or more than one deficiency determination may be made of the amount due for one, or more than one, quarterly period.

(b) *Interest on deficiency.* The amount of the unpaid tax found to be due shall bear interest at the rate of three-fourths of one percent per month from and after the 20th day of the month following the quarterly period for which the amount should have been returned until the date of payment of such tax and interest.

(c) *Offsetting of overpayments.* In making a determination of deficiency, the city clerk may offset overpayments for a period against unpaid tax found to be due for another period against penalties, and against the interest on such unpaid tax.

(d) *Notice of determination; service of.* The city clerk or any other agent of the city shall give to the operator written notice of any determination of deficiency. The notice may be served personally

or by mail, or both. If by mail, such service shall be addressed to the operator at his address as it appears in the records of the city clerk.

(e) *Time within which notice of deficiency determination to be mailed.* Except in the case of a failure to make a return, every notice of a deficiency determination shall be mailed within one year after the 20th day of the calendar month following the quarterly period for which the amount is proposed to be determined, or within one year after the return is filed, whichever period shall last expire.
(Ord. No. 005-1999, § 2(19-70), 9-14-1999)

Sec. 19-131. Determination if no return made.

(a) *Estimate of gross receipt.* If any operator fails to make a return, the city clerk shall make an estimate of the amount of the gross receipts of the operator 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 during 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. Upon the basis of this estimate, the city clerk shall compute and determine the amount required to be paid the city, adding to the sum thus determined a penalty equal to 15 percent thereof. One or more determination may be made of the amount due for one or more than one quarterly period.

(b) *Offsetting of overpayments.* In making a determination under this section, the city clerk may offset overpayments for a period against unpaid taxes found to be due for another period against penalties, and against interest on the unpaid taxes found to be due.

(c) *Interest on amount found due.* The amount of the unpaid tax found to be due shall bear interest at the rate of three-fourths of one percent per month from and after the 20th day of the month following the quarterly period for which the amount should have been returned until the date of payment of such tax, penalties, and interest.

(d) *Notice of determination, service of.* Promptly after making his determination, service of this notice shall be either by personal service or by mail, at the operator's address as it appears in the records of the city clerk.
(Ord. No. 005-1999, § 2(19-71), 9-14-1999)

Sec. 19-132. Collection of tax and enforcement.

(a) *Action for tax; time for.* When it is determined by a return filed, or by the city clerk having made a determination under the provisions of section 19-131, that tax is due and payable to the city under the provisions of this article, the city manager may at any time within three years after determination that such tax is due and payable bring an action in the court of this state, or any other state, or of the United States in the name of the city to collect the amount of tax payable to the city together with interest thereon and penalties, court costs, attorney's fees, and other legal fees incidental thereto. The bringing of such an action shall not be a prerequisite for the issuance of a fi. fa. under the provisions of subsection (d) of this section.

(b) *Duty of successors of assignees of operator to withhold tax from purchase money.* If any operator liable for any amount of tax under this article sells or transfers his business, his successors or assigns shall withhold a sufficient amount from the purchase price of the business to cover such amount of tax, interest thereon, and penalties, and pay such sum over to the city, unless the operator liable for such tax delivers to such purchaser or transferee, as the case may be, at the time of such sale or transfer, a certificate from the city clerk showing that all tax returns required of such operator have been filed and all taxes shown to be due and payable on said returns have been paid in full.

(c) *Liability for failure to withhold; time to enforce successor's liability.* If the purchaser or transferee of a business governed by this chapter fails to withhold the required amount of any delinquent taxes due hereunder from the purchase price, he shall be personally liable for the payment of the amount required to be withheld by him to the extent of the purchase price, valued in

money. The time within which the obligation of a successor may be enforced shall start to run at the time the determination against the operator becomes final, whichever event occurs later. In addition, the city may refuse to issue a certificate of authority to collect the tax due under this article to any purchaser failing to withhold any past due taxes from the purchase price until such taxes have been paid and any deficiency or other tax liability of the prior operator hereunder has been satisfied.

(d) *Issuance of fi. fa.* Taxes payable on rental fees for guestrooms hereunder shall constitute a lien against the real property on which the hotel or motel is located. The city clerk is hereby authorized to issue a fi. fa. for execution and levy to satisfy the amount of any tax, penalty or interest due but not paid under the provisions of this chapter, whether as a result of a deficiency determination, failure to file returns, or any other reason.
(Ord. No. 005-1999, § 2(19-72), 9-14-1999)

Sec. 19-133. Administration of chapter.

(a) *Authority of the city clerk.* The city clerk, under supervision of the city manager, shall administer and enforce the provisions of this chapter for the levy and collection of the tax imposed by this chapter.

(b) *Rules and regulations.* The city clerk shall have the power and authority to make and publish reasonable rules and regulation not inconsistent with this chapter or other ordinances of the city, or the laws of the state; or the constitution of this state or the United States, for the administration and enforcement of the provisions of this chapter and the collection of the taxes hereunder.

(c) *Examination of records; audits.* The city clerk or any person authorized in writing by the city, may enter on the hotel/motel premises and examine the books, papers, records, financial reports, equipment, and other facilities of any operator 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 of tax required to be paid.

(d) *Authority to require reports; contents.* In administration of the provisions of this chapter, the city clerk may require the filing of the reports by any person or class of persons having in their possession or custody information relating to rentals of guestrooms which are subject to the tax. The reports shall be filed with the city clerk when required by the city clerk and shall set forth the rental charged for each occupancy, the date of occupancy, and such other information as the city clerk may require.

(e) *Limitation on disclosure of business of operators, etc.* The city clerk or any person having an administrative duty under this article shall not make known in any manner the business affairs, operations, or information obtained by an audit of books, papers, records, financial reports, equipment and other facilities of any operator or any other person visited or examined in the discharge of his official duty, or the amount or source of income, profits, losses, expenditures, or any particular thereof, set forth or disclosed in any return, or permit any return or copy thereof to be seen or examined by any person not having such administrative duty under this article, except in the case of judicial proceedings or other proceedings necessary to collect the taxes hereby levied and assessed, or as required by the state Open Records Act, O.C.G.A. § 50-18-70 et seq., or any other laws of this state or the United States. Successors, receivers, trustees, executors, administrators, assignees, and grantors, if directly interested, may be given information as to the items included in the measure and the amount of unpaid tax or amounts of tax, interest and penalties required to be collected. If the city or its agents are required to disclose any such information described in this subsection pursuant to a court order or the Open Records Act or any similar such legal compulsion, the city shall not be liable to any operator or other person for damages claimed to have arisen due to such disclosure.
(Ord. No. 005-1999, § 2(19-73), 9-14-1999)

Sec. 19-134. Agents for receiving notices.

When registering pursuant to section 19-125, each operator shall appoint, in writing, an agent to receive any notice required to be given to the operator under the provisions of this article, stat-

ing the full name, street address, mailing address and telephone number of such agent. Such agent shall be either an individual resident of the city or an employee of the operator who regularly works at the operators' place of business on a daily basis, and the appointment of the agent must be accompanied by the written consent of such agent to serve as agent for the operator. Such agent may be changed from time to time by written appointment of, and consent of a successor agent, and the operator may serve as that agent. The operator is required to have such an agent at all times and should any agent cease to be a resident of the city or an employee regularly working at the operator's place of business in the city, as the case may be, the operator shall immediately file a written appointment of a new agent and such agent's consent to serve as such with the city clerk. Any agent so appointed by an operator shall be authorized to receive for and on behalf of the operator any notice required to be given to the operator by the provisions of this article. Delivery of any such notice to such agent, in person or by mail, shall be sufficient to meet the requirements of this article and such notice shall be binding on the operator. This method of giving notice to operators is supplemental and cumulative of the other methods of giving notice set forth in this chapter.
(Ord. No. 005-1999, § 2(19-74), 9-14-1999)

Sec. 19-135. Violation; fines and punishment.

(a) Any person violating any of the provisions of this article shall be deemed guilty of an offense and upon conviction thereof shall be punished as provided in section 1-7 of this Code. Each person shall be guilty of a separate offense for each and every day or portion thereof during which any violation of any provision of this article is committed, continued, or permitted by such person, and shall be punished accordingly.

(b) It shall be unlawful and a violation of this section for any operator or other person to fail to register as required herein, or to furnish any return required to be made, or to fail or refused to furnish a supplemental return or other data required by the city clerk, or to render a false or fraudulent return. It shall also be unlawful and a violation of this section for any person who is required to make, render, sign, or verify any report to make any false or fraudulent report, with intent to defeat or evade the determination of an amount due required by this chapter to be made. Anyone who violates the provisions of this article shall be deemed guilty of an offense and upon conviction thereof shall be punished as aforesaid.
(Ord. No. 005-1999, § 2(19-75), 9-14-1999)

Secs. 19-136—19-150. Reserved.

ARTICLE VI. AD VALOREM TAXATION*

Sec. 19-151. Property tax.

All owners of real or personal property within the corporate limits of the city shall make returns of their property to the tax commissioner of the county or other designated authority in the method required by state law to identify all property, real and personal, located within the city subject to taxation. All properties are subject to taxation by the city on January 1, after the property is acquired, improved or changed so as to affect taxation of such property in the city.

Sec. 19-152. Homestead exemption.

For each taxable year, the city does hereby grant to each person who is 65 years of age or over an exemption from all ad valorem taxes levied by the city in an amount of $12,000.00 on the homestead owned and occupied as a residence on January 1. There shall be no more than one such exemption per homestead. The value of the homestead in excess of the exempted amount shall remain subject to ad valorem taxation by the city. No resident shall be qualified to receive the benefits of such homestead exemption unless an affidavit is filed with the county tax authority, giving the resident's age and any additional information as may be required to enable a proper determination to be made as to whether such owner is entitled to the exemption. After approval of homestead exemption it shall not be necessary to annually apply for the exemption. It shall be the duty of the owner to notify the proper taxing

*__State law references__—Ad valorem taxation of property, O.C.G.A. § 48-5-1 et seq.; municipal ad valorem taxation, O.C.G.A. § 48-5-350 et seq.

authority if the residence becomes ineligible for exemption because of transfer of title, death or failure to reside in the residence. The exemption application must be filed between January 2 and March 31 of each year, as required. Failure to timely file will result in no exemption being allowed for that taxable year.

Sec. 19-153. Tax millage established; billing.

(a) Following receipt of the state approved tax digest, evaluations submitted in accordance with the state law from the county, with adjustments unique to the city for matters such as franchises, Freeport, city homestead exemptions and public acquired properties after the assessment date, the city council shall set a tax millage for taxation of all taxable properties within the city as deemed to be in the best interest of the citizens to provide services, provide for payment of public debt, and all other revenue purposes and needs of the city as authorized by the Charter and state law.

(b) The city clerk shall promptly prepare, or have prepared, final tax bills on all properties contained in the tax digest with the due date for the payment of taxes stated therein.

Sec. 19-154. Due dates and penalties.

All taxes levied pursuant to the Charter and this article shall be due and payable upon receipt of the tax bill; provided, however, that the amount billed shall be past due and delinquent as provided in the bill. Interest shall be charged at the maximum allowed by state law on tax delinquencies on all past due tax assessments. In addition, a penalty of ten percent of the amount of the tax due and not paid upon the due date, together with interest, shall be assessed. Nothing contained in this section shall prohibit the city from authorizing special billing in accordance with state law when a timely tax digest is not submitted by the county.

Sec. 19-155. Delinquent tax executions; liens; related matters.

(a) As soon as practicable after the last due date for the payment of taxes, the city clerk, or other official of the city, is authorized and directed to issue executions for the principal amount of all taxes due, and any interest and penalty up to the date of issuance of execution. All executions shall bear teste in the name of the mayor or other authority. Such execution shall be directed to the chief of police, or other law enforcement officer within the city, and shall contain information as to the type of tax execution, the amount owed and such other pertinent information as may be appropriate to ultimately levy, should this become necessary, upon the property, either real or personal, for collection of taxes. All tax executions which are levied against property shall be advertised and sold pursuant to the provisions of the Charter and Code of the city, and all governing provisions of state law.

(b) All charges authorized by state law in connection with the execution and levying of taxes shall be made by appropriate officials of the city, and included in each execution and assessment for delinquent taxes within the city. Each execution issued under this section shall be a general lien against the person against whom the levy and execution is made. Further, this execution shall constitute a special lien against the property, returned or assessed for taxation for which the writ of execution was issued.

(c) All executions issued under this section shall be entered upon the appropriate dockets of the county to give notice of the levying and fi. fa. of such execution. The cost of entry shall be added to such execution, and collected with all other principal, interest, penalties and other costs as may be authorized and collectable by law.

Sec. 19-156. Erroneous assessment; uncollectible personal property.

(a) Any property which is assessed in error may be corrected through the appropriate tax assessment officials of the county by application of any party who receives notice of taxes due, levied and/or executed in error within the corporate limits of the city. For purposes of this section, the term "error" does not mean that the owner thereof desires to contest the amount of taxes owed, but only refers to clerical errors in billing, incorrect property, incorrect ownership, or other technical irregularities in the tax digest.

(b) Any personal property assessments and taxes within the city which are deemed uncollectible after diligent attempts have been made to collect same by the city clerk may be brought to the attention of the city council, at a regular meeting thereof. Explanation concerning the reason that personal property assessments cannot be collected shall be given, and all taxes which are uncollectible may be removed from the tax digest, or other appropriate records of the city. This removal shall only be accomplished pursuant to the approval of the city council.

Sec. 19-157. Sale of property for delinquent taxes, assessments or other monies owed the city.

The police chief, after approval of the city clerk, or any other taxing authority of the city, shall have the authority to sell property, pursuant to this article, the Charter of the city and all state laws applicable to such sale, for delinquent taxes, assessments, license fees or other revenue assessments of the city. Notice of sale, method of advertisement of sale and all other matters concerning such sale shall be governed by the provisions of state law, which generally regulate sales upon tax executions.

Secs. 19-158—19-170. Reserved.

ARTICLE VII. BLIGHTED PROPERTY

Sec. 19-171. Short title.

This article shall be known as the "Rockmart Blighted Property Ordinance."
(Ord. No. 2015O-02, § 1, 6-9-2015)

Sec. 19-172. Purpose.

The existence of real property which is maintained in a blighted condition increases the burden of the state and local government by increasing the need for government services, including but not limited to social services, public safety services, and code enforcement services. Rehabilitation of blighted property decreases this need for such government services.

In furtherance of its objective to eradicate conditions of slum and blight within the city, this council, in exercise of the powers granted to municipal corporations in O.C.G.A. tit. 36, ch. 61, Urban Redevelopment, has designated those areas of the city where conditions of slum and blight are found or are likely to spread.

In recognition of the need for enhanced government services and in order to encourage private property owners to maintain their real property and the buildings, structures and improvements thereon in good condition and repair, and as an incentive to encourage community redevelopment, a community redevelopment tax incentive program is hereby established as authorized by Article IX, Section II, Paragraph VII(d) of the 1983 Constitution of the State of Georgia.
(Ord. No. 2015O-02, § 1, 6-9-2015)

Sec. 19-173. 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:

Blighted property, blighted, or *blight* means any urbanized or developed property which:

(1) Presents two or more of the following conditions:

a. Uninhabitable, unsafe, or abandoned structure;

b. Inadequate provisions for ventilation, light, air, or sanitation;

c. An imminent harm to life or other property caused by fire, flood, hurricane, tornado, earthquake, storm, or other natural catastrophe respecting which the governor has declared a state of emergency under the state law or has certified the need for disaster assistance under federal law; provided, however, this division shall not apply to property unless the relevant public agency has given notice in writing to the property owner regarding specific harm caused by

the property and the owner has failed to take reasonable measures to remedy the harm;

d. A site identified by the federal Environmental Protection Agency as a superfund site pursuant to 42 U.S.C. section 9601 et seq., or having environmental contamination to an extent that requires remedial investigation or a feasibility study;

e. Repeated illegal activity on the individual property of which the property owner knew or should have known; or

f. The maintenance of the property is below state, county, or municipal codes for at least one year after written notice of code violation to its owner; and

(2) Is conducive to ill health, transmission of disease, infant mortality, or crime in the immediate proximity of the property.

Property shall not be deemed blighted solely because of an esthetic condition.

Building inspector means a certified inspector possessing the requisite qualifications to determine minimal code compliance.

Community redevelopment means any activity, project, or service necessary or incidental to achieving the redevelopment or revitalization of a redevelopment area or portion thereof designated for redevelopment through an urban redevelopment plan or through local ordinances relating to the repair, closing, and demolition of buildings and structures unfit for human habitation.

Governing authority means the city council of the City of Rockmart, a Georgia municipal corporation.

Millage or *millage rate* means the levy, in mills, which is established by the governing authority for purposes of financing, in whole or in part, the levying jurisdiction's general fund expenses for the fiscal year.

Persons means such individual(s), partnerships, corporations, business entities and associations which return real property for ad valorem taxation or who are chargeable by law for the taxes on the property.

Public officer means the city manager or such officer or employee of the city as designated by the city manager to perform the duties and responsibilities hereafter set forth in this article.
(Ord. No. 2015O-02, § 1, 6-9-2015)

Sec. 19-174. Ad valorem tax increase on blighted property.

(a) There is hereby levied on all real property within the city which has been officially identified as maintained in a blighted condition an increased ad valorem tax by applying a factor of seven to the millage rate applied to the property, so that such property shall be taxed at a higher millage rate generally applied in the municipality, or otherwise provided by general law; provided, however, real property on which there is situated a dwelling house which is being occupied as the primary residence of one or more persons shall not be subject to official identification as maintained in a blighted condition and shall not be subject to increased taxation.

(b) Such increased ad valorem tax shall be applied and reflected in the first tax bill rendered following official designation of a real property as blighted.

(c) Revenues arising from the increased rate of ad valorem taxation shall, upon receipt, be segregated by the city manager and used only for community redevelopment purposes, as identified in an approved urban redevelopment program, including defraying the cost of the city's program to close, repair, or demolish unfit building and structures.
(Ord. No. 2015O-02, § 1, 6-9-2015)

Sec. 19-175. Identification of blighted property.

(a) In order for a parcel of real property to be officially designated as maintained in a blighted condition and subject to increased taxation, the following steps must be completed:

(1) An inspection must be performed on the parcel of property. In order for an inspection to be performed;

a. A request may be made by the public officer or by at least five residents of the city for inspection of a parcel of property, said inspection to be based on the criteria as delineated in article, or

b. The public officer may cause a survey of existing housing conditions to be performed, or may refer to any such survey conducted or finalized within the previous five years, to locate or identify any parcels which may be in a blighted condition and for which a full inspection should be conducted to determine if that parcel of property meets the criteria set out in this article for designation as being maintained in a blighted condition.

(2) A written inspection report of the findings for any parcel of property inspected pursuant to subsection (1) above shall be prepared and submitted to the public officer. Where feasible, photographs of the conditions found to exist on the property on the date of inspection shall be made and supplement the inspection report. Where compliance with minimum construction, housing, occupancy, fire and life safety codes in effect within the city are in question, the inspection shall be conducted by a certified inspector possessing the requisite qualifications to determine minimal code compliance.

(3) Following completion of the inspection report, the public officer shall make a determination in writing, that a property is maintained in a blighted condition, as defined by this article, and is subject to increased taxation.

(4) The public officer shall cause a written notice of his determination that the real property at issue is being maintained in a blighted condition to be served upon the person(s) shown on the most recent tax digest of Polk County as responsible for payment of ad valorem taxes assessed thereon; provided, however, where through the existence of reasonable diligence it becomes known to the public officer that real property has been sold or conveyed since publication of the most recent tax digest, written notice shall be given to the person(s) known or reasonably believed to then own the property or be chargeable with the payment of ad valorem taxes thereon, at the best address available. Service by certified mail or statutory overnight delivery, return receipt requested, to all interested parties whose identities and addresses are readily ascertainable and by first-class mail to the property address shall constitute sufficient notice to the property's owner or person chargeable with the payment of ad valorem taxes for purpose of this section, even if no one picks up or signs for the certified or overnight delivery of the notice, or the notice is returned unclaimed, undeliverable, or for any such reason. Posting of the notice on the property will not be required, but may also constitute sufficient service if the city is unable to perfect service by using the mail methods set forth above.

(b) The written notice given to the person(s) chargeable with the payment of ad valorem taxes shall notify such person of the public officer's determination the real property is being maintained in a blighted condition and shall advise such person of the hours and location at which the person may inspect and copy the public officer's determination and any supporting documentation. Persons notified that real property of which the person(s) is chargeable with the payment of ad valorem taxes shall have 30 days from the

receipt of notice in which to request a hearing before the city's municipal court. Written request for hearing shall be filed with the public officer and shall be dated stamped upon receipt. Upon receipt of a request for hearing, the public officer shall notify the municipal court and the building inspector or person who performed the inspection and prepared the inspection report.

(c) Within 30 days of the receipt of a request for hearing, the municipal court clerk shall set a date, time and location for the hearing and shall give at least ten business days' notice to the person(s) requesting the hearing, the public officer and the building inspector or person who performed the inspection and prepared the inspection report. Notice of scheduled hearings shall be published as a legal advertisement in The Polk County Standard Journal, or other designated legal organ in Polk County, at least five days prior to the hearing. Hearings may be continued by the municipal court judge upon request of any party, for good cause.

(d) At the hearing, the public officer shall have the burden of demonstrating by a preponderance of the evidence that the subject property is maintained in a blighted condition, as defined by this article. The municipal court judge shall cause a record of the evidence submitted at the hearing to be maintained. Upon hearing from the public officer and/or their witnesses and the person(s) requesting the hearing and/or their witnesses, the judge of municipal court shall make a determination either affirming or reversing the determination of the public officer. The determination shall be in writing and copies thereof shall be served on the parties by certified mail or statutory overnight delivery. The determination by the court shall be deemed final. A copy of such determination shall also be served upon the tax commissioner of Polk County, who shall include the increased tax on the next regular tax bill rendered on behalf of the city.

(e) Persons aggrieved by the determination of the court affirming the determination of the public officer may petition the Superior Court of Polk County for a writ of certiorari within 30 days of issuance of the court's written determination.
(Ord. No. 2015O-02, § 1, 6-9-2015)

Sec. 19-176. Remediation or redevelopment.

(a) A property owner or person(s) who is chargeable with the payment of ad valorem taxes on real property which has been officially designated pursuant to this article as maintained in a blighted condition may petition the public officer to lift the designation, upon proof of compliance with the following:

(1) Completion of work required under a plan of remedial action or redevelopment approved by the city's planning and development director which addresses the conditions of blight found to exist on or within the property, including compliance with all applicable minimum codes; or

(2) Completion of work required under a court order entered in a proceeding brought pursuant to article IV, nuisances, of chapter 10 of the Code of Rockmart, Georgia.

(b) Before action on a petition to lift the designation, the public officer shall cause the property to be thoroughly inspected by a building inspector who, by written inspection report, shall certify that all requisite work has been performed to applicable code in a workmanlike manner, in accordance with the specifications of the plan of remedial action or redevelopment, or applicable court order. Upon finding required work to be satisfactorily performed, the public officer shall issue a written determination that the real property is no longer maintained in a blighted condition. Copies of this determination shall be served upon the person(s) chargeable with the payment of ad valorem taxes, and upon the tax commissioner of Polk County.

(c) All plans for remedial action or redevelopment shall be in writing, signed by the person(s) chargeable with the payment of ad valorem taxes on the real property and the director of the city's planning and development department, and contain the following:

(1) The plan shall be consistent with the city's comprehensive plan and all laws and ordinances governing the subject property, and shall conform to any urban redevelopment plan adopted for the area within which the property lies;

(2) The plan shall set forth in reasonable detail the requirements for repair, closure, demolition, or restoration of existing structures, in accordance with minimal statewide codes; where structures are demolished, the plan shall include provisions for debris removal, stabilization and landscaping of the property;

(3) On parcels of five acres or greater, the plan shall address the relationship to local objectives respecting land uses, improved traffic, public transportation, public utilities, recreational and community facilities, and other public improvements;

(4) The plan shall contain verifiable funding sources which will be used to complete its requirements and show the feasibility thereof;

(5) The plan shall contain a timetable for completion of required work; and

(6) Any outstanding ad valorem taxes (state, school, county, and city, including the increased tax pursuant to this article) and governmental liens due and payable on the property must be satisfied in full.

(Ord. No. 2015O-02, § 1, 6-9-2015)

Sec. 19-177. Decrease of tax rate.

(a) Real property which has had its designation as maintained in a blighted condition removed by the public officer, as provided in this article, shall be eligible for a decrease in the rate of city ad valorem taxation by applying a factor of 0.5 to the city millage rate applied to the property, so that such property shall be taxed at a lower millage rate than the millage rate generally applied in the municipality or otherwise provided by general law; such decreased rate of taxation shall be applied beginning with the next tax bill rendered following removal of official designation of a real property as blighted. The decreased rate of taxation may be given in successive years, depending on the amount of cost expended by the person(s) chargeable with payment of ad valorem taxes on the property to satisfy its remediation or redevelopment, with every $25,000.00 or portion thereof equaling one year of tax reduction; provided, however, that no property shall be entitled to reduction in city ad valorem taxes for more than four successive years.

(b) In order to claim entitlement for a decreased rate of taxation, the person(s) chargeable with payment of ad valorem taxes on the property shall submit a notarized affidavit to the public officer, supported by receipts or other evidence of payment, of the amount expended.

(Ord. No. 2015O-02, § 1, 6-9-2015)

Sec. 19-178. Notice to tax commissioner.

It shall be the duty of the public officer to notify the tax commissioner of Polk County in writing as to designation or removal of designation of a specific property as maintained in a blighted condition. Such notice shall identify the specific property by street address and tax map, block and parcel number, as assigned by the Polk County Tax Assessor's Office. The public officer shall cooperate with the tax commissioner to assure accurate tax billing of those properties subject to increased or reduced ad valorem taxation under this article.

(Ord. No. 2015O-02, § 1, 6-9-2015)

Chapter 20

TELECOMMUNICATIONS

Article I. In General

Article II. Telecommunications Antennas and Towers

ARTICLE I. IN GENERAL

Secs. 20-1—20-25. Reserved.

ARTICLE II. TELECOMMUNICATIONS ANTENNAS AND TOWERS

Sec. 20-26. Purpose of article.

This article is designed and intended to balance the interests of the residents of the city, telecommunications providers, and telecommunications customers in the siting of telecommunications facilities within the city so as to protect the health, safety and integrity of residential neighborhoods and foster, through appropriate zoning and land use controls, a competitive environment for telecommunications carriers that does not unreasonably discriminate among providers of functionally equivalent personal wireless services and shall not prohibit or have the effect of prohibiting the provision of personal wireless services, and so as to promote the city as a proactive city in the availability of personal wireless telecommunications service. To that end, this article shall:

(1) Provide for the appropriate location and development of telecommunications facilities in the city;

(2) Protect the city's structures and natural environment by promoting compatible design standards for telecommunications facilities;

(3) Minimize adverse visual impacts of telecommunications facilities through careful design, siting, landscape screening and innovative camouflaging techniques;

(4) Avoid potential damage to adjacent properties from towers or antennas failure through engineering and careful siting of telecommunications tower structures and antennas;

(5) Maximize use of any new and existing telecommunications towers so as to minimize the need to construct new towers and minimize the total number of towers throughout the city;

(6) Maximize and encourage the use of alternative telecommunication tower structures as a primary option rather than construction of additional single-use towers; and

(7) Encourage and promote the location of new telecommunications facilities in areas which are not zoned for residential use.

(Ord. No. 4-2006, § I, 2-14-2006)

Sec. 20-27. 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:

Accessory structures means any structures or components used in direct support of a telecommunications facility.

Antenna means any exterior apparatus designed for the sending and/or receiving of electromagnetic waves for telephonic, radio, television, or personal wireless services. For the purposes of this article the term "antenna" does not include any tower and antenna under 30 feet in total height which is owned and operated by an amateur radio operator licensed by the Federal Communications Commission, any device designed for over-the-air reception of radio or television broadcast signals, multichannel multipoint distribution service or direct broadcast satellite service, or any cable television headed or hub towers and antennas used solely for cable television services.

Building official means the Ordinance and Code Enforcement Officerof the city.

Governing body means the city council.

Macro telecommunications facilities means those telecommunications facilities which are located on existing buildings, poles or other existing support structures and which project more than three feet above the top of the structure but not more than ten feet above the roof line, parapet or top of the structure. Macro telecommunication facilities may exceed the height limitation specified for the zoning district.

Micro telecommunications facilities means those telecommunications facilities which are located on existing buildings, poles or other existing support structures where antennas do not project more than three feet above the top of the structure and there are no more than six antennas per site.

Monopole tower means a telecommunications tower consisting of a single pole, constructed without guy wires or ground anchors.

Telecommunications facilities refers to antennas and towers, either individually or together.

Tower means a structure, such as a lattice tower, guy tower, or monopole tower, constructed as a freestanding structure or in association with a building, other permanent structure or equipment, on which is located one or more antennas intended for transmitting or receiving analog, digital, microwave, cellular, telephone, personal wireless service or similar forms of electronic communication. The term "tower" includes microwave towers, common carrier towers, and cellular telephone towers.
(Ord. No. 4-2006, § II, 2-14-2006)

Sec. 20-28. Exclusions.

The following shall be exempt from the provisions of this article:

(1) Any tower and antenna under 30 feet in total height which is owned and operated by an amateur radio operator licensed by the Federal Communications Commission;

(2) Any device designed for over-the-air reception of television broadcast signals, multichannel multipoint distribution service or direct broadcast satellite service; or

(3) Any telecommunications facilities located on property owned, leased or otherwise controlled by the city provided a license or lease authorizing the telecommunications facility has been approved by the city council; or

(4) Any cable television headend or hub towers and antennas used solely for cable television services.
(Ord. No. 4-2006, § III, 2-14-2006)

Sec. 20-29. Placement of telecommunications facilities by zoning district.

(a) In I-1, I-2 and I-3 zoning districts, micro and macro telecommunications facilities shall be allowed as a use by right. Telecommunications towers designed and intended to accommodate at least one user are permitted as a use of right up to a height of 80 feet following design review by and receipt of a building permit from the building official. Telecommunications towers designed and intended to accommodate at least two users are permitted as a use of right up to a height of 100 feet following design review by and receipt of a building permit from the building official. Telecommunications towers designed and intended to accommodate at least three users are permitted as a use of right up to a height of 120 feet following design review by and receipt of a building permit from the building official.

(b) No telecommunications facilities shall be permitted in any residential areas.

(c) Telecommunications facilities outside the guidelines listed above may only be built after approval of a variance.
(Ord. No. 4-2006, § IV, 2-14-2006)

Sec. 20-30. Co-location.

(a) *Use of existing towers, buildings, etc., compensation.* All applicants shall make a reasonable attempt to co-locate on existing towers, buildings, or other tall structures. Furthermore, applicants shall be willing to allow other uses to co-locate on the proposed tower site in the future, subject to engineering and feasibility factors, frequency considerations, and proper compensation from the additional user. Such compensation shall be determined from average lease rates paid by the applicant for comparable co-location sites in the county and contiguous counties, to be provided by the applicant. Such information shall, however, remain confidential and shall not be disclosed by any city official.

(b) *Preferred location sites.*

(1) *Co-location sites.* Any existing telecommunications towers currently being used for transmitting or receiving analog, digital, microwave, cellular, telephone, personal wireless service or similar forms of electronic communication shall be a preferred location site regardless of the underlying zoning designation of the site, provided, however, that locations which meet this criteria shall be subject to the design and siting components of this article and co-location sites shall not become an antenna farm or otherwise be deemed by the building official or the city council to be visually obtrusive.

(2) *Publicly used structures.* Publicly used structures are preferred locations throughout the city because they appear in virtually all neighborhoods, are dispersed throughout the city, and due to their institutional or infrastructure uses are generally similar in appearance to or readily adaptable for telecommunications facilities. Therefore, telecommunications facilities should be less noticeable when placed on publicly used structures than when placed on commercial or residential structures. Publicly used structures include, but are not limited to, facilities such as police or fire stations, libraries, community centers, civic centers, courthouses, utility structures, water towers, schools, hospitals, clock or bell towers, light poles and churches.

(3) *Industrial and commercial structures.* Wholly industrial and commercial structures such as warehouses, factories, retail outlets, supermarkets, banks, garages, or service stations shall be preferred locations particularly where existing visual obstructions or clutter on the roof or along a roof line can and will be removed as part of the installation of the telecommunications facility.

(4) *Mixed use buildings in high density districts.* Mixed use buildings (housing above commercial or other nonresidential space) are also preferred location sites.

(c) *Disfavored location sites.* Any single-family, multifamily, or neighborhood commercial structure or site shall be disfavored sites for the location of telecommunications facilities.
(Ord. No. 4-2006, § V, 2-14-2006)

Sec. 20-31. Requirements for telecommunications facilities.

(a) *Standards governing location and construction.* The requirements set forth in this section shall govern the location and construction of all telecommunications facilities governed by this article.

(1) *Building codes and safety standards.* To ensure the structural integrity of telecommunications facilities, the owner of a telecommunications facility shall ensure that it is maintained in compliance with standards contained in applicable local building codes and the applicable standards for such telecommunications facilities, as amended from time to time. Owners of telecommunications facilities shall conduct periodic inspections of such facilities at least once every year to ensure structural integrity. Inspections shall be conducted by a qualified, independent engineer licensed to practice in the state. The results of such inspection shall be provided to the building official, within 30 days after the inspection. Failure to provide said reports could result in the revocation of any permits or licenses previously granted to the owner by the city.

(2) *Regulatory compliance.*

a. All telecommunications facilities must meet or exceed current standards and regulations of the FAA, the FCC and any other agency of the state or federal government with the authority to regulate telecommunications facilities. If such standards and regulations are changed, then the owners of the telecommunications facilities governed by this article shall bring such telecommunications facilities into compliance with such revised standards and regulations

within the date established by the agency promulgating the standards or regulations.

b. Owners of telecommunications facilities shall provide documentation showing that each telecommunications facility is in compliance with all applicable federal and state requirements. Evidence of compliance must be submitted every 12 months to the building official. Failure to provide this information could result in revocation of any permit or license previously granted to the owner by the city.

(3) *Security.* All telecommunications facilities shall be equipped with an appropriate anticlimbing device or other similar protective device to prevent unauthorized access to the telecommunications facility.

(4) *Lighting.* No illumination is permitted on telecommunications facilities unless required by the FCC, FAA or other state or federal agency of competent jurisdiction or unless necessary for air traffic safety. If lighting is required or necessary, the building official may review the available lighting alternatives and approve the design that would cause the least disturbance to the surrounding uses and views.

(5) *Advertising.* No advertising is permitted on telecommunications facilities.

(6) *Visual impact.*

a. Telecommunications facilities shall either maintain a galvanized steel finish or, subject to any applicable standards of the FAA or other applicable federal or state agency, be painted a neutral color or painted and/or textured to match the existing structure so as to reduce visual obtrusiveness.

b. If an antenna is installed on a structure other than a tower, the antenna and associated electrical and mechanical equipment must be of a neutral color that is identical to, or closely compatible with, the color of the supporting structure so as to make the antenna and related equipment as visually unobtrusive as possible. Roof-mounted antennas shall be made visually unobtrusive by screening to match existing air conditioning units, stairs, elevator towers or other background.

c. Where feasible, telecommunications facilities should be placed directly above, below or incorporated with vertical design elements of a building to help in camouflaging.

d. Telecommunications facilities shall not be placed in a direct line of sight with historic structures as designated by the city council or by any state or federal law or agency.

e. Any equipment shelter or cabinet that supports telecommunications facilities must be concealed from public view, made compatible with the architecture of the surrounding structures, or placed underground. Equipment shelters or cabinets shall be screened from public view by using landscaping or materials and colors consistent with the surrounding backdrop. The shelter or cabinet must be regularly maintained by the owner of the telecommunications facility.

(7) *Landscaping.*

a. Landscaping shall be used to effectively screen the view of the telecommunications facility from adjacent public ways, public property and residential property, to the extent feasible.

b. Native vegetation on the site shall be preserved to the greatest practical extent. The applicant shall provide a site plan showing any existing significant vegetation to be removed, and vegetation to be replanted to replace that which is removed.

c. The city council may waive or modify the landscaping requirement where

lesser requirements are desirable for adequate visibility for security purposes, for continued operation of existing bona fide agricultural or forest uses such as farms, nurseries and tree farms or where an antenna is placed on an existing structure. In certain locations where the visual impact of the tower would be minimal, such as remote agricultural or rural locations or developed heavy industrial areas, the landscaping requirement may be modified or waived in the discretion of the city council.

(8) *Maintenance impacts.* Equipment at a transmission facility shall be automated to the greatest extent possible to reduce traffic and congestion. Where the site abuts or has access to a collector or local street, access for maintenance vehicles shall be exclusively by means of the collector or local street.

(9) *Principal, accessory and joint uses.*

a. Accessory structures used in direct support of a telecommunications facility shall be allowed but not be used for offices, vehicle storage or other outdoor storage. Mobile or immobile equipment not used in direct support of a telecommunications facility shall not be stored or parked on the site of the telecommunications facility.

b. Telecommunications facilities may be located on sites containing another principal use in the same buildable area.

(10) *Lot size and setbacks.*

a. The following setback requirements shall apply to all telecommunications facilities, provided however, that the city council may reduce the standard setback requirements of this section if the goals of this article would be better served thereby:

1. Telecommunications towers must be set back a distance equal to 1½ times the height of the tower from any off-site residential structure.

2. Towers, guy wires and accessory facilities must satisfy the minimum zoning district setback requirements.

3. Telecommunications facilities must be setback from any property line a sufficient distance to protect adjoining property from the potential impact of telecommunications facility failure by being large enough to accommodate such failure on the site, based on the engineer's analysis required in section 20-32.

b. For antennas attached to the roof or a supporting structure on a rooftop, a 1:1 setback ratio (example: ten-foot high antenna and supporting structure requires a ten-foot setback from edge of roof) shall be maintained unless an alternative placement is shown to reduce visual impact and said placement is approved by the building official.

(b) *Towers; site development and location.*

(1) Site location and development shall preserve the existing character of the surrounding buildings and land uses and the zoning district as much as possible. Personal wireless telecommunications towers shall be integrated through location and design to blend in with existing characteristics of the site to the extent practical.

(2) Existing on-site vegetation shall be preserved or improved, and disturbance of the existing topography shall be minimized, unless such disturbance would result in less visual impact of the site to the surrounding area.

(3) At a tower site the design of the buildings and related structures shall, to the extent possible, use materials, colors, textures,

screening, and landscaping that will blend the tower and related facilities to the natural setting and built environment.

(4) Towers shall not be located any closer than 1,500 feet from an existing tower unless technologically required or visually preferable.

(5) When a tower is adjacent to any structure and located on the ground, it must be set back from the nearest structure a distance at least equal to 1½ times its total height.

(6) In no case shall a tower be located in the required front yard, back yard or side yard in a residential district.

(7) Towers shall not be placed where they will negatively affect historic districts or buildings as designated by the city council or any state or federal law or agency or where they will create visual clutter.

(8) Towers shall be enclosed by opaque or solid decay-resistant security fencing not less than six feet in height and shall be equipped with an appropriate anticlimbing device or other similar protective device designed to prevent tower access.

(9) Placement of more than one tower on a lot shall be permitted, provided all setback, design, landscape, and placement requirements are met as to each tower. Structures may be located as close to each other as technically feasible, provided tower failure characteristics of the towers on the site will not lead to multiple failures in the event that one fails.

(10) The city council shall have the discretion to waive the requirements of this subsection where exact compliance would interfere with the function or purpose of a tower, or where compliance would place an unreasonable burden on an owner.

(Ord. No. 4-2006, § VI, 2-14-2006)

Sec. 20-32. Application procedures.

(a) *General application requirements for all building and special use permits.* Application for a building permit or special use permit for any telecommunications facility shall be made to the building official by the person, company or organization that will own and operate the telecommunications facility. An application will not be considered until it is complete. The following information shall be submitted for an application to be considered complete when applying for any building permit, special use permit or other permit or variance included in this article:

(1) *Basic information.*

a. Site plan to scale specifying the location of telecommunications facilities, transmission building and/or other accessory uses, access, parking, fences, landscaped areas, and adjacent land uses.

b. Landscape plan to scale indicating size, spacing and type of plantings required herein.

c. A full description of the environment surrounding the proposed telecommunications facility, including any adjacent residential structures and districts, structures and sites of historic significance, or streetscapes.

d. A description of anticipated maintenance needs for the telecommunications facility, including frequency of service, personnel needs, equipment needs, and traffic, noise or safety impacts of such maintenance.

e. Detailed construction plans and/or drawings, and a report from a qualified, independent engineer licensed in the state, documenting the following:

1. Telecommunications facility height and design, including technical, engineering, economic, and other pertinent factors governing selection of the proposed design;

2. Total anticipated capacity of the telecommunications facility, including number and types of antennas which can be accommodated;

3. Evidence of structural integrity of the tower structure; and

4. Structural failure characteristics of the telecommunications facility and demonstration that site and setbacks are of adequate size to contain debris.

f. A definition of the area of service to be served by the antenna or tower and whether such antenna or tower is needed for coverage or capacity.

g. Information showing the proposed facility would provide the needed coverage or capacity.

h. If the applicant is a firm, corporation, or business entity, the identity of a community liaison officer appointed by the applicant to resolve issues of concern to neighbors and residents relating to the construction and operation of the facility; include name, address, telephone number, facsimile number and electronic mail address, if applicable.

i. Identification of the geographic service area for the subject installation, including a map showing the site and the nearest or associated telecommunications facility sites within the network, or description of the distance between the telecommunications facility sites, and a description of how this service area fits into and is necessary for the service network.

j. Designation of which location preference, identified in section 20-29 the proposed facility is meeting. If the proposed location is not a preferred location or is a disfavored site, describe:

1. What publicly used building, co-location site or other preferred location sites are located within the geographic service area. Provide a list (by address with map and parcel number noted) and a map at 1:200 scale of all such buildings within the service area;

2. What good faith efforts and measures were taken to secure each of these preferred location sites;

3. Why each such site was not technologically, legally or economically feasible and why such efforts were unsuccessful; and

4. How and why the proposed site is essential to meet the service demands for the geographic service area and citywide network.

(2) *Five-year plan and site inventory.* Each application shall include a five-year facilities plan and site inventory including the following:

a. A list of all telecommunications facility sites, whether such sites are existing, existing to be upgraded or replaced, or merely proposed, within the city limits and within one mile of the city limits and a map showing these sites. The list must include the following information for each site:

1. Street address;

2. Assessor's map and parcel or other applicable ad valorem tax identification number;

3. Zoning district;

4. Type of building (commercial, residential, mixed use) and number of stories;

5. The number of antennas and base transceiver stations per site and the location and type of antenna installation (stand alone rooftop, building facade, etc.) and the location of the base transceiver station installation;

6. The height from grade to the top of the antenna installation; and

7. The radio frequency range in megahertz, the wattage output of the equipment and effective radiated power.

b. If the applicant does not know specific future tower and antenna site locations but does know of areas where telecommunications facilities may be needed within the next five years to provide service, the applicant shall list the assessor's map and parcel numbers contained within the anticipated geographic service area and identify each geographic service area with a number that will correspond to the future telecommunication facility site.

(3) *Additional information requirements for towers.*

a. If the proposed site is zoned R-1 through R-7 or C-1 through C-3 or O-1, and there are alternative sites in I-1, I-2 or I-3, applicants must justify why those alternate sites have not been proposed. The building official will review with special care justifications that appeal only to undue expense and/or to undue difficulties in entering into a lease agreement. The building official shall carefully weigh such claims, and the evidence presented in favor of them, against a project's negative impact at the proposed site.

b. Applicants must identify all existing towers and all towers for which there are applications currently on file with the building official. Applicants must provide evidence of the lack of space on all suitable existing towers to locate the proposed antenna and of the lack of space on existing tower sites to construct a tower for the proposed antenna. If co-location on any such towers would result in less visual impact than the visual impact of the proposed tower, applicants must justify why such co-location is not being proposed. If co-location on any such tower would increase negative visual impact, then the applicant must so state and demonstrate. The building official will review with special care justifications that appeal only to undue expense and/or to undue difficulties in entering into a lease agreement. The building official shall carefully weigh such claims, and the evidence presented in favor of them, against a project's negative impacts at the proposed site.

c. In all zones, applicants must demonstrate that they cannot provide personal wireless communication service without the use of a telecommunications tower.

d. The applicant shall quantify the additional tower capacity anticipated, including the approximate number and types of antennas. The applicant shall provide a drawing for each tower showing existing and proposed antenna locations. The applicant shall also describe any limitations on the ability of the tower to accommodate other uses, e.g., radio frequency interference, mass height, frequency or other characteristics. The applicant shall describe the technical options available to overcome those limitations and reasons why the technical options considered were not chosen to be incorporated. The building official shall approve those limitations if they cannot be overcome by reasonable technical means.

e. The applicant must provide a utilities inventory showing the locations of all water, sewage, drainage and power lines impacting the proposed tower site.

(4) *Information for review considerations.* The applicant must provide any other information which may be requested by the building official to fully evaluate and review the application and the potential impact of a proposed telecommunications facility.

(b) *Expedited review for building permits only.* When a telecommunications facility will be a use as of right pursuant to section 20-29 and requires only a building permit and design review before it may be erected, the building official will attempt to expedite the review of the application and render a decision on the application within 15 business days after receipt of a complete application.

(c) *Special use permits.*

(1) A request for a special use permit shall be initiated by application to the building official and handled in accordance with this section. The planning commission may issue a special use permit under this section provided it shall have determined that all of the requirements of section 20-31 have been satisfied and, further, that the benefits of and need for the proposed tower are greater than any possible depreciating effects and damage to the neighboring properties.

(2) In granting a special use permit, the planning commission may impose additional zoning conditions to the extent determined necessary to buffer or otherwise minimize adverse effects of the proposed tower or antenna on surrounding properties.

(d) *Variances.*

(1) An applicant may seek a variance from the terms of this article after the building official informs him that the proposed site, tower, or any other matter is not in conformity with this article, by filing a written application for a variance with the planning commission. Said application shall contain all of the basic information required by this section for regular applications, as well as the basis for the variance.

(2) When an application for a variance is submitted the building official shall place or cause to be placed, a sign on the property where the facility is to be placed notifying the public of the application. In addition, a notice of the planning commission meeting shall be published once a week for two weeks prior to said meeting at which the variance is to be considered. The planning commission shall receive evidence and make a recommendation to grant or deny the variance to the city council, which shall proceed to consider the application at the next available meeting, but no sooner than ten days after the decision of the planning commission. All proceedings and decisions of either body shall be supported by substantial evidence in a written record. Any parties aggrieved by a decision of either the planning commission or city council shall have the right to appeal as set forth in section 20-34.

(3) In considering a variance, both the planning commission and city council shall consider, but not be limited by the standards contained in section 7.11 of appendix A, zoning.

(Ord. No. 4-2006, § VII, 2-14-2006)

Sec. 20-33. Co-location of future personal wireless technology.

Applicant and owner shall allow other future personal wireless service companies, including public and quasi-public agencies, using functionally equivalent personal wireless technology to co-locate antennas, equipment and facilities on a telecommunications facility unless specific technical constraints prohibit said co-location. Applicant and other personal wireless carriers shall provide a mechanism for the construction and maintenance of shared facilities and infrastructure and shall provide for equitable sharing of costs in accordance with industry standards.

(Ord. No. 4-2006, § VIII, 2-14-2006)

Sec. 20-34. Appeals.

Appeals from any decision of the building official may be taken by any person aggrieved or any official of the city affected by the decision of the building official. Such appeal shall be to the planning commission pursuant to section 7.11 of appendix A, zoning. Appeals from any decision of the planning commission may be taken by any person aggrieved or any official of the city affected

by the decision of the planning commission and shall be to the city council in accordance with the above-referenced sections. Appeals from any decision of the council shall be made to the superior court within 30 days of the decision. Any decision by the building official or by the planning commission denying a request to place, construct or modify a telecommunications facility shall be in writing and supported by substantial evidence in a written record. Any decision by the council denying or approving a request to place, construct or modify a telecommunications facility shall be in writing and supported by substantial evidence in a written record.
(Ord. No. 4-2006, § IX, 2-14-2006)

Sec. 20-35. Nuisances.

Telecommunications facilities, including, without limitation, power source, ventilation and cooling, shall be operated at all times so as not to create excessive or unreasonable noise levels. In addition, such facilities shall not be operated so as to cause the generation of heat that adversely affects a building occupant, and shall not be maintained or operated in such a manner as to be a nuisance.
(Ord. No. 4-2006, § X, 2-14-2006)

Sec. 20-36. Removal of antennas and towers.

All telecommunications facilities shall be maintained in compliance with standards contained in applicable building and technical codes so as to ensure the structural integrity of such facilities. If upon inspection by the building official any such telecommunications facility is determined not to comply with the code standards or to constitute a danger to persons or property, then upon notice being provided to the owner of the facility and the owner of the property if such owner is different, such owner shall have 30 days to bring such facility into compliance. In the event such telecommunications facility is not brought into compliance within 30 days, the city may provide notice to the owners requiring the telecommunications facility to be removed. In the event such telecommunications facility is not removed within 30 days of receipt of such notice, the city may remove such facility and place a lien upon the property for the costs of removal. Delay by the city in taking action shall not in any way waive the city's right to take action. The city may pursue all legal remedies available to it to ensure that telecommunications facilities not in compliance with code standards or which constitute a danger to persons or property are brought into compliance or removed. The city may seek to have the telecommunications facility removed regardless of the owner's or operator's intent to operate the tower or antenna and regardless of any permits, federal, state or otherwise, which may have been granted.
(Ord. No. 4-2006, § XI, 2-14-2006)

Sec. 20-37. Abandoned towers.

(a) Any telecommunications facility that is not operated for a continuous period of 12 months shall be considered abandoned, whether or not the owner or operator intends to make use of all or any part of it. The owner of a telecommunications facility and the owner of the property where the facility is located shall be under a duty to remove the abandoned telecommunications facility. If such antenna and/or tower is not removed within 60 days of receipt of notice from the city notifying the owner of such abandonment, the city may remove such tower and/or antenna and place a lien upon the property for the costs of removal. The city may pursue all legal remedies available to it to insure that abandoned telecommunications facilities are removed. Delay by the city in taking action shall not in any way waive the city's right to take action. The city may seek to have the telecommunications facility removed regardless of the owner's or operator's intent to operate the tower or antenna and regardless of any permits, federal, state or otherwise, which may have been granted.

(b) If the owner of an abandoned tower or antenna wishes to use such abandoned tower or antenna, the owner first must apply for and receive all applicable permits and meet all of the conditions of this article as if such tower or antenna were a new tower or antenna.
(Ord. No. 4-2006, § XII, 2-14-2006)

Sec. 20-38. Preexisting towers/nonconforming uses.

(a) All telecommunications facilities operative on the effective date of this article shall be allowed to continue their present usage as a non-

conforming use and shall be treated as a nonconforming use in accordance with section 3.7 of appendix A, zoning. Routine maintenance, including replacement of a new tower or antenna of like construction and height, shall be permitted on such existing telecommunications facilities. New construction other than routine maintenance shall comply with the requirements of this article.

(b) A telecommunications facility that has received city approval as of the effective date of this article in the form of either a building permit or special use exception, but has not yet been constructed or placed in operation shall be considered an existing telecommunications facility so long as such approval is current and not expired.

(c) Placement of an antenna on a nonconforming structure shall not be considered an expansion of the nonconforming structure.
(Ord. No. 4-2006, § XIII, 2-14-2006)

Sec. 20-39. Penalty for violation of article.

(a) Any person who attempts to erect or erects a telecommunications facility covered by this article without having first obtained the necessary building permit, special use permit or variance in the manner provided in this article shall be deemed in violation of this article. Any responsible party or other persons convicted by a court of competent jurisdiction of violating any provision of this article shall be guilty of violating a duly adopted ordinance of the city and shall be punished either by a fine not to exceed $1,000.00 or by imprisonment not to exceed 12 months, or both. The court shall have the power and authority to place any person guilty of a violation of this article on probation and to suspend or modify any fine or sentence. As a condition of such suspension, the court may require payment of restitution or impose other punishment allowed by law.

(b) If any structure is erected, constructed, reconstructed, altered, repaired, converted or maintained in violation of this article or without obtaining the required permits, or if any building, structure or land is used in violation of this article, the city attorney, in addition to any other remedies, may institute proceedings in municipal court to prevent or enjoin such unlawful erection, construction, reconstruction, alteration, conversion, maintenance or use or to correct or abate such violations. Each and every day such unlawful erection, construction, reconstruction, alteration, conversion, maintenance or use continues may be deemed a separate offense, for purposes of assessing fines and/or other penalties.
(Ord. No. 4-2006, § XIV, 2-14-2006)

Sec. 20-40. Coordination with federal law.

Whenever the city council finds that the application of this article would unreasonably discriminate among providers of functionally equivalent personal wireless services or prohibit or have the effect of prohibiting the provision of personal wireless services, a conditional use permit waiving any or all of the provisions of this article may be granted by the city council.
(Ord. No. 4-2006, § XV, 2-14-2006)

Sec. 20-41. Standards for decisions.

In reviewing applications for permits or variances submitted under this article, or appeals from decisions of the building official, planning commission, or city council, city officials shall consider, but not limit themselves to, the following standards and factors:

(1) Aesthetic appeal of the proposed telecommunications facility;

(2) Diminution in value of any adjoining property due to the placement of the proposed facility;

(3) Petitions and/or public opposition submitted by adjoining property owners;

(4) Possible risk of danger, injury, or damage to person or property due to structural failure of a facility;

(5) Existence of other alternate sites for location and whether the applicant considered them prior to choosing a proposed site;

(6) Any hardship on the applicant which may be created by the denial of a permit requiring the owner to locate in a different place;

(7) Proximity of one facility to structures on adjacent properties;

(8) Any other factors or requirements under this article.

(Ord. No. 4-2006, § XVI, 2-14-2006)

Chapter 21

TRAFFIC

Article I. In General

Article II. Impoundment of Vehicles

Article III. Bicycles

Article IV. Roller Skating

Article V. Stopping, Standing, and Parking

Article VI. Speed Limits

Article VII. Railroads

ARTICLE I. IN GENERAL

Sec. 21-1. Uniform Rules of the Road; adoption by reference.

Pursuant to O.C.G.A. §§ 40-6-372—40-6-376, O.C.G.A. §§ 40-6-2—40-6-395, known as the Uniform Rules of the Road, and the definitions contained in O.C.G.A. § 40-1-1 are hereby adopted as and for the traffic regulations of the city with like effect as if recited in this section.
(Code 1976, § 20-1; Ord. No. 1975-001, § 1, 2-11-1975)

Sec. 21-2. Penalties for violations; punishment; procedure.

(a) *Punishment for violation of chapter.* Except as otherwise provided by O.C.G.A. § 40-6-207, unless another penalty is expressly provided by law, every person convicted of a violation of any provision of this chapter shall be punished as provided in section 1-7 of this Code.

(b) *Form of notice to violators.* Forms for notifying violators to appear and answer to charges of violating traffic laws and ordinances shall be approved by the city superintendent and chief of police.

(c) *Failure to obey summons.* Any person who violates a notice to appear given by an officer upon an arrest for any traffic violation is guilty of an offense regardless of the disposition of the charge on which he was originally arrested.

(d) *Duty of police as to illegally parked vehicles; notice attached to vehicle.* Whenever any motor vehicle without a driver is found parked or stopped in violation of any of the restrictions imposed by this chapter or other ordinance of the city or by state law, the officer finding such vehicle shall take its registration number and may take any other information displayed on the vehicle which may identify its user, and shall conspicuously affix to such vehicle a notice in writing, on a form approved by the city superintendent and chief of police, for the driver to answer to the charge against him at the time and place specified in the notice.

(e) *Notice to owner for failure to comply with notice attached to parked vehicle.* If a violator of the restrictions on stopping, standing or parking under this chapter and other traffic laws or ordinances does not appear in response to the notice affixed to such vehicle as provided for by subsection (d) of this section at the time and place specified, the police department shall send to the owner of such motor vehicle to which the notice was affixed a notice informing him of the violation and warning him that in the event such notice is disregarded a summons of arrest will be issued.

(f) *When summons of arrest to be issued.* In the event any person fails to comply with a notice given to such person or attached to a vehicle or fails to make appearance pursuant to the terms of such notice directing an appearance in the municipal court, or if any person fails or refuses to deposit bail as required and within the time permitted, the police department shall forthwith secure and issue a summons for his arrest.

(g) *Presumption in reference to illegal parking.*

(1) In any prosecution charging a violation of any law or regulation governing the standing or parking of a vehicle, proof that the particular vehicle described in the complaint was parked in violation of any such law or regulation, together with proof that the defendant named in the complaint was at the time of such parking the registered owner of such vehicle, shall constitute in evidence a prima facie presumption that the registered owner of such vehicle was the person who parked or placed such vehicle at the point where, and for the time during which, such violation occurred.

(2) The foregoing stated presumption shall apply only when the procedure as prescribed in subsections (d) and (e) of this section has been followed.

(h) *Disposition of traffic fines and forfeitures.* All fines or forfeitures collected upon conviction or upon the forfeiture of bail of any person charged with a violation of any of the provisions of this chapter or any other traffic ordinance of the city shall be paid into the city treasury.

(i) *Owner liable for parking violation*. It shall be unlawful for any person to allow, permit or suffer any vehicle registered in his name to stand or park in any street in violation of this chapter or any of the ordinances of the city regulating the parking of vehicles. Such person shall be equally liable with the operator for such violation and in addition thereto may have his vehicle impounded, as provided in article II of this chapter.
(Code 1976, § 20-3; Ord. No. 1975-001, §§ 1, 2, 2-11-1975; Ord. No. 1975-002, §§ 2—5, 7, 2-11-1975; Ord. No. 1975-001(Amd. No. 1), § 3, 6-10-1975)

Secs. 21-3—21-30. Reserved.

ARTICLE II. IMPOUNDMENT OF VEHICLES

Sec. 21-31. Authority to establish vehicle pounds.

The chief of police is hereby authorized to create a vehicle pound to which automobiles and other vehicles may be removed by police officers. Such pound shall be located at such places as may be designated by the chief of police.
(Code 1976, § 20-4(a); Ord. No. 1975-001, § 2, 2-11-1975; Ord. No. 1975-002, § 6, 2-11-1975; Ord. No. 1975-001(Amd. No. 1), § 3, 6-10-1975)

Sec. 21-32. When vehicle may be impounded.

Whenever any vehicle shall be found parked in any place within the city where parking is not permitted at that time, or whenever any vehicle shall be found parked in violation of the terms of this chapter or any other ordinance relating to traffic, such vehicle may be removed and conveyed by any member of the police department, by means of towing the same, or otherwise, to a vehicle pound.
(Code 1976, § 20-4(b); Ord. No. 1975-001, § 2, 2-11-1975; Ord. No. 1975-002, § 6, 2-11-1975; Ord. No. 1975-001(Amd. No. 1), § 3, 6-10-1975)

Sec. 21-33. Immediate record of impounding to be made.

It shall be the duty of the officer so impounding a vehicle to immediately report the fact of such impounding, together with any other information which will definitely identify the vehicle, to the chief of police, who shall cause a permanent record thereof to be made.
(Code 1976, § 20-4(c); Ord. No. 1975-001, § 2, 2-11-1975; Ord. No. 1975-002, § 6, 2-11-1975; Ord. No. 1975-001(Amd. No. 1), § 3, 6-10-1975)

Sec. 21-34. Fees for impoundment, storage, etc.

Fees for the removal, impounding and storage of vehicles shall be determined by the city manager.
(Code 1976, § 20-4(d); Ord. No. 1975-001, § 2, 2-11-1975; Ord. No. 1975-002, § 6, 2-11-1975; Ord. No. 1975-001(Amd. No. 1), § 3, 6-10-1975)

Sec. 21-35. Release of impounded vehicles—When fees paid.

Any person claiming any impounded vehicle shall produce evidence of his identity and ownership or right of possession to the chief of police and pay to the operator of the pound the fees for removal and storage, for which a receipt shall be given. An order shall then be issued by the chief of police to the operator of the pound to discharge the vehicle and to deliver the same to such person. Thereupon the impounded vehicle shall be surrendered by the operator of the pound who shall take a receipt in duplicate for such impounded vehicle, which receipt shall definitely identify the vehicle, one copy of which shall become a permanent record of the police department.
(Code 1976, § 20-4(e); Ord. No. 1975-001, § 2, 2-11-1975; Ord. No. 1975-002, § 6, 2-11-1975; Ord. No. 1975-001(Amd. No. 1), § 3, 6-10-1975)

Sec. 21-36. Same—When payment of fees protested.

In case protest is made against the payment of any impounding or storage fee, the chief of police may authorize the person in charge of the impounded vehicle to discharge the same upon the following terms and conditions:

(1) The person making such protest shall be charged with a violation of this chapter or other traffic ordinance and required to

make bond for his appearance and trial before the recorder. Thereupon, the chief of police shall authorize the person in charge of the impounded vehicle to deliver it to such person.

(2) If such person is convicted of violating this chapter or other traffic ordinance by the recorder, in addition to other costs, the recorder shall assess as costs the fees for removal and storage which have accumulated in connection with the impounding of such vehicle.

(Code 1976, § 20-4(f); Ord. No. 1975-001, § 2, 2-11-1975; Ord. No. 1975-002, § 6, 2-11-1975; Ord. No. 1975-001(Amd. No. 1), § 3, 6-10-1975)

Sec. 21-37. Disposition of unclaimed vehicle.

In the event any impounded car is not claimed within 60 days from the date it is impounded, the chief of police shall proceed to sell such car as provided by law, and from the proceeds of such sale pay the accrued storage charges and pay the balance, if any, to the city clerk,

(Code 1976, § 20-4(g); Ord. No. 1975-001, § 2, 2-11-1975; Ord. No. 1975-002, § 6, 2-11-1975; Ord. No. 1975-001(Amd. No. 1), § 3, 6-10-1975)

Sec. 21-38. Records.

It shall be the duty of the chief of police to keep a permanent record of all vehicles committed to the pound, the names and addresses of the owners of such vehicles, the numbers of their state license tags and the nature and circumstances of each violation, as well as the disposition of each case.

(Code 1976, § 20-4(h); Ord. No. 1975-001, § 2, 2-11-1975; Ord. No. 1975-002, § 6, 2-11-1975; Ord. No. 1975-001(Amd. No. 1), § 3, 6-10-1975)

Sec. 21-39. Impounding not to preclude other prosecution.

The impounding of a vehicle shall not prevent or preclude prosecution for violations of the penal provisions of this chapter or any other ordinance relating to traffic.

(Code 1976, § 20-4(i); Ord. No. 1975-001, § 2, 2-11-1975; Ord. No. 1975-002, § 6, 2-11-1975; Ord. No. 1975-001(Amd. No. 1), § 3, 6-10-1975)

Secs. 21-40—21-70. Reserved.

ARTICLE III. BICYCLES

Sec. 21-71. Prohibited on sidewalks, and paths in parks.

No bicycle shall be operated upon any public sidewalk, or upon any pedestrian path in the public parks, except bicycles which are operated on designated paths, the "Silver Comet Trail" or similar such recreation trails within the city.

(Code 1976, § 20-6; Ord. No. 218, § 4, 4-1-1941)

State law reference—Bicycle regulations, O.C.G.A. § 40-6-290 et seq.

Sec. 21-72. Racing.

No person operating a bicycle upon a public street, sidewalk or path shall participate in any race, speed or endurance contest with any other vehicle.

(Code 1976, § 20-7; Ord. No. 218, § 8, 4-1-1941)

Sec. 21-73. Acrobatic riding.

No rider of a bicycle shall remove both hands from the handlebars, or feet from the pedals, or practice any acrobatic or fancy riding on any street.

(Code 1976, § 20-8; Ord. No. 218, § 9, 4-1-1941)

Secs. 21-74—21-100. Reserved.

ARTICLE IV. ROLLER SKATING

Sec. 21-101. Prohibited on streets.

No person shall roller skate, skate board or be upon any similar device upon any public streets, alleys, rights-of-way, parks or public squares within the city. Such activity shall occur on the Silver Comet Trail, or other designated paths or trails and not any other location, adjoining wall, property or area not designated for this activity.

(Code 1976, § 20-9; Ord. No. 179, 2-3-1931)

Secs. 21-102—21-130. Reserved.

ARTICLE V. STOPPING, STANDING, AND PARKING*

Sec. 21-131. Parking for certain purposes prohibited.

No person shall park a vehicle upon any roadway for the following purposes:

(1) Displaying such vehicle for sale;

(2) Washing, greasing, or repairing such vehicle except repairs necessitated by a sudden emergency, and in such emergency, such vehicle shall be removed or towed away with all due haste;

(3) Displaying advertising.

(Code 1976, § 20-20; Ord. No. 1975-001(Amd. No. 1), § 1, 6-10-1975)

Sec. 21-132. Continuous parking in same location.

Any vehicle that shall remain parked continuously in the same location on any street in the city for a period of 72 hours or more shall be presumed to be abandoned and may be impounded by the police department as provided in this chapter.
(Code 1976, § 20-21; Ord. No. 1975-001(Amd. No. 1), § 2, 6-10-1975)

Sec. 21-133. Time limitation on certain vehicles.

It shall be unlawful for any person to park or stand any commercial vehicle or any other vehicle in excess of 15,000 pounds capacity as identified, classified or defined by the manufacturer, in any area within the city on any street of the city for a period of time in excess of one hour; provided however, any period of time which such vehicle is being actually loaded or unloaded shall be excluded in computing such period of one hour; and provided further, mobile homes, pick-up coaches, motor homes, boats, boat trailers and utility trailers are excepted from this section.
(Code 1976, § 20-22; Ord. No. 1975-002, § 1, 2-11-1975)

*__State law references__—Authority to regulate parking, O.C.G.A. § 40-6-371(a)(1); stopping, standing and parking, O.C.G.A. § 40-6-200 et seq.

Sec. 21-134. Backing to curb for loading or unloading.

It shall be unlawful for any person to back a vehicle into a curb for the purpose of loading or unloading without written permission from the police.
(Code 1976, § 20-26; Ord. No. 225, § 5, 2-4-1956; Ord. No. 259, 1-28-1960)

Sec. 21-135. Designating and marking parking prohibitions, limitations and restrictions.

The city manager, with the approval of the council, is authorized to designate streets or portions thereof upon which parking is prohibited, limited or otherwise restricted. The mayor shall have signs or markings erected giving notice of such prohibition, limitation or restriction; and it shall be unlawful for any person to park a vehicle in violation of such signs or markings.
(Code 1976, § 20-27)

Sec. 21-136. Public parking areas.

The city may own, lease, or otherwise operate certain parking areas for public use within the city. By resolution, the mayor and council may adopt such regulations, rules or similar provisions concerning the use and activities allowed, and the times of such use, fees, maintenance, or similar matters within any such designated public parking areas.

Secs. 21-137—21-170. Reserved.

ARTICLE VI. SPEED LIMITS

Sec. 21-171. General regulation.

Pursuant to O.C.G.A. §§ 40-6-183, 40-6-376, specific speed limits for specific streets shall be as established by the mayor and council.
(Ord. No. 008-1998, 9-8-1998)

Secs. 21-172—21-200. Reserved.

ARTICLE VII. RAILROADS

Sec. 21-201. Maximum time for blocking streets.

It shall be unlawful for any railroad operating trains or cars into, out of, or through the city to allow, permit or cause any of the rolling stock of any such railroad to be and remain on any of the streets of said city for a longer time than ten minutes at any one time, so as to block other vehicular traffic or travel along any of such streets. (Code 1976, § 20-50; Code 1904, § 104; Ord. No. 188, 3-11-1931)

Sec. 21-202. Speed restriction of trains, locomotives through city.

Trains and locomotives while being operated through the city shall not operate or be run at speeds which are in excess of 45 miles per hour. (Code 1976, § 20-51; Ord. No. 222, § 2, 3-18-1943)

Chapter 22

UTILITIES*

Article I. In General

Article II. Waterworks Rules and Regulations

Division 1. Generally

Division 2. Wellhead Protection

Division 3. Water Conservation and Drought Management

*__State law reference—__Authority to provide for water and sewage systems, Ga. Const. art. IX, § 2, ¶ III(a)(6), (a)(7).

ARTICLE I. IN GENERAL

Sec. 22-1. Application for water service.

Application for the use of water shall be made to the city clerk by the owner or agent of the property to be benefited, designating the location of the property and stating the purposes for which the water may be required.
(Code 1976, § 21-1; Ord. No. 204, § 13, 4-2-1935; Ord. No. 1977-001, § 1, 2-8-1977)

Sec. 22-2. Water service deposits; refunds; disconnected service.

(a) Upon proper application being made for water service by any person, firm or corporation within the utility service delivery area of the municipality, a deposit shall be paid with the application to the city clerk. The deposit shall be in the amount established by the city council.

(b) All deposits will be applied against the customer's final bill when such final bill is presented by the customer for payment or before a refund is made. Customers who have deposits with the municipality may transfer the deposit to a new service location, subject to any required minimum increase in the event the amount on deposit is a preexisting amount prior to the enactment ofany increase and/or does not meet the requirementsestablished by this article.

(c) Deposits may be refunded after 24 consecutive months of service, provided that the customer has no unsatisfactory credit problems. Refunds will be made by applying the deposit to the customer's account; provided that commercial and industrial customers are not eligible for deposit refunds. In the event of final billing for discontinued accounts in which the deposit exceeds the amount due, refunds shall be sent by United States mail or may be claimed in person at the city clerk's office. Any unclaimed deposits shall ensure to, and be forfeited to the city; unless claimed within 90 days of final payment to the municipality. There shall not be deposit refunds in amounts less than $2.50.
(Code 1976, § 21-2; Ord. No. 261, 1-28-1960; Ord. No. 1977-001, § 1, 2-8-1977; Ord. No. 1981-008, § 1, 6-9-1981; Ord. No. 1984-008, § 1, 12-11-1984; Ord. No. 1992-004, § 1, 5-12-1992)

Sec. 22-3. Tapping charge for water and sewer service; ownership and maintenance of lines.

(a) *Water service.*

(1) Upon the application for a new water service tap and service connection by any consumer within the corporate limits of the municipality, the applicant shall pay to the city clerk as a nonrefundable tapping charge: the cost of the meter, meter box, tapping saddle, service lateral, and fittings, plus the fee established by the city council to cover the cost of equipment, labor, and pavement/right-of-way restoration.

(2) The municipality shall own and maintain the water line from the main to the curb box. The property owner shall own and maintain the service line from the curb box to the premises served. All work upon the service line shall be performed by a licensed plumber.

(b) *Sewer service.*

(1) Upon the application for a new sewer tap and service connection by any consumer within the corporate limits of the municipality, the applicant shall pay to the city clerk as a nonrefundable tapping charge: the cost of the tapping saddle and service lateral, plus the fee established by the city council to cover the cost of equipment, labor, and pavement/right-of-way restoration.

(2) The municipality shall own and maintain the sewer line from the main to the service lateral. The property owner shall own and maintain the service line from the service lateral to the premises served. All work upon the service line shall be performed by a licensed plumber.

(Code 1976, § 21-3; Ord. No. 1980-008, § 1, 3-3-1980)

Sec. 22-4. Adoption of water rate schedule and sewer rate schedule.

(a) The city adopts as a part of this section, as charges for water and sewer customers within the corporate limits of the city, those rates and

charges as may be approved, and continued in force, as adopted by the mayor and city council, through review and approval of the city's budget resolution or such separate resolution as may adopt rates, or increases therein for water and/or sewer service. These rates, as adopted or amended are incorporated herein by reference as though fully made a part of this section.

(b) The city adopts as a part of this section, as charges for water and sewer customers outside the corporate limits of the city, those rates and charges as may be approved, and continued in force, as adopted by the mayor and city council, through review and approval of the city's budget resolution or such separate resolution as may adopt rates, or increases therein for water and/or sewer service. These rates, as adopted or amended are incorporated herein by reference as though fully made a part of this section.

(c) The sewer rate is 100 percent of the consumption amount of water used by any person, firm or corporation for city water and sewer service. This sewer rate shall be charged to all customers where water service is available, unless the user has taken the adoption of metering their waste water (sewage).
(Code 1976, § 21-4; Res. of 1- -1971, § 1; Ord. of 6-11-1974, §§ 1, 2; Ord. No. 1977-001, § 1, 2-8-1977; Ord. No. 1978-005, § 1, 8-7-1978; Ord. No. 1985-008, § 1, 9-19-1985; Ord. No. 1988-011, § 1, 12-13-1988; Ord. No. 004-1994, § 1, 10-11-1994; Ord. No. 004-1997, § I, 4-8-1997)

Sec. 22-5. Due dates of bills and delinquency penalty.

Water meters shall be read on the 15th day of each month, as nearly as possible; and bills shall be mailed on the first day of each succeeding month. All water bills shall be due on or before the 15th day of the month. If such bills are not paid by such date, a penalty of ten percent of the amount of the bill shall be added thereto and paid by the water user.
(Code 1976, § 21-5; Ord. of 6-11-1974, § 3; Ord. No. 1977-001, § 1, 2-8-1977; Ord. No. 1992-004, § 3, 5-12-1992)

Sec. 22-6. Delinquent bills; disconnection of service.

Water bills more than 45 days delinquent from the due date shall subject the customer to a disconnection of water service by the city. Any accounts so disconnected shall be subject to a service charge in the amount established by the city council for reconnecting water service. In no instance shall service be reinstated until all delinquent charges for water service have been paid in full.
(Code 1976, § 21-6; Ord. No. 1977-001, § 1, 2-8-1977; Ord. No. 1981-011, § 1, 7-27-1981; Ord. No. 1992-004, § 2, 5-12-1992)

Sec. 22-7. Reconnecting service; termination for violations of regulations for service.

(a) In the event water service has been turned off for any reason at a service location within the city, a charge in the amount established by the city council shall be made for again commencing water service at the location.

(b) The mayor and council shall have the authority, pursuant to this section, to promulgate policies, regulations and written provisions concerning the water and sewer service systems of the city. Any such written policies, regulations or requirements promulgated pursuant to this section shall be complied with by all customers and users of this service. Violations of any regulations shall result in penalties, discontinuance of service or other action as might be required pursuant to the provisions of this chapter and any and all other applicable federal, state or local provisions governing and regulating water and sewer service systems.
(Code 1976, § 21-7; Ord. No. 1977-001, § 1, 2-8-1977; Ord. No. 1992-004, § 4, 5-12-1992)

Sec. 22-8. Water leak protection program.

(a) Leak protection shall mean a program by which eligible customers will be protected from inordinate and unusual charges for water service provided by the water system in the event of an undetected leak, water pipe failure, or similar unintentional cause, which results in an abnormal discharge of water from a point commencing at

the customer's side of the metering device through all the connections with the eligible customer's dwelling, building or similar improvement.

(b) Eligible customer shall mean that this policy applies to any single-family residential customer and any bona fide religious organization, which holds worship within the City of Rockmart or by connection to the city's water distribution system, and the property of the religious institution is registered with the city as being exempt from taxation due to the property being used for religious services and/or related activities. No coverage is provided to any school, commercial, industrial or multi-family account. The only exception is multi-family accounts who are metered separately per household and in the name of the individual residing there.

(c) Limitations under this program include coverage for large, unintentional leaks up to a total of $750.00 credit in a 12-month period. The average of the previous six months water bills will be used to calculate what the charge should be when a leak adjustment is requested. No protection credit shall be afforded to any eligible customer until they submit proof that the waterline leak has been repaired (e.g. paid invoices and statement from repair person as to the cause of the leak) It shall be presumed that in the event the water usage by any eligible customer exceeds two times their normal, customary usage with the preceding 12-month period, and this usage occurs for more than 60 consecutive days, that the customer has failed to take adequate and necessary precautions to end any leak. In such an event, the water system may deny leak protection coverage partially, or in its entirety.

(d) OPT Out of the program option can be accomplished by the account holder coming into the office to complete the "OPT-OUT" form. Proof of picture identification must be provided. The monthly program fee of $3.00 will be removed from the account for future billing once this is completed. If an account holder invokes the "opt-out" provision of the leak protection program there will be no adjustments made in the event of a leak.

(e) Pool filling adjustments will only be made to those account holders who register their pool, including size and gallons, if known. Only one adjustment will be allowed per year and it will only be on the amount of sewer fees based on the gallons used. The account holder does not have to be participating in the "water leak protection program" to be eligible for this adjustment since it does not relate to water fees.
(Ord. No. 2018O-05, § 1, 6-12-2018)

Secs. 22-9—22-19. Reserved.

ARTICLE II. WATERWORKS RULES AND REGULATIONS

DIVISION 1. GENERALLY

Sec. 22-20. Supervision and control of municipal waterworks; right of entry for purposes of inspections.

(a) The municipal waterworks shall be under the immediate control and supervision of the superintendent of public works, who shall perform all acts that may be necessary for the prudent, efficient, and economical management and protection of said waterworks, subject to the approval and confirmation of the mayor and council.

(b) The superintendent of public works, or his designated assistant, may enter the premises of any water taker at any reasonable time to examine the condition of the water pipes, meters, and fixtures.
(Code 1976, § 21-20; Ord. No. 1977-001, § 2, 2-8-1977)

Sec. 22-21. Permission for attachments; reports.

No plumber or other person shall make an attachment to any pipe or water fixture, nor to any pipe where the water has been turned off unless permission has been granted by the waterworks authorities, nor shall any plumber or other person alter or extend any water pipes or attachments to conduct any water into any adjoining premises or any additional hydrants, stable, water closet, urinal, washbasin, cistern or fountain or for any purpose whatsoever without obtaining permission from the waterworks authorities, and in every instance the plumber, after having tested his work, must turn the water off and make returns to the waterworks office within 48 hours after completing his work.
(Code 1976, § 21-21; Ord. No. 204, § 5, 4-2-1935)

Sec. 22-22. Location of curb cocks.

In no case shall curb cocks be placed inside property lines, when houses supplied have a frontage on street, but shall be located in the street, alley or curbline.
(Code 1976, § 21-22; Ord. No. 204, § 26, 4-2-1935)

Sec. 22-23. Permission to turn water off or on at stopcock.

Water shall not be turned on or off under any circumstances by the stopcock to any premises for any purpose, but by the authority of the superintendent of the waterworks, except only by the plumber for testing his work, who must turn the water off immediately thereafter, and not leave same on unless by permission.
(Code 1976, § 21-23; Ord. No. 204, § 9, 4-2-1935)

Sec. 22-24. Interfering with reservoirs.

No person, except those having charge of the waterworks, or by permission of the same, shall be allowed to climb the ladders attached to the reservoirs in any way or manner, or interfere with the reservoir in any way.
(Code 1976, § 21-24; Ord. No. 204, § 11, 4-2-1935)

Sec. 22-25. Opening hydrants, etc.

It shall be unlawful for any person to open any hydrant, fireplug or gate, or remove or lift the cover of the same without the permission of the superintendent, except in case of fire, and then only under direction of the fire department.
(Code 1976, § 21-25; Ord. No. 204, § 12, 4-2-1935)

Sec. 22-26. Repair of leaks in service pipes.

If the service pipes through or in the premises of any person shall become leaky for want of repairs, it shall be the duty of such person to have the same repaired within 24 hours after notice; the supply of water on such premises shall be shut off and not let on again until all repairs are made.
(Code 1976, § 21-26; Ord. No. 204, § 14, 4-2-1935)

Sec. 22-27. Intention or gross misuse of water resources.

It shall be unlawful for any person, firm, or corporation to knowingly, or in the exercise of gross mismanagement or gross neglect to waste, expend, discharge into the city system, fail to properly review water meter charges; or in any similar fashion waste or misuse any services provided by the municipal water system.
(Code 1976, § 21-27; Ord. No. 204, § 16, 4-2-1935)

Sec. 22-28. Taking water illegally after shutoff.

It shall be unlawful for any person, by any false key, or otherwise, after the water has been shut off from any premises, to cause said premises to be supplied with water.
(Code 1976, § 21-28; Ord. No. 204, § 15, 4-2-1935)

Sec. 22-29. Separate taps.

In no case shall two or more houses receive water through the same tap service pipe. To avoid complications arising from such service, each house shall have its own tap and service pipe, except by permission of the superintendent of waterworks, and where more than one house is connected through one meter, such places will be subject to such rules as may be promulgated.
(Code 1976, § 21-29; Ord. No. 204, § 27, 4-2-1935)

Sec. 22-30. Size of service tap.

No service tap shall be more than two inches, for residential use, and six inches, for commercial use, in diameter; provided that the superintendent of public works may grant special permission for larger taps where the water supply and service facilities are sufficient to permit such taps. Where a larger tap is permitted, the city or its designee shall establish the cost thereof.
(Code 1976, § 21-29.1; Ord. No. 1977-001, § 3, 2-8-1977)

Sec. 22-31. Supplying water to others.

It shall be the duty of every person whose premises are supplied with water to prohibit persons from procuring, for any purpose, water from such premises, and the supply of water may be shut off from such premises and every person who shall so use the water shall be subject to punishment.
(Code 1976, § 21-30; Ord. No. 204, § 18, 4-2-1935)

Sec. 22-32. Persons liable for payment.

(a) The person, firm or corporation in whose name a water charge or deposit is entered on the business records of the city shall be held liable for all water service charges on said account.

(b) In the event any party to be held liable under subsection (a) of this section has become habitually delinquent, their account has become uncollectible or the credit rating on said account has become and is declared inferior by the city clerk; the city clerk may require, in the city clerk's sole and absolute discretion, that the account be transferred to the landlord, property owner or other party for continued water service to the real property upon which service is being furnished. It is the intention of this provision to preserve the city's right to perfect a lien for water charges and have available to it all other remedies and methods of collection as allowed by state law, after due notice to the landlord or property owner of delinquency of any tenant, renter or other user of the premises in whose name water service is being granted.
(Code 1976, § 21-31; Ord. No. 204, § 20, 4-2-1935; Ord. No. 1981-008, § 2, 6-9-1981)

Sec. 22-33. Shutting off water by city; liability of city for damage.

The city will not be liable for any damage that may result to consumers from the shutting off of a water main or service for any purpose whatever, even in cases where no notice is given, and no deductions will be made from water bills in consequence thereof.
(Code 1976, § 21-32; Ord. No. 204, § 21, 4-2-1935)

Sec. 22-34. Maintenance of pipes; freeze prevention.

Persons taking water must keep their water pipes and all fixtures connected therewith, in good repair and protected from frost. They must

have stop and waste cocks so arranged that they will draw all water from the pipes when shut off. (Code 1976, § 21-33; Ord. No. 204, § 22, 4-2-1935)

Sec. 22-35. Meters.

(a) *Installation; maintenance*. All premises using the city water supply shall be equipped with an adequate water meter furnished by the city at the expense of the property owner. All meters shall be installed on the edge of public rights-of-way, or where the water superintendent may determine. All meters shall be maintained by the city.

(b) *Readings*. The water superintendent shall cause every water meter in the city to be read at such times as are necessary for monthly utility billing.

(c) *Requests for rechecks*. Monthly meter readings will be rechecked at the request of the customer only when the excess usage is 30 percent higher than the previous six months' average consumption. If the usage exceeds 30 percent above this average (and the city has not previously rechecked the reading); the recheck will be at no expense to the customer.

(d) *Recheck service charge*. For requests for rechecks when usage is less than 30 percent above the previous six months' average or in the event of multiple rechecks in the same monthly billing cycle, a recheck service charge shall be assessed. In the event any recheck reveals a meter reading error and/or a defective meter, no service charge shall be assessed.

(e) *Testing, repairing, or replacing meters; fee*. Any city water meter shall be taken out of service and tested upon complaint of the customer and payment of afee established by the city council. If, upon test, the meter is not within three percent of being accurate, it shall be repaired or replaced and the fee returned to the customer. No rebate shall be made for any previous water billing period.

(f) *Tampering with, damaging meters; violation*. It shall be unlawful for any person to tamper with the cover of a meter, tamper with the instrument or otherwise cause any damage to any water meter of the city. Any person guilty of this offense shall be punished pursuant to the general penalties provision contained in section 1-7 of this Code.
(Code 1976, § 21-34; Ord. No. 204, § 24, 4-2-1935; Ord. No. 1988-002A, § 1, 3-8-1988)

Sec. 22-36. Use of water by builders.

It shall be the duty of all persons who may desire water for building purposes, to make application in writing to the superintendent of the waterworks.
(Code 1976, § 21-35; Ord. No. 204, § 23, 4-2-1935)

Sec. 22-37. Use of water during fire alarms.

During all fire alarms the use by persons other than municipal firefighters of hoses and other apparatuses maintaining a constant flow of water is absolutely forbidden.
(Code 1976, § 21-36; Ord. No. 1977-001, § 3, 2-8-1977)

Secs. 22-38—22-40. Reserved.

DIVISION 2. WELLHEAD PROTECTION*

Sec. 22-41. Definitions.

When used in this chapter the following words and phrases shall have the meanings given in this section:

Hazardous waste or *material* means any waste or material which because of its quantity, concentration, or physical, chemical or infectious characteristics may:

(1) Cause or significantly contribute to an increase in mortality or an increase in serious irreversible or incapacitating reversible illness; or

(2) Pose a substantial present or potential future hazard to human health and/or to

*__Editor's note—__Ord. No. 2009O-02, § 1, adopted April 14, 2009, set out provisions intended for use as Art. II, §§ 22-38—22-42. To preserve the style of this Code, and at the editor's discretion, these provisions have been included as Art. II, Div. 2, §§ 22-41—22-45. See editor's note at Ch. 10, Art. III, regarding former wellhead protection ordinance. See also the Code Comparative Table.

the environment when improperly treated, stored, transported, disposed of or otherwise managed.

Sanitary landfill means a disposal site where solid wastes, including putrescible wastes, or hazardous wastes, are disposed of on land by placing earth cover thereon.

Wellhead means the upper terminal of a well, including adapters, ports, seals, valves and other attachments.
(Ord. No. 2009O-02, § 1, 4-14-2009)

Sec. 22-42. Establishment of wellhead protection zone.

There is hereby established an area to be known as a wellhead protection zone, identified and described as all the area within a circle the center of which is the center of any city water supply wellhead and the radius of which is 250 feet. In a situation where any part of the 250 feet radius from the wellhead extends into the jurisdiction of another government entity, the city will request that government respect the protective features of this chapter.
(Ord. No. 2009O-02, § 1, 4-14-2009)

Sec. 22-43. Permitted uses.

The following uses shall be permitted within the wellhead protection zones:

(1) Any use permitted within the existing agricultural or single-family residential district; and

(2) Any other open land use where any building located on the property is incidental and accessory to the primary open land use; provided however, no such building shall have stored in it any hazardous waste, as defined in section 22-38.

(Ord. No. 2009O-02, § 1, 4-14-2009)

Sec. 22-44. Prohibited uses.

The following uses or conditions shall be and are herby prohibited within the wellhead protection zones, whether or not such uses or conditions may otherwise be ordinarily included as a part of a use permitted under this section on the general zoning ordinance of the city:

(1) Surface use or storage of hazardous material, expressly including commercial use of agricultural pesticides;

(2) Any new septic tanks or drain fields appurtenant thereto;

(3) Any new impervious surfaces other than roofs or buildings, and streets, driveways and walks serving buildings permitted under this section;

(4) Sanitary landfills;

(5) Hazardous waste disposal sites;

(6) Any new stormwater infiltration basins;

(7) Any new underground storage tanks;

(8) Any new sanitary sewer lines within 250 feet of a wellhead.

(Ord. No. 2009O-02, § 1, 4-14-2009)

Sec. 22-45. Administration.

The policies and procedures for administration of any wellhead protection zone established under the ordinance codified in this division, including without limitation those applicable to non-conforming uses, exception, enforcement and penalties, shall be the same as provided in the existing zoning ordinance for the City of Rockmart, as the same is presently enacted or may from time to time amended.
(Ord. No. 2009O-02, § 1, 4-14-2009)

Secs. 22-46—22-50. Reserved.

DIVISION 3. WATER CONSERVATION AND DROUGHT MANAGEMENT*

Sec. 22-51. Purpose and policy.

The general welfare of the public interest require that the water resources of Georgia be put

*__Editor's note—__Ord. No. 2009O-04, § 2, adopted May 12, 2009, set out provisions intended for use as §§ 22-43—22-49. To preserve the style of this Code, and at the editor's discretion, these provisions have been included as Div. 3, §§ 22-51—22-57. See also the Code Comparative Table.

to beneficial use to the fullest extent to which they are capable, subject to reasonable regulation in order to conserve such water resources, to protect natural systems, and to provide and maintain conditions that are conducive to the development and use of water resources. The General Assembly of Georgia has found and concluded that effective water resource management protects the public health and the safety and welfare of Georgia citizens. Water resources are to be managed in a sustainable manner so that current and future generations have the access to adequate supplies of quality water that support both human needs and natural systems. All citizens have a stewardship responsibility to conserve and protect the water resources of Georgia.
(Ord. No. 2009O-04, § 2, 5-12-2009)

Sec. 22-52. Goals and objectives.

In furtherance of the state's policy to conserve water resources and demand management goals, the City of Rockmart, as a permitted water system operator, adopts the following goals and objectives:

(1) To assure that the first priority is given to providing water for human consumption and sanitation; all other purposes shall be secondary;

(2) To control the rate of growth and development so as to minimize the demand on existing and planned water supply sources available to the City of Rockmart and its customers in order to maximize overall utilization of this limited resource;

(3) To reduce the upward trend of seasonal peak daily demands that drive the costly expansion of water treatment, storage, and transmission facilities;

(4) To improve system efficiency and operations by reducing un-billable or unaccounted for water loss on the system; and

(5) To provide an orderly process for reducing system-wide demands during periods of drought or other emergency water shortages.

(Ord. No. 2009O-04, § 2, 5-12-2009)

Sec. 22-53. Year-round water conservation practices.

The City of Rockmart encourages and will require that the following conservation practices are adhered to:

(1) All City of Rockmart Water System (the "system") users are encouraged to exercise voluntary water conservation practices at all times of the year, regardless of drought conditions, water shortage, or emergency condition. The city may periodically provide informational guidance and conservation tips to its users.

(2) All newly installed or substantially improved irrigation systems, which use City of Rockmart Water System water shall be equipped with automatic timers with rain or soil moister [moisture] sensors that activate to prevent operation of those systems while rain is falling and/or when soil moister [moisture] is adequate.

(3) Outdoor watering and non-essential outdoor water usage from the City of Rockmart Water System for all homes and businesses shall follow the restrictions imposed by the Georgia Department of Natural Resources, as from time to time amended, consistent with the level of drought; Rules and Regulations of the State of Georgia, Department of Natural Resources, Environmental Protection Division, Chapter 391-3-30 by express reference, is incorporated herein, together with the exemptions set forth therein.

(Ord. No. 2009O-04, § 2, 5-12-2009)

Sec. 22-54. Drought or other water use restrictions.

The following restrictions shall apply during drought or other water use conditions:

(1) Pursuant to O.C.G.A. § 12-5-102, the Director of the Environmental Protection Division of the State of Georgia, Department of Natural Resources may, from time to time, impose by permit, administrative or emergency order use restrictions on the City of Rockmart Water System.

(2) In addition thereto and supplemental thereof, water use restrictions may be imposed whenever the City of Rockmart Water System cannot supply its customers with sufficient water to protect the public health and safety without substantial reductions in water usage. Whenever it is determined, in writing, by the system's consulting engineer that the system is unable or reasonably unlikely to continue meeting its customer demand without substantial reduction in consumption, the mayor and city council, after consultation with the Georgia Department of Natural Resources, Environmental Protection Division, shall issue an administrative order imposing water use restrictions using such criteria, if any, set forth by the Georgia Environmental Protection Division.

(Ord. No. 2009O-04, § 2, 5-12-2009)

Sec. 22-55. Water use emergency.

Any other circumstances, including service losses caused by failure of equipment or facilities, human error, weather, or natural disaster, which constrain the system's water production capacity to less that the current level of customer demand may constitute a water use emergency. In the event the city manager determines reasonable cause exists to declare a water use emergency, authority is hereby delegated to the city manager, under the criteria set forth above, to issue an administrative order imposing immediate use restrictions on all users of the city water system. Orders issued by the city manager under this section shall only restrict such non-essential uses as necessary to achieve system objectives, and may be modified, as needed, during water use emergency to achieve the system's highest priority of providing water for human consumption and sanitation over all other water uses.

(Ord. No. 2009O-04, § 2, 5-12-2009)

Sec. 22-56. Notice of mandatory water conservation practices, water use restrictions, and/or water use emergency.

Customers and users of the City of Rockmart Water System shall be given notice of water use restrictions by the best means available, including without limitation, inclusion of a notice in monthly utility bills and/or publication in a newspaper of general circulation within the system's service area. Public service announcements through television, radio and posting on the city's web-site may also be utilized.

(Ord. No. 2009O-04, § 2, 5-12-2009)

Sec. 22-57. Enforcement of mandatory water conservation practices, water use restrictions, and water supply emergency orders.

The following shall apply:

(1) It shall be a violation of this division for any person, firm, or corporation to use or permit the use of potable water from the City of Rockmart Water System for any purpose or use restricted or prohibited by mandatory water conservation practices established by the Department of Natural Resources, by a permit, administrative or emergency order imposed by the Director of the Environmental Protection Division of the Georgia Department of Natural Resources, by an administrative order of the mayor and city council imposing water use restrictions, or in a water use emergency as declared by the division.

(2) Violators shall be cited to appear before the Municipal Court of the City of Rockmart, or other court of appropriate jurisdiction within the system's customer service area, and upon conviction shall be subject to a fine as set forth in section 1-7 of this Code, or, if applicable, charged upon state warrant with committing a misdemeanor as defined by general law.

(3) In addition thereto, in the sole discretion of the city manager, a water use surcharge, in the amount double the customer's most recent monthly water bill, may be imposed on any customer for the first violation of this division, and a water surcharge in the amount triple the customer's most recent monthly water bill, may be imposed for a second or subsequent violation of this division. For any

three or more violations within any 12-month period, water service shall be discontinued to any customer of the City of Rockmart Water System that willfully or systematically violates restrictions or prohibitions on a water usage after written notice from the city manager of the facts establishing such violation. When service is discontinued under this section, service shall not be reinstated unless the customer posts a surety bond in the amount of $5,000.00, payable to the City of Rockmart, conditioned on faithful adherence to all water use policies and restrictions of the system.

(4) The city manager is hereby authorized, as necessary, to seek from any court of appropriate and equitable jurisdiction, injunctive relief against any user of the City of Rockmart Water System for summary abatement or remedying of appropriate conditions dangerous or prejudicial to the public health and safety, together with recovery of the costs and legal expenses thereof.

(Ord. No. 2009O-04, § 2, 5-12-2009)

Sec. 22-58. Reserved.

DIVISION 4. OUTDOOR LANDSCAPE WATERING*

Sec. 22-59. Restriction on outdoor watering of landscape.

Outdoor watering for the purposes of planting, growing, managing, or maintaining ground cover, trees, shrubs, or other plants may occur between the hours of 4:00 p.m. and 10:00 a.m.; provided, however, that this limitation shall not create any limitation upon the following outdoor water uses:

(1) Commercial raising, harvesting, or storing of crops; feeding, breeding, or managing livestock or poultry, the commercial production or storing of 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, ratites, and turkeys; producing plants, trees, fowl, or animals; or the commercial production of aquacultural, horticultural, dairy, livestock, poultry, eggs, and apiarian products or as otherwise defined in O.C.G.A. § 1-3-3;

(2) Capture and reuse of cooling system condensate or stormwater in compliance with applicable city 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.

(4) Use of reclaimed waste water by a designated user from a system permitted by the Environmental Protection Division of the Georgia Department of Natural Resources to provide reclaimed wastewater;

(5) Watering personal food gardens;

(6) Watering 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 well or surface water by an owner or operator of property if such well or surface water is on said property;

(10) Watering horticultural crops held for sale, resale, or installation;

(11) Watering athletic fields, golf courses, or public turf grass recreational areas;

(12) Installation, maintenance, or calibration of irrigation systems; or

(13) Hydro-seeding.

(Ord. No. 2010O-06, § 1, 12-14-2010)

*__Editor's note—__Ord. No. 2010O-06, adopted Dec. 14, 2010, shall go into effect on Jan. 1, 2011.

Sec. 22-60. Enforcement.

(a) No person shall use or allow the use of water in violation of the restrictions on outdoor water use contained in this division.

(b) The City of Rockmart Department of Code Enforcement shall be the enforcement authority for this division. The city manager may also authorize other departments as may be deemed necessary to support enforcement.

(c) Criminal and alternative penalties may be imposed for any violation of this section and may also be enforced by a citation or accusation returnable to the municipal court or by any other legal means as set forth in the Code for the City of Rockmart.
(Ord. No. 2010O-06, § 2, 12-14-2010)

Sec. 22-61. Reserved.

ARTICLE III. SEWER USE

Sec. 22-62. Definitions.

The following words, terms and phrases when used in this article shall have the meanings ascribed to them in this section unless the context clearly indicates otherwise:

Biochemical oxygen demand (BOD) means the quantity of oxygen utilized in the biochemical oxidation of organic matter under EPA approval laboratory procedure 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 buildings and conveys it to the building sewer, beginning five feet outside the inner 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.

Combined sewer means a sewer receiving both surface runoff and sewage.

Customer means every person who is responsible for contracting (expressly or implicitly) with the city in obtaining, having, or using sewer connection with, or sewer tap to, the sewer 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 said system. Said terms shall include the occupants of each unit of a multiple-family dwelling unit building as a separate and distinct customer.

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. 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.

Health officer means the director of the county board of health or other person designated by the board of commissioners and its duly appointed assistants.

Industrial wastes means the wastewater from industrial processes as distinct from domestic or sanitary wastes.

Infiltration/inflow means groundwater and surface water which leaks into the sewers through cracked pipes, joints, manholes, or other openings.

May is permissive. (See *Shall*)

Municipality means the governmental body having jurisdiction over the maintenance and operations of the water and sanitary sewer system 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 250 milligrams per liter (mg/l), BOD-5 is not more than 250 mg/l, total phosphorous is not more than 15/mg/l, total Kjeldahl nitrogen is not more than 20 mg/l, and total flow is not more than 25,000 gallons per day.

Person means any individual, firm, company, association, society, corporation, or group.

pH means the logarithm of the reciprocal of the hydrogen ion concentration.

Pit privy means a shored, vertical pit in the earth completely covered with a flytight slab on which is securely located a flytight riser covered with hinged flytight seat and lid.

Properly shredded garbage means the wastes from the preparation, cooking, and dispensing of food that has 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 that carries liquid and water-carried wastes from residences, commercial buildings, industrial plants, and institutions together with minor quantities of groundwaters, stormwaters, and surface waters that are not intentionally admitted.

Septic tank means a subsurface impervious tank designed to temporarily retain sewage or similar waterborne wastes together with:

(1) A sewer line constructed with solid pipe, with the joints sealed, connecting the impervious tank with a plumbing stub out; and

(2) A 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." (See *Wastewater*)

Sewage works (sewerage) means all facilities for collecting, pumping, treating, and disposing of sewage.

Sewer means a pipe or conduit that carries wastewater.

Shall is mandatory. (See *May*)

Slug means any discharge of water or wastewater which in concentration of any given constituent or in quantity of flow exceeds for any period of 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 facilities.

Storm drain (sometimes termed "storm sewer") means a drain or sewer for conveying water, groundwater, subsurface water, or unpolluted water from any source and excluding sewage and industrial wastes other than unpolluted cooling water.

Superintendent means the utilities superintendent or his authorized deputy, agent or representative.

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 filtration as approved by the EPA and referred to as nonfilterable residue.

Unpolluted water means water of a quality equal to or better than the effluent criteria in effect or water that would not cause a violation of receiving water quality standards and would not be benefited by discharge to the sanitary sewers and wastewater treatment facilities provided.

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 building, industrial plants, and institutions, together with any groundwater, surface water and stormwater that may be present.

Wastewater facilities means the structures, equipment, and processes required to collect, carry away, and treat domestic and industrial wastes and dispose of the effluent.

Watercourse means a natural or artificial channel for the passage of water either continuously or intermittently.
(Ord. No. 003-1998, art. 2, 4-14-1998)

Sec. 22-63. Use of public sewers required.

(a) All premises shall be provided, by the owner thereof, with at least one toilet. All toilets shall be kept clean and in a sanitary working condition.

(b) No person shall dispose of human excrement except in a toilet.

(c) 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 water, including septic tank effluent or cesspool overflow to any open drain or well-penetrating, water-bearing formation, except where suitable treatment has been provided in accordance with subsequent provisions of this article.

(d) Except as hereinafter 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.

(e) The owners of all houses, buildings, or properties used for human occupancy, employment, recreation, or other purposes situated within the city jurisdiction and abutting on any street, alley, or right-of-way in which there is now located or may in the future be located a public sanitary sewer of the city is hereby required at the owners expense to install suitable toilet facilities herein, and to connect such facilities directly with the proper public sewer in accordance with the provisions of this article, within 30 days after date of official notice to do so, provided that said public sewer is within 200 feet of the property line.

(f) All sinks, dishwashing machines, lavatories, basins, shower baths, bathtubs, laundry tubs, washing machines, and similar plumbing fixtures or appliances 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 health officer may be used.
(Ord. No. 003-1998, art. 3, 4-14-1998)

Sec. 22-64. Private wastewater disposal.

(a) Where a public sanitary sewer is not available under the provisions of section 22-63, the building sewer shall be connected to a private wastewater disposal system complying with the provisions of the city and the state department of human resources.

(b) Septic tanks shall be constructed, repaired, altered, enlarged and maintained in accordance with plans and specifications approved by the health officers. Septic tanks shall be maintained in sanitary working order.

(c) No person shall construct, repair, alter, or enlarge any septic tank unless he shall hold a valid permit for such work issued by the health officer. The health officer may withhold the issuance of such a permit pending the inspection and approval by the health officer of the site and location of the proposed work. Before any septic tank or any part thereof may be covered after it has been constructed, repaired, altered, or enlarged, it shall be inspected and approved by the health officer.

(d) The type, capacities, location, and layout of a private wastewater disposal system shall comply with all recommendations of the department of human resources of the state. No permit shall be issued for any private wastewater disposal system employing subsurface soil absorption facilities where the area of the lot is less than 7,500 square feet in municipal zones R-2 and 15,000 square feet minimum in zone R-1. The discharge from a septic tank or cesspool to any natural outlet is prohibited.

(e) No septic tank or other subsurface disposal facility shall be installed where a public sewer is accessible to the premises involved, nor in any place where the health officer deems the use of same to be a menace to human health or well being.

(f) At such time as a public sewer becomes available to a property served by a private wastewater disposal system, a direct connection shall be made to the public sewer within 30 days after notice. Any septic tanks, cesspools, and similar private wastewater disposal facilities shall then be cleaned of sludge and filled with suitable material.

(g) The owner shall operate and maintain the private wastewater disposal facilities in a sanitary manner at all times, at no expense to the city.

(h) No subsurface disposal facilities shall be installed in any place where the health officer deems the use of such facilities to be a menace to human health or well-being.

(i) Every flush toilet shall be connected to public sewer where available or to a septic tank. Flush toilets shall be provided at all times with sufficient running water under pressure to flush the toilet clean after each use.

(j) No pit privy shall be installed in the following locations:

(1) Where a public sewer is accessible to the premises involved;

(2) In areas where the health officer deems the use of pit privies to constitute a nuisance or menace to the public health;

(3) Where a pit privy may pollute any water supply; or

(4) Where the use of pit privies is not in keeping with the standards of sanitation in adjacent areas.

(k) Discharge of septic tanks in sewer system.

(1) *Restricted.* It shall be unlawful to empty, dump, throw or otherwise discharge, into any manhole, catchbasin or other opening, into the city sewer system, or any system connected with and discharging into the sewer system, the contents of any septic tank, sludge, sewage, or other similar matter or material, except as provided in subsection (k)(2) of this section.

(2) *Exceptions.* The superintendent is hereby authorized to grant permits to city residents to discharge the contents of septic

tanks at locations specified by the superintendent and under his supervision. Such permits may be revoked at any time if, in the opinion of the superintendent, continued dumping of such matter into the sewers will be injurious to the sewer system or treatment processes. Permits will be given only on a very exceptional basis.

(3) *Charges.* A charge shall be made for the privilege of dumping the contents of septic tanks, as provided in separate rules. A record shall be kept of such dumping and statements rendered at the first of each month, the amount of such statements shall be payable within ten days after rendition. Failure to pay the amounts due within such ten-day period shall be cause for revoking the permit.

(l) Any premises that has a septic tank, privy, or any other sewage, industrial waste, or liquid waste disposal system, located thereon that does not function in a sanitary manner shall be corrected within 30 days from the receipt of written notification from the health officer that said system is not functioning in a sanitary manner, and order that said system be corrected.

(m) Premises with private water systems shall not be connected with the public sewerage system.

(n) No statement contained in this article shall be construed to interfere with any additional requirements that may be imposed by the health officer.
(Ord. No. 003-1998, art. 4, 4-14-1998)

Sec. 22-65. 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 thereof without first obtaining a written permit from the city.

(b) The owner or his 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 superintendent. A permit and inspection fee as specified elsewhere shall be paid 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 aforementioned.

(e) Old building sewers may be used in connection with new building only when they are found, on examination and test by the superintendent, to meet all of the 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 code or other applicable rules and regulations of the county. In the absence of code provisions or in amplification thereof, the materials and procedures set forth in appropriate specifications of the American Society for Testing and Materials (ASTM) and Water Pollution Control Federation (WPCF) Manual of Practice No. 9 shall apply. Additionally, the following materials and methods shall apply to building sewers within the city supervision:

(1) The building sewer shall be cast iron soil pipe, ASTM Specification A74, latest revision, or equal; ductile iron pipe, American National Standards Institute (ANSI) Specification A21.51, latest revision, or equal; or polyvinyl chloride (PVC) sewer pipe, ASTM Specification D3034, latest revision. All joints shall be tight and waterproof. Any part of the building sewer that is located within ten feet of a water ser-

vice pipe shall be constructed of cast iron soil pipe or ductile iron pipe with such bolted mechanical joints as may be required by the superintendent where the sewer is exposed to damage by tree roots. If installed in filled or unstable ground, the building sewer shall be of cast iron soil pipe, except that plastic pipe may be acceptable if laid on a suitable concrete bed or cradle as approved by the superintendent.

(2) The size and slope of the building sewer shall be subject to the approval of the superintendent, but in no event shall the diameter be less than four inches. The slope of such four-inch pipe shall not be less than one-eighth inch per foot. Furthermore, the appropriate requirements of the Occupational Health and Safety Act (OSHA) shall be followed.

(3) The depth shall be sufficient to afford protection from frost, and the building sewer shall be laid at uniform grade and with straight alignment insofar as possible. Changes in direction shall be made only with properly curved pipes and fittings. Building sewers shall not be placed in the same trench with water service lines.

(4) An excavation required for the installation of a building sewer shall be open trench work unless otherwise approved by the superintendent. Pipe laying and backfill shall be performed in accordance with ASTM Specification C12, latest revision, except that no backfill shall be placed until the work has been inspected and approved.

(5) Joints and connections.

a. All joints and connections shall be made gastight and watertight. Push-on joints for cast iron soil pipe shall have neoprene gaskets in accordance with the requirements of ASTM C-564.

b. Push-on joints for ductile iron pipe shall also have neoprene gaskets and be installed according to the manufacturer's recommendations. PVC pipe joint material shall be of the bell and spigot type, sealed with a rubber O-ring gasket, having a composition and texture which is resistant to the common ingredients of sewage, industrial wastes (including oils), and groundwater, and which will endure permanently under the conditions likely to be imposed by this use. Installation of gaskets shall be done in accordance with the pipe manufacturer's instructions using all the necessary materials, lubricants, and equipment recommended by the manufacturer.

c. Other jointing materials may be used only when approved by the superintendent.

(6) The connection of the building sewer into the public sewer shall be made at the "Y" branch, if such a branch is available at a suitable location. If the public sewer is 12 inches in diameter or less, and no properly located "Y" branch is available, the city shall, at the owner's expense, cut a neat hole into the public sewer, with entry in the downstream direction at an angle of about 45 degrees, and install a 45-degree elbow with the spigot end cut so as not to extend past the inner surface of the public sewer. The invert of the building sewer at the point of connection shall be at an elevation of at least one-tenth foot above the invert of the public sewer. A neat smooth joint shall be made and the connection made secure and watertight by encasement in concrete. Special fittings may be used for the connection only when approved by the superintendent.

(g) Whenever possible, the building sewer shall be brought to the building at an elevation below the basement floor. No building sewer shall be laid 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 for purposes of disposal of polluted surface drainage.

(i) The applicant for the building sewer permit shall notify the superintendent 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 superintendent or his representative.

(j) All excavations for building sewer installation shall be adequately guarded with barricades and lights so as to protect the public from hazard. Streets, sidewalks, parkways, and other public property disturbed in the course of the work shall be restored in a manner satisfactory to the city.

(k) The city will define the availability of sewers and any costs associated with sewer permits or construction.

(l) The connections of the building sewer into the public sewer shall conform to the requirements of the building and plumbing code or other applicable rules and regulations of the city or the procedures set forth in appropriate specifications of the ASTM and the WPCF Manual of Practice No. 9. 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 superintendent before installation.

(m) If any house sewer permits the entrance of infiltration or inflow, the city may:

(1) Require the owner to repair the house 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.

(Ord. No. 003-1998, art. 5, 4-14-1998)

Sec. 22-66. Restricted use of the public sewers.

(a) *Discharge of unpolluted waters.* No person shall discharge or cause to be discharged any unpolluted waters such as stormwater, groundwater, roof runoff, subsurface drainage, cooling water or unpolluted industrial process waters to any sanitary sewer.

(b) *Discharge of sanitary wastewater.* No person shall discharge or cause to be discharged any sanitary wastewater into a storm sewer system.

(c) *Other prohibited discharges.* No person shall discharge or cause to be discharged any of the following described waters or wastes to any public sewers:

(1) Pollutants which create a fire or explosion hazard in the municipal wastewater collection and POTW, including, but not limited to, wastestreams with a closed-cup flashpoint of less than 140 degrees Fahrenheit (60 degrees Celsius) using the test methods specified in 40 CFR 261.21.

(2) Any wastewater having a pH less than 6.0 or more than 9.0 standard units, or otherwise causing corrosive structural damage to the POTW or equipment, or endangering city personnel.

(3) Solid or viscous substances in amounts which will cause obstruction of the flow in or five centimeters in any dimension.

(4) Any wastewater containing pollutants, including oxygen demanding pollutants (BOD, etc.), released in a discharge at a flow rate and/or pollutant concentration which, either singly or by interaction with other pollutants, will cause interference with either the POTW; or any wastewater treatment or sludge process, or which will constitute a hazard to humans or animals.

(5) Any wastewater having a temperature greater than 150 degrees Fahrenheit (66

degrees Celsius), or which will inhibit biological activity in the treatment plant resulting in interference, but in no case wastewater which causes the temperature at the introduction into the treatment plant to exceed 104 degrees Fahrenheit (40 degrees Celsius).

(6) Petroleum oil, nonbiodegradable cutting oil or products of mineral oil origin, in amounts that will cause interference or pass through.

(7) Any pollutants which result in the presence of toxic gases, vapors or fumes within the POTW in a quantity that may cause acute worker health and safety problems.

(8) Any trucked or hauled pollutants, except at discharge points designated by the city manager.

(9) Any noxious or malodorous liquids, gases, solids, or other wastewater which either singly or by interaction with other wastes, are sufficient to create a public nuisance, a hazard to life, or to prevent entry into the sewers for maintenance and repair, or would in anyway cause health or safety problems for city workers.

(10) Any wastewater which imparts color which cannot be removed by the treatment process, such as, but not limited to, dye wastes and vegetable tanning solutions, which consequently imparts color to the treatment plant's effluent thereby violating the city's NPDES permit. Color (in combination with turbidity) shall not cause the treatment plant effluent to reduce the depth of the compensation point for photosynthetic activity by more than ten percent from the seasonably established norm for aquatic life.

(11) Any radioactive wastes or isotopes of such half-life or concentrations as may exceed limits established in compliance with applicable state or federal regulations.

(12) Stormwater, surface water, groundwater, artesian well water, roof runoff, subsurface drainage, swimming pool drainage, condensate, deionized water, noncontact cooling water, and unpolluted industrial wastewater, unless specifically authorized by the superintendent.

(13) Any sludge, screenings, or other residues from the pretreatment of industrial wastes.

(14) Any medical wastes, except as specifically authorized by the city manager in a wastewater discharge permit.

(15) Any wastewater alone or in conjunction with other sources causing the treatment plant's effluent to fail a toxicity test.

(16) Any wastes containing detergents, surface active agents, or other substances which may cause excessive foaming in the POTW.

(17) Any discharge of fats, oils, or greases of animal or vegetable origin is limited to 100 mg/l.

(18) Any discharge that would result in the exceedance of ten percent of the lower explosive level (LEL) at the POTW.

Wastes prohibited by this section shall not be processed or stored in such a manner that they could be discharged to the POTW. All floor drains located in process or materials storage areas must discharge to the industrial user's pretreatment facility before connecting with the POTW.

(d) *City options.* 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 above 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 a surcharge payment to cover the added cost of handling and treating the wastes.

(e) *Grease, oil, and sand interceptors.* Grease, oil, and sand 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 that 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 superintendent and shall be located as to be readily and easily accessible for cleaning and inspection. 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 superintendent. Any removal and hauling of the collected materials not performed by owner's personnel must be performed by currently licensed waste disposal firms.

(f) *Structure to facilitate the observation, sampling and measurement of wastes may be required.* When required by the city 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 measurement of the wastes. Such structure, when required, shall be accessibly and safely located and shall be constructed in accordance with approved plans. The structure shall be installed by the owner at his expense and shall be maintained by him so as to be safe and accessible at all times. This requirement will be on a case-by-case basis.

(g) *Information needed to determine compliance with article.* 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 the sewer use control;

(5) A plot plan of sewers on 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.

(h) *Special agreements between city and industrial concern.* No statement contained in this article shall be construed 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.

(i) *Standard methods.* 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 locations, times, durations, and frequencies are to be determined on an individual basis, subject to approval by the city.

(j) *Pretreatment of wastes.* Persons discharging industrial wastes into the sewerage system may be required to pretreat such wastes. Plans for all pretreatment facilities shall be approved by the superintendent or the state environmental protection division prior to construction. At the time written plans are submitted for approval, written maintenance plans shall also be submitted and approved by the superintendent. The facilities shall be allowed to operate only as long as they are maintained in accordance with the approved maintenance plans. Pretreatment requirements shall be determined on a case-by-case basis and shall include the following facilities as a minimum:

(1) *Neutralization.* If plans are submitted for neutralization of strong acid or alkaline wastes, the plans shall include the neces-

sary instrumentation and controls to assure compliance with the above regulation at all times.

(2) *Equalization.* Holding tanks or equalization basins shall be required ahead of the receiving manhole of the city sewerage system when deemed necessary by the superintendent to prevent peak flows that exceed the capacity of the system or that result in operational problems.

(3) *Operation of facilities.* All pretreatment facilities shall be operated and maintained continuously in satisfactory and effective operation by the owner at his expense.

(k) *Waiver of requirements.* 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 superintendent who can issue a temporary permit along with a compliance schedule for the planning and construction of necessary treatment and 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. Any dilution of the wastewater by the user for the purpose of decreasing the concentrations of toxic materials shall be considered as a violation of this article.

(l) *Discontinuance of service for failure to comply.* Failure to comply with the provisions of this article shall be cause for the discontinuance of sewer or water service to the offending person. The procedure shall be as follows: A written notice, signed by the superintendent, shall be delivered personally to the person then responsible for the offending use, outlining the conditions of the wastes which violate the city ordinances. In the event that the person in charge will not accept the notice, it shall be conveyed by registered mail to the responsible person. The person notified shall have 24 hours from the time of receipt of the notice, either personally delivered or received by registered mail, to correct the offending conditions. If correction is not made or a request for extension is not received by the city within 24 hours, it shall be mandatory that water or sewer service shall be discontinued to the offending person without further notice. If a request for an extension of time is received by the city within 24 hours of the above notice and if circumstances are such that, in the opinion of the superintendent, the best interest of the city would be served by extending the time for correction of the offending condition, then he may grant an extension of time up to a maximum limit of 30 days.

(m) *Responsibilities of the person discharging waste.* It shall be the responsibility of the person discharging industrial waste into the city sewerage system to:

(1) Build a control structure in the discharge line from his premises, immediately prior to the entrance of the discharge line into the city sewerage system, suitable for the sampling and measuring of wastes. Plans for this structure must be approved by the city. This requirement may be waived if deemed unnecessary by the city. In the event that no special manhole is required, the control manhole shall be considered to be the nearest downstream manhole in the public sewer to the point at which the building sewer is connected.

(2) Contact the superintendent prior to operation with changes which will materially alter the characteristics of the waste from the last prior sampling.

(3) Make timely, periodic payments to the city of surcharges for excessive loadings as detailed by the city.

(Ord. No. 003-1998, art. 6, 4-14-1998)

Sec. 22-67. 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 provision shall be subject to immediate arrest under charge of violating O.C.G.A. §§ 16-7-24, 16-7-25.

(Ord. No. 003-1998, art. 7, 4-14-1998)

Sec. 22-68. Powers and authority of inspectors.

(a) Duly authorized employees or agents 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 sewerage system in accordance with the provisions of this article.

(b) While performing the necessary work on private properties referred to herein, the authorized employees or agents of the city shall observe all safety rules applicable to the premises established by the company, and the company shall be held harmless for injury or death to the employees, and the city shall indemnify the company against loss or damage to its property by said employees or agents against liability claims and demands for personal injury or property damage asserted against the company, except as such may be caused by negligence or failure of the company to maintain safe conditions as required by this article.

(c) Duly authorized employees or agents of the city bearing proper credentials and identification shall be permitted to enter all private properties through which the city holds an easement for the purposes of, but not limited to, inspections, observation, measurement, sampling, repair, and maintenance of any portion of the wastewater facilities lying within said easement. All entry and subsequent work, if any, on said easement, shall be done in full accordance with the terms of the duly negotiated easement pertaining to the private property involved.
(Ord. No. 003-1998, art. 8, 4-14-1998)

Sec. 22-69. Compliance with regulatory requirements.

The provisions of this article shall not be deemed as alleviating compliance with applicable state and federal regulations. Specific user charge and industrial cost recovery requirements, promulgated pursuant to Public Law 92-500, shall be considered as a part of this article upon official adoption. All nonresidential users will be required to comply with pretreatment standards as outlined in 40 CFR 403.
(Ord. No. 003-1998, art. 9, 4-14-1998)

Sec. 22-70. Service charges.

It is hereby 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.
(Ord. No. 003-1998, art. 10, 4-14-1998)

Sec. 22-71. 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) 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 proper conveyance and treatment of wastewater;

(2) 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

(3) The customer:

a. Discharges industrial waste or wastewater that is in violation of the permit issued by the approving authority;

b. Discharges wastewater at an uncontrolled, variable rate in sufficient quantity to cause an imbalance in the wastewater treatment process;

c. Fails to pay monthly bills for sanitary sewer service when due; or

d. Repeats a discharge of prohibited wastes into public sewer.

Whenever a customer has violated or continues to violate the provisions of this article or an order or permit, water service to the customer may be

severed and service will only recommence at the user's expense, after it has satisfactorily demonstrated its ability to comply.

(b) Notification processes for discontinuance of service are presented in subsection 22-66(l).
(Ord. No. 003-1998, art. 11, 4-14-1998)

Sec. 22-72. Industrial wastewater surcharge.

(a) *Surcharge assessed.* All industrial contributors whose wastewaters exceed 250 mg/l BOD, 250 mg/l suspended solids, and/or 550 mg/l COD shall be assessed a surcharge in addition to the user charge. The surcharge shall be based on the proportionally higher BOD suspended solids, and COD concentration the industry contributes to the wastewater treatment facility.

(b) *Basis of surcharge.* The surcharge rate is determined based on cost per pound per day of treatment of waste by the city in the present categories of measurement, BOD or COD, and TSS as defined in the definition provisions of the Code in section 22-62. The following equation, using the terms designated and further explained for purposes of the equation, shall be the basis of the rate of charge determination:

Explanation of terms:

(1) BOD, TSS and COD: As defined in section 22-62.

(2) O&M cost: The total operation and maintenance costs for the water pollution facilities system for the city.

(3) BODR: The rate or cost per pound of BOD treated by the water pollution control facility on an average daily basis.

(4) TSSR: The rate or cost per pound of TSS treated by the water pollution control facility on an average daily basis.

(5) CODR: The rate or costs per pound of COD treated by the water pollution control facility on an average daily basis.

(6) Q: The industrial metered flow of waste during a monthly billing cycle.

(7) I: Industrial average strength of a particular waste in a billing cycle.

(8) 250, 550: Maximum limits industry is permitted to discharge to the sewer system before a surcharge is levied. These limits are established based on a designated capacity of the city water pollution control facilities.

(c) *Surcharge calculations.* The equations for calculation of all surcharges, using the terms set forth in the preceding part hereof, are as follows:

(1) BOD surcharge per pound - BOD O&M, cost over 365 × BOD average pounds per day plant - BODR.

(2) TSS and COD surcharge per pound - Same basis.

(3) Therefore, the surcharge rate using the aforesaid calculations, is as follows:

BOD - surcharge = Q × 8.34 × (BODi-250) × BODR

TSS - surcharge = Q × 8.34 × (TSSi-250) × TSSR

COD - surcharge = Q × 8.34 × (CODi-550) × CODR

(4) The sum of the BOD surcharge, TSS surcharge and COD surcharge = total surcharge.

Q = Industry flow in billing period.

BODi = Industry average BOD in billing period.

TSSi = Industry average TSS in billing period.

CODi = Industry average COD in billing period.

BODR = BOD surcharge rate from subsection (d) of this section.

TSSR = TSS surcharge rate from subsection (d) of this section.

CODR = COD surcharge rate from subsection (d) of this section.

(d) *Rate adjustment.* The surcharge rate may be analyzed from time to time by the city, and adjusted based upon the aforesaid calculations, so as to maintain the surcharge amount at the cost of capital improvements for the treatment of

industrial sewage by the water pollution control facility of the city. Surcharge rates are published separate from this article.

(e) *Right to establish additional surcharge.* Nothing contained in the above statement of rate of surcharge or method of calculation shall prohibit the city from hereafter establishing a method of surcharge for oil and grease calculations, excess capacity of flow into the plant for an industrial user or otherwise establishing additional methods for calculations of surcharge.

(f) *Measurement of flow in computing surcharges.* The volume of flow used in computing industrial waste surcharges shall be based upon metered, estimated or prorated water consumption as shown in the records of meter reading maintained by the city water department. In the event that a person discharging wastes into the city sanitary sewer system produces evidence to the superintendent that a significant portion of the total annual volume of water used for all purposes does not reach the city sanitary sewer, an estimated percentage of total water consumption to be used in computing charges may be agreed upon between the superintendent and the persons discharging industrial wastes into said sewer, provided that said agreement shall be approved by the city council.

(g) *Disputed analyses; regauging and sampling of wastes.* In the event that an analysis of wastes, determined by the sampling and gauging of wastes from a person or industry by the city is disputed; a program of resampling and gauging, with subsequent chemical determination may be instituted as follows:

(1) The person or industrial user interested must submit a request for resampling and gauging of their wastes to the superintendent by letter and bind themselves to bear the expenses incurred by the city in the resampling and gauging and subsequent chemical determination of the wastes.

(2) The chemist or engineer employed by the company responsible for the request submitted to the city must confer with the superintendent or with the person in charge of gauging and sampling. They will establish the length of the rerun and the methods to be employed to determine the flow and to sample the flow.

(3) The chemist or engineer engaged by the person or industry may be present during the gauging and sampling operation and also in the city laboratory during the chemical determination of the analysis.

(4) The results of the analysis, determined from the quantity and quality of the flow shall be considered the analysis of record and shall be used to establish current billing procedures.

(Ord. No. 003-1998, art. 12, 4-14-1998)

Sec. 22-73. Flagrant, continuous or egregious activities concerning sewer uses.

(a) In addition to the surcharge rights of the city as contained in section 22-72, the city shall have the right, in the following defined instances, to assess additional fines and penalties (in addition to any sewer surcharge), for the following defined types conduct and/or activities:

(1) Continuing violations of this section resulting in more than two surcharges within a 30-day period;

(2) Discharge of effluent into the system in such a fashion as to cause any form of plant upset in the POTW of the city;

(3) The disconnection, failure to keep functional, failure to repair, failure to properly install or maintain, or similar conduct which causes a partial or complete failure in operation of a pretreatment system of any industrial user to the extent that effluent, subject to pretreatment is not pretreated due to the acts, errors, and omissions of any user of this system. This failure to repair or maintain a pretreatment system contemplates a material act, error or omission due to lack of diligence, maintenance or intentional conduct which directly or indirectly causes a bypass of a pretreatment system, so that untreated

effluent is directly discharged into the POTW contrary to federal, state or local laws and ordinances;

(4) Acts which constitute an intentional, knowing, or constructive effort on the behalf of any user after notice from the city, continuing acts which have previously been found to be in written violation of this article, and for which not only written violations have occurred, but significant surcharges in excess of $2,000.00, have been entered for the same, or similar conduct that causes the present complaint against any party discharging into the POTW; or

(5) Failure to properly sample any effluent pursuant to appropriate administrative order, or other requirements of this article, so that the city is unable to determine the nature, extent and strength of any wastewater discharge by a user into the system.

(b) Any person, firm or corporation which violates the provisions of section 22-72, shall be subject to a fine for each violation up to $1,000.00, together with any costs, or expense, (as restitution) of the requirements of the city to correct the violation. Each day that a violation continues, or each separate act of violation found to exist, shall be considered a separate offense, subject to the fine and restitution requirements of this article. In addition to fines and restitution for these violations, the city shall have the right to exercise summary abatement of any dangerous conditions, nuisance, or other appropriate measure allowed by this article, and/or the general ordinances of the city, so as to provide appropriate and complete safety to the health and welfare of the citizens of the city, and especially any such action which could threaten the proper operations and/or functions of the POTW.
(Ord. No. 009-1998, § 2, 11-10-1998)

Secs. 22-74—22-100. Reserved.

ARTICLE IV. PRETREATMENT STANDARDS

DIVISION 1. GENERALLY

Sec. 22-101. Purpose and policy.

(a) This article sets forth uniform requirements for users of the publicly owned treatment works for the city and enables the city to comply with all applicable state and federal laws, including the Clean Water Act (33 USC 1251 et seq.) and the General Pretreatment Regulations (40 CFR 403). The objectives of this article are:

(1) To prevent the introduction of pollutants into the publicly owned treatment works that will interfere with its operation;

(2) To prevent the introduction of pollutants into the publicly owned treatment works that will pass through the publicly owned treatment works, inadequately treated, into receiving waters, or otherwise be incompatible with the publicly owned treatment works;

(3) To ensure that the quality of the wastewater treatment plant sludge is maintained at a level which allows its use and disposal in compliance with application status and regulations. To protect both publicly owned treatment works personnel who may be affected by wastewater and sludge in the course of their employment and the general public;

(4) To increase the opportunity to reclaim, reuse and recycling of industrial wastewater and sludge from the publicly owned treatment works;

(5) To provide for fees for the equitable distribution of the cost of operation, maintenance, and improvement of the publicly owned treatment works; and

(6) To enable the city to comply with its national pollutant discharge elimination system permit conditions, sludge use and disposal requirements, and any other federal or state laws to which the publicly owned treatment works is subject.

(b) This article shall apply to all users of the publicly owned treatment works. This article authorizes the issuance of wastewater discharge permits; authorizes monitoring, compliance, and enforcement activities; establishes administrative review procedures; requires user reporting; and provides for the setting of fees for the equitable distribution of costs resulting from the program established in this article; and requires industrial user compliance with applicable pretreatment standards and requirements.

Sec. 22-102. Responsibility for administration and enforcement.

Except as otherwise provided herein, the city manager shall administer, implement, and enforce the provisions of this article. Any powers granted to or duties imposed upon the city manager may be delegated by the city manager to other city personnel.

Sec. 22-103. Abbreviations.

The following abbreviations, when used in this article, shall have the designated meanings:

BOD	Biochemical Oxygen Demand
CFR	Code of Federal Regulations
COD	Chemical Oxygen Demand
EPA	U.S. Environmental Protection Agency
gpd	gallons per day
mg/l	milligrams per liter
NPDES	National Pollutant Discharge Elimination System
O&M	Operation and Maintenance
POTW	Publicly Owned Treatment Works
RCRA	Resource Conservation and Recovery Act
SIC	Standard Industrial Classification
TSS	Total Suspended Solids
USC	United States Code

Sec. 22-104. 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 or *the Act* means the Federal Water Pollution Control Act, also known as the Clean Water Act, as amended, 33 USC 1251 et seq.

Approval authority means the environmental protection division of the state department of natural resources.

Authorized representative of the user means:

(1) If the user is a corporation:

a. The president, secretary, treasurer, or a vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision-making functions for the corporation; or

b. The manager of one or more manufacturing, production, or operation facilities employing more than 250 persons or having gross annual sales or expenditures exceeding $25,000,000.00 (in second-quarter 1980 dollars), if authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.

(2) If the user is a partnership or sole proprietorship: a general partner or proprietor, respectively.

(3) If the user is a federal, state, or local governmental facility: an authorized representative shall mean a director of highest official of the appointed or designated to oversee the operation and performance of the activities of the government facility, or their designee.

(4) The individuals described in subsections (1) through (3) of this definition, may designate another authorized representative if the authorization is in writing, the authorization specifies the individual or position responsible for the overall opera-

tion of the facility from which the discharge originates or having overall responsibility for environmental matters for the company, and the written authorization is submitted to the city.

Biochemical oxygen demand or *BOD* means the quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedures for five days at 20 degrees Celsius, usually expressed as a concentration (milligrams per liter).

Categorical pretreatment standard or *categorical standard* means any regulation containing pollutant discharge limits promulgated by EPA in accordance with Sections 307(b) and (c) of the Act (33 USC 1317) which apply to a specific category of users and which appear in 40 CFR 405—471.

City means the city or the city council.

Composite sample means the sample resulting from the combination of individual wastewater samples taken at selected intervals based on an increment of either flow or time.

Environmental Protection Agency or *EPA* means the U.S. Environmental Protection Agency or, where appropriate, the Regional Water Management Division Director, or other duly authorized official of said agency.

Existing source means any source of discharge, the construction or operation of which commenced prior to the publication by the EPA of proposed categorical pretreatment standards, which will be applicable to such source if the standard is thereafter promulgated in accordance with Section 307 of the Act.

Grab sample means a sample which is taken from a wastestream without regard to the flow in the wastestream and over a period of time not to exceed 15 minutes.

Indirect discharge or *discharge* means the introduction of pollutants into the POTW from any nondomestic source regulated under Section 307(b), (c), or (d) of the Act.

Instantaneous maximum allowable discharge limit means the maximum concentration of a pollutant allowed to be discharged at any time, determined from the analysis of any discrete or composite sample collected, independent of the industrial flow rate and the duration of the sampling event.

Interference means a discharge, which alone or in conjunction with a discharge or discharges from other sources, inhibits or disrupts the POTW, its treatment processes or operations or its sludge processes, use or disposal; and therefore, is a cause of a violation of the city's NPDES permit or of the prevention of sewage sludge use or disposal in compliance with any of the following statutory/regulatory provisions or permits issued thereunder, or any more stringent state or local regulations: Section 405 of the Act; the Solid Waste Disposal Act, including Title II commonly referred to as the Resource Conservation and Recovery Act (RCRA); any state regulations contained in any state sludge management plan prepared pursuant to Subtitle D of the Solid Waste Disposal Act; the Clean Air Act; the Toxic Substances Control Act and the Marine Protection, Research, and Sanctuaries Act.

Medical waste means isolation wastes, infectious agents, human blood and blood by products, pathological wastes, sharps, body parts, contaminated bedding, surgical wastes, potentially contaminated laboratory wastes, and dialysis wastes.

New source means:

(1) Any building, structure, facility, or installation from which there is (or may be) a discharge of pollutants, the construction of which commenced after the publication of proposed pretreatment standards under Section 307(c) of the Act which will be applicable to such source if such standards are thereafter promulgated in accordance with that section, provided that:

a. The building, structure, facility, or installation is constructed at a site at which no other source is located; or

b. The building, structure, facility, or installation totally replaces the process or production equipment that causes the discharge of pollutants at an existing source; or

c. The production or wastewater generating processes of the building, structure, facility, or installation are substantially independent of an excising source at the same site. In determining whether these are substantially independent, factors such as the extent to which the new facility is integrated with the existing plant, and the extent to which the new facility is engaged in the same general type of activity as the existing source, should be considered.

(2) Construction on a site at which an existing source is located results in a modification rather than a new source if the construction does not create a new building, structure, facility, or installation meeting the criteria of subsection (1)b or (1)c of this definition but otherwise alters, replaces, or adds to existing process or production equipment.

(3) Construction of a new source has commenced if the owner or operator has:

a. Begun, or caused to begin, as part of a continuous onsite construction program:

1. Any placement, assembly, or installation of facilities or equipment; or

2. Significant site preparation work including clearing, excavation, or removal of existing buildings, structures, or facilities which is necessary for the placement, assembly, or installation of new source facilities or equipment; or

b. Entered into a binding contractual obligation for the purchase of facilities or equipment which are intended to be used in its operation within a reasonable time. Options to purchase or contracts which can be terminated or modified without substantial loss, and contracts for feasibility, engineering, and design studies do not constitute a contractual obligation under this subsection.

Noncontact cooling water means water used for cooling which does not come into direct contact with any raw material, intermediate product, waste product, or finished product.

Pass through means a discharge which exits the POTW into waters of the United States in quantities or concentrations which, alone or in conjunction with a discharge from other sources, is a cause of a violation of any requirement of the city's NPDES permit, including an increase in the magnitude or duration of a violation.

Person means any individual, partnership, copartnership, firm, company, corporation, association, joint stock company, trust, estate, governmental entity, or any other legal entity; or their legal representatives, agents, or assigns. This definition includes all federal, state, and local governmental entities.

pH means a measure of the acidity or alkalinity of a solution, expressed in standard units.

Pollutant means dredged spoil, solid waste, incinerator residue, filter backwash, sewage, garbage, sewage sludge, munitions, medical wastes, chemical wastes, biological materials, radioactive materials, heat, wrecked or discarded equipment, rock, sand, cellar dirt, municipal, agricultural and industrial wastes, and certain characteristics of wastewater (e.g., pH, temperature, TSS, turbidity, color, BOD, COD, toxicity, or odor).

Pretreatment means the reduction of the amount of pollutants, the elimination of pollutants, or the alteration of the nature of pollutant properties in wastewater prior to, or in lieu of, introducing such pollutants into the POTW. This reduction or alteration can be obtained by physical, chemical, or biological processes; by process changes; or by other means, except by diluting the concentration of the pollutants unless allowed by an applicable pretreatment standard.

Pretreatment requirements means any substantive or procedural requirement related to pretreatment imposed on a user, other than a pretreatment standard.

Pretreatment standards or *standards* means prohibited discharge standards, categorical pretreatment standards, and local limits.

Prohibited discharge standards or *prohibited discharges* means absolute prohibitions against the discharge of certain substance; these prohibitions appear in section 22-136.

Publicly owned treatment works or *POTW* means a treatment works, as defined by Section 212 of the Act (33 USC 1292) which is owned by the city or the state. This definition includes any devices or systems used in the collection, storage, treatment, recycling, and reclamation of sewage or industrial wastes of a liquid nature and any conveyances which convey wastewater to a treatment plant. The term also means the municipal entity having jurisdiction over the industrial users and responsibility for the operating and maintenance of treatment works.

Septic tank waste means any sewage from holding tanks such as vessels, chemical toilets, campers, trailers, and septic tanks.

Sewage means human excrement and gray water (household showers, dishwashing operations, etc.).

Significant industrial user means:

(1) A user subject to categorical pretreatment standards; or

(2) A user that:

a. Discharges an average of 25,000 gpd or more of process wastewater to the POTW (excluding sanitary, noncontact cooling, and boiler blowdown wastewater);

b. Contributes a process wastestream which makes up five percent or more of the average dry weather hydraulic or organic capacity of the POTW treatment plant; or

c. Is designated as such by the city on the basis that the user has a reasonable potential for adversely affecting the POTW's operation or for violating any pretreatment standard or requirement.

(3) Upon a finding that a user meeting the criteria in subsection (2) of this definition has no reasonable potential for adversely affecting the POTW's operation or for violating any pretreatment standard or requirement, the city may at any time, on its own initiative or in response to a petition received from a user, and in accordance with procedures in 40 CFR 403.8(f)(6), determine that such user should not be considered a significant industrial user.

Slug load or *slug* means any discharge at a flow rate or concentration which could cause a violation of the prohibited discharge standards in section 22-136, or any discharge of a nonroutine, episodic nature, including but not limited to an accidental spill or a noncustomary batch discharge.

Standard Industrial Classification (SIC) Code means a classification pursuant to the Standard Industrial Classification Manual issued by the United States Office of Management and Budget.

Stormwater means any flow occurring during or following any form of natural precipitation, and resulting from such precipitation, including snowmelt.

Superintendent means the person designated by the city to supervise the operation of the POTW, and who is charged with certain duties and responsibilities by this article, or a duly authorized representative.

Suspended solids means the total suspended matter that floats on the surface of, or is suspended in, water, wastewater, or other liquid, and which is removable by laboratory filtering.

Toxic pollutant means one of 129 pollutants or a combination of those pollutants listed as toxic in regulations promulgated by the EPA under the provision of Section 307 of the Act (33 USC 1317). As presently enacted or lesser designated by federal law.

Treatment plant effluent means any discharge of pollutants from the POTW into waters of the state.

User or *industrial user* means a source of indirect discharge.

Wastewater means liquid and water-carried industrial wastes and sewage from residential dwellings, commercial buildings, industrial and manufacturing facilities, and institutions, whether treated or untreated, which are contributed to the POTW.

Wastewater treatment plant or *treatment plant* means that portion of the POTW which is designed to provide treatment of municipal sewage and industrial waste.

Sec. 22-105. Confidential information.

Information and data on a user obtained from reports, surveys, wastewater discharge permit applications, wastewater discharge permits, and monitoring programs, and from the city's inspection and sampling activities, shall be available to the public without restriction, unless the user specifically requests, and is able to demonstrate to the satisfaction of city manager, that the release of such information would divulge information, processes, or methods of production entitled to protection as trade secrets under applicable state law. Any such request must be asserted at the time of submission of the information or data. When requested and demonstrated by the user furnishing a report that such information should be held confidential, the portions of a report which might disclose trade secrets or secret processes shall not be made available for inspection by the public, but shall be made available immediately upon request to governmental agencies for uses related to the NPDES program or pretreatment program, and in enforcement proceedings involving the person furnishing the report. Wastewater constituents and characteristics and other effluent data as defined by 40 CFR 2.302 will not be recognized as confidential information and will be available to the public without restriction.

Sec. 22-106. Publication of users in significant noncompliance.

The city shall publish annually, in the largest daily newspaper published in the municipality where the POTW is located, a list of the users which, during the previous 12 months, were in significant noncompliance with applicable pretreatment standards and requirements. The term "significant noncompliance" shall mean:

(1) Chronic violations of wastewater discharge limits, defined as those in which 66 percent or more of wastewater measurements taken during a six-month period exceed the daily maximum limit or average limit for the same pollutant parameter by any amount;

(2) Technical review criteria (TRC) violations, defined as those in which 33 percent or more of wastewater measurements taken for each pollutant parameter during a six-month period equals or exceeds the product of the daily maximum limit or the average limit multiplied by the applicable criteria (1.4 for BOD, TSS, fats, oils and grease, and 1.2 for all other pollutants except pH);

(3) Any other discharge violation that the city manager believes has caused, alone or in combination with other discharges, interference or pass through, including endangering the health of POTW personnel or the general public;

(4) Any discharge of pollutants that has caused imminent endangerment to the public or to the environment, or has resulted in the city's exercise of its emergency authority to halt or prevent such a discharge;

(5) Failure to meet, within 90 days after the due date, a compliance schedule milestone contained in a wastewater discharge permit or enforcement order for starting construction, completing construction, or attaining final compliance;

(6) Failure to provide within 30 days after the due date, any required reports, including baseline monitoring reports, reports on compliance with categorical pretreatment standard deadlines, periodic self-monitoring reports, and reports on compliance with compliance schedules;

(7) Failure to accurately report noncompliance, or

(8) Any other violation which the city manager determines will adversely affect the operation or implementation of the local pretreatment program.

Sec. 22-107. Pretreatment charges and fees.

The city may adopt reasonable fees for reimbursement of costs of setting up and operating the city's pretreatment program which may include:

(1) Fees for wastewater discharge permit applications including the cost of processing such applications;

(2) Fees for monitoring, inspection, and surveillance procedures including the cost of collection and analyzing a user's discharge, and reviewing monitoring reports submitted by users;

(3) Fees for reviewing and responding to accidental discharge procedures and construction;

(4) Fees for filing appeals; and

(5) Other fees as the city may deem necessary to carry out the requirements contained herein. These fees relate solely to the matters covered by this article and are separate from all other fees, fines, and penalties chargeable by the city.

Secs. 22-108—22-135. Reserved.

DIVISION 2. SEWER USE REQUIREMENTS

Sec. 22-136. Industrial waste surcharges.

(a) *Surcharge limits.* All customers discharging industrial wastes into the public sewers shall be charged and assessed a surcharge, in addition to any sewer service charges, if these wastes have a concentration as described below:

(1) A BOD_5 content of 250 mg/l or greater.

(2) A TSS content of 250 mg/l or greater.

(3) A COD content of 550 mg/l or greater.

(4) A pH less than 6.0 or greater than 9.0.

(5) An oil and grease content of 50 mg/l or greater.

The amount of the surcharge, which is hereby charged and assessed against all customers discharging industrial wastewater into the public sewers, shall reflect the cost incurred by the city in handling the excess BOD, TSS, COD, pH and oil and grease. This surcharge shall include a proportionate share of charges for maintenance and operation of the water pollution control facilities including depreciation and other incidental expenses.

(b) *Determination of amounts.* The rates for each of the aforementioned constituents shall be determined annually by the wastewater plant manager in order that the above factors may correctly represent current treatment costs. A schedule of the surcharge shall be filed with the city clerk by the wastewater plant manager.

(c) *Billing procedure.* Industrial waste surcharges provided for this section shall be prepared and rendered either as a separate invoice or with the regular water bill. The volume of flow used in billing the industrial waste surcharges shall be based upon metered potable water, metered wastewater, estimated wastewater flow, or estimated, or prorated water consumption.

Sec. 22-137. Prohibited discharge standards.

(a) *General prohibitions.* No user shall introduce or cause to be introduced into the POTW any pollutant or wastewater which causes pass through or interference. These general prohibitions apply to all users of the POTW whether or not they are subject to categorical pretreatment standards or any other national, state, or local pretreatment standards or requirements.

(b) *Specific prohibitions.* No user shall introduce or cause to be introduced into the POTW the following pollutants, substances, or wastewater:

(1) Pollutants which create a fire or explosive hazard in the POTW, including, but not limited to, wastestreams with a closed-cup flashpoint of less than 140 degrees Fahrenheit (60 degrees Celsius) using the test methods specified in 40 CFR 261.21;

(2) Wastewater having a pH less than 6.0 or more than 9.0, or otherwise causing cor-

rosive structural damage to the POTW or equipment or endangering city personnel;

(3) Solid or viscous substances in amounts which will cause obstruction of the flow in the POTW resulting in interference but in no case solids greater than two inches or five centimeters in any dimension;

(4) Pollutants, including oxygen-demanding pollutants (BOD, etc.), released in a discharge at a flow rate and/or pollutant concentration which, either singly or by interaction with other pollutants, will cause interference with the POTW; or any wastewater treatment of sludge process, or which will constitute a hazard to human health and/or the environment;

(5) Wastewater having a temperature greater than 150 degrees Fahrenheit (66 degrees Celsius), or which will inhibit biological activity in the treatment plant resulting in interference, but in no case wastewater which causes the temperature at the introduction into the treatment plant to exceed 104 degrees Fahrenheit (40 degrees Celsius);

(6) Petroleum oil, nonbiodegradable cutting oil, or products of mineral oil origin, in amounts that will cause interference or pass through;

(7) Any pollutants which result in the presence of toxic gases, vapors, or fumes within the POTW in a quantity that may cause acute worker health and safety problems;

(8) Trucked or hauled pollutants, except at discharge points designated by the city manager in accordance with section 22-174;

(9) Noxious or malodorous liquids, gases, solids, or other wastewater which, either singly or by interaction with other wastes, are sufficient to create public nuisance or a hazard to life, or to prevent entry into the sewers for maintenance or repair; or would in any manner cause health and safety problems for city workers;

(10) Wastewater which imparts color which cannot be removed by the treatment process, such as, but not limited to, dye wastes and vegetable tanning solutions, which consequently imparts color to the treatment plant's effluent, thereby violating the city's NPDES permit. Color, in combination with turbidity, shall not cause the treatment plant effluent to reduce the depth of the compensation point for photosynthetic activity by more than ten percent from the seasonably established norm for aquatic life;

(11) Wastewater containing any radioactive wastes or isotopes except as specifically approved by the city manager in compliance with applicable state or federal regulations;

(12) Stormwater, surface water, groundwater, artesian well water, roof runoff, subsurface drainage, swimming pool drainage, condensate, deionized water, noncontact cooling water, and unpolluted wastewater, unless specifically authorized by the city manager;

(13) Sludges, screening, or other residues from the pretreatment of industrial wastes;

(14) Medical wastes, except as specifically authorized by the city manager in a wastewater discharge permit;

(15) Wastewater causing alone or in conjunction with other sources, the treatment plant's effluent to fail a toxicity test;

(16) Any waste containing detergents, surface-active agents, or other substances which may cause excessive foaming in the POTW;

(17) Any discharge of fats, oils, or greases of animal or vegetable origin in concentrations greater than 100 mg/l;

(18) Wastewater causing a reading on an explosion hazard meter at the point of discharge into the POTW, or at any point in the POTW, of more than ten percent of the lower explosive limit of the meter.

(c) *Waste prohibitions.* Pollutants, substances, or wastewater should not be processed or stored in such a manner that they could be discharged to the POTW. All floor drains located in process or

materials storage areas must discharge to the industrial user's pretreatment facility before connecting with the POTW.

Sec. 22-138. National categorical pretreatment standards.

The categorical pretreatment standards found at 40 CFR Chapter I, Subchapter N, Parts 405—471 are hereby incorporated by reference into this article as presently adopted, or hereafter amended, to-wit:

(1) Where a categorical pretreatment standard is expressed only in terms of either the mass or the concentration of a pollutant in wastewater, the city may impose equivalent concentration or mass limits in accordance with 40 CFR 403.6(c)).

(2) When wastewater subject to a categorical pretreatment standard is mixed with wastewater not regulated by the same standard, the city manager shall impose an alternate limit using the combined wastestream formula in 40 CFR 403.6(e).

(3) A user may obtain a variance from a categorical pretreatment standard if the user can prove, pursuant to the procedural and substantive provisions in 40 CFR 403.13, that factors relating to its discharge are fundamentally different from the factors considered by EPA when developing the categorical pretreatment standard.

(4) A user may obtain a net gross adjustment to a categorical standard in accordance with 40 CFR 403.15.

Sec. 22-139. Local limits.

(a) The following pollutant maximum allowable discharge concentration limits are established to protect against pass through and interference. No person shall discharge wastewater containing in excess of the following discharge limits:

0.207 mg/l arsenic

0.002 mg/l mercury

0.008 mg/l cadmium

0.506 mg/l nickel

2.163 mg/l chromium

0.075 mg/l selenium

0.109 mg/l copper

0.51 mg/l silver

0.082 mg/l cyanide

4.0 mg/l total phenols

0.116 mg/l lead

0.145 mg/l zinc

The above limits apply at the point where the wastewater is discharged to the POTW. All concentrations for metallic substances are for "total" metal unless indicated otherwise. The city manager may impose mass limitations in addition to, or in place of, the concentration-based limitations above.

(b) The following pollutant maximum allowable discharge mass limits are established to protect against pass through and interference. No person shall discharge wastewater containing in excess of the following discharge limits:

Pollutant	*Monthly Average (lbs/day)*	*Daily Maximum (lbs/day)*
BOD_5	850	1250
TSS	500	550
Oil and Grease	145	220

Sec. 22-140. City's right to impose more restrictive requirements.

The city reserves the right to establish, by ordinance or in wastewater discharge permits, more stringent standards or requirements on discharges to the POTW, than those set forth in section 22-139.

Sec. 22-141. Dilution.

No user shall ever increase the use of process water, or in any way attempt to dilute a discharge, as a partial or complete substitute for adequate treatment to achieve compliance with a discharge limitation unless expressly authorized

by an applicable pretreatment standard or requirement. The city manager may impose mass limitations on users who are using dilution to meet applicable pretreatment standards or requirements, or in other cases when the imposition of mass limitations is appropriate.

Secs. 22-142—22-170. Reserved.

DIVISION 3. PRETREATMENT OF WASTEWATER

Sec. 22-171. Pretreatment facilities.

(a) Users shall provide wastewater treatment as necessary to comply with this article and shall achieve compliance with all categorical pretreatment standards, local limits, and the prohibitions set out in section 22-136 within the time limitations specified by the EPA, the state, or the city, whichever is more stringent. Any facilities necessary for compliance shall be provided, operated, and maintained at the user's expense. Detailed plans describing such facilities and operating procedures shall be submitted to the city manager for review, and shall be acceptable to the city manager before such facilities are constructed.

(b) The review of such plans and operating procedures shall in no way relieve the user from the responsibility of modifying such facilities as necessary to produce a discharge acceptable to the city under the provisions of this article.

Sec. 22-172. Authority to require additional pretreatment measures.

(a) Generally whenever deemed necessary, the city manager may require users to restrict their discharge during peak flow periods, designate that certain wastewater be discharged only into specific sewers, relocate and/or consolidate points of discharge, separate sewage waste streams from industrial wastestreams, and such other conditions as may be necessary to protect the POTW and determine the user's compliance with the requirements of this article.

(b) The city manager may require any person discharging into the POTW to install and maintain, on his property and at his expense, a suitable storage and flow-control facility to ensure equalization of flow. A wastewater discharge permit may be issued solely for flow equalization.

(c) Grease, oil, and sand interceptors shall be provided when, in the opinion of the city manager, they are necessary for the proper handling of wastewater containing excessive amounts of grease and oil, or sand; except that such interceptors shall not be required for residential users. All interception units shall be of a type and capacity approved by the city manager and shall be so located as to be easily accessible for cleaning and inspection. Such interceptors shall be inspected, cleaned, and repaired regularly, as needed, by the user at his expense.

(d) Users with the potential to discharge flammable substances may be required to install and maintain an approved combustible gas detection meter.

(e) Whenever deemed necessary by the city manager, a user may be required to install devices as necessary to conduct sampling and/or metering of the user's operations. The user may also be required to install and maintain monitoring equipment as necessary. The user, at his own expense, shall maintain equipment at all times in safe and proper operating condition. All sampling and/or metering devices and equipment shall be calibrated and maintained by the user as recommended by the manufacturer.

Sec. 22-173. Accidental discharge/slug control plans.

At least once every two years, the city manager shall evaluate whether each significant industrial user needs an accidental discharge/slug control plan. The city manager may require any user to develop, submit for approval, and implement such a plan. Alternatively, the city manager may develop such a plan for any user. An accidental discharge/slug control plan shall address, at a minimum, the following:

(1) Description of discharge practices, including nonrouting batch discharges;

(2) Description of stored chemicals;

(3) Procedures for immediately notifying the city of any accidental or slug discharge, as required by section 22-276; and

(4) Procedures to prevent adverse impact from any accidental or slug discharge. Such procedures include, but are not limited to, inspection and maintenance of storage areas, handling and transfer of materials, loading and unloading operations, control of plant site runoff, worker training, building of containment structures or equipment, measures for containing toxic organic pollutants, including solvents, and/or measures and equipment for emergency response.

Sec. 22-174. Hauled wastewater.

(a) Septic tank waste may be introduced into the POTW only at locations designated by the city manager, and at such times as are established by the city manager. Such waste shall not violate the provisions of division 2 of this article or any other requirements established by the city. The city manager may require septic tank waste haulers to obtain wastewater discharge permits.

(b) The discharge of hauled industrial wastes as industrial septage requires prior approval and a wastewater discharge permit from the city. The city manager shall have the authority to prohibit the disposal of such wastes, if such disposal would interfere with the treatment plant operation. Waste haulers are subject to all other sections of this article.

(c) It shall be unlawful to empty, dump, throw or otherwise discharge into any manhole, catchbasin or other opening into the city water pollution control facilities, or any sewer connected with and discharging into the collection facilities the contents of any septic tank or chemical toilet, sludge, wastewater or other similar matter of material, except as provided in this section.

(d) The applicant shall be the owner of the vehicle discharging such wastes. Any false, misleading or untruthful statements as to the nature of the material discharged shall be cause for rejection of any further discharge from the applicant and revocation of the permit. Discharges may also be suspended or terminated at any time by the superintendent for willful, continued or persistent violations of this article or upon such grounds as the city may deem proper and consistent with this Code.

(e) All equipment, including trucks, tanks, pumps and hoses used in the collection or transportation of septic tanks wastes, shall be modern operable equipment in good condition and state of repair. When more than one vehicle is used by an applicant, each vehicle shall bear an identifying number.

Secs. 22-175—22-200. Reserved.

DIVISION 4. WASTEWATER DISCHARGE PERMIT APPLICATION

Sec. 22-201. Wastewater analysis.

When requested by the city manager, a user must submit information on the nature and characteristics of its wastewater within 60 days of the request. The city manager is authorized to prepare a form for this purpose and may periodically require users to update this information.

Sec. 22-202. Wastewater discharge permit requirement.

(a) No significant industrial user shall discharge wastewater into the POTW without first obtaining a wastewater discharge permit from the city manager, except that a significant industrial user that has filed a timely application pursuant to section 22-203 may continue to discharge for the time period specified therein.

(b) The city manager may require other users to obtain wastewater discharge permits as necessary to carry out the purposes of this article.

(c) Any violation of the terms and conditions of a wastewater discharge permit shall be deemed a violation of this article and subjects the wastewater discharge permittee to the sanctions set out in divisions 8 through 10 of this article. Obtaining a wastewater discharge permit does not relieve a permittee of its obligation to comply with all federal and state pretreatment standards or requirements or with any other requirements of federal, state, and local law.

Sec. 22-203. Wastewater discharge permitting—Existing connections.

Any user required to obtain a wastewater discharge permit who was discharging wastewater into the POTW prior to the effective date hereof and who wishes to continue such discharges in the future, shall within 30 days after said date, apply to the city for a wastewater discharge permit in accordance with section 22-205, and shall not cause or allow discharges to the POTW to continue after 90 days of such date, except in accordance with a wastewater discharge permit issued by the city manager.

Sec. 22-204. Same—New connections.

Any user required to obtain a wastewater discharge permit who proposes to begin or recommence discharging into the POTW must obtain such permit prior to the beginning or recommencing of such discharge. An application for this wastewater discharge permit, in accordance with section 22-205, must be filed at least 60 days prior to the date upon which any discharge will begin or recommence.

Sec. 22-205. Wastewater discharge permit application contents.

All users required to obtain a wastewater discharge permit must submit a permit application. The city manager may require all users to submit as part of an application the following information:

(1) All information required by section 22-271(b);

(2) Description of activities, facilities, and plant processes on the premises, including a list of all raw materials and chemicals used or stored at the facility which are, or could accidentally or intentionally be, discharged to the POTW;

(3) Number and type of employees, hours of operation, and proposed or actual hours of operation;

(4) Each product produced by type, amount, process, and rate of production, including process description;

(5) Description of any existing pretreatment facilities;

(6) Type and amount of raw materials processed (average and maximum per day);

(7) Site plans, floor plans, mechanical and plumbing plans, and details to show all sewers, floor drains, and appurtenances by size, location, and elevation, and all points of discharge and schematics as necessary to provide process flow information;

(8) Time and duration of discharges; and

(9) Any other information as may be deemed necessary by the city manager to evaluate the wastewater discharge permit application.

Incomplete or inaccurate applications will not be processed and will be returned to the user for revision.

Sec. 22-206. Application signatories and certification.

All wastewater discharge permit applications and user reports must be signed and dated by an authorized representative of the user and contain the following certification statement:

> "I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information including the possibility of fine and imprisonment for knowing violations."

Sec. 22-207. Wastewater discharge permit decisions.

The city manager will evaluate the data furnished by the user and may require additional information. Within 30 days of receipt of a com-

plete wastewater discharge permit application, the city manager will determine whether or not to issue a wastewater discharge permit.

Secs. 22-208—22-235. Reserved.

DIVISION 5. WASTEWATER DISCHARGE PERMIT

Sec. 22-236. Duration.

A wastewater discharge permit shall be issued for a specified time period, not to exceed five years from the effective date of the permit. A wastewater discharge permit may be issued for a period less than five years, at the discretion of the city manager. Each wastewater discharge permit will indicate a specific date upon which it will expire.

Sec. 22-237. Contents.

A wastewater discharge permit shall include such conditions as are deemed reasonably necessary by the city manager to prevent pass through or interference, protect the quality of the water receiving the treatment plant's effluent, protect worker health and safety, facilitate sludge management and disposal, and protect against damage to the POTW.

(1) Wastewater discharge permits must contain:

a. A statement that indicates wastewater discharge permit duration, which in no event shall exceed five years;

b. A statement that the wastewater discharge permit is nontransferable without prior notification to the city manager in accordance with section 22-240, and provisions for furnishing the new owner or operator with a copy of the existing wastewater discharge permit;

c. Effluent limits based on applicable pretreatment standards;

d. Self monitoring, sampling, reporting, notification, and record-keeping requirements. These requirements shall include an identification of pollutants to be monitored, sampling location, sampling frequency, and sample type based on federal, state, and local law; and

e. A statement of applicable civil and criminal penalties for violation of pretreatment standards and requirements, and any applicable compliance schedule. Such schedule may not extend the time for compliance beyond that required by applicable federal, state, or local law.

(2) Wastewater discharge permits may contain, but need not be limited to, the following conditions:

a. Limits on the average and/or maximum rate of discharge, time of discharge, and/or requirements for flow regulation and equalization;

b. Requirements for the installation of pretreatment technology, pollution control, or construction of appropriate containment devices, designed to reduce, eliminate, or prevent the introduction of pollutants into the treatment works;

c. Requirements for the development and implementation of spill control plans or other special conditions including management practices necessary to adequately prevent accidental, unanticipated, or nonroutine discharges;

d. Development and implementation of waste minimization plans to reduce the amount of pollutants discharged to the POTW;

e. The unit charge or schedule of user charges and fees for the management of the wastewater discharged to the POTW;

f. Requirements for the installation and maintenance of inspection and sampling facilities and equipment;

g. A statement that compliance with the wastewater discharge permit does not relieve the permittee of responsibility for compliance with all appli-

cable federal and state pretreatment standards, including those which become effective during the term of the wastewater discharge permit; and

h. Other conditions as deemed appropriate by the city manager to ensure compliance with this article, and state and federal law, rules, and regulations.

Sec. 22-238. Appeals.

The city shall provide public notice of the issuance of a wastewater discharge permit. Any person, including the user, may petition the city to reconsider the terms of a wastewater discharge permit within 30 days of notice of its issuance.

(1) Failure to submit a timely petition for review shall be deemed to be a waiver of the administrative appeal.

(2) In its petition, the appealing party must indicate the wastewater discharge permit provisions objected to, the reasons for this objection, and the alternative condition, if any, it seeks to place in the wastewater discharge permit.

(3) The effectiveness of the wastewater discharge permit shall not be stayed pending the appeal.

(4) If the city fails to act within 60 days, a request for reconsideration shall be deemed to be denied. Decisions not to reconsider a wastewater discharge permit, not to issue a wastewater discharge permit, or not to modify a wastewater discharge permit shall be considered final administrative actions for purposes of judicial review.

(5) Aggrieved parties seeking judicial review of the final administrative wastewater discharge permit decision must do so by filing a complaint with the Superior Court of Polk County within appropriate State Statute of Limitations.

Sec. 22-239. Permit modification.

The city manager may modify a wastewater discharge permit for good cause, including, but not limited to, the following reasons:

(1) To incorporate any new or revised federal, state, or local pretreatment standards or requirements;

(2) To address significant alterations or additions to the user's operation, processes, or wastewater volume or character since the time of wastewater discharge permit issuance;

(3) A change in the POTW that requires either a temporary or permanent reduction or elimination of the authorized discharge;

(4) Information indicating that the permitted discharge poses a threat to the city's POTW, city personnel, or the receiving waters;

(5) Violation of any terms or conditions of the wastewater discharge permit;

(6) Misrepresentations or failure to fully disclose all relevant facts in the wastewater discharge permit application or in any required reporting;

(7) Revision of or a grant of variance from categorical pretreatment standards pursuant to 40 CFR 403.13;

(8) To correct typographical or other errors in the wastewater discharge permit; or

(9) To reflect a transfer of the facility ownership or operation to a new owner or operator.

Sec. 22-240. Transferability.

Wastewater discharge permits may be transferred to a new owner or operator only if the permittee gives at least 30 days advance notice to the city manager and the city manager approves the wastewater discharge permit transfer. The notice to the city manager must include a written certification by the new owner or operator which:

(1) States that the new owner and/or operator has no immediate intent to change the facility's operations and processes;

(2) Identifies the specific date on which the transfer is to occur; and

(3) Acknowledges full responsibility for complying with the existing wastewater discharge permit.

Failure to provide advance notice of a transfer renders the wastewater discharge permit void as of the date of facility transfer.

Sec. 22-241. Revocation.

(a) The city manager may revoke a wastewater discharge permit for good cause, including, but not limited to, the following reasons:

(1) Failure to notify the city manager of significant changes to the wastewater prior to the changed discharge;

(2) Failure to provide prior notification to the city manager of changed conditions pursuant to section 22-275;

(3) Misrepresentation or failure to fully disclose all relevant facts in the wastewater discharge permit application;

(4) Falsifying self-monitoring reports;

(5) Tampering with monitoring equipment;

(6) Refusing to allow the city timely access to the facility premises and records;

(7) Failure to meet effluent limitations;

(8) Failure to pay fines;

(9) Failure to pay sewer charges;

(10) Failure to meet compliance schedules;

(11) Failure to complete a wastewater survey or the wastewater discharge permit application;

(12) Failure to provide advance notice of the transfer of business ownership of a permitted facility; or

(13) Violation of any pretreatment standard or requirement, or any terms of the wastewater discharge permit or this article.

(b) Wastewater discharge permits shall be voidable upon cessation of operations or transfer of business ownership. All wastewater discharge permits issued to a particular user are void upon the issuance of a new wastewater discharge permit to that user.

Sec. 22-242. Reissuance.

A user with an expiring wastewater discharge permit shall apply for wastewater discharge permit reissuance by submitting a complete permit application, in accordance with section 22-205, a minimum of 30 days prior to the expiration of the user's existing wastewater discharge permit.

Secs. 22-243—22-270. Reserved.

DIVISION 6. REPORTING REQUIREMENTS

Sec. 22-271. Baseline monitoring reports.

(a) *Deadline for submission.* Within either 180 days after the effective date of a categorical pretreatment standard, or the final administrative decision on a category determination under 40 CFR 403.6(a)(4), whichever is later, existing categorical users currently discharging to or scheduled to discharge to the POTW shall submit to the city manager a report which contains the information listed in subsection (b) of this section. At least 90 days prior to commencement of their discharge, new sources, and sources that become categorical users subsequent to the promulgation of an applicable categorical standard, shall submit to the city manager a report which contains the information listed in subsections (b)(1)—(5) of this section. A new source shall report the method of pretreatment it intends to use to meet applicable categorical standards. A new source also shall give estimates of its anticipated flow and quantity of pollutants to be discharged.

(b) *Contents.* Users described above shall submit the information set forth below.

(1) *Identifying information.* The name and address of the facility, including the name of the operator and owner.

(2) *Environmental permits.* A list of any environmental control permits held by or for the facility.

(3) *Description of operations.* A brief description of the nature, average rate of production, and standard industrial classifications of the operations carried out by such user. This description should include a

schematic process diagram which indicates points of discharge to the POTW from the regulated processes.

(4) *Flow measurement.* Information showing the measured average daily and maximum daily flow, in gallons per day, to the POTW from regulated process streams and other streams, as necessary, to allow use of the combined wastestream formula set out in 40 CFR 403.6(e).

(5) *Measurement of pollutants.*

a. The categorical pretreatment standards applicable to each regulated process.

b. The results of sampling and analysis identifying the nature and concentration, and/or mass, where required by the standard or by the city manager, of regulated pollutants in the discharge from each regulated process. Instantaneous, daily maximum, and long-term average concentrations, or mass, where required, shall be reported. The sample shall be representative of daily operations and shall be analyzed in accordance with the procedures set out in section 22-280.

c. Sampling must be performed in accordance with the procedures set out in section 22-281.

(6) *Certification.* A statement, reviewed by the user's authorized representative and certified by a qualified professional, indicating whether pretreatment standards are being met on a consistent basis, and if not, whether additional operation and maintenance (O&M) and/or additional pretreatment is required to meet the pretreatment standards and requirements.

(7) *Compliance schedule.* If additional pretreatment and/or O&M will be required to meet the pretreatment standards, the shortest schedule by which the user will provide such additional pretreatment and/or O&M. The completion date in this schedule shall not be later than the compliance date established for the applicable pretreatment standard. A compliance schedule pursuant to this section must meet the requirements set out in section 22-272.

(8) *Signature and certification.* All baseline monitoring reports must be signed and certified in accordance with section 22-206.

Sec. 22-272. Compliance schedule progress reports.

The following conditions shall apply to the compliance schedule required by subsection 22-271(b)(7):

(1) The schedule shall contain progress increments in the form of dates for the commencement and completion of major events leading to the construction and operation of additional pretreatment required for the user to meet the applicable pretreatment standards (such events include, but are not limited to, hiring an engineer, completing preliminary and final plans, executing contracts for major components, commencing and completing construction, and beginning and conducting routine operation);

(2) No increment referred to above shall exceed nine months;

(3) The user shall submit a progress report to the city manager no later than 14 days following each date in the schedule and the final date of compliance including, as a minimum, whether or not it complied with the increment of progress, the reason for any delay, and, if appropriate, the steps being taken by the user to return to the established schedule; and

(4) In no event shall more than nine months elapse between such progress reports to the city manager.

Sec. 22-273. Reports on compliance with categorical pretreatment standard deadline.

Within 90 days following the date for final compliance with applicable categorical pretreat-

ment standards, or in the case of a new source following commencement of the introduction of wastewater into the POTW, any user subject to such pretreatment standards and requirements shall submit to the city, a report containing the information described in subsection 22-271(b). For users subject to equivalent mass or concentration limits established in accordance with the procedures in 40 CFR 403.6(c), this report shall contain a reasonable measure of the user's long-term production rate. For all other users subject to categorical pretreatment standards expressed in terms of allowable pollutant discharge per unit of production (or other measure of operation), this report shall include the user's actual production during the appropriate sampling period. All compliance reports must be signed and certified in accordance with section 22-206.

Sec. 22-274. Periodic compliance reports.

All significant industrial users shall, at a frequency determined by the city manager but in no case less than twice per year (in June and December), submit a report indicating the nature and concentration of pollutants in the discharge which are limited by pretreatment standards and the measured or estimated average and maximum daily flows for the reporting period. All significant users must sample and report for all regulated pollutants at least once during the reporting period. All periodic compliance reports must be signed and certified in accordance with section 22-206.

(1) All wastewater samples must be representative of the user's discharge. Wastewater monitoring and flow measurement facilities shall be properly operated, kept clean, and maintained in good working order at all times. The failure of a user to keep its monitoring facility in good working order shall not be grounds for the user to claim that sample results are unrepresentative of his discharge.

(2) If a user subject to the reporting requirement in this section monitors any pollutant more frequently than required by the city, using the procedures prescribed in section 22-281, the results of this monitoring shall be included in the report.

Sec. 22-275. Reports of changed conditions.

Each user must notify the city manager of any planned significant changes to the user's operations or systems which might alter the nature, quality, or volume of its wastewater at least 20 days before the change.

(1) The city manager may require the user to submit such information as may be deemed necessary to evaluate the changed condition, including the submission of a wastewater discharge permit application under section 22-205.

(2) The city manager may issue a wastewater discharge permit under section 22-207 or modify an existing wastewater discharge permit under section 22-239 in response to changed conditions or anticipated changed conditions.

(3) For purposes of this requirement, significant changes include, but are not limited to, flow increases of ten percent or greater, and the discharge of any previously unreported pollutants.

Sec. 22-276. Reports of potential problems.

(a) In the case of any discharge, including, but not limited to, accidental discharges, discharges of a nonrouting, episodic nature, a noncustomary batch discharge, or a slug load, that may cause potential problems for the POTW, the user shall immediately telephone and notify the city manager of the incident. This notification shall include the location of the discharge, type of waste, concentration and volume, if known, and corrective actions taken by the user.

(b) Within five days following such discharge, the user shall, unless waived by the city manager, submit a detailed written report describing the cause of the discharge and the measures to be taken by the user to prevent similar future occurrences. Such notification shall not relieve the user of any expense, loss, damage, or other liability which may be incurred as a result of damage to the POTW, natural resources, or any other damage to person or property; nor shall such notifica-

tion relieve the user of any fines, penalties, or other liability which may be imposed pursuant to this article.

(c) A notice shall be permanently posted on the user's bulletin board or other prominent place advising employees whom to call in the event of a discharge described in subsection (a) of this section. Employers shall ensure that all employees, who may cause such a discharge to occur, are advised of the emergency notification procedure.

Sec. 22-277. Reports from unpermitted users.

All users not required to obtain a wastewater discharge permit shall provide appropriate reports to the city as the city manager may require.

Sec. 22-278. Notice of violation/repeat sampling and reporting.

If sampling performed by a user indicates a violation, the user must notify the city within 24 hours of becoming aware of the violation. The user shall also repeat the sampling and analysis and submit the results of the repeat analysis to the city manager within 30 days after becoming aware of the violation. The user is not required to resample if the city monitors at the user's facility at least once a month, or if the city samples between the user's initial sampling and when the user receives the results of this sampling.

Sec. 22-279. Notification of the discharge of hazardous waste.

(a) Any user who commences the discharge of hazardous waste shall notify the POTW, the EPA Regional Waste Management Division Director, and state hazardous waste authorities, in writing, of any discharge into the POTW of a substance which, if otherwise disposed of, would be a hazardous waste under 40 CFR 261. Such notification must include the name of the hazardous waste as set forth in 40 CFR 261, the EPA hazardous waste number, and the type of discharge (continuous, batch, or other). If the user discharges more than 100 kilograms of such waste per calendar month to the POTW, the notification also shall contain the following information to the extent such information is known and readily available to the user: an identification of the hazardous constituents contained in the wastes, an estimation of the mass and concentration of such constituents in the wastestream discharged during that calendar month, and an estimation of the mass of constituents in the wastestream expected to be discharged during the following 12 months. All notifications must take place no later than 180 days after the discharge commences. Any notification under this subsection need be submitted only once for each hazardous waste discharge. However, notifications of changed conditions must be submitted under section 22-275. The notification requirement in this section does not apply to pollutants already reported by users subject to categorical pretreatment standards under the self-monitoring requirements of sections 22-271, 22-273, and 22-274.

(b) Discharges are exempt from the requirements of subsection (a) of this section during a calendar month in which they discharge no more than 15 kilograms of hazardous wastes, unless the wastes are acute hazardous wastes as specified in 40 CFR 261.30(d) and 261.33(e). Discharge of more than 15 kilograms of nonacute hazardous wastes in a calendar month, or of any quantity of acute hazardous wastes as specified in 40 CFR 261.30(d) and 261.33(e), requires a one time notification. Subsequent months during which the user discharges more than such quantities of any hazardous waste do not require additional notification.

(c) In the case of any new regulations under section 3001 of RCRA identifying additional characteristics of hazardous waste or listing any additional substance as a hazardous waste, the user must notify the city manager, the EPA Regional Waste Management Waste Division Director, and state hazardous waste authorities of the discharge of such substance within 90 days of the effective date of such regulations.

(d) In the case of any notification made under this section, the user shall certify that it has a program in place to reduce the volume and toxicity of hazardous wastes generated to the degree it has determined to be economically practical.

(e) This provision does not create a right to discharge any substance not otherwise permitted to be discharged by this article, a permit issued thereunder, or any applicable federal or state law.

Sec. 22-280. Analytical requirements.

All pollutant analysis, including sampling techniques, to be submitted as part of a wastewater discharge permit application or report shall be performed in accordance with the techniques prescribed in 40 CFR 136, unless otherwise specified in an applicable categorical pretreatment standard. If 40 CFR 136 does not contain sampling or analytical techniques for the pollutant in question, sampling and analysis must be performed in accordance with procedures approved by EPA.

Sec. 22-281. Sample collection.

(a) Except as indicated in subsection (b) of this section, the user must collect wastewater samples using flow proportional composite collection techniques. In the event flow proportional sampling is infeasible, the city manager may authorize the use of time proportional sampling or a minimum of four grab samples where the user demonstrates that this will provide a representative sample of the effluent being discharged. In addition, grab samples may be required to show compliance with instantaneous discharge limits.

(b) Samples for oil and grease, temperature, pH, cyanide, phenols, sulfides, and volatile organic compounds must be obtained using grab collection techniques.

(c) The city reserves the right to take independent samples of the effluent of all regulated industries for the determination of compliance to pretreatment standards and to determine the amount of surcharge.

Sec. 22-282. Timing.

Written reports will be deemed to have been submitted on the date postmarked. For reports which are not mailed, postage prepaid, into a mail facility serviced by the United States Postal Service, the date of receipt of the report shall govern.

Sec. 22-283. Recordkeeping.

Users subject to the reporting requirements of this article shall retain, and make available for inspection and copying, all records of information obtained pursuant to any monitoring activities required by this article and any additional records of information obtained pursuant to monitoring activities undertaken by the user independent of such requirements. Records shall include the date, exact place, method, and time of sampling, and the name of the person taking the samples; the dates analysis were performed; who performed the analyses; the analytical techniques of methods used; and the results of such analyses. These records shall remain available for a period of at least three years. This period shall be automatically extended for the duration of any litigation concerning the user or the city, or where the user has been specifically notified of a longer retention period by the city manager.

Secs. 22-284—22-310. Reserved.

DIVISION 7. COMPLIANCE MONITORING

Sec. 22-311. Right of entry; inspection and sampling.

The city shall have the right to enter the premises of any user to determine whether the user is complying with all of the requirements of this article any wastewater discharge permit or order issued hereunder. Users shall allow the city ready access to all parts of the premises for the purposes of inspection, sampling, records examination and copying, and the performance of any additional duties.

(1) Where a user has security measures in force which require proper identification and clearance before entry into its premises, the user shall make necessary arrangements with its security guards so that, upon presentation of suitable identification, the city will be permitted to enter without delay for the purposes of performing specific responsibilities.

(2) The city shall have the right to set up on the user's property, or require installation

of, such devices as are necessary to conduct sampling and/or metering of the user's operations.

(3) The city may require the user to install monitoring equipment as necessary. The facility's sampling and monitoring equipment shall be maintained at all times in a safe and proper operating condition by the user at its own expense. All devices used to measure wastewater flow and quality shall be calibrated annually to ensure their accuracy.

(4) Any temporary or permanent obstruction to safe and easy access to the facility to be inspected and/or sampled shall be promptly removed by the user at the written or verbal request of the city manager and shall not be replaced. The cost of clearing such access shall be born by the user.

(5) Unreasonable delays in allowing the city access to the user's premises shall be a violation of this article.

Sec. 22-312. Search warrants.

If the city has been refused access to a building, structure, or property, or any part thereof, and is able to demonstrate probable cause to believe that there may be a violation of this article, or that there is a need to inspect and/or sample as part of a routine inspection and sampling program of the city designed to verify compliance with this article or any permit or order issued hereunder, or to protect the overall public health, safety and welfare of the community, then the city manager may seek issuance of a search warrant from the magistrate court of the county.

Secs. 22-313—22-340. Reserved.

DIVISION 8. ADMINISTRATIVE ENFORCEMENT REMEDIES

Sec. 22-341. Notification of violation.

When the city manager finds that a user has violated, or continues to violate, any provision of this article, a wastewater discharge permit or order issued hereunder, or any other pretreatment standard or requirement, the city manager may serve upon that user a written notice of violation. Within ten days of the receipt of this notice, an explanation of the violation and a plan for the satisfactory correction and prevention thereof, to include specific required actions, shall be submitted by the user to the city manager. Submission of this plan in no way relieves the user of liability for any violations occurring before or after receipt of the notice of violation. Nothing in this section shall limit the authority of the city manager to take any action, including emergency actions or any other enforcement action, without first issuing a notice of violation.

Sec. 22-342. Consent orders.

The city may enter into consent orders, assurances of voluntary compliance, or other similar documents establishing an agreement with any user responsible for noncompliance. Such documents will include specific action to be taken by the user to correct the noncompliance within a time period specified by the document. Such documents shall have the same force and effect as the administrative orders issued pursuant to sections 22-344 and 22-345 and shall be judicially enforceable.

Sec. 22-343. Show cause hearing.

The city manager may order a user who has violated, or continues to violate, any provision of this article, a wastewater discharge permit or order issued hereunder, or any other pretreatment standard or requirement, to appear before the city council and show cause why the proposed enforcement action should not be taken. Notice shall be served on the user specifying the time and place for the meeting, the proposed enforcement action, the reasons for such action, and a request that the user show cause why the proposed enforcement action should not be taken. The notice of the meeting shall be served personally or by registered or certified mail (return receipt requested) at least ten days prior to the hearing. Such notice may be served on any authorized representative of the user. A show cause hearing shall not be a bar against, or prerequisite for, taking any other action against the user.

Sec. 22-344. Compliance orders.

When the city manager finds that a user has violated, or continues to violate, any provision of this article, a wastewater discharge permit or order issued hereunder, or any other pretreatment standard or requirement, the city manager may issue an order to the user responsible for the discharge directing that the user come into compliance within a specified time. If the user does not come into compliance within the time provided, sewer service may be discontinued unless adequate treatment facilities, devices, or other related appurtenances are installed and properly operated. Compliance orders also may contain other requirements to address the noncompliance, including additional self-monitoring and management practices designed to minimize the amount of pollutants discharged to the sewer. A compliance order may not extend the deadline for compliance established for a pretreatment standard or requirement, nor does a compliance order relieve the user of liability for any violation, including any continuing violation. Issuance of a compliance order shall not be a bar against, or a prerequisite for, taking other action against the user.

Sec. 22-345. Cease and desist orders.

When the city manager finds that a user has violated, or continues to violate, any provision of this article, a wastewater discharge permit or order issued hereunder, or any other pretreatment standard or requirement, or that the user's past violations are likely to recur, the city manager may issue an order to the user directing it to cease and desist all such violations and directing the user to:

(1) Immediately comply with all 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 user.

Sec. 22-346. Administrative fines.

(a) When the city manager finds that a user has violated, or continues to violate, any provision of this article, a wastewater discharge permit or order issued hereunder or any other pretreatment standard or requirement, the city manager may fine such user in an amount not to exceed $1,000.00. Such fines shall be assessed on a per violation, per day basis. In the case of monthly or other longterm average discharge limits, fines shall be assessed for each day during the period of violation.

(b) Unpaid charges, fines, and penalties shall, after 30 calendar days, be assessed an additional penalty of ten percent of the unpaid balance, and interest shall accrue thereafter at a rate of ten percent per month. A lien against the user's property will be sought for unpaid charges, fines, and penalties.

(c) Users desiring to dispute such fines must file a written request for the city manager to reconsider the fine along with full payment of the fine amount within ten days of being notified of the fine. Where a request has merit, the city manager may convene a hearing on the matter. In the event the user's appeal is successful, the payment, together with any interest accruing thereto, shall be returned to the user. The city manager may add the costs of preparing administrative enforcement actions, such as notices and orders, to the fine.

(d) Issuance of an administrative fine shall not be a bar against, or a prerequisite for, taking any other action against the user.

Sec. 22-347. Emergency suspensions.

The city manager may immediately suspend a user's discharge, after informal notice to the user, whenever such suspension is necessary to stop an actual or threatened discharge which reasonably appears to present or cause an imminent or substantial endangerment to the health or welfare of persons. The city manager may also immediately suspend a user's discharge, after notice and opportunity to respond, that threatens to

interfere with the operation of the POTW, or which presents, or may present, an endangerment to the environment.

(1) Any user notified of a suspension of its discharge shall immediately stop or eliminate its contribution. In the event of a user's failure to immediately comply voluntarily with the suspension order, the city manager may take such steps as deemed necessary, including immediate severance of the sewer connection, to prevent or minimize damage to the POTW, its receiving stream, or endangerment to any individuals. The city manager may allow the user to recommence its discharge when the user has demonstrated to the satisfaction of the city that the period of endangerment has passed, unless the termination proceedings in section 22-348 are initiated against the user.

(2) A user that is responsible, in whole or in part for any discharge presenting imminent endangerment shall submit a detailed written statement, describing the causes of the harmful contribution and the measures taken to prevent any future occurrence, to the city manager prior to the date of any show cause or termination hearing under section 22-343 or 22-348.

Nothing in this section shall be interpreted as requiring a hearing prior to any emergency suspension under this section.

Sec. 22-348. Termination of discharge.

In addition to the provisions in section 22-241, any user who violates the following conditions is subject to discharge termination:

(1) Violation of wastewater discharge permit conditions;

(2) Failure to accurately report the wastewater constituents and characteristics of its discharge;

(3) Failure to report significant changes in operations or wastewater volume, constituents, and characteristics prior to discharge;

(4) Refusal of reasonable access to the user's premises for the purpose of inspection, monitoring, or sampling; or

(5) Violation of the pretreatment standards in division 2 of this article.

Such user will be notified of the proposed termination of its discharge and be offered an opportunity to show cause under section 22-343 why the proposed action should not be taken. Exercise of this option by the city shall not be a bar to, or a prerequisite for, taking any other action against the user.

Secs. 22-349—22-375. Reserved.

DIVISION 9. JUDICIAL ENFORCEMENT REMEDIES

Sec. 22-376. Injunctive relief.

When the city manager finds that a user has violated, or continues to violate, any provision of this article, a wastewater discharge permit, or order issued hereunder, or any other pretreatment standard or requirement, the city manager may petition the superior court of the county through the city's attorney for the issuance of a temporary or permanent injunction, as appropriate, which restrains or compels the specific performance of the wastewater discharge permit, order, or other requirement imposed by this article on activities of the user. The city manager may also seek such other action as is appropriate for legal and/or equitable relief, including a requirement for the user to conduct environmental remediation. A petition for injunctive relief shall not be a bar against, or a prerequisite for, taking any other action against a user.

Sec. 22-377. Civil penalties.

(a) A user who has violated, or continues to violate, any provision of this article, a wastewater discharge permit, or order issued hereunder, or any other pretreatment standard or requirement shall be liable to the city for a maximum civil penalty of $1,000.00 per violation, per day. In the case of a monthly or other long-term average discharge limit, penalties shall accrue for each day during the period of the violation.

(b) The city manager may recover reasonable attorney's fees, court costs, and other expenses associated with enforcement activities, including sampling and monitoring expenses, and the cost of any actual damages incurred by the city.

(c) In determining the amount of civil liability, the court shall take into account all relevant circumstances, including, but not limited to, the extent of harm caused by the violation, the magnitude and duration of the violation, any economic benefit gained through the user's violation, corrective actions by the user, the compliance history of the user, and any other factor as justice requires.

(d) Filing a suit for civil penalties shall not be a bar against, or a prerequisite for, taking any other action against a user.

Sec. 22-378. Criminal prosecution.

(a) A user who willfully or negligently violates any provision of this article, a wastewater discharge permit, or order issued hereunder, or any other pretreatment standard or requirement shall, upon conviction, be guilty of a misdemeanor, punishable by a fine of not more than $1,000.00 or imprisonment for not more than one year, or both.

(b) A user who willfully or negligently introduces any substance into the POTW which causes personal injury or property damage shall, upon conviction, be guilty of a misdemeanor and be subject to a penalty of at least $1,000.00 or be subject to imprisonment for not more than one year, or both. This penalty shall be in addition to any other cause of action for personal injury or property damage available under state law.

(c) A user who knowingly makes any false statements, representations, or certifications in any application, record, report, plan, or other documentation filed, or required to be maintained, pursuant to this article, wastewater discharge permit, or order issued hereunder, or who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required under this article shall, upon conviction, be punished by a fine of not more than $1,000.00 per violation, per day, or imprisonment for not more than one year, or both.

(d) In the event of a second conviction, a user shall be punished by a fine of not more than $1,000.00 per violation, per day, or imprisonment for not more than one year, or both.

Sec. 22-379. Remedies nonexclusive.

The remedies provided for in this article are not exclusive. The city manager may take any, all, or any combination of these actions against a noncompliant user. Enforcement of pretreatment violations will generally be in accordance with the city's enforcement response plan. However, the city manager may take other action against any user when the circumstances warrant. Further, the city manager is empowered to take more than one enforcement action against any noncompliant user.

Secs. 22-380—22-405. Reserved.

DIVISION 10. SUPPLEMENTAL ENFORCEMENT ACTION

Sec. 22-406. Performance bonds.

The city manager may decline to issue or reissue a wastewater discharge permit to any user who has failed to comply with any provision of this article, a previous wastewater discharge permit, or order issued hereunder, or any other pretreatment standard or requirement, unless such user first files a satisfactory bond, payable to the city, in a sum not to exceed a value determined by the city manager to be necessary to achieve consistent compliance.

Sec. 22-407. Liability insurance.

The city manager may decline to issue or reissue a wastewater discharge permit to any user who has failed to comply with any provision of this article, a previous wastewater discharge permit, or order issued hereunder, or any other pretreatment standard or requirement, unless the user first submits proof that it has obtained financial assurances sufficient to restore or repair damage to the POTW caused by its discharge.

Sec. 22-408. Water supply severance.

Whenever a user has violated or continues to violate any provision of this article, a wastewater discharge permit, or order issue hereunder, or any other pretreatment standard or requirement, water service to the user may be severed. Service will only recommence, at the user's expense, after it has satisfactorily demonstrated its ability to comply.

Sec. 22-409. Public nuisances.

A violation of any provision of this article, a wastewater discharge permit, or order issued hereunder, or any other pretreatment standard or requirement is hereby declared a public nuisance and shall be corrected or abated as directed by the city manager. Any person creating a public nuisance shall be subject to the provisions of chapter 10 the city Code governing such nuisances, including reimbursing the city for any costs incurred in removing, abating, or remedying said nuisance.

Secs. 22-410—22-435. Reserved.

DIVISION 11. AFFIRMATIVE DEFENSES TO DISCHARGE VIOLATIONS

Sec. 22-436. Upset.

(a) For the purposes of this section, the term "upset" means an exceptional incident in which there is unintentional and temporary noncompliance with categorical pretreatment standards because of factors beyond the reasonable control of the user. An upset does not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance, or careless or improper operation.

(b) An upset shall constitute an affirmative defense to an action brought for noncompliance with categorical pretreatment standards if the requirements of subsection (c) of this section, are met.

(c) A user who wishes to establish the affirmative defense of upset shall demonstrate, through properly signed, contemporaneous operating logs, or other relevant evidence that:

(1) An upset occurred and the user can identify the cause of the upset;

(2) The facility was at the time being operated in a prudent and workman-like manner and in compliance with applicable operation and maintenance procedures; and

(3) The user has submitted the following information to the city manager within 24 hours of becoming aware of the upset (if this information is provided orally, a written submission must be provided within five days):

a. A description of the indirect discharge and cause of noncompliance;

b. The period of noncompliance, including exact dates and times or, if not corrected, the anticipated time the noncompliance is expected to continue; and

c. Steps being taken and/or planned to reduce, eliminate, and prevent recurrence of the noncompliance.

(d) In any enforcement proceeding, the user seeking to establish the occurrence of an upset shall have the burden of proof.

(e) Users will have the opportunity for a judicial determination on any claim of upset only in an enforcement action brought for noncompliance with categorical pretreatment standards.

(f) Users shall control production of all discharges to the extent necessary to maintain compliance with categorical pretreatment standards upon reduction, loss, or failure of its treatment facility until the facility is restored or an alternative method of treatment is provided. This requirement applies in the situation where, among other things, the primary source of power of the treatment facility is reduced, lost, or fails.

Sec. 22-437. Prohibited discharge standards.

A user shall have an affirmative defense to an enforcement action brought against it for noncompliance with the general prohibitions in subsection 22-137(a) or the specific prohibitions in subsections 22-137(b)(3) through (18) if it can prove that it did not know, or have reason to know, that

its discharge, alone or in conjunction with discharges from other sources, would cause pass through or interference and that either:

(1) A local limit exists for each pollutant discharged and the user was in compliance with each limit directly prior to, and during, the pass through or interference; or

(2) No local limit exists, but the discharge did not change substantially in nature or constituents from the user's prior discharge when the city was regularly in compliance with its NPDES permit, and in the case of interference, was in compliance with applicable sludge use or disposal requirements.

Sec. 22-438. Bypass.

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

Bypass means the intentional diversion of wastestreams from any portion of a user's treatment facility.

Severe property damage means substantial physical damage to property, damage to the treatment facilities which causes them to become inoperable, or substantial and permanent loss of natural resources which can reasonably be expected to occur in the absence of a bypass. Severe property damage does not mean economic loss caused by delays in production.

(b) A user may allow any bypass to occur which does not cause pretreatment standards or requirements to be violated, but only if it also is for essential maintenance to assure efficient operation. These bypasses are not subject to the provision of subsections (c) and (d) of this section.

(c) If a user knows in advance of the need for a bypass, it shall submit prior notice to the city manager, at least ten days before the date of the bypass, if possible.

(1) A user shall submit oral notice to the city manager of an unanticipated bypass that exceeds applicable pretreatment standards within 24 hours from the time it becomes aware of the bypass.

(2) A written submission shall also be provided within five days of the time the user becomes aware of the bypass. The written submission shall contain a description of the bypass and its cause; the duration of the bypass, including exact dates and times, and, if the bypass has not been corrected, the anticipated time it is expected to continue; and steps taken or planned to reduce, eliminate, and prevent reoccurrence of the bypass. The city manager may waive the written report on a case-by-case basis if the oral report has been received within 24 hours.

(d) Bypass is prohibited, and the city manager may take an enforcement action against a user for a bypass, unless:

(1) Bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;

(2) There were no feasible alternative to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate back-up equipment should have been installed in the exercise of reasonable engineering judgment to prevent a bypass which occurred during normal periods of equipment downtime or preventive maintenance; and

(3) The user submitted notices as required under subsection (c) of this section.

(e) The city manager may approve an anticipated bypass, after considering its adverse effects, if the city manager determines that it will meet the three conditions listed in subsection (d)(1) of this section.

Secs. 22-439—22-450. Reserved.

ARTICLE V. UTILITY CONSTRUCTION, PERMITTING, ETC. IN PUBLIC RIGHTS-OF-WAY*

Sec. 22-451. Definitions.

For the purposes of this chapter, the following terms, phrases, words, and their derivations have the meanings set forth herein. The words "shall" and "will" are mandatory and "may" is permissive. Words not defined shall be given their common and ordinary meaning. Defined terms remain defined terms whether or not capitalized.

City means the City of Rockmart, Georgia.

City council means the legislative governing body of the city.

Codified ordinances means the codified ordinances of the City of Rockmart, Georgia.

Construct means, but shall not be limited to, dig, bore, tunnel, trench, excavate, obstruct, install wires, install conduit, install pipes, install transmission lines, install poles, install signs, or install facilities, other than landscaping or ornamental plantings, in, on, above, within, over, below, under, or through any part of the rights-of-way. Construct shall also include the act of opening and/or cutting into the surface of any paved or improved surface that is any part of the right-of-way.

Construction means, but shall not be limited to, the act or process of digging, boring, tunneling, trenching, excavating, obstructing, installing wires, installing conduit, installing pipes, installing transmission lines, installing poles, installing signs, or installing facilities, other than landscaping or ornamental plantings, in, on, above, within, over, below, under, or through any part of the rights-of-way. Construction shall also include the act of opening, boring and/or cutting into the surface of any part of the right-of-way.

Director means the city manager, public works superintendent or other city designees.

Emergency means a condition that poses a clear and immediate danger to life, health, or safety, or of a significant loss of real or personal property.

Excavation means any work in the surface or subsurface of the public right-of-way, including, but not limited to opening the public right-of-way; installing, servicing, repairing or modifying any facility in or under the surface or subsurface of the public right-of-way, and restoring the surface and subsurface of the public right-of-way.

Facility or *facilities* means any tangible thing, including but not limited to pipes, mains, conduits, cables, wires, poles, towers, traffic and other signals, and other equipment, appurtenances, appliances and future technology of any utility in, on, along, over, or under any part of the rights-of-way within the city.

Facilities representative(s) means the specifically identified agent(s)/employee(s) of a utility who are authorized to direct field activities of that utility and serve as official notice agent(s) for facilities related information. Utility shall be required to make sure at least one of its facilities representatives is available at all times to receive notice of, and immediately direct response to, facilities related emergencies or situations.

FCC means the Federal Communications Commission or any successor thereto.

Permit means an authorization which grants permission to conduct specific regulated activities on, in, over, under or within any public right-of-way, and which may be subject to conditions specified in a written agreement with the city or in a related provision of this Code of Ordinances.

Registration means an authorization which grants permission to conduct specific regulated activities on, in, over, under or within any public right-of-way, and which may be subject to conditions specified in a written service agreement with the city or in a related provision of this Code of Ordinances;

*__Editor's note—__Ord. No. 2009O-06, § 2, adopted Oct. 13, 2009, did not specifically amend the Code; hence, inclusion herein as Art. V, §§ 22-451—22-462, was at the discretion of the editor. See also the Code Comparative Table.

Right(s)-of-way means the surface and space in, on, above, within, over, below, under or through any real property in which the city has an interest in law or equity, whether held in fee, or other estate or interest, or as a trustee for the public, including, but not limited to any public street, boulevard, road, highway, freeway, lane, alley, court, sidewalk, parkway, or any other place, area, or real property owned by or under the legal or equitable control of the City, now or hereafter, that consistent with the purposes for which it was dedicated, may be used for the purposes of constructing, operating, repairing or replacing facilities. Rights-of-way shall not include buildings, parks, bridges, river, tunnel, viaduct, conduit or other public property or easements that have not been dedicated to compatible uses, except to the extent the use or occupation of such property is specifically granted in a permit or by law. Rights-of-way shall not include private easements or public property, except to the extent the use or occupation of public property is specifically granted in a written approval of registration.

Service agreement means a valid license agreement, service agreement, franchise agreement, or operating agreement issued by the city or state pursuant to law and accepted by a utility, which allows such utility to operate or provide service within the geographic limits of the city.

Service(s) means the offering of any service by a utility for a fee directly to the public, or to such classes of users as to be effectively available directly to the public, or alternatively, the provision of any service by a utility between two or more points for a proprietary purpose to a class of users other than the general public.

Streets means the surface of, as well as the spaces above and below, any and all the streets, alleys, avenues, roads, bridges, tunnels and public places of the city within the corporate limits of the city, as the same now exist or may be hereafter extended or altered, and any location thereon, thereover or thereunder, and any portion thereof.

Transfer means the disposal by the utility, directly or indirectly, by gift, assignment, sale, merger, consolidation, or otherwise, of more than 50 percent at one time of the ownership or controlling interest in the facilities, or more than 50 percent cumulatively over the term of a written approval of registration of such interests.

Underground facilities means all lines, cables, conduits, pipes, posts, tanks, vaults, wires and any other facilities which are located wholly or partially underneath rights-of-way.

Unused facilities means facilities located in the rights-of-way which have remained unused for 12 months and for which the utility is unable to provide the city with a plan detailing the procedure by which the utility intends to begin actively using such facilities within the next 12 months, or that it has a potential purchaser or user of the facilities who will be actively using the facilities within the next 12 months, or, that the availability of such facilities is required by the utility to adequately and efficiently operate its facilities.

Utility or *utilities* means any privately, publicly, or cooperatively owned systems for producing, transmitting, or distributing communication, data, information, telecommunication, cable television, video services, power, electricity, light, heat, gas, oil, crude products, water/sewer, steam, fire and police signals, traffic control devices, and street lighting systems, and housing or conduit for any of the foregoing, which directly or indirectly serve the public or any part thereof. The term "utility" may also be used to refer to the owner, operator, utility, servicer, contractor, sub-contractor or any agent thereof, of any above-described utility or utility facility.

Working day means any Monday, Tuesday, Wednesday, Thursday, or Friday excluding legal holidays observed by the city.
(Ord. No. 2009O-06, § 2, 10-13-2009; Ord. No. 2016O-01, § 4, 3-8-2016)

Sec. 22-452. Administration.

The city manager (director) shall be the city official responsible for the administration of this chapter except as otherwise provided herein.
(Ord. No. 2009O-06, § 2, 10-13-2009)

Sec. 22-453. Rights-of-way occupancy registration.

(a) Each utility who occupies, uses or has facilities in the rights-of-way at the time of passage of the ordinance from which this article is derived, including by lease, sublease or assignment, to operate facilities located in the rights-of-way, unless specifically exempted by state, federal law or this Code, shall file a registration statement with the city within 90 days of the effective date of the ordinance from which this article is derived.

(b) Following the effective date of the ordinance from which this article is derived, each utility who seeks to have facilities located in any rights-of-way under the control of city, unless specifically exempted by state, federal law or this Code, shall file a notification of construction with the city.

(Ord. No. 2009O-06, § 2, 10-13-2009)

Sec. 22-454. Registration procedure.

The registration information provided to the city shall be on a form approved by the city and include, but not be limited to:

(1) The name, legal status (i.e. partnership, corporation, etc.), street address, email address if applicable, and telephone and facsimile numbers of the utility filing the permit registration statement (the "registrant"). If the registrant is not the owner of the facility to be installed, maintained or repaired in the right-of-way, the registration shall include the name, street address, email address if applicable, and telephone and facsimile numbers of the owner.

(2) The name, street address, email address if applicable and telephone and facsimile numbers of one or more facilities representative(s). Current information regarding how to contact the facilities representative(s) in an emergency shall be provided at the time of filing a registration and shall be updated as necessary to assure accurate contact information is available to the city at all times.

(3) A copy, if requested, of the utility's certificate of authority (or other acceptable evidence of authority to operate) from the Georgia Public Service Commission and/or the FCC and any other similar approvals, permits, or agreements.

(4) A copy, if requested, of the service agreement, if applicable or other legal instrument that authorizes the utility to use or occupy the right-of-way for the purpose described in the registration.

(5) If a registration is incomplete, the director shall notify the registrant and shall provide a reasonable period of time in which to complete the registration. If a registration is complete, the director shall so notify the utility in writing.

(6) Acceptance of the registration shall not convey title in the rights-of-way. Acceptance of the registration is only the nonexclusive, limited right to occupy rights-of-way in the city for the limited purposes stated in the acceptance. Acceptance of the registration does not excuse a utility from obtaining the permits required by city ordinances nor from obtaining appropriate access or pole attachment agreements before using the facilities of others, including the city. Acceptance of the registration does not excuse a utility from notifying the city of construction as required herein.

(Ord. No. 2009O-06, § 2, 10-13-2009)

Sec. 22-455. Registration fee.

Any utility, accomplishing work within the city pursuant to this article, shall register with the city and pay an administrative fee, established by the fee schedule of the city, as presently enacted or hereinafter amended.

(Ord. No. 2009O-06, § 2, 10-13-2009)

Sec. 22-456. Notification to city of construction.

(a) *Notification required.* Written notification to the director from the utility is required prior to any of the following activities:

(1) Before any utility does any work to construct, install, maintain, remove or relocate facilities on, along, over or under the right-of-way in the city; or

(2) Construction adjacent to the rights-of-way in the city that require tree trimming within the rights-of-way.

(b) *Notification procedure.* The written notification shall be submitted on a form provided by the director and shall specifically include:

(1) The name and address of the utility;

(2) The nature, extent, and location of any work proposed to be done along with satisfactory plans as attachments showing in detail the location of the proposed facility or operations as described in the permit application. The plans shall show the size or capacity of facilities to be installed; their relationship to street features such as right-of-way lines, pavement edge, structures, etc., horizontal and vertical clearance to critical elements of the roadway and any other information necessary to evaluate the impact on the street and its operation;

(3) The name and address of the person or firm who is to do such work;

(4) The name, street address, email address if applicable and telephone and facsimile numbers of one or more facilities representative(s);

(5) The projected dates for the work to be started and finished; and

(6) An indemnity bond or other acceptable security in an amount to be set by the city to pay any damages to any part of the city road system or to any member of the public caused by work of the utility performed under authority of the permit issued.

(c) *Locate requests required.* As provided in O.C.G.A § 25-9-6 (the Georgia Utility Facility Protection Act) and other applicable state law currently in place or as amended, no utility shall commence, perform, or engage in blasting or in excavating with mechanized excavating facilities unless and until the utility planning the blasting or excavating has given 48 hours' notice by submitting a locate request to the utility protection center, beginning the next business day after such notice is provided, excluding hours during days other than business days.
(Ord. No. 2009O-06, § 2, 10-13-2009)

Sec. 22-457. Conditions of street occupancy.

Failure to comply with the terms and conditions set forth in this article may result in revocation of registration and removal of facilities from the rights-of-way.

(1) The 1988 Utility Accommodation Policy and Standards manual, including all references contained therein to codes, rules, regulations, schedules, forms and appendix items, except Appendix B (Permit Forms and supporting Documents), promulgated by the State of Georgia Department of Transportation, as may be amended from time to time is hereby adopted by reference and incorporated in the article as if fully set forth herein, subject to the amendments and modification contained in this chapter. A copy of the manual shall be maintained at the offices of the director or his designee and open for public inspection. Any conflicts between the provisions of this article and the manual shall be resolved in favor of the manual. References to state personnel, agencies, and fees shall be interpreted, where required, as meaning the City of Cedartown municipal equivalents.

(2) *Protection of traffic and roadway.* In conformance with city policy, no utility may occupy the city rights-of-way unless sufficient space is available so that the free flow and safety of traffic and other capacity considerations are not unduly impaired and the installation does not prevent the department from reasonably maintaining the streets, structures, traffic control devices and other appurtenant facilities, and further provided that maintenance and operations of the facilities do not jeopardize the traffic, street structure, other users of the right-of-way, or the right-of-way itself.

(3) *Grading.* If the grades or lines of any street within the city right-of-way are changed at any time during the term of the permit and this change involves an area in which the utility's facilities are located, then the utility shall, at its own cost and expense and upon the request of the city upon reasonable notice, protect or promptly alter or relocate the facilities, or any part thereof, so as to conform with such new grades or lines. In the event the utility refuses or neglects to so protect, alter, or relocate all or part of the facilities, the city shall have the right to break through, remove, alter, or relocate all or any part of the facilities without any liability to the utility and the utility shall pay to the city the costs incurred in connection with such breaking through, removal, alteration, or relocation.

(4) *Installation of poles and other wireholding structures and relocation.* Unless otherwise provided in a valid service agreement, no placement of any pole or wireholding structure of the utility is to be considered a vested interest in the right-of-way, and such poles or structures are to be removed, relocated underground, or modified by the utility at its own expense whenever the city determines that the public convenience would be enhanced thereby. The facilities shall be so located and installed as to cause minimum interference with the rights and convenience of property owners.

(Ord. No. 2009O-06, § 2, 10-13-2009)

Sec. 22-458. Restoration of property.

A utility shall be liable, at its own cost and expense, to replace or repair, any street, facilities or property or structure thereon, thereunder or thereover or adjacent thereto that may become disturbed or damaged as a result of the construction or installation, operation, upgrade, repair or removal of facilities to a condition as good as or better than its condition before the work performed by the entity that caused such disturbance or damage. If the utility does not commence such replacement or repair after 20 working days following written notice from the city, the city or the owner of the affected structure or property may make such replacement or repair and the utility shall pay the reasonable and actual cost of the same.

(Ord. No. 2009O-06, § 2, 10-13-2009)

Sec. 22-459. Discontinuance of operations, abandoned and unused facilities.

(a) A utility who has discontinued or is discontinuing operation of any facilities in the city shall:

(1) Provide information satisfactory to the city that the utility's obligations for its facilities in the rights-of-way under this chapter and any other provision in the codified ordinances or other laws have been lawfully assumed by another utility; or

(2) Submit a written proposal to re-use its facilities; or

(3) Submit a written proposal for abandonment of facilities. Said proposal must be approved by the director; or

(4) Remove its entire facilities within a reasonable amount of time and in a manner acceptable to the city; or

(5) Submit to the city, in good faith and within a reasonable amount of time, a proposal for transferring ownership of its facilities to the city. If a utility proceeds under this clause, the city may, at its option do one or more of the following:

a. Purchase the facilities;

b. Accept donation of some or all facilities; or

c. Require the utility to post a bond in an amount sufficient to reimburse the city for its reasonably anticipated costs to be incurred in removing the facilities.

(b) Facilities of a utility who fails to comply with the above provision shall be deemed to be abandoned. Abandoned facilities are deemed to be a nuisance. The city may exercise any remedies

or rights it has at law or in equity, including, but not limited to abating the nuisance; taking possession of the facilities, evicting the utility from the right-of-way; prosecuting the violator; and/or any other remedy provided by city ordinance or otherwise at law or in equity.
(Ord. No. 2009O-06, § 2, 10-13-2009)

Sec. 22-460. Termination of registration.

(a) The registration statement shall remain in place for one year and renew each subsequent year automatically unless the utility is in default. The director shall give written notice of default to a utility if it is determined that a utility has:

(1) Violated any provision or requirement of the issuance or acceptance of a registration application or any law of the city, state, or federal government;

(2) Attempted to evade any provision or requirement of this chapter;

(3) Practiced any fraud or deceit upon the city; or

(4) Made a material misrepresentation of fact in its application for registration.

(b) If a utility fails to cure a default within 20 working days after such notice is provided to the utility by the city, then such default shall be a material breach and city may exercise any remedies or rights it has at law or in equity to terminate the approval of registration. If the director decides there is cause or reason to terminate, the following procedure shall be followed:

(1) City shall serve a utility with a written notice of the reason or cause for proposed termination and shall allow a utility a minimum of 15 calendar days to cure its breach.

(2) If the utility fails to cure [its breach] within 15 calendar days, the city may declare the registration terminated.
(Ord. No. 2009O-06, § 2, 10-13-2009)

Sec. 22-461. Facilities in place without registration.

Beginning one year after the effective date of this article, any facilities or part of a facility found in a right-of-way for which registration is required but has not been obtained (unless specifically exempted by law), and for which no valid service agreement exists with the city.
(Ord. No. 2016O-01, § 5, 3-8-2016)

Sec. 22-462. Construction permits.

(a) *Permit required.* It shall be unlawful for any utility to excavate or to construct, install, maintain, renew, remove or relocate facilities in, on, along, over or under the public roads of the city without a utility permit from the city in accordance with the terms of this article.

(b) *Permit procedure.* Utility permits shall be obtained from the director upon application made on forms prescribed by the city. The written application shall include the following:

(1) The name and address of the utility;

(2) The nature, extent, and location of any work proposed to be done, along with satisfactory plans as attachments showing in detail the location of the proposed facility or operations as described in the permit application. The plans shall show the size or capacity of facilities to be installed; their relationship to street features such as right-of-way lines, pavement edge, structures, etc., horizontal and vertical clearance to critical elements of the roadway and any other information necessary to evaluate the impact on the street and its operation;

(3) The name and address of the person or firm who is to do such work;

(4) The name, street address, e-mail address if applicable and telephone and facsimile numbers of one or more facilities representative(s).

(5) The projected dates for the work to be started and finished;

(6) A Certificate of insurance, or similar evidence of coverage, acceptable security,

and indemnity bond or similar coverage in an amount determined by the city, to pay any potential injuries and/or damages to persons and property; including employees of the city, its agents, contractors, servants or assigns; related to activities within any part of the city road system or other city property.

(7) A copy, if requested, of the registrant's certificate of authority (or other acceptable evidence of authority to operate) from the Georgia Public Service Commission and/or the FCC and any other similar approvals, permits, or agreements; and

(8) A copy, if requested, of the service agreement, if applicable or other legal instrument that authorizes the utility to use or occupy the right-of-way for the purpose described in the application.

(c) *Permit fees.* In addition to the registration fee required under this article, a permit fee may be established by the director, upon such determination and approval of a fee schedule by the Rockmart City Council.

(d) *Issuance of permit.* If the director determines the applicant has satisfied the following requirements, the director may issue a permit:

(1) Whether issuing of the approval will be consistent with this article;

(2) Whether applicant has submitted a complete application and has secured all certificates and other authorizations required by law, if applicable, in order to construct facilities in the manner proposed by the applicant; and

(3) The impact on safety, visual quality of the streets, traffic flow, and other users of the right-of-way and the difficulty and length of time of the project, construction or maintenance.

(e) *Emergency situations.*

(1) Each utility shall, as soon as reasonably practicable, notify the director of any event regarding its facilities which it considers to be an emergency. The utility may proceed to take whatever actions are necessary in order to respond to the emergency. A Utility who engages in an emergency excavation shall take all reasonable precautions to avoid or minimize damage to any existing facilities.

(2) In the event that the city becomes aware of an emergency regarding utility facilities, the city may attempt to contact the affected utility or facilities representative. The city may take whatever action it deems necessary in order to respond to the emergency, including cut or move any of the wires, cables, amplifiers, appliances, or other parts of the facilities. The city shall not incur any liability to the utility, for such emergency actions, and the cost of such shall be paid by each utility affected by the emergency.

(f) *Effective period of permit.*

(1) Each permit shall have a set commencement and expiration date based on information provided in the applicant's permit application.

(2) The permit shall remain in place until construction is completed or until its expiration date unless the utility is in default. The director may give written notice of default to a utility if it is determined that a utility has:

a. Violated any provision or requirement of the issuance or acceptance of a permit application or any law of the city, state, or federal government;

b. Attempted to evade any provision or requirement of this article;

c. Practiced any fraud or deceit upon the city; or

d. Made a material misrepresentation or omission of fact in its permit application.

(g) *Cancellation for cause.* If a utility fails to cure a default, after written notice and a period to cure the default is provided to the utility by the city, then this continuing default shall be

considered a material breach of the permit. The city may exercise any remedies or rights it has at law or in equity to terminate, suspend or otherwise take action regarding the permit.

(h) *Expiration of permit.* If work is not begun within three months of the date of issuance, the permit will automatically expire.
(Ord. No. 2016O-01, § 6, 3-8-2016)

Sec. 22-463. Inspection.

(a) The utility shall make the construction site available to the director and to all others as authorized by law for inspection at all reasonable times during the execution and upon completion of the construction.

(b) At any time, including the time of inspection, the director may order the immediate cessation of any work which poses a serious threat to the health, safety, or welfare of the public, violates any law, or which violates the terms and conditions of the permit and/or this article or issue an order to correct work which does not conform to the permit and/or applicable standards, conditions or codes.

(c) When the construction under any permit is completed, the utility shall notify the director.
(Ord. No. 2016O-01, § 7, 3-8-2016)

Sec. 22-464. Additional permits required.

The utility shall obtain all construction, building or other permits or approvals as according to city ordinance, state or federal law. In addition, a permittee shall comply with all requirements of laws, shall complete work in a way as to not cause any unnecessary or unauthorized obstructions of sidewalks, streets, waterways or railways, and is responsible for all work done in the rights-of-way regardless of who performs the work. No rights-of-way obstruction or excavation may be performed when seasonally prohibited or when conditions are unreasonable for such work, except in the case of an emergency.
(Ord. No. 2016O-01, § 8, 3-8-2016)

Sec. 22-465. Penalties.

Every utility convicted of a violation of any provision of this chapter shall be punished by a fine not exceeding $1,000.00 per violation. Each act of violation and each day upon which any such violation shall occur shall constitute a separate offense. In addition to the penalty prescribed above, the city may pursue other remedies such as abatement of nuisances, injunctive relief and revocation of licenses or permits. This shall include the right to stop work which is in violation of this article, or other applicable provisions of the Code of Ordinances of the City of Rockmart and/or state law.
(Ord. No. 2009O-06, § 2, 10-13-2009; Ord. No. 2016O-01, § 1, 3-8-2016)

Editor's note—Formerly § 22-461, renumbered at the discretion of the editor per Ord. No. 2016O-01, § 1, adopted March 8, 2016.

Sec. 22-466. Other provisions.

(a) *Severability.* If any section, subsection, sentence, clause, phrase, or portion of this chapter is for any reason held invalid or unconstitutional by any court or administrative agency of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portions thereof.

(b) *Reservation of regulatory and police powers.* The city by issuing a written approval of registration under this chapter, does not surrender or to any extent lose, waive, impair, or lessen the lawful powers and rights, which it has now or which may be hereafter vested in the city under the Constitution and Laws of the United States, State of Georgia, and under the provisions of the city's codified ordinances to regulate the use of the rights-of-way. The utility by applying for and being issued a written approval of registration, is deemed to acknowledge that all lawful powers and rights, regulatory power, or police power, or otherwise as are or the same may be from time to time vested in or reserved to the city, shall be in full force and effect and subject to the exercise thereof by the city at any time. A utility is deemed to acknowledge that its rights are subject to the regulatory and police powers of the city to adopt and enforce general ordinances necessary to the safety and welfare of the public and is deemed to agree to comply with all applicable general laws enacted by the city pursuant to

such powers. In particular, all utilities shall comply with city zoning and other land use requirements pertaining to the placement and specifications of facilities.

(c) *Compliance.* No utility shall be relieved of its obligation to comply with any of the provisions of this chapter by reason of any failure of city to enforce prompt compliance.

(d) *Appeals.* All appeals provided for by this chapter and any notification to the city required by this chapter shall be in writing and sent via certified mail to the director of public service as specified in this chapter.

(Ord. No. 2009O-06, § 2, 10-13-2009; Ord. No. 2016O-01, § 1, 3-8-2016)

Editor's note—Formerly § 22-462, renumbered at the discretion of the editor per Ord. No. 2016O-01, § 1, adopted March 8, 2016.

Chapter 23

ZONING*

Article I. In General

Article II. Administration

Article III. Zoning Districts Established; Zoning Map

Article IV. District Regulations

Division 1. Generally

*__State law references__—Constitutional grant of zoning power, Ga. Const. art. IX, § II, ¶ IV; zoning procedures, O.C.G.A. § 36-66-1 et seq.

Division 5. R-4 Single-Family Residential Districts

Division 6. R-5 Single-Family Residential District

Division 7. R-6A Duplex Residential District

Division 8. R-6B Multifamily Residential District

Division 9. R-7 Single-Family Village Residential District

Division 10. C-1 Central Business District

Division 11. C-2 Neighborhood Commercial District

Division 12. C-3 General Commercial District

Division 13. O-I Office-Institutional District

Division 14. I-1 Light Industrial District

Division 15. I-2 General Industrial District

Division 16. I-3 Heavy Industrial District

Division 17. PD Planned Development District

Division 18. FH Flood Hazard Overlay District

Article V. Supplemental Zoning Regulations

Division 1. Generally

Division 2. Home Occupations

Division 3. Off-Street Parking and Loading

ARTICLE I. IN GENERAL

Sec. 23-1. Purpose.

The purpose of this chapter shall be to regulate the use of land and buildings by dividing the city into districts; to define certain terms used herein; to impose regulations, prohibitions and restrictions governing the erection, construction and reconstruction of structures and buildings and the use of lands for business, industry, residence, social and other specified purposes; to regulate and limit the height of buildings and open spaces; to conserve the value of buildings and encourage the most appropriate use of land throughout the city in accordance with the comprehensive plan, to regulate and limit the density of population and overcrowding of land; to limit congestion on the public streets; and to facilitate the adequate provisions of water, sewerage, schools, parks and other public requirements. This chapter shall be a tool providing for the gradual elimination of nonconforming uses of land, buildings and structures, establishing the boundaries of districts, and providing the means of enforcing this chapter.
(Ord. No. 001-2001, intro. ¶, 2-13-2001)

Sec. 23-2. 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:

Accessory building means a building the use of which is incidental to that of the main building and located on the same lot or parcel of land.

Accessory use means a use incidental, subordinate and appropriate to the principal use or building and located on the same lot or parcel of land with such principal use or building.

Adult day care means a protective setting providing personal care and supervision for adults outside their own home for less than 12 hours per day. The program may include the provisions of daily medical supervision, nursing and other health care support, psycho-social assistance, appropriate socialization stimuli, or a combination of these. Adult day care is primarily for the benefit of those persons who do not require 24-hour per day institutional care, but who, because of physical and/or mental disability, are not capable of full time independent living.

Alley means a platted roadway which affords only secondary means of access to abutting property and not intended for general traffic circulation.

Alteration, structural. See "Structural alteration."

Amusement machines means any mechanical, electronic and/or coin-operated game and/or device for the amusement of patrons. This definition shall not be construed to include coin-operated music players, coin-operated mechanical kiddie rides or coin-operated television.

Apartment means a dwelling unit for lease or rent within an apartment building or other similar building for occupancy for an extended period of time.

Apartment building means a residential building containing three or more dwelling units exclusive of a townhouse building or unit.

Apartment hotel means a building designed for or containing both apartments and individual guestrooms or suites which may offer such services as are ordinarily furnished by hotels.

Apartment house. See "Dwelling, multiple."

Auction houses means commercial establishments which cater to a wide segment of the population where tangible personal property items (excluding livestock), cars, boats, trailers, motor homes, trucks, motorcycles, other motorized, self-propelled machines and real estate, are sold on a scheduled, open competitive bid basis to more than two people, provided that all sales, display, and storage are conducted within a completely enclosed building.

Bed and breakfast means a residence in which the frequency and volume of visitors are incidental to the primary use as a private residence and where guestrooms are made available for visitors for fewer than 30 consecutive days. Breakfast

is the only meal served and included in the charge of the room. Residence shall be owner occupied.

Boardinghouse means a dwelling having one kitchen and used for the purpose of providing meals or lodging or both for compensation to persons other than members of the family occupying each dwelling.

Buffer means that portion of a lot or parcel of land set aside for open space and/or visual screening purposes, pursuant to applicable provisions of this chapter, to separate different use districts or to separate uses on one property from uses on another property of the same use district or a different use district. The buffer area may be a natural, landscaped, constructed or other type of buffer.

Building means any permanent structure attached to the ground designed or built for the support, shelter or protection of persons, animals, chattels or property of any kind.

Building, alteration of, means and includes any change in the supporting members of a building, such as bearing walls, beams, columns, and girders, any addition to a building, or any change of a building from one location to another.

Building, height of, means the vertical distance measured from the average elevation of the proposed finished grade at the front of the building to the highest point of the roof for flat roofs, or to the deck line of mansard roofs, and the mean height between the eaves and the ridge for gable, hip or gambrel roofs.

Building line means a line beyond which the foundation wall or any enclosed or covered porch, vestibule, or other enclosed or covered portion of a building shall not project.

Building official means an employee of the city designated to oversee building standards and responsible for enforcing building related codes.

Carport means a roofed area open on one, two, or three sides and attached to the main building, for the storage of one or more motor vehicles.

Cemetery means an area of land set apart for the sole purpose of the burial of bodies of dead persons or animals and for the erection of customary markers, monuments, and/or mausoleums.

Change of occupancy means a discontinuance of an existing use, abandonment of a use, and/or the substitution of a significant variation in the type or class of use of the property. A change of occupancy does not include a mere change of tenancy, proprietorship, or similar change unless this change is accompanied with a significant variation in the use of the property.

Climate controlled storage means unit storage that is located completely within and inside a finished building so that the units are completely protected from the weather and similar outside elements. The atmosphere within the finished building shall be such that conditions are controlled as to temperature and humidity. Temperature within the building shall be regulated so that the storage is not subject to temperature extremes. Temperature shall be regulated so that the inside temperature of the units is no cooler than 50 degrees Fahrenheit and no warmer than 85 degrees Fahrenheit. Such use in the Central Business District shall be in facilities where no more than 15,000 square feet is dedicated to storage. Further, facilities shall provide security and limited access to customers so to prevent access by the general public. Access shall be limited to one primary access point so to reduce traffic impact and disturbance on surrounding neighbors and property owners.

Clinic means an establishment where patients who are not lodged overnight, except for observation or emergency treatment, are admitted for examination and treatment by one person or a group of persons practicing any form of healing or health-related services to individuals, which is lawful in this state.

Club means a building or facilities owned or operated by a corporation, association, person or persons, for a social, educational or recreational purpose, but not primarily for profit or to render a service which is customarily carried on as a business.

Commission means the planning commission of the city.

Conditional use means a land use that is deemed to be detrimental in the zoning district in which it is located but that could be compatible if certain conditions are imposed to mitigate possible impacts. Conditional uses require the approval of the city council. After review of the application and a hearing thereon, a conditional use may be allowed following a finding that the proposed use or uses:

(1) Will be consistent with or not significantly adverse to the comprehensive plan for the physical development of the district, including any master plan or portion thereof adopted by the commission;

(2) Will be in harmony with the general character of the neighborhood, considering population density, design, scale and bulk of any proposed new structures, intensity and character of activity, traffic and parking conditions;

(3) Will not be significantly detrimental to the use, peaceful enjoyment, economic value, or development of surrounding properties or the general neighborhood and will cause no seriously objectionable noise, vibrations, fumes, odors, dust, glare, or physical activity;

(4) Will not adversely affect the health, safety, security, morals, or general welfare or residents, visitors, or workers in the area; and

(5) Will be served by adequate public services and facilities including schools, police and fire protection, water, sanitary sewers, public roads, storm drainage, and other public improvements, as may be required by this chapter or other applicable regulations.

All special exception uses shall be as defined and/or regulated in this chapter.

Condominium means individual ownership of units in a multifamily structure, together with the joint ownership of common areas of the building and grounds.

Convalescent home. See "Nursing home."

Convenience store means any retail establishment offering for sale prepackaged food products, household items and other associated goods and having a gross floor area of less than 7,500 square feet.

Corner lot. See "Lot, corner."

Crematory or *crematorium* means a location containing properly installed and certified apparatus intended for use in the act of cremation.

Day care center, commercial, means any place operated by a person, society, agency, corporation, institution, or any other group wherein are received for pay five or more children under 16 years of age for group care, without transfer of custody. Legal operation for this commercial childcare center shall be for more than four hours and less than 24 hours per day.

Day care home, residential, means any place operated by any person who receives for pay no more than five children for group care, in accordance with all applicable child care regulations of the state, and without transfer of custody. Legal operation of this childcare residence shall be for more than four hours and less than 18 hours per day.

Density means the number of dwelling units developed on an acre of land.

Depth of lot. See "Lot, depth of."

Development standards means site design regulations such as lot area, lot coverage, height limits, frontage, and yard requirements (setback distances).

District or *zoning district* means a section of the city designated in this chapter and delineated on the official zoning district maps for the city, in which requirements for the use of land, building and development standards are presented with all such requirements being uniform in each district.

Double frontage lot. See "Lot, double frontage."

Drive-in restaurant means food or refreshment place where space is provided for automobiles to park for the purpose of serving the occupants with food and refreshments. This includes barbecue stands and pits or other roadside facilities serving food or refreshments.

Duplex. See "Dwelling, two-family."

Dwelling means a building or portion thereof, designed or used exclusively for residential occupancy, but not including hotels, boardinghouses or motels.

Dwelling, loft-style, means a dwelling unit, occupied by no more than four persons, with the following characteristics:

(1) The common party wall must be four-hour fire-rated masonry construction and extend from the foundation wall through the roof line for a minimum of three feet;

(2) There shall be no more than four loft dwelling units per building, and they shall be located only on the ground floor level;

(3) Each loft dwelling shall have a private entry door, and either;

a. A private access stairway to the ground floor; or

b. A common stairway in conjunction with a common upstairs foyer;

(4) Central heating and cooling units with individual thermostats per loft dwelling;

(5) A minimum of 400 square feet of living space for the first person and an additional 100 square feet of living space per each additional person, but not to exceed a maximum of four residents; nor shall the loft dwelling unit exceed 1,200 square feet in total living space;

(6) The loft dwelling shall be equipped with a fire suppression sprinkler system complying with the National Fire Protection Association (NFPA) 13R standard;

(7) No doorway or window interconnection between loft dwelling; and

(8) Each loft shall comply with all existing codes used in the city.

Dwelling, multiple, means a building designed for the occupancy of three or more separate nuclear family units, living independently of each other, with separate housekeeping facilities for each family unit. These dwelling types shall include apartment houses, apartments and flats, but does not include boarding homes, hotels or motels.

Dwelling, single-family, means a building designed to be occupied exclusively by one related family. For purposes of this chapter, a "related family" shall be parents, children, grandchildren or other relatives that create a family dwelling unit related by the third degree, or closer, of consanguinity or affinity, as described by state law.

Dwelling, two-family, means a building designed for or occupied exclusively by two families related by blood, marriage, or adoption. These two individual family units shall live and set up housekeeping independently of each other.

Easement means the right of a person, entity, government agency, or public utility company to use public or private land by another for a specific purpose.

Efficiency apartment means a dwelling unit consisting principally of one room and alcoves, equipped with kitchenette and bath.

Family means a nuclear unit of one or more individuals related by blood, marriage, or adoption living together as a single housekeeping unit. The term "family" is not to be interpreted as a group occupying a boardinghouse, lodginghouse or hotel. For the purposes of this chapter, the term "family" may include five or fewer foster children placed in a family foster home licensed by the state, but shall not include fraternities, sororities, roominghouses or boardinghouses, rest homes, tourist homes, group care facilities, or family care homes.

Filling station or *gas station* means any building, structure or land used for the dispensing, sale or offering for sale at retail any automobile fuels, oils, accessories or services. No major repairs, such as auto body repair, welding, tire recapping or painting shall be permitted.

Flea market means a market at which secondhand articles are displayed and sold.

Floor area means, except as may be otherwise indicated in relation to particular districts and uses, the sum of the gross horizontal areas of the several floors, including basement areas, of a building. These areas are to be measured from the exterior faces of the exterior walls or from the centerline of walls separating two buildings, and exclude public corridors, common restrooms, attic areas with a headroom of less than seven feet, unenclosed stairs or fire escapes, elevator structures, cooling towers, areas devoted to air conditioning, ventilating, heating, or other building machinery and equipment, parking structures, and basement space where the ceiling is not more than an average of 48 inches above the general finished and graded level of the adjacent portion of the lot.

Front yard. See "Yard, front."

Frontage means all the property abutting one side of a street between two intersecting streets, measured along the street line.

Garage apartment means an accessory building, not a part of or attached to the main building, where a portion thereof contains living facilities for not more than one family and an enclosed space for one or more automobiles.

Garage, mechanical, means any building or land where automotive vehicles are repaired, rebuilt, reconstructed or painted, where tires are recapped and welding work is performed.

Garage, private, means a detached accessory building or a portion of a principal building for the storage of automobiles of the occupants of the premises. The term "private garage" shall include "carport."

Garage, storage, means any building or portion thereof, other than a private or mechanical garage, used exclusively for the parking or storage of motor vehicles. Services other than storage shall be limited to refueling, lubrication, washing and polishing.

Gas station. See "Filling station."

Grade means the average of the finished ground level at the center of all walls of a building. In case walls are parallel to and within five feet of a sidewalk, the ground level shall be measured at the sidewalk.

Group personal care home means a residential care facility wherein:

(1) The operator is not legally related to the individuals supervised and is licensed by the state to provide community alternatives in a residential environment to institutional care for individuals in need of such care;

(2) More than four persons reside, including operators, supervisors, and individuals under care; and

(3) Such individuals are provided with room, board, personal and physical care and supervision in a family environment.

The term "group personal care home" shall include, without limitation by reason of enumeration, a home as established under the Community Services Act for the Mentally Retarded (under applicable state law), and other homes of similar intention and purpose, but shall not include facilities housing persons convicted of crimes but not housed in penal institutions. The number of persons occupying a group home shall not exceed ten in number at any given time, including a minimum of one supervisory personnel.

Guesthouse means a detached accessory dwelling unit located on the same lot in conjunction with a single-family dwelling unit. The square foot area of a guesthouse may not exceed 50 percent of the heated and finished floor area of the principal building on the lot or 1,100 square feet in floor area, whichever is less, and may be used only by family members, guests or family employed domestic household servants.

Half story. See "Story, half."

Halfway home means a group home facility which is licensed or supervised by any federal, state, or county agency or a licensed private entity, providing treatment relating to alcohol and/or drug abuse problems, offender rehabilitation or for similar purposes.

Height of building. See "Building, height of."

Home occupation means any occupation or profession carried on by the inhabitants which is clearly incidental and secondary to the use for dwelling purposes, which does not change the character thereof, and which is conducted entirely within the main or accessory building, provided that no trading of merchandise is carried on. In connection with this use, there is no display of merchandise or sign other than one nonilluminated nameplate not more than two square feet in area attached to the main or accessory building and no mechanical equipment is used or activity is conducted which creates any dust, noise, odor or electrical disturbance beyond the confines of the lot on which said occupation is conducted. The term "home occupation" shall not be deemed to include a bed and breakfast inn.

Hotel or *motel* means a building or group of buildings under one ownership containing sleep-

ing rooms occupied or intended or designed to be occupied as a more or less temporary abiding place of persons who are lodged with or without meals for compensation, but not including an auto or trailer court or camp, sanitarium, hospital, asylum, orphanage, or building where persons are housed under restraint. The term "hotel" or "motel" includes tourist homes and bed and breakfast dwellings.

Interior lot. See "Lot, interior."

Itinerant vendors means and includes any person, whether a resident of the city or not, who has no permanent place of business within the city and who engages in a transient business in one temporary fixed place of business or sells goods from a vehicle, truck, van, trailer or other type of conveyance.

Junkyard means an open area where waste, used, or secondhand materials are brought and sold or exchanged, stored, baled, packed, disassembled, or handled, including, but not limited to, scrap iron and other metals, paper, rags, rubber tires, and bottles. A junkyard includes automobile wrecking yards and any area for storage, keeping, or abandonment of junk, but does not include uses established entirely within enclosed buildings.

Kennel means any lot or premises on which three or more dogs are kept, either permanently or temporarily, for purpose of sale, care, breeding or training for which any fee is charged.

Kindergarten means a school for pre-elementary school children ranging in age from three years through six years which operates for less than four hours per day.

Laundry, self-service, means a business rendering a retail service by renting to the individual customer equipment for the washing and drying of laundry.

Loading space means a space on the lot or parcel of land accessible to an alley or street not less than 12 feet in width, four feet in depth and 14 feet in height.

Lot means a parcel, plot or tract of land of varying sizes which is designated as a single unit of property and which is intended to be occupied by one building, or group of buildings, and its accessory buildings and uses as required by this chapter.

Lot, corner, means a lot abutting two or more streets at their intersection.

Lot, depth of, means the average distance between front and rear lot lines.

Lot, double frontage, means a lot having a frontage on two nonintersecting streets, as distinguished from a corner lot.

Lot, interior, means a lot other than a corner lot.

Lot, width of, means the average horizontal distance between the side lines of a lot measured at right angles to the depth.

Lot lines means the lines bounding a lot.

Lot of record means a lot which is a part of a subdivision, the map of which has been recorded in the office of the county clerk of the court.

Manufactured housing means a factory-built single-family structure that is manufactured under the authority of 42 USC 5401 (the National Manufactured Home Construction and Safety Standards Act) and is transportable in one or more sections, is built on a permanent chassis, and is designed to be used as a place of human habitation with or without permanent foundation when connected to the required utilities. It is not constructed with a permanent hitch or other towing device allowing transportation of the unit other than for the purpose of delivery to a permanent site, and does not have wheels or axles permanently attached to its body or frame. Manufactured housing must bear the insignia issued by the U.S. Department of Housing and Urban Development (HUD).

Mechanical garage. See "Garage, mechanical."

Miniwarehouse means a building that contains varying sizes of individual, compartmentalized and control-access stalls or lockers for storing the excess personal property of an individual or family. No business activities other than the rental or storage units shall be conducted on the premises.

Mobile home means a transportable factory-built home designed to be used as a yearround residential dwelling and built prior to the enactment of the National Manufactured Housing Construction and Safety Standards Act of 1974, which became effective June 15, 1976. Mobile homes are not permitted uses in any zoning district, except within existing or later approved manufactured home parks and/or subdivisions.

Mobile office means a factory-fabricated structure designed to be transported on its own wheels, detachable wheels, flatbed or trailer and used or intended to be used or occupied for the transaction of business or the rendering of a professional service.

Motel. See "Hotel."

Multiple dwelling. See "Dwelling, multiple."

Nonconforming use means any building, structure or uses of land or building lawfully existing at the effective date of the ordinance from which this chapter is derived, which does not conform with the provisions of this chapter or amendments thereto.

Nursing home or *convalescent home* means a home for the aged, chronically ill or incurable persons in which three or more persons not of the immediate family are received, kept or provided with food and shelter or care for compensation, but does not include hospitals, clinics or similar institutions devoted primarily to the diagnosis and treatment of the sick or injured.

Off-street loading and unloading space means a space with dimensions no less than 12 feet in width, 40 feet in length and 14 feet in height, exclusive of access aisles, maneuvering space or alley right-of-way.

Off-street parking space means a minimum net area of 200 square feet of appropriate dimensions, and not less than nine feet in width, for parking an automobile, exclusive of access drives or aisles thereto or any street or alley right-of-way.

Open air business uses means and includes the following:

(1) Retail sale of trees, shrubbery, plants, flowers, seed, topsoil, humus, fertilizer, trellises, lawn furniture, playground equipment and other home garden supplies and equipment;

(2) Retail sale of fruit and vegetables;

(3) Miniature golf, golf driving range, children's amusement park, or similar recreation uses;

(4) Bicycle, trailer, motor vehicle, boats or home equipment sales, service or rental services; and

(5) Outdoor display and sale of garages, swimming pools, and similar use.

Open space means a yard area which is not used for or occupied by a driveway, off-street parking, loading space, drying yard or refuse storage space.

Parking space means a surfaced area, enclosed or unenclosed, sufficient in size to store one automobile, together with a driveway or other paved area connecting the parking space with a street or alley and permitting ingress and egress of an automobile.

Pawn shop means a type of merchandise store in which merchandise is offered as collateral for obtaining loans and wherein such merchandise is offered for sale in recompense for default of a loan payment. A pawn shop shall not be deemed a retail sales establishment except for the purposes of determining off-street parking and landscaping requirements.

Peddler. See "Street vendor."

Permit means a certificate of zoning compliance, special zoning permit or any other permit required by this chapter.

Permitted use means a use which is allowed in the district in which the land is situated. Where a proposed use is a permitted use in accordance with other regulations herein, a certificate of zoning compliance will be issued by the city without a public hearing if such use otherwise complies with all applicable requirements of this chapter. Where a permitted use could impact unfavorably on adjoining property, the planning

commission, after a public hearing thereon, may stipulate, in appropriate situations, buffer areas, screening or other modifications.

Personal care home means a dwelling unit in which aged or infirmed persons are boarded, and receive personal care on a 24-hour basis. All such homes shall be licensed by the appropriate state agency. Also see "Group personal care home."

Plat means a map, plan, or layout of a county, city, town, section, lot or a subdivision or other property indicating the location and boundaries of properties.

Principal use means the primary purpose or function that land serves or is intended to serve.

Private garage. See "Garage, private."

Rear yard. See "Yard, rear."

Restaurant means an establishment designed and operated for the express purpose of providing food and beverage service within the confines of a structure and generally excluding any encouragement, orientation, or accommodation of services or products to the patrons' automobiles, on or within the premises.

Restaurant, fast food, means a restaurant where most customers order and are served their food at a counter or in a motor vehicle in packages prepared to leave the premises, or able to be taken to a table or counter to be consumed.

Right-of-way means public or private access over or across particularly described property for a specific purpose or purposes.

Right-of-way line means the dividing line between a lot, tract or parcel of land and a contiguous street, railroad, or other public utility right-of-way.

Roominghouse means a building other than a hotel where lodging without meals for three, but not more than 20, persons is provided.

Satellite dish antenna means a device which is used to intercept satellite television signals and consists of two main components: the antenna itself, often called a dish, and low noise amplifier (LNA). A satellite dish antenna is not to exceed 36 inches in diameter.

Self-service laundry. See "Laundry, self-service."

Service station. See "Filling station."

Setback distance means the distance between the principal structure on a lot and a lot line (either front, side or rear setback distance).

Shopping center means a group of commercial establishments, exceeding in the aggregate of 7,500 square feet of gross leaseable area, planned and developed as a unit, with common off-street parking provided on the property.

Side yard. See "Yard, side."

Sign means any words, lettering, parts of lettering, figures, numerals, phrases, sentences, emblems, or devices by which anything, such as the designation of an individual, a firm, an association, a profession, a business, a commodity, or a product, is made known and which are visible from any public way and used as an outdoor display.

Single-family dwelling. See "Dwelling, single-family."

Special exception (SE) use means those uses which without the proper scrutiny and conditions may be appropriately located within certain specified zoning districts, subject to the standards of section 23-50. It shall be qualified as:

(1) Any other facility for the disposal of the dead, provided all requirements for cemetery have been satisfied.

(2) Cemeteries for human or animal interment.

(3) A church.

(4) A church with an accessory school and/or cemetery.

(5) Mausoleums, when used in conjunction with a cemetery, provided that all requirements for the cemetery have been satisfied.

(6) Private community center. A place, structure, area, or other private or nonpublicly owned facility used for and providing religious, fraternal, social, and/or recreational programs generally open to the

public and designed to accommodate and serve significant segments of the community.

(7) Private schools of general and special education.

Storage garage. See "Garage, storage."

Story means that portion of a building included between the surface of any floor and the surface of the floor next above it; or if there is no floor above it, then the space between the floor and the ceiling next above it.

Story, half, means a story under a gabled, hopped or gambrel roof, the wall plates of which on at least two opposite exterior walls are not more than three feet above the finished floor of such story.

Street means a public thoroughfare which affords principal means of access to abutting property.

Street vendor/peddler means and includes any person, whether a resident of the city or not, traveling by foot, wagon, automotive vehicle or any other type of conveyance, from place to place, from house to house, or from street to street carrying, conveying or transporting goods, merchandise, meats, fish, vegetables, fruits, garden truck, farm products or provisions, offering and exposing the same for sale, or making sales and delivering articles to purchasers or any person who, without traveling from place to place, shall sell or offer the same for sale.

Structural alteration means any change in the supporting members of a building, such as bearing walls, bearing partitions, columns, beams or girders, or any complete rebuilding of the roof or the exterior walls.

Structure means anything constructed or erected, the use of which requires a location on the ground or attached to something having a location on the ground, including, but not limited to, advertising signs, billboards, backstops for tennis courts, fences and pergolas. The term "structure" shall include "building."

Subdivision means a division of land into two or more lots, plats or sites.

Taxi means any motor vehicle other than a limousine offered to the public by a public taxicab business for the purpose of carrying or transporting passengers for a charge or a fee.

Taxicab business means a service that offers transportation in passenger automobiles and/or vans to persons; including those who are disabled, in return for remuneration. The business may include facilities for servicing, repairing, and fueling the taxicabs or vans.

Territorial boundary means the area lying within the corporate limits of the city.

Townhouse means an attached house in a row or group, each house separated from adjoining houses in the same row or group by architectural style, change of facade, offsets, and by firewalls or fire separations.

Travel trailer means a vehicular portable structure designed as a temporary dwelling for travel, recreational and vacation uses, which is not more than eight feet in body width and is of any weight, provided its body length does not exceed 35 feet.

Travel trailer park means any lot on which are temporarily parked two or more travel trailers for a period of less than 30 days.

Two-family dwelling. See "Dwelling, two-family."

Used car lot means a lot or group of contiguous lots used for the storage, display and sale of used automobiles and where no repair work is done except the necessary reconditioning of the cars to be displayed and sold on the premises.

Used for means and includes "designed for."

Variance means a relaxation or modification of the strict terms of the this chapter where such will not be contrary to the public interest and where conditions peculiar to the property (not the result of the action of the applicant) make a literal enforcement of this chapter result in unnecessary and/or undue hardship. As used in this chapter, a variance is authorized only for height, area, and size of structure, for size of yards and open spaces and for any rule or regulation herein involving distance, area, height

or other dimension, including, but not limited to, setback distances of buildings, distances of curb cuts from corners, etc. Establishment or expansion of a use otherwise prohibited shall not be allowed by variance, nor shall a variance be granted because of the presence of nonconformities in the zoning district or uses in an adjoining zoning district.

Width of lot. See "Lot, width of."

Yard means an open space on the same lot with a building, unoccupied and unobstructed from the ground upward, except by trees or shrubbery or as may otherwise be provided.

Yard, front, means a yard across the full width of a lot, extending from the front line of the building to the front of the lot, excluding steps.

Yard, rear, means a yard extending across the rear of a lot measured between lot lines of being the minimum horizontal distance between the rear lot line and the rear of the main building or any projections other than steps, unenclosed balconies or unenclosed porches. On corner lots, the rear yard shall be considered as parallel to the street upon which the lot has its least dimension. On both corner and interior lots the rear yard shall in all cases be at the opposite end of the lot from the front yard.

Yard, side, means a yard extending between a building and the side line of the lot, and extending from the front line to the rear lot line.

Zoning administrator means an employee of the city designated to oversee zoning issues such as zoning interpretation, changes, compliance, and land use planning.

Zoning decision means the final action by mayor and council which results with:

(1) The adoption of a zoning ordinance;

(2) The adoption of an amendment to a zoning ordinance which changes the text of the zoning ordinance; or

(3) The adoption of an amendment to a zoning ordinance which rezones property from one zoning classification to another.

Zoning ordinance means an ordinance or resolution by the mayor and council of the city establishing procedures, zones or districts within its respective territorial boundaries which regulate the uses and development standards of property within such zones or districts. The term also includes the zoning map adopted in conjunction with a zoning ordinance, which shows the zones, districts and zoning classifications of property therein.
(Ord. No. 001-2001, § 2.1, 2-13-2001; Ord. No. 8-2005, § 1, 8-11-2005; Ord. No. 2008O-05, § 1, 4-8-2008; Ord. No. 2008O-11, § 1, 11-18-2008; Ord. No. 2019O-03, § 1, 2-12-2019)

Sec. 23-3. Applicability.

This chapter shall apply to all subject matter that is regulated both by this chapter and other ordinances, including, but not limited to, ordinances for the development and maintenance of land, and such other ordinances are hereby amended to reflect this. The mayor and city council may attach statements to such other ordinances to the effect that compliance with this chapter is required by such other ordinances.
(Ord. No. 001-2001, § 26.2, 2-13-2001)

Sec. 23-4. Conflict with other law.

Whenever the provisions and requirements of this chapter or of any rule, regulation, or order pursuant hereto are more restrictive than those under any other statute, law, rule, regulation, ordinance, or order of the city, the state, or the United States, the provisions and requirements of this chapter, and the rules, regulations and orders pursuant hereto shall govern to the extent permissible by law. Whenever the provisions of any other statute, law, rule, regulation, ordinance, or order of the city, the state, or the United States are more restrictive than this chapter, or any rule, regulation, or order pursuant hereto, then the provisions of such other statute, law, rule, regulation, ordinance, or order shall govern.
(Ord. No. 001-2001, § 26.3, 2-13-2001)

Sec. 23-5. City not guarantor of acts or omissions of other entities.

No act or omission of the city, mayor and city council, or planning commission shall be an assurance or guarantee that the United States

or any department or agency thereof, the state or any department or agency thereof, or any other county or any municipality has or will take any action or has or will make any omission. No act or omission of the city, mayor and city council, or planning commission shall be construed as the rendering of advice or an opinion as to the status of legal requirements, policies, acts, or omissions of any of the other aforesaid entities.
(Ord. No. 001-2001, § 26.5, 2-13-2001)

Sec. 23-6. Criminal acts and penalties; continuing offenses; jurisdiction over offenses.

(a) Notwithstanding provisions elsewhere in this chapter, the following are declared to be crimes:

(1) It shall be unlawful to engage in any activities in violation of applicable requirements, rules, regulations, permit conditions, and orders established under this chapter.

(2) It shall be a criminal violation of this chapter to furnish false or materially incomplete or misleading information to the planning commission, or any city official, building inspector or similar employee on any application, investigation, or proceeding regarding this chapter.

(b) Each day that a violation continues shall be deemed a separate offense. At the discretion of the presiding judge, a violator of this chapter may be given a reasonable length of time to rectify or correct the violation.

(c) Jurisdiction over offenses under this chapter shall be in the municipal court the city. Any person violating the terms of this chapter or any permit condition, rule or regulation promulgated pursuant thereto may be punished by fine of not more than $1,000.00, by imprisonment in the county jail for a term not to exceed 12 months, by receiving probation, or by any other punishment authorized by this Code.
(Ord. No. 001-2001, § 26.6, 2-13-2001)

Sec. 23-7. Civil action by private citizen.

Nothing in this chapter shall prevent an adjacent or neighboring property owner who would be damaged by a violation or any other person who would have standing to bring a civil action for damages, injunctive relief, abatement of a nuisance, a writ of mandamus, or other appropriate relief.
(Ord. No. 001-2001, § 26.7, 2-13-2001)

Sec. 23-8. Amendment.

The mayor and council, in taking action resulting in adoption of an amendment to the text of this chapter, shall provide for a public hearing on the proposed action. At least 15 but not more than 45 days prior to the date of the hearing, the mayor and council shall cause to be published within a newspaper of general circulation within the territorial boundaries of the city a notice of the hearing stating the time, place, and purpose of the hearing.
(Ord. No. 001-2001, § 26.8, 2-13-2001)

Secs. 23-9—23-40. Reserved.

ARTICLE II. ADMINISTRATION

Sec. 23-41. Administration and enforcement of provisions.

The ordinance and code enforcement officer and his duly authorized agent or his designee shall administer and enforce the provisions of this chapter.
(Ord. No. 001-2001, § 7.1, 2-13-2001)

Sec. 23-42. Basis for provisions and compliance with the comprehensive plan.

The regulations and requirements set forth in this chapter are promulgated in accordance with a comprehensive plan, with reasonable consideration, among other things, to the prevailing land uses, growth characteristics and the character of the respective districts, neighborhoods, or areas and their peculiar use of land throughout the city.
(Ord. No. 001-2001, § 7.2, 2-13-2001)

Sec. 23-43. Interpretation of provisions; property inadvertently omitted from zoning districts.

(a) In interpreting and applying the provisions of this chapter, they shall be held to be the minimum requirements for the promotion of the public, health, safety, morals and general welfare of the community.

(b) It is not intended by this chapter to interfere with, abrogate or annul any easements, covenants or other agreements between parties; provided, however, that where this chapter imposes a greater restriction upon the use of buildings or premises or upon the height of buildings, or requires larger open spaces than are imposed or required by other ordinances, rules, regulations or by easements, covenants, or agreements, the provisions of this chapter shall control.

(c) If, because of error or omission in this chapter or the zoning map, any property within the city is not shown as being included in a zoning district, the classification of such property shall be designated as the most restrictive and highest use district, unless changed by an amendment to this chapter.

(d) Annexation of property shall follow the requirements of The Zoning Procedures Law (O.C.G.A. § 36-66-1 et seq.). A notice of the annexation of property shall be provided to the county, as required by O.C.G.A. § 36-36-6, and the required hearing held prior to the annexation. A notice of said hearing will be published in the city's newspaper of general circulation and all other zoning policies and procedures regarding hearings, notices and amendments, as outlined in sections 23-45 and 23-46, shall be followed.
(Ord. No. 001-2001, § 7.3, 2-13-2001)

Sec. 23-44. Outline of steps required for amendment to this chapter.

(a) Amendments to the text of this chapter or to the official zoning map may be initiated at the request of a private petitioner or the city council. Requests for a conditional use or variance to the provisions regulating districts may be similarly initiated by a private petitioner or at the suggestion or request of the planning commission in considering an amendment.

(b) In general, all private petitions for text amendments, changes in zoning districts (rezonings), and conditional uses shall comply with the following steps in order to secure approval or denial:

(1) Any petition for a zoning change must be filed in the form of a written application with the city clerk or his designee and all fees paid at that time.

(2) The city clerk or his designee will inform the applicant of the public hearing dates at which the petition will be considered.

(3) The city will advertise the public hearing and provide notification to affected parties by written notice and by the posting of a notice on the subject property.

(4) Consideration of the proposed zoning change shall be carried out as prescribed in section 23-45 and as required by state law.

(5) Consideration of a request for a conditional use shall be reviewed according to the criteria enumerated in the definition of a conditional use in section 23-2.

(6) Variance requests will be reviewed by the planning commission. Variances may be granted only insofar as the proposed action meets the requirements enumerated in section 23-51 and the criteria enumerated in the definition of a "variance" in section 23-2. In no case may a variance be granted for a use of land or building (a "use variance") that is prohibited within the zoning district. The planning commission shall keep a record of all variances granted or denied.

(Ord. No. 001-2001, § 7.4, 2-13-2001)

Sec. 23-45. Zoning policies and procedures.

The following policies and procedures are herein established to provide guidelines for certain types of zoning activities:

(1) The adoption of a new city zoning ordinance;

(2) The adoption of an amendment to this chapter which changes the text of this chapter (text amendment);

(3) The adoption of an amendment to this chapter (map amendment) which rezones property from one zoning classification to another;

(4) The procedural requirements for zoning amendments sponsored by the city;

(5) The procedural requirements for zoning amendments sponsored by a citizen or property owner;

(6) Annexation of property by the city;

(7) Annexation of property by a private petitioner which requests zoning of the property for a certain specific zoning classification, and the request is contained in the annexation petition. If there is no request for zoning classification of such property, then the property shall be annexed and designated as the most restrictive and highest use district, until changed by an amendment to this chapter.

(Ord. No. 001-2001, § 7.5, 2-13-2001)

Sec. 23-46. Policies and procedures for city-initiated zoning activities.

(a) *Amendment to this chapter*. In the case of developing an initial zoning plan (map and text), or updating or amending an existing zoning plan, the city planning commission and the city council will, where appropriate, utilize any new or existing land use studies, land use plans or other relevant documents as a resource for ordinance development or ordinance amendment. The city council and the planning commission will each hold at least one public hearing on any new zoning ordinance development or any proposed amendment to the current zoning ordinance.

(b) *Public hearing*. Upon the completion of a preliminary zoning document by the planning commission and after this draft document has been presented to and reviewed by the city council, public hearings will be scheduled by both the planning commission and the city council, respectively. The official public hearing will be held by the city council, and public notice will be given no less than 15 days or more than 45 days prior to the official hearing date.

(c) *Required notices*. Notice of public hearings will be published within a newspaper of general circulation within the territorial boundaries of the city. The public notice will state the time, place, and purposes of the hearing.
(Ord. No. 001-2001, § 7.6, 2-13-2001)

Sec. 23-47. Review of amendments.

(a) *Review by planning commission and city council.* All amendments to any existing zoning plan must be reviewed by both the planning commission and the city council. However, when the boundary lines of an established zoning district are proposed for changes (rezoning), the city council shall have the planning commission prepare an evaluation of each such proposed rezoning considering each of the following factors:

(1) Existing uses and zoning of nearby property;

(2) The extent to which property values are diminished by the present zoning restrictions;

(3) The extent to which the destruction of property values resulting from existing zoning of the applicant's parcel promotes the health, safety, morals or general welfare of the public;

(4) The relative gain to the public, as compared to the hardship imposed upon the individual property owner;

(5) The suitability of the subject property for the zoning purposes, as proposed;

(6) The length of time the property has been vacant as zoned, considered in the context of land development in the area in the vicinity of the property; and

(7) Conformity with or divergence from the comprehensive plan.

(b) *Place of hearing.* The public hearings will be convened at the advertised time and place and will be presided over by the appropriate officials.

(c) *Conduct of hearing.* The chair of each respective public hearing will review for those present the following operating procedures for the public hearing:

(1) In order for a person in attendance to speak, the chair must recognize the speaker. Upon rising to speak, the person recognized will be identified for the public record. The chair may also request that the person furnish a home or business street address, as appropriate.

(2) The person speaking will be allowed a reasonable amount of time, usually not exceeding five minutes, to express opinions and make comments on each separate element of the proposed revisions they wish to address. Proponents and opponents of each zoning decision or application shall have an equal minimum time period of not less than ten minutes per side for presentation of data, evidence and opinion. A designated timekeeper shall record the time expended by each speaker.

(3) Additional persons will be recognized per this procedure for the purpose of addressing additional elements of the proposed

revisions or to make additional points with regard to elements already addressed, but not to rehash points already made.

(d) *Appropriate notes or minutes.* Appropriate notes or minutes will be recorded by the city council and the planning commission at their respective public hearings.

(e) *Recommendation of planning commission*. The planning commission shall prepare and submit the necessary minutes, evaluations and/or recommendations to the city council prior to the city council's public hearing.

(f) *Consideration by city council*. The city council, at its official public hearing, will review the evaluations and recommendations from the planning commission and may choose to adopt, reject, or modify the planning commission's recommendations, or the business may be tabled for additional study to a time certain as determined by the council.
(Ord. No. 001-2001, § 7.7, 2-13-2001)

Sec. 23-48. Procedures for rezoning request by citizens/property owner.

(a) *Application*. An application for a rezoning or conditional use must be filed with the city clerk or his designee at city hall on a prescribed form. Fees shall be paid at the time of application.

(b) *Public hearing dates.* The city clerk or his designee will inform the applicant as soon as practical of the public hearing dates. Although the planning commission will convene a public hearing on each proposal, the official public hearing will be held by the city council. Public notice of each hearing will appear in a newspaper of general circulation within the city not less than 15 days or more than 45 days before the date of the official public hearing.

(c) *Hearing notice.* The public hearing notice will name the applicant, the location of property to be affected, the present zoning class, the proposed zoning class and the date, time and place of both the planning commission hearing and the public hearing held by the mayor and council. This shall apply to requests for zoning amendment to the text, amendment to the zoning maps, conditional uses, special uses, permits for home occupations, and variances.

(d) *Notification of affected parties.* In order to inform those parties directly affected by the proposed action and the general public, city officials shall do the following:

(1) Have erected upon the property for which rezoning is to be considered a sign of no less than 17 inches by 24 inches announcing the public hearings, stipulating the dates, times, and places for the two hearings, the present zoning class and the proposed zoning class. The sign shall be clearly visible from a public street. It shall be erected not less than 15 days or more than 45 days before the first public hearing date.

(2) Give due notice to the parties concerned, including all owners of records of property and residence within 300 feet of the premises in question. Such notices shall be delivered personally or by mail addressed to the respective owners at the address given on the last tax assessment roll. Copies of said notices, including receipts if sent by certified mail, will be kept by the planning commission.

(e) *Review of petitions by the planning commission.* The planning commission shall review all petitions for a rezoning, special use, conditional use or related petitions in accordance with this chapter. All meetings of the planning commission shall be held at the call of the chairman or, in his absence, the vice-chairman, and at such time as the board may determine. All meetings of the planning commission shall be open to the public.

(f) *Conduct of hearing.* The place and conduct of the public hearing shall be in accordance with the provisions of this article. All applicable general review standards of section 23-47(a) and as contained in state law shall be considered in the review process.

(g) *Period of resubmittal for zoning amendment.* If a petition or application for zoning, variance amendment or conditional use has been denied by the mayor and city council, a minimum

of 12 months must pass before the same amendment proposal is again submitted for consideration.
(Ord. No. 001-2001, § 7.8, 2-13-2001)

Sec. 23-49. Procedures for a conditional use request.

(a) *Application*. An application for a conditional use within a zoning district must be filed with the city clerk or his designee at city hall on a prescribed form. Fees shall be paid at the time of application.

(b) *Public hearing dates.* The city clerk or his designee will inform the applicant as soon as practical of the public hearing dates. Although the planning commission will convene a public hearing on each proposal, the official public hearing will be held by the city council. Public notice of each hearing will appear in a newspaper of general circulation within the city not less than 15 days or more than 45 days before the date of the official public hearing.

(c) *Hearing notice.* The conditional use public hearing notice will name the applicant, the location of property to be affected, the present zoning class, the proposed zoning class and show its conditional uses notation, such as R-3C. The notice shall also contain the date, time and place of both the planning commission hearing and the public hearing held by the mayor and council.

(d) *Notice, hearing and resubmittal requirements.* The same general notice requirements, all provisions concerning conducting hearings, general review of special use petitions, and period of resubmittal as contained in section 23-48 shall apply as though fully recited herein.
(Ord. No. 001-2001, § 7.9, 2-13-2001)

Sec. 23-50. Standards for a conditional use.

Conditional uses are those uses which, without the proper scrutiny and conditions, may be appropriately located within certain specified zoning districts.

(1) *Authorization*. The city shall issue a certificate of authorization for a conditional use to an applicant when the conditions relating to the special exception uses listed herein are met, and after public notice and hearing procedures have been followed.

(2) *Special exceptions.* The special exceptions which could be allowed within any zoning classification are as follows:

a. Any facility for the disposal of the dead, provided all requirements for a cemetery have been satisfied.

b. Cemeteries for human or animal interment with the following minimum requirements:

1. Minimum lot size of ten acres;
2. Minimum public road frontage of 100 feet;
3. When abutting any residential property line, a 50-foot natural/landscaped buffer shall be approved by city staff (see buffer standards);
4. Permanent public ingress/egress shall be provided;
5. Compliance with all state requirements; and
6. Overall parking and landscaping plan approved by city staff.

c. Churches, chapels, temples, synagogues, and other such places of worship with the following minimum requirements:

1. Minimum lot size of five acres.
2. Structures associated with said use to be located a minimum of 50 feet from any property line.
3. Structures associated with said use to be limited to 55 feet in height.
4. When abutting any residential property line, a 35-foot landscaped screening buffer shall be approved by city staff (see buffer standards).
5. Overall parking and landscape plan for the entire site to be approved by city staff.

6. One paved parking space shall be provided per four seats in the principal place of worship; provided that the number of spaces thus required may be reduced by not more than 50 percent if the place of worship is located within 500 feet of any public parking lot or any commercial parking lot where sufficient spaces are available by permission of the owner without charge during the time of services to make up the additional spaces required.
7. An approved lighting plan.
8. A church may have an accessory cemetery with the following minimum requirements:
   (i) Minimum of two acres for cemetery in addition to a five-acre requirement for a church;
   (ii) When abutting any residential property line, a 50-foot natural landscaped buffer shall be approved by city staff;
   (iii) Ingress/egress shall be provided; and
   (iv) Compliance with all state requirements.

d. A church may have an accessory school with the following minimum requirements:
   1. Minimum lot size of three acres for school in addition to a five-acre requirement for a church;
   2. Minimum public road frontage of 100 feet;
   3. Overall parking and landscape plan for entire site to be approved by city staff; and
   4. One paved parking space per every one full-time employee of the accessory school in addition to required parking for the principal church use.

e. Mausoleums when used in conjunction with a cemetery, provided that all requirements for the cemetery have been satisfied.

f. Community center, defined as a place, structure, area, or other private or nonpublicly owned facility used for and providing religious, fraternal, social, and/or recreational programs generally open to the public and designed to accommodate and serve significant segments of the community.
   1. Minimum lot size of three acres;
   2. Structures associated with said use to be located a minimum of 35 feet from any property line;
   3. Structures associated with said use to be limited to 45 feet in height;
   4. When abutting any residential property line, a 25-foot landscaped, screening buffer shall be approved by city staff (see buffer standards);
   5. Overall parking and landscape plan for entire site, to be approved by city staff;
   6. One paved parking space shall be provided for every person lawfully permitted within the assembly areas at one time, plus one per employee, or, in the absence of designated assembly areas, one paved space per 300 square feet of gross floor area; and
   7. An approved lighting plan.

g. Private schools of general and special education with the following minimum requirements:
   1. Minimum lot size of five acres;
   2. Minimum public road frontage of 100 feet;

3. Overall parking and landscape plan for entire site, to be approved by city staff; and
4. One paved parking space shall be provided for every person lawfully permitted within the assembly areas at one time, plus one per employee, or, in the absence of designated assembly areas, one paved space per 300 square feet of gross floor area; and
5. An approved lighting plan.

(Ord. No. 001-2001, § 7.10, 2-13-2001)

Sec. 23-51. Procedures concerning variances.

(a) The planning commission may, upon appeal of the denial of a building permit by the city staff, in specific cases, grant such variances from the terms of this chapter as will not be contrary to the public interest where, owing to special conditions, a literal enforcement of the provisions of this chapter will, in an individual case, result in unnecessary hardship so that the spirit of this chapter shall be observed, public safety and welfare secured, and substantial justice done. Such variances may be granted in such individual cases of unnecessary hardship upon specific written findings by the planning commission that:

(1) There are extraordinary and exceptional conditions pertaining to the particular piece of property in question because of its size, shape, or topography;

(2) The application of this chapter to this particular piece of property would create an unnecessary hardship;

(3) Such conditions are peculiar to the particular piece of property involved, and not of the making of the applicant;

(4) Relief, if granted, would not cause substantial detriment to the public good or impair the purposes and intent of this chapter; provided, however, that no variance may be granted for a use of land, building or structure that is prohibited by this chapter;

(5) Public hearing notices relating to the review of a variance will name the applicant, the location of the property requesting variance, present zoning classification, the zoning district by specific article, section, and subsection to be varied, as well as the specific measurements or requirements to the ordinance being requested. The date, time and place of the planning commission hearing will be held; and

(6) The city clerk or his designee will inform the applicant as soon as practical of the public hearing dates. The planning commission will convene a public hearing on each request for variance. Public notice of the hearing will appear in a newspaper of general circulation within the city no less than 15 days or more than 45 days before the date of the official public hearing.

(b) In the event the planning commission determines not to grant a variance, or the variance request is unacceptable to city staff, either party may appeal for a final (and official) public hearing before the mayor and council. This appeal shall be in writing, and must be filed within five days of the decision of the planning commission. All notification procedure, review, conduct of hearing and resubmittal requirements as generally contained in this chapter shall apply to a review of a variance.

(Ord. No. 001-2001, § 7.11, 2-13-2001)

Sec. 23-52. Approval period.

No order of the planning commission permitting the erection or alteration of a building shall be valid for a period longer than six months unless such use is established within such period; provided, however, that where such use permitted is dependent upon the erection or alteration of a building, such order shall continue in force and effect if a building permit for said erection or alteration is obtained within such period, and such erection or alteration is started and proceeds to completion in accordance with such permit.

(Ord. No. 001-2001, § 7.12, 2-13-2001)

Sec. 23-53. Administrative assistance.

The city shall provide such technical, administrative, and clerical assistance and office space as

is required by the planning commission, zoning board of appeals, and city council to carry out its function under the provisions of this chapter.
(Ord. No. 001-2001, § 7.13, 2-13-2001)

Sec. 23-54. Fees.

All applicants for a rezoning, a text amendment, a conditional use, a home occupation license, a variance, or an inspection/lot location within a district shall be accompanied by a fee payable to the city to defray expenses incidental to the processing of such applications. A listing of all applicable scheduled fees is available in the office of city hall.
(Ord. No. 001-2001, § 7.14, 2-13-2001)

Sec. 23-55. Penalty for violations of provisions.

(a) Any person who violates, disobeys, omits, neglects or refuses to comply with, or resists the enforcement of any of the provisions of this chapter shall be guilty of a misdemeanor and subject to a fine up to $1,000.00 after receiving 30 days' notice of the violation, and an opportunity for hearing as to any such violations. Said notice shall be in writing and issued by the city.

(b) Each day that a violation is permitted to exist after due notice is given shall constitute a separate offense.
(Ord. No. 001-2001, § 7.15, 2-13-2001)

Sec. 23-56. Continuance of nonconforming uses.

(a) *Land.*

(1) The lawful use of land existing at the time of the enactment of the ordinance from which this chapter is derived, although such use does not conform to the provisions of this chapter, may be continued; provided, however, that no such nonconforming use shall be enlarged or increased, nor shall any nonconforming use be extended to occupy a greater area of land than that occupied by such use at the time of such enactment; and provided further that no such use is subject to any moratorium which might apply to said use.

(2) If such nonconforming use shall be discontinued for a continuous period of 90 days, any future use of such land shall be in conformity with the provisions of this chapter.

(b) *Buildings.*

(1) The lawful use of a building or structure existing at the time of the enactment of the ordinance from which this chapter is derived may be continued, although the building use does not conform to the provisions of this chapter.

(2) The lawful use may be extended throughout the building, provided no structural alterations, except those required by law, ordinances, or ordered by an authorized officer to assure the safety of the building, are made therein. Should any interior extension of the use include loft apartments or similar material building changes, the provisions governing these changes in this chapter shall apply.

(3) No use shall be extended to occupy any land outside the building.

(4) If the nonconforming building is removed or the nonconforming use of such building is discontinued for a continuous period of 90 days, every future use of the building shall be in conformity with the provisions of this chapter.

(c) *Destroyed buildings.* If a nonconforming building or structure suffers damage which does not exceed 50 percent of its fair market value immediately preceding such damage, the building or structure may be reconstructed and reused (as before) if completed within 12 months from the time such damage occurred. If such damage is greater than 50 percent of its fair market value immediately preceding the damage, the building or structure may only be reconstructed and used in conformity with the standards and requirements for the district in which it is located. Otherwise, it must be removed at the owner's expense within six months from the time such damage occurred.

(d) *Projects under construction.* Nothing in this chapter shall be deemed to require any change in the plans, construction or designated use of any building upon which actual construction was lawfully begun prior to the adoption of the ordinance from which this chapter is derived and upon which actual building construction has been diligently carried on; provided that the building shall be completed within one year from the date of passage and publication of the ordinance from which this chapter is derived and is not the subject of a proper enacted moratorium.
(Ord. No. 001-2001, § 3.7, 2-13-2001)

Sec. 23-57. District changes.

(a) When a district shall be changed, any then existing nonconforming use in the changed district may be continued or changed to a use of similar or higher classification, provided all other regulations governing the new use are complied with.

(b) Whenever a nonconforming use has been discontinued or changed to a higher classification or to a conforming use, such use shall not thereafter be changed to a nonconforming use or a lower classification.
(Ord. No. 001-2001, § 3.8, 2-13-2001)

Sec. 23-58. Expiration of conditional uses, variances and planned developments.

(a) *Conditional uses and variances.* When conditional zoning or variances have been granted, but no affirmative action has been taken to perform said conditions or to obtain a building or land disturbance permit or an occupational tax certificate, and such status shall continue for six months from the date of approval, the conditional use or variance shall expire and the property shall revert to its original status prior to such conditional zoning or variance. If the six-month expiration period has passed, the mayor and council may, upon petition by the land owner or permit holder, or on its own action, consider an extension of the time period for up to an additional six months for just cause. Conditional uses or variances not built, erected or located within one year upon receiving initial approval or permit from the city shall expire and the property shall revert to its zoning before the conditional use or variance was approved.

(b) *Planned developments.* When planned developments have been approved, but no affirmative action has been taken to perform said development or to obtain a building or land disturbance permit or an occupational tax certificate, and such status shall continue for 18 months from the date of approval, the planned development plans expire and the property owner shall resubmit the planned development through the formal channels and approval process used by the city. If the 18-month expiration period has passed, the mayor and council may, upon petition by the land owner or permit holder, or on its own action, consider an extension of the time period for up to an additional six months for just cause. A planned development not built, erected or located within two years upon receiving their initial approval from the city shall expire and the property owner shall be required to resubmit the planned development through the formal channels and approval process used by the city.
(Ord. No. 2008O-11, § 1, 11-18-2008)

Secs. 23-59—23-80. Reserved.

ARTICLE III. ZONING DISTRICTS ESTABLISHED; ZONING MAP

Sec. 23-81. Division of city into districts; districts enumerated.

In order to regulate and limit the height and size of buildings, to regulate and limit the intensity of the use of lot areas, to regulate and determine the area of open spaces within the surrounding buildings, to classify, regulate and restrict the location of trades and industries, and the location of buildings designed for specified industrial, business, residential and other uses, the city is hereby divided into the following districts:

(1) R-1, Single-family (estate) residential district.

(2) R-2, Single-family (low density) residential district.

(3) R-3, Single-family (low to medium density) residential district.

(4) R-4, Single-family (medium to high density) residential district.

(5) R-5, Single-family (high density) residential district.

(6) R-6A, Duplex residential district.

(7) R-6B, Multifamily residential district.

(8) R-7, Single-family village residential district.

(9) C-1, Commercial (central business) district.

(10) C-2, Commercial (neighborhood business) district.

(11) C-3, Commercial (general business) district.

(12) O-I, Office-institutional.

(13) I-1, Industrial district (light).

(14) I-2, Industrial district (general).

(15) I-3, Industrial district (heavy).

(16) PD, Planned development district.

(17) FH, Flood hazard overlay district.

(Ord. No. 001-2001, § 3.1, 2-13-2001)

Sec. 23-82. Official zoning map.

The "Official Zoning Map of the City of Rockmart, Georgia," shall be the official title; however, it may be referred to as the "Rockmart Zoning Map." The boundaries of all districts, as shown upon the official zoning map, are hereby adopted, established and declared to be in effect upon all land included within the boundaries of each district shown upon the official zoning map.

(Ord. No. 001-2001, § 3.2, 2-13-2001)

Sec. 23-83. Rules for determining boundaries.

Where uncertainty exists as to boundaries of any district shown on the official zoning map, the following rules shall apply:

(1) Where district boundaries are indicated as approximately following street lines, alley lines or lot lines, such lines shall be construed to be the boundaries.

(2) In unsubdivided property or where a district boundary divides a lot, the location of such boundary, unless dimensions indicate the same, shall be determined by the use of the scale appearing on the original map. Where a district boundary divides a lot, the zone classification of the greater restriction shall prevail throughout the lot.

(3) In case any further uncertainty exists, the mayor and council shall interpret the intent of the map as to the location of such boundaries.

(4) Where any street or alley is officially vacated or abandoned, the regulations applicable to each parcel of abutting property shall apply to that portion of such street or alley added thereto by virtue of vacation or abandonment.

(Ord. No. 001-2001, § 3.3, 2-13-2001)

Sec. 23-84. Adopted by reference.

(a) The zoning map on file in the office of the city clerk (adoption date as amended) is hereby adopted by reference as fully and to the same effect as though set out at length herein.

(b) The provisions of article V of chapter 5 of this Code is hereby adopted by reference as fully and to the same effect as though set out at length herein.

(Ord. No. 001-2001, § 3.4, 2-13-2001)

Sec. 23-85. Facsimile for public inspection.

A facsimile copy of the original zoning map shall be framed and placed at some conspicuous place in city hall, subject to inspection at any time during regular office hours by any interested person.

(Ord. No. 001-2001, § 3.5, 2-13-2001)

Sec. 23-86. Newly annexed land.

All land newly annexed to the corporate limits of the city shall be regulated in accordance to The Zoning Procedures Law (O.C.G.A. § 36-66-1 et seq.) of the state and zoning policies and procedures outlined in sections 23-45 and 23-46. The

required hearings will be held prior to annexation, and an additional notice of annexation will be published in the local newspaper.
(Ord. No. 001-2001, § 3.6, 2-13-2001)

Secs. 23-87—23-100. Reserved.

ARTICLE IV. DISTRICT REGULATIONS

DIVISION 1. GENERALLY

Sec. 23-101. Conformity with district regulations.

No building shall be moved, erected, reconstructed or structurally altered, nor shall any building or land be used which does not comply with all the district regulations specified by this article for the district in which the building or land is located.
(Ord. No. 001-2001, § 4.1, 2-13-2001)

Sec. 23-102. Lot regulations.

(a) *Substandard lots*. Any residentially zoned lot which was of record at the time of the adoption of the ordinance from which this chapter is derived that does not meet the requirements of this chapter for yards or other area or open space may be utilized for single residence purposes, provided that:

(1) The area for such yard or court in width, depth, or open space is not less than 75 percent of that required by the terms of this chapter, excepting that vacant lots having in the aggregate a continuous street frontage of 120 feet or more shall not be subject to this exception; and

(2) In the absence of the ability to connect to the wastewater treatment system due to the unavailability of city sewer connection, the lot can meet the requirements of the county health department for the installation of a septic tank.

When a subdivision of land or portion thereof contains lots or parcels of land that do not conform to the lot area or lot frontage provisions of this article and such tract of land is under one ownership and has remained unimproved or undeveloped for a period of two years from the effective date of the ordinance from which this chapter is derived, it shall be incumbent upon the owner of such tract to replat the tract to conform to the minimum area and frontage provisions of this article for the district in which the lands are located, in the event of a sale of any portion of the land.

(b) *Lot reduction below minimum requirements prohibited*. No parcel of land, even though it may consist of one or more adjacent lots of record, shall be reduced in size so that lot width or depth, front, side, or rear yard, inner or outer courts, lot area per unit, or other requirements of this chapter are not maintained. This section shall not apply when a portion of a lot is acquired for public use.

(c) *Lot size*. All lots shall conform to the area requirements set forth in the zoning districts in which they are located. Residential corner lots shall have adequate width to permit appropriate building setbacks from, and orientation to, both abutting streets.

(d) *Building lines*. A building line meeting the front, rear and side yard setback requirements of the zoning district in which the parcel of land is located shall be established on all lots.

(e) *Double frontage lots*. Double frontage lots should be avoided, except where essential to provide separation of residential development from traffic arteries or to overcome specific disadvantages of topography and orientation. When allowed, a strip of land at least 20 feet in width, and across which there shall be no right of access, shall be provided along the lot or line of lots abutting such traffic artery.

(f) *Lot required to abut public street.* No building or structure shall be erected on a lot or portion of a lot which does not abut on a public street for at least 25 feet.

(g) *Access to public streets.* Access to public streets shall be maintained in accordance with a minimum 25-foot frontage on a public street.

(h) *Inspection permit requirements.* To ensure the provisions of this chapter are complied with by the petitioner, no building, structure or site alterations shall be allowed to commence on a lot or portion of a lot before a building permit is obtained from the city.
(Ord. No. 001-2001, § 4.2, 2-13-2001)

Sec. 23-103. Prohibited uses in all residential districts.

(a) It shall be a prohibited use in all residentially zoned districts to park or store wrecked or junked vehicles, power-driven construction equipment, logging trucks and/or trailers for used lumber or metal, school buses, church buses, travel buses, wreckers with vehicles attached or any other miscellaneous scrap or salvageable material.

(b) Tractor trailer combinations or trailers shall not be placed or stored in residentially zoned districts or subdivisions (see section 23-700).

(c) Kennels, horse stalls, barns, chicken/poultry houses or similar large animal shelters housing several animals shall not be permitted within residential districts.
(Ord. No. 001-2001, § 4.3, 2-13-2001)

Sec. 23-104. Accessory and temporary buildings and satellite dish antennas.

(a) *Accessory buildings*. Location and uses of accessory buildings in all zoning districts shall be governed by the following conditions:

(1) *Attached to main dwelling*. Where an accessory building is attached to the main building, a substantial part of one wall of the accessory building must be an integral part of the main building, and such accessory building must be attached to the main building in a substantial manner by a roof. Such attached accessory building shall comply in all respects with the requirements applicable to the main building.

(2) *Detached from main dwelling*. A detached accessory building shall not be closer than ten feet to a lot line nor should it be a habitable building.

(3) *Height and lot coverage requirements for detached accessory building.* A detached accessory building shall not exceed 15 feet in height and shall not be located in a front yard nor cover more than 20 percent of the side or rear yard.

(b) *Temporary buildings.* Temporary buildings may be used only in conjunction with construction work in any zoning district and shall be removed immediately upon the completion of construction. A certificate of zoning compliance must be obtained for use of a temporary building.

(c) *Satellite dish antennas.* Satellite dishes shall be no more than 36 inches in diameter.

(d) *Cellular and telecommunication towers.* Cellular and telecommunication towers and similar devices are prohibited.
(Ord. No. 001-2001, § 4.4, 2-13-2001)

Sec. 23-105. Buildings to be located on lots.

Every building hereafter erected or structurally altered shall be located on a lot, and in no case shall there be more than one principal building and the customary accessory buildings on one lot or parcel of land.
(Ord. No. 001-2001, § 4.5, 2-13-2001)

Sec. 23-106. Locations of structures on residential lots.

(a) No detached accessory building shall be located on the front yard of a lot, nor on a side yard except in conformity with this chapter.

(b) When an accessory building is attached to a principal structure by a breezeway, roofed passage or otherwise, it shall comply with the dimensional requirements of the principal building.

(c) A detached accessory building shall not be constructed closer than 15 feet to the side and ten feet to the rear lot lines.

(d) An accessory building shall not exceed 15 feet in height, nor occupy more than 20 percent of a required rear yard.

(e) No person shall reside in an accessory building or structure.
(Ord. No. 001-2001, § 4.6, 2-13-2001)

Sec. 23-107. Site distance at intersections.

In all zoning districts, no fence, wall, hedge, or shrub planting which obstructs the site lines at elevations between two feet and 12 feet above the roadways shall be placed on any corner lot within the triangular area formed by the street property lines and a line connecting them at points 25 feet from the intersection of the street lines, or, in the case of a rounded property corner, from the intersection of the street property lines.
(Ord. No. 001-2001, § 4.7, 2-13-2001)

Sec. 23-108. Building height restrictions.

(a) *General application*. No building or structure shall hereafter be erected, constructed, or altered so as to exceed the height limits specified in this chapter and set out for the district in which it is located.

(b) *Permitted exceptions to height regulations*. The building height restrictions imposed on buildings and structures by this chapter for each zoning district shall not apply to the following buildings or structures:

(1) Churches, schools, hospitals, sanitariums, and other public buildings and public utility structures. There shall be no restriction on the height of such buildings or structures, provided that the front, side, and rear yards required in the district in which such building is to be located shall be increased an additional one foot for each ten feet that the building exceeds the maximum height permitted in the district;

(2) Barns, silos, grain elevators, other farm structures, belfries, cupolas, domes, monuments, water towers, transmission towers, windmills, chimneys, smokestacks, flagpoles, radio towers, masts, and aerials; and

(3) Where located on building roofs, bulkheads, water tanks, scenery lofts, and similar structures, provided that such structures shall not cover more than 25 percent of the total roof area of the building.

None of these exceptions to height limits shall apply to temporary or business signs, which shall be subject to all height limitations of the district in which they are located and other applicable requirements of the city.
(Ord. No. 001-2001, § 4.8, 2-13-2001)

Sec. 23-109. Yards.

(a) Every part of a required yard shall be open from its lowest point to the sky, unobstructed, except for the ordinary projections of sills, belt courses, cornices, buttresses, ornamental features, chimneys and eaves, but none of these projections shall project into a minimum side yard more than 24 inches.

(b) On double frontage lots, the required front yard shall be provided on each street.

(c) Open or enclosed fire escapes, fireproof outside stairways and balconies may project into a minimum yard or court not more than 3½ feet. Ordinary projections of chimneys and flues shall be permitted.

(d) Where boundary lines have been established on streets, roads or highways (known as rights-of-way, easements, etc.), the front yard of all lots and the side yards of corner lots shall be measured from such property boundary lines so as to meet the minimum setback requirements per each zoning district.

(e) The minimum yards and other open spaces required by this section for each building shall not be encroached upon, nor considered as a yard or open space for any other building.

(f) No yard, court or open space, or part thereof, shall be included as a part of the yard, court or open space similarly required for any other building, structure or dwelling, unless approved as a part of a general commercial development.
(Ord. No. 001-2001, § 4.9, 2-13-2001)

Sec. 23-110. Buffer areas and screening.

(a) *Purpose; when required.* The use of buffer areas and screening reduces potential incompatibility between or among different uses of land in proximity to each other. Where the city determines that a proposed use of land or the granting of a variance from the requirements of this chapter would have an unfavorable impact on an adjoining use, or the granting of a permit for such use or variance, a permanent buffer area or screening will be established.

(b) *Buffer area formation and maintenance.* Buffer areas, when required, shall be established and permanently maintained under the following provisions:

(1) Be maintained as a planted area (or landscaped berm), using existing vegetation, or, when required, additional plantings as provided in this subsection;

(2) Be in such dimension as the city may determine necessary, but in no event less than 20 feet measured at right angles to property lines contiguous to the designated property line(s);

(3) Be landscaped with trees, shrubs, flowers, grass, stone, rocks and other landscaping materials; landscaping plants shall be composed of healthy plants which possess growth characteristics of such a nature so as to produce a dense compact planting screen of not less than six feet in height;

(4) Be free of structures other than a fence, and not be used for parking, utility easements, or drainage improvements, unless the applicant can demonstrate that these improvements are necessary;

(5) The natural topography of the land shall be preserved and natural growth shall not be disturbed beyond that which is necessary to prevent a nuisance, or to thin natural growth where too dense for normal growth, or to remove diseased or dangerous and decayed timbers. However, with commission approval, a slope easement may be cleared and graded where required to prevent soil erosion. This easement may cover no more than 20 percent of the required buffer area, and shall be immediately replanted upon completion of easement improvement; and

(6) Where, by reason of the topography of the land or by reason of the prior removal or lack of timber and foliage, the owner of the buffer area may be required to erect a permanent wall or fence of not less than six feet in height or screen of evergreen plantings, so designed and developed to provide visual screening. These plantings shall consist of evergreen shrubs that will, with normal growth, attain a height of six feet within three years.

(Ord. No. 001-2001, § 4.10, 2-13-2001)

Sec. 23-111. Automobile service stations.

(a) All automobile service stations shall conform to the following requirements:

(1) All pumps shall be setback at least 15 feet from the right-of-way line, or where a future widening setback line has been established, this setback shall be measured from such line. Pumps shall be setback at least 15 feet from any property line;

(2) The number of curb breaks shall not exceed two for each 100 feet of street frontage, each having a width of not more than 30 feet or less than 25 feet and located not closer than 15 feet to a street intersection. Two or more curb breaks on the same street shall be separated by an area of not less than ten feet; and

(3) When the station abuts a residential district, it shall be separated therefrom by a solid wall or planting buffer at least six feet high (see section 23-110).

(b) No storage tank shall be placed aboveground.

(Ord. No. 001-2001, § 4.12, 2-13-2001)

Sec. 23-112. Satellite receiving dish antenna.

(a) Satellite receiving dish antenna shall be allowed in all zoning districts and shall not exceed 36 inches in diameter.

(b) The setback requirements from the property line will be the same as those required of an accessory building.

(c) In all zoning districts, antenna will be so placed as not to create a hazard to traffic or public utilities.

(d) A property owner who has in place a nonconforming antenna at the effective date of the ordinance from which this chapter is derived may continue to maintain the antenna.
(Ord. No. 001-2001, § 4.13, 2-13-2001)

Sec. 23-113. Compatibility standards for homes.

Manufactured homes, site built, modular and other housing qualifying as a single-family dwelling shall meet the following compatibility standards to protect and preserve the characteristics of housing within any zoning district:

(1) The minimum width of the structure built or installed on the site shall be 24 feet in all residential districts, except for the R-4 districts, which will permit a width of 16 feet or greater.

(2) All single-family residential dwellings shall have a minimum heated and cooled floor area of 1,100 square feet. Only multifamily dwellings (such as apartments and condominiums), and planned unit developments may be approved for less habitable floor area.

(3) The roof shall have a minimum 5:12 roof pitch and shall have a surface of asphalt composition, fiberglass or metal tiles, slate, materials or other materials approved by the planning commission. Corrugated metals or plastic panels are prohibited.

(4) The exterior siding materials shall consist of brick, wood, masonry, stucco, masonite, metal or vinyl lap designed for such purposes or other materials of like appearance approved by the planning commission.

(5) Be attached to a permanent foundation. A permanent foundation shall mean a concrete slab, concrete footers, foundation wall pilings or post construction which complies with the state minimum standard codes, as amended from time to time, or the standard building code (SBCCI).

(6) Be constructed according to standards established either by the State Minimum Standard Codes, as amended from time to time, or the Standard Building Code (SBCCI).

(7) The planning commission may approve deviations from one or more of the developmental or architectural standards provided herein on the basis of a finding that the materials to be utilized or the architectural style proposed for the dwelling shall be compatible and harmonious with existing structures in the vicinity.

(Ord. No. 001-2001, § 4.14, 2-13-2001)

Sec. 23-114. Architectural and design standards.

(a) *Intent; purpose.* The intent of these standards is to enhance the visual appeal of the community as a whole, as well as the commercial appeal of individual establishments. The mission or intent of this requirement thereof is to adopt design standards which, over time, will establish a streetscape image that makes the city unique to other surrounding jurisdictions, establishes a unifying theme, presents the traveling public with a sense of arrival, is harmonious with its surroundings, is aesthetically pleasing and enhances the character of the community. As such, the following goals, at a minimum, are established:

(1) To encourage the rehabilitation/redevelopment of commercial areas;

(2) To encourage the use of "village concepts" whenever and wherever possible;

(3) To facilitate and encourage safe, attractive and convenient pedestrian circulation within a development, along a corridor and throughout the community;

(4) To promote and encourage new development to be compatible in both scale and character with adjacent areas;

(5) To use landscaping techniques to soften the effect and blend each development with the surrounding area;

(6) To promote the development of areas where people can live, work, play and shop without totally depending on the automobile;

(7) To further energy conservation through better design; and

(8) To ensure that quality development throughout the city is obtained.

(b) *New construction and building renovations.* All new construction and renovation of buildings with the C-1, C-2, C-3, O-I, PD-1, PD-2 and PD-3 zoning districts shall have the following:

(1) *Architectural treatment.* Buildings shall incorporate alcoves, arcades, awnings, covered walkways, porticoes, or roofs that protect pedestrians from the rain and sun. In addition, when appropriate, buildings shall incorporate changes in mass, surface, lighting or finish to give emphasis to entranceways (see graphics on file in city hall).

(2) *Blank walls.* Blank walls greater than 100 feet in length that can be seen from any street, public or private, are prohibited. Walls shall have offsets, jogs, or other distinctive changes in the building facade. Up to 40 percent of the length of the perimeter may be exempt from this standard if oriented toward a loading or service area.

(3) *Building materials.* All exterior wall surfaces shall be constructed of materials in accordance with the City of Rockmart's acceptable list of building materials which shall be attached to the zoning code as appendix "B." The approved list of building materials shall be reviewed, updated and published at least annually. A copy of the current building material list is attached hereto and incorporated by references as Exhibit "A."

(4) *Roof pitch.* (See "roof pitch" illustration on file at city hall).

(5) *Setbacks and windows.* Buildings located within 50 feet of the property line adjacent to the front yard, shall have at least 25 percent of the wall facing the street in window or door areas.

(6) *Open space.* At least 20 percent of each site shall remain natural, unless it is part of a planned development, in which case the overall PD plan shall provide a minimum of 20 percent open space overall. Trails, bikeways and other passive recreation activities shall be allowed within the 20 percent. Active recreational activities such as ballfields, tennis courts, swimming pools, or cleared fields shall not be counted toward the 20 percent requirement. Open space shall be determined at the time of development and in general shall be those lands reserved from any clearing, grubbing or grading activity. Open space may be enhanced with the planting of trees, shrubs and ground cover with the approval of the city. Said enhancements shall only be considered upon submittal of a landscape plan illustrating both existing and proposed vegetation.

(7) *Parking lot lighting.* Any lighting fixture shall be a cutoff type luminary, the source of which is completely concealed with an opaque housing. Fixtures shall be recessed in the opaque housing. Drop dish refractors are prohibited. The wattage shall not exceed 420 watts/480V per light fixture. This provision includes lights mounted on poles as well as architectural display and decorative lighting visible from the street or highway. Only the following types of lights may be used:

a. Incandescent;

b. Fluorescent;

c. Metal halide;

d. Mercury vapor;

e. Natural gas; or

f. Color corrected high pressure sodium (CRI of 60 or better).

Fixtures must be mounted in such a manner that the cone of the light is not di-

rected past any adjacent property line. The minimum mounting height for a pole is 12 feet. The maximum mounting height for a pole is 25 feet excluding a three-foot base.

(Ord. No. 001-2001, § 4.16, 2-13-2001; Ord. No. 5-2006, § 2, 2-14-2006; Ord. No. 2008O-11, § 1, 11-18-2008)

Secs. 23-115—23-130. Reserved.

DIVISION 2. R-1 SINGLE-FAMILY ESTATE RESIDENTIAL DISTRICT

Sec. 23-131. Scope and intent.

Regulations set forth in this division are applicable to the R-1 single-family estate residential districts. The R-1 estate district encompasses lands devoted to low-density residential areas for estate development.

(Ord. No. 001-2001, § 8.1, 2-13-2001)

Sec. 23-132. Compliance.

Within the R-1 district, land and structures shall be used in accordance with standards of this division.

(Ord. No. 001-2001, § 8.2, 2-13-2001)

Sec. 23-133. Permitted uses.

Structures and land may be used for only the following purposes:

(1) Single-family detached dwellings.

(2) Accessory buildings or uses.

(3) Guesthouse.

(4) Swimming pool (private).

(Ord. No. 001-2001, § 8.3, 2-13-2001)

Sec. 23-134. Conditional uses.

Structures and land may be used under specific conditions for only the following purposes:

(1) Golf.

(2) Swimming.

(3) Tennis or country clubs.

(4) Public and private community clubs or associations.

(5) Athletic fields.

(6) Parks and recreation areas.

(7) Home occupations.

(Ord. No. 001-2001, § 8.4, 2-13-2001; Ord. of 7-13-2004, § 1)

Sec. 23-135. Height regulations.

Buildings or structures shall not exceed 45 feet in height.

(Ord. No. 001-2001, § 8.5, 2-13-2001)

Sec. 23-136. Minimum setback from property line to front of structure.

The minimum setback from the property line to the front of the structure shall be 100 feet.

(Ord. No. 001-2001, § 8.6, 2-13-2001)

Sec. 23-137. Minimum side yard.

The minimum side yard shall be 25 feet.

(Ord. No. 001-2001, § 8.7, 2-13-2001)

Sec. 23-138. Minimum setback from rear property line.

The minimum setback from the rear property line shall be 30 feet.

(Ord. No. 001-2001, § 8.8, 2-13-2001)

Sec. 23-139. Minimum lot area.

The minimum lot area shall be 87,120 square feet (two acres).

(Ord. No. 001-2001, § 8.9, 2-13-2001)

Sec. 23-140. Minimum lot width.

The minimum lot width shall be 125 feet, or 75 feet at the front setback for cul-de-sac lots.

(Ord. No. 001-2001, § 8.10, 2-13-2001)

Sec. 23-141. Minimum heated floor area.

The minimum heated floor area shall be 2,500 square feet.

(Ord. No. 001-2001, § 8.11, 2-13-2001)

Secs. 23-142—23-160. Reserved.

DIVISION 3. R-2 SINGLE-FAMILY RESIDENTIAL DISTRICT

Sec. 23-161. Scope and intent.

R-2 single-family residential districts are established to provide for low-density residential development.

(Ord. No. 001-2001, § 9.1, 2-13-2001)

Sec. 23-162. Compliance.

Within the R-2 district, land and structures shall be used in accordance with standards of this division.

(Ord. No. 001-2001, § 9.2, 2-13-2001)

Sec. 23-163. Permitted uses.

Structures and land may be used for only the following purposes:

(1) Single-family detached dwellings.

(2) Accessory buildings and uses.

(3) Swimming pools (private).

(Ord. No. 001-2001, § 9.3, 2-13-2001)

Sec. 23-164. Conditional uses.

Structures and land may be used under specific conditions for only the following purposes, provided that no building for such proposed use is located within 100 feet of any property line:

(1) Swimming.

(2) Tennis or country clubs.

(3) Public and private community clubs or associations.

(4) Athletic fields, parks and recreation areas.

(5) Home occupations.

(Ord. No. 001-2001, § 9.4, 2-13-2001; Ord. of 7-13-2004, § 1)

Sec. 23-165. Height regulations.

Buildings or structures shall not exceed a height of 40 feet.
(Ord. No. 001-2001, § 9.5, 2-13-2001)

Sec. 23-166. Minimum front yard.

The minimum front yard shall be 60 feet.
(Ord. No. 001-2001, § 9.6, 2-13-2001)

Sec. 23-167. Minimum side yard.

The minimum side yard shall be 25 feet.
(Ord. No. 001-2001, § 9.7, 2-13-2001)

Sec. 23-168. Minimum rear yard.

The minimum rear yard shall be 30 feet.
(Ord. No. 001-2001, § 9.8, 2-13-2001)

Sec. 23-169. Minimum lot area.

The minimum lot area shall be 43,560 square feet (one acre).
(Ord. No. 001-2001, § 9.9, 2-13-2001)

Sec. 23-170. Minimum lot width.

The minimum lot width shall be 125 feet, or 50 feet at the front setback for cul-de-sac lots.
(Ord. No. 001-2001, § 9.10, 2-13-2001)

Sec. 23-171. Minimum heated floor area.

The minimum heated floor area shall be 2,100 square feet.
(Ord. No. 001-2001, § 9.11, 2-13-2001)

Secs. 23-172—23-190. Reserved.

DIVISION 4. R-3 SINGLE-FAMILY RESIDENTIAL DISTRICT

Sec. 23-191. Scope and intent.

Regulations set forth in this section are the R-3 single-family residential district regulations. The R-3 district encompasses lands devoted to low to medium-density residential districts.
(Ord. No. 001-2001, § 10.1, 2-13-2001)

Sec. 23-192. Compliance.

Within the R-3 single-family residential district, land and structures shall be used in accordance with standards of this division.
(Ord. No. 001-2001, § 10.2, 2-13-2001)

Sec. 23-193. Permitted uses.

Structures and land may be used for only the following purposes:

(1) Single-family detached dwellings.

(2) Accessory buildings and uses.

(Ord. No. 001-2001, § 10.3, 2-13-2001)

Sec. 23-194. Conditional uses.

Structures and land may be used under specific conditions for only the following purposes, provided that no building for such proposed use is located within 100 feet of any property line:

(1) Bed and breakfast inns.

(2) Golf.

(3) Swimming.

(4) Tennis or country clubs.

(5) Public and private community clubs or associations.

(6) Athletic fields, parks, and recreation areas.

(7) Home occupations.

(Ord. No. 001-2001, § 10.4, 2-13-2001; Ord. of 7-13-2004, § 1)

Sec. 23-195. Height regulations.

Buildings or structures shall not exceed a height of 40 feet.
(Ord. No. 001-2001, § 10.5, 2-13-2001)

Sec. 23-196. Minimum front yard.

The minimum front yard shall be 35 feet.
(Ord. No. 001-2001, § 10.6, 2-13-2001)

Sec. 23-197. Minimum side yard.

The minimum side yard shall be 15 feet.
(Ord. No. 001-2001, § 10.7, 2-13-2001)

Sec. 23-198. Minimum rear yard.

The minimum side yard shall be 25 feet.
(Ord. No. 001-2001, § 10.8, 2-13-2001)

Sec. 23-199. Minimum lot area.

The minimum lot area shall be 32,670 square feet (three-fourths acre).
(Ord. No. 001-2001, § 10.9, 2-13-2001)

Sec. 23-200. Minimum lot width.

The minimum lot width shall be 90 feet, or 35 at the front setback for cul-de-sac lots.
(Ord. No. 001-2001, § 10.10, 2-13-2001)

Sec. 23-201. Minimum heated floor area.

The minimum heated floor area shall be 1,800 square feet.
(Ord. No. 001-2001, § 10.11, 2-13-2001)

Secs. 23-202—23-220. Reserved.

DIVISION 5. R-4 SINGLE-FAMILY RESIDENTIAL DISTRICTS

Sec. 23-221. Scope and intent.

Regulations set forth in this section are the R-4 district regulations. The R-4 district encompasses lands devoted to medium to high-density residential areas.
(Ord. No. 001-2001, § 11.1, 2-13-2001)

Sec. 23-222. Permitted uses.

Structures and land may be used for only the following purposes:

(1) Single-family detached dwellings.

(2) Accessory buildings or uses.

(3) Swimming pools (private).
(Ord. No. 001-2001, § 11.2, 2-13-2001)

Sec. 23-223. Conditional uses.

Structures and land may be used under specific conditions for only the following purposes, provided that no building for such proposed use is located within 100 feet of any property line:

(1) Bed and breakfast inns.

(2) Golf.

(3) Swimming.

(4) Tennis or country clubs.

(5) Public and private community clubs or associations.

(6) Athletic fields, parks, and recreation areas.

(7) Home occupations.
(Ord. No. 001-2001, § 11.3, 2-13-2001; Ord. of 7-13-2004, § 1)

Sec. 23-224. Height regulations.

Buildings shall not exceed a height of 35 feet.
(Ord. No. 001-2001, § 11.4, 2-13-2001)

Sec. 23-225. Minimum front setback.

The minimum setback from the property line to the front of the structure shall be 35 feet.
(Ord. No. 001-2001, § 11.5, 2-13-2001)

Sec. 23-226. Minimum side setback.

The minimum side setback shall be ten feet.
(Ord. No. 001-2001, § 11.6, 2-13-2001)

Sec. 23-227. Minimum rear setback.

The minimum setback from the rear property line shall be 25 feet.
(Ord. No. 001-2001, § 11.7, 2-13-2001)

Sec. 23-228. Minimum lot area.

The minimum lot area shall be 21,780 square feet (one-half acre).
(Ord. No. 001-2001, § 11.8, 2-13-2001)

Sec. 23-229. Minimum lot width.

The minimum lot width shall be 80 feet, or 35 at the front setback for cul-de-sac lots.
(Ord. No. 001-2001, § 11.9, 2-13-2001)

Sec. 23-230. Minimum heated floor area.

The minimum heated floor area shall be 1,400 square feet.
(Ord. No. 001-2001, § 11.10, 2-13-2001)

Secs. 23-231—23-250. Reserved.

DIVISION 6. R-5 SINGLE-FAMILY RESIDENTIAL DISTRICT

Sec. 23-251. Scope and intent.

Regulations set forth in this section are the R-5 district regulations. The R-5 district provides minimum design standards for high-density residential areas.
(Ord. No. 001-2001, § 12.1, 2-13-2001)

Sec. 23-252. Permitted uses.

Structures and land may be used for only the following purposes:

(1) Single-family dwellings.

(2) Accessory buildings or uses.

(3) Swimming pools (private).
(Ord. No. 001-2001, § 12.2, 2-13-2001)

Sec. 23-253. Conditional uses.

Structures and land may be used under specific conditions for only the following purposes, provided that no building for such proposed use is located within 100 feet of any property line:

(1) Home occupations.

(2) Bed and breakfast inns.

(3) Golf.

(4) Tennis or country clubs.

(5) Public and private community clubs or associations.

(6) Athletic fields, parks, and recreation areas.

(7) Day care homes (residential group).

(8) Group personal care homes.

(9) Religious institutions.
(Ord. No. 001-2001, § 12.3, 2-13-2001)

Sec. 23-254. Height regulations.

Buildings shall not exceed a height of 35 feet.
(Ord. No. 001-2001, § 12.4, 2-13-2001)

Sec. 23-255. Minimum front setback.

The minimum front setback shall be 35 feet.
(Ord. No. 001-2001, § 12.5, 2-13-2001)

Sec. 23-256. Minimum side setback.

The minimum side setback shall be ten feet.
(Ord. No. 001-2001, § 12.6, 2-13-2001)

Sec. 23-257. Minimum rear setback.

The minimum rear setback shall be 20 feet.
(Ord. No. 001-2001, § 12.7, 2-13-2001)

Sec. 23-258. Minimum lot area.

The minimum lot area shall be 21,780 square feet (one-half acre).
(Ord. No. 001-2001, § 12.8, 2-13-2001; Ord. No. 8-2005, § 1, 8-11-2005)

Sec. 23-259. Minimum lot width.

The minimum lot width shall be 75 feet, or 35 feet at the front setback for cul-de-sac lots.
(Ord. No. 001-2001, § , 2-13-2001)

Sec. 23-260. Minimum heated floor area.

The minimum heated floor area shall be 1,100 square feet.
(Ord. No. 001-2001, § 12.10, 2-13-2001)

Secs. 23-261—23-280. Reserved.

DIVISION 7. R-6A DUPLEX RESIDENTIAL DISTRICT

Sec. 23-281. Scope and intent.

Regulations set forth in this section are the R-6A district regulations. The R-6A district is intended to provide land areas for high-density dwellings (duplex).
(Ord. No. 001-2001, § 13.1, 2-13-2001)

Sec. 23-282. Permitted uses.

Structures and land may be used for only the following purposes:

(1) Two-family dwellings;

(2) Accessory buildings and uses;

(3) Swimming pools (private).

(Ord. No. 001-2001, § 13.2, 2-13-2001)

Sec. 23-283. Conditional uses.

Structures and land may be used under specific conditions for only the following purposes, provided that no building for such proposed use is located within 100 feet of any property line:

(1) Home occupations.

(2) Retirement centers.

(3) Golf.

(4) Tennis or country clubs.

(5) Public and private community clubs or associations.

(6) Athletic fields, parks, and recreation areas.

(7) Day care home (residential).

(8) Group personal care homes.

(9) Religious institutions.

(Ord. No. 001-2001, § 13.3, 2-13-2001)

Sec. 23-284. Height regulations.

Buildings shall not exceed two stories.

(Ord. No. 001-2001, § 13.4, 2-13-2001)

Sec. 23-285. Minimum front setback.

The minimum front setback shall be 35 feet.

(Ord. No. 001-2001, § 13.5, 2-13-2001)

Sec. 23-286. Minimum side setback.

The minimum side setback shall be ten feet.

(Ord. No. 001-2001, § 13.6, 2-13-2001)

Sec. 23-287. Minimum rear setback.

The minimum rear setback shall be 25 feet.

(Ord. No. 001-2001, § 13.7, 2-13-2001)

Sec. 23-288. Minimum lot area.

The minimum lot area shall be 21,780 square feet (one-half acre).

(Ord. No. 001-2001, § , 2-13-2001; Ord. No. 8-2005, § 1, 8-11-2005)

Sec. 23-289. Minimum lot width.

The minimum lot width shall be 90 feet.

(Ord. No. 001-2001, § 13.9, 2-13-2001)

Sec. 23-290. Minimum heated floor area per unit.

The minimum heated floor area shall be 800 square feet per unit (1,600 square feet total for the two dwelling units).

(Ord. No. 001-2001, § 13.10, 2-13-2001)

Secs. 23-291—23-310. Reserved.

DIVISION 8. R-6B MULTIFAMILY RESIDENTIAL DISTRICT

Sec. 23-311. Scope and intent.

Regulations set forth in this section are the R-6B district regulations. The R-6B district is intended to provide land areas for high-density apartment dwellings.

(Ord. No. 001-2001, § 14.1, 2-13-2001)

Sec. 23-312. Permitted uses.

Structures and land may be used for only the following purposes:

(1) Multifamily dwellings.

(2) Accessory buildings and uses.

(3) Swimming pool (private).

(4) Two-family dwellings.

(5) Accessory buildings and uses.

(6) Swimming pools (private).

(Ord. No. 001-2001, § 14.2, 2-13-2001; Ord. No. 6-2006, § 4, 5-9-2006)

Sec. 23-313. Conditional uses.

Structures and land may be used under specific conditions for only the following purposes, provided that no building for such proposed use is located within 100 feet of any property line:

(1) Home occupations.

(2) Golf.

(3) Group personal care homes.

(4) Tennis or country clubs.

(5) Public or private community clubs or associations.

(6) Athletic fields.

(7) Retirement centers.

(8) Religious institutions.

(9) Park and recreation areas.

(10) Day care homes (residential).

(Ord. No. 001-2001, § 14.3, 2-13-2001)

Sec. 23-314. Height regulations.

Buildings shall not exceed a height of 45 feet or 3½ stories, whichever is higher.

(Ord. No. 001-2001, § 14.4, 2-13-2001)

Sec. 23-315. Minimum front yard.

The minimum front yard shall be 30 feet.

(Ord. No. 001-2001, § 14.5, 2-13-2001)

Sec. 23-316. Minimum side yard.

The minimum side yard shall be ten feet.

(Ord. No. 001-2001, § 14.6, 2-13-2001)

Sec. 23-317. Minimum rear yard.

The minimum rear yard shall be 20 feet.

(Ord. No. 001-2001, § 14.7, 2-13-2001)

Sec. 23-318. Minimum lot width.

The minimum lot width shall be 100 feet at the point of construction.

(Ord. No. 001-2001, § 14.8, 2-13-2001)

Sec. 23-319. Minimum lot frontage.

The minimum lot frontage shall be 50 feet.

(Ord. No. 001-2001, § 14.9, 2-13-2001)

Sec. 23-320. Maximum density.

The maximum density shall be seven units per one-half acre of property space.

(Ord. No. 001-2001, § 14.10, 2-13-2001; Ord. No. 6-2006, § 3, 5-9-2006)

Sec. 23-321. Minimum heated floor area per unit.

The minimum heated floor area shall be as follows:

(1) Three-bedroom: 900 square feet.

(2) Two-bedroom: 750 square feet.

(3) One-bedroom: 600 square feet.

(4) Studio: 450 square feet.

(Ord. No. 001-2001, § 14.11, 2-13-2001)

Sec. 23-322. Minimum distances between buildings.

Minimum distances between buildings shall be as follows:

(1) Front to front: 50 feet.

(2) Front or rear to side: 50 feet.

(3) Side to side: 20 feet.

(Ord. No. 001-2001, § 14.12, 2-13-2001)

Sec. 23-323. Minimum lot size.

The minimum lot size in zoning district R-6B multifamily residential district is one-half acre.

(Ord. No. 001-2001, § 14.13, 2-13-2001; Ord. No. 6-2006, § 2, 5-9-2006)

Secs. 23-324—23-340. Reserved.

DIVISION 9. R-7 SINGLE-FAMILY VILLAGE RESIDENTIAL DISTRICT

Sec. 23-341. Intent.

The R-7 single-family village residential districts are established to provide for high-density residential development. This shall be for the "Goodyear Village" development.
(Ord. No. 001-2001, § 15.1, 2-13-2001)

Sec. 23-342. Permitted uses.

Structures and land may be used for only the following purposes:

(1) Single-family dwellings that meet all compatibility standards outlined in section 23-113.

(2) Accessory buildings and uses located on the same lot or parcel of land as the main structure and customarily incidental to the permitted or conditional use (see section 23-106).

(3) Home swimming pools (private), provided that the location is not closer than ten feet to any property line and the pool is enclosed by a wall or fence at least four feet in height, according to the SBCCI swimming pool standards.

(4) Home occupations, provided that the requirements of this chapter are met.

(Ord. No. 001-2001, § 15.2, 2-13-2001)

Sec. 23-343. Conditional uses.

Structures and land may be used under specific conditions for only the following purposes:

(1) Churches and their attendant educational and recreational facilities, and public schools, provided that:

a. Adequate ingress and egress to a major street is assured;

b. They are provided with adequate, paved off-street parking areas;

c. The buildings are placed not less than 30 feet from street lines and not less than 25 feet from property lines; and

d. Adequate provisions are made for maintaining a planted buffer strip along adjoining property lines.

(2) Religious institutions.

(3) Home occupations.

(4) Public utility structures and buildings provided that the installation is properly screened and services the immediate area. No office shall be permitted and no equipment shall be stored on the site.

(5) Golf, tennis or country clubs, public and private community clubs or associations, athletic fields, parks and recreation areas, provided that no building for such proposed use is located within 100 feet of any property line.

(Ord. No. 001-2001, § 15.3, 2-13-2001)

Sec. 23-344. Building height regulations.

No building or structure shall exceed a height of 35 feet.
(Ord. No. 001-2001, § 15.4, 2-13-2001)

Sec. 23-345. Building site area requirements.

Every principal building shall be located on a lot or parcel of land having an area of not less than 10,000 square feet, provided that the district is served by an approved community water supply and wastewater treatment system. For areas not served by an approved community wastewater treatment system, the minimum lot area requirement shall be 15,000 square feet. Such lots or parcels of land shall have minimum widths, measured at the building line, of 50 feet or 75 feet, as required by this chapter.
(Ord. No. 001-2001, § 15.5, 2-13-2001)

Sec. 23-346. Yard (setback) regulations.

(a) *Front yard (setback) from front property line.* There shall be a front yard of not less than 30 feet in depth measured from the street right-of-way line (property line) to the foundation walls of any principal building. On through lots having frontages on two streets, the required front yard setback shall be observed on both streets.

(b) *Rear yard*. There shall be a rear yard setback line requirement of 20 feet; except in the R-7 residential district as it applies to the location of utility buildings and garages, and in lieu thereof the following shall apply:

(1) The rear setback line restriction shall be 3½ feet where two rear lines of properties abut in the R-7 district.

(2) The rear setback line restriction shall be ten feet when the rear line of one property abuts the sideline of another property in the R-7 district.

(3) There shall be no rear setback line requirement where an alley separates the rear lines of two properties in the R-7 district.

(c) *Side yard*. There shall be a side yard on each side of any dwelling of at least ten feet, and on each side.
(Ord. No. 001-2001, § 15.6, 2-13-2001)

Sec. 23-347. Lot size regulations.

The minimum lot size for the R-7 single-family village residential district shall be subject to existing standards within the development. No lot size within an R-7 district shall be reduced from the present existing size of that lot as platted. Lots may be added in combination to make bigger lots; provided that no lot is reduced in size from the existing lot size.
(Ord. No. 001-2001, § 15.7, 2-13-2001)

Sec. 23-348. Minimum dwelling size regulations.

The principal structure shall be no less than the adjacent structures' square footage within the district.
(Ord. No. 001-2001, § 15.8, 2-13-2001)

Secs. 23-349—23-370. Reserved.

DIVISION 10. C-1 CENTRAL BUSINESS DISTRICT

Sec. 23-371. Intent.

The purpose of this district is to preserve the downtown commercial district and provide locations for shopping facilities that are commonly found in the retail commercial uses of the historic downtown orientation. The CBD (central business district) would also provide for loft-style living and other residential concepts associated with a downtown city. Such facilities should be located to allow for minimal lot line requirements, but not to forsake the public safety and general welfare. In addition, the frequency and distribution patterns reflect the downtown orientation, without jeopardizing the historic significance of the central business district.
(Ord. No. 001-2001, § 16.1, 2-13-2001)

Sec. 23-372. Required conditions.

Retail sales, displays of merchandise, and storage must be within an appropriate enclosure (building, or structure) as specified by law or ordinance. However, the commission may grant an exception to this requirement as a conditional use where it finds that enforcement would create an unreasonable hardship. No single business activity shall occupy more than 40,000 square feet of building area. Specified residential uses will be permitted in the C-1 district as conditional uses after review and recommendation by the planning commission and a formal approval by the city council set forth in division 2 of this article and section 23-343. This mixed-use environment will help preserve the historic character of the downtown area and allow for a greater degree of flexibility in dealing with existing properties.
(Ord. No. 001-2001, § 16.2, 2-13-2001)

Sec. 23-373. Permitted uses.

The following uses are permitted:

(1) Appliance stores, including repairs and services, but not appliance salvage and/or storage yards.

(2) Art and antique stores, art galleries, museums and institutions of a similar nature.

(3) Bakeries—retail.

(4) Health clubs, spas, and other similar activities.

(5) Bicycle stores.

(6) Book, stationery, camera, photographic supply stores, and newsstands.

(7) Confectionery stores.

(8) Clothing and shoes, millinery, dry goods and notion stores.

(9) Ice cream parlors.

(10) Drugstores.

(11) Furniture and home furnishings stores.

(12) Florist, nurseries, and gift shops.

(13) Grocery, fruit, vegetable, meat markets, delicatessens, catering stores, and supermarkets.

(14) Hardware and paint stores (no outside uncovered unfenced storage areas).

(15) Jewelry stores.

(16) Barbershops and beauty shops.

(17) Dressmaking and tailoring shops.

(18) Laundry and dry cleaning pickup stations, and self-service laundries.

(19) Retail and repair shoe shops.

(20) Garden supply stores (no outside uncovered unfenced storage areas).

(21) Any other retail sales or service establishments similar in character to those permitted.

(22) Professional, and business office, that include banks and financial institutions.

(23) Accessory buildings and uses located on the same lot or parcel of land as the main structure and customarily incidental to the permitted or conditional use.

(24) Cafes, grills, lunchcounters, and restaurants.

(Ord. No. 001-2001, § 16.3, 2-13-2001)

Sec. 23-374. Conditional uses.

Structures and land may be used under specific conditions for only the following purposes:

(1) Automobile service stations, but not including repair garages and salvage yards.

(2) Auction houses.

(3) Print shops.

(4) Theaters and cinemas, but not including drive-in theaters.

(5) Churches and other places of worship, attendant educational and recreational buildings, and their appurtenant accessory uses (e.g., cemeteries, mausoleums, etc.).

(6) Kindergartens, day care centers and homes, and nursery or play schools.

(7) Golf, swimming, tennis, or country clubs, public and private community clubs or associations, athletic fields, parks and recreational areas. The size and intensity of the proposed use as it relates to adjacent land uses shall be a determining factor.

(8) Private clubs, and fraternal order of lodges.

(9) Variety retail shops.

(10) Hospitals, clinics, and convalescent or nursing homes.

(11) Temporary uses, including sale of Christmas trees, carnivals, church bazaars, and sale of seasonal fruits and vegetables from roadside stands, but such use is not to be permitted for a period to exceed two months in any calendar year.

(12) Dry cleaning and laundry establishments, provided that such operation is for local service only and no work is done on the premises for other similar establishments or pickup stations.

(13) Colleges, public and private schools, and libraries.

(14) Recreational, amusement, and entertainment facilities.

(15) Funeral homes, not including crematoriums.

(16) Self-serve carwashing facilities, provided they are located on an arterial street.

(17) Bed and breakfast inns, provided all parking can be maintained on the lot and not along collector and secondary streets.

(18) Loft-style dwellings (see section 23-375 for standards).

(19) Taxicab businesses.

(20) Climate controlled storage.

(Ord. No. 001-2001, § 16.4, 2-13-2001; Ord. No. 14-2005, § 1, 11-8-2005; Ord. No. 2008O-05, § 1, 4-8-2008)

Sec. 23-375. Standards for dwellings.

Dwellings within the district shall be loft-style, as defined in this chapter, and must follow the same procedures as specified in the conditional use permits (see section 23-48).

(Ord. No. 001-2001, § 16.4.1, 2-13-2001)

Sec. 23-376. Yard requirements.

The following minimum building setback requirements shall be provided for all buildings and structures as measured from street right-of-way lines:

(1) Front yard: zero feet;

(2) Rear yard: zero feet; and

(3) Side yard: zero feet.

(Ord. No. 001-2001, § 16.5, 2-13-2001)

Sec. 23-377. Building height regulations.

No building or structure shall exceed 50 feet in height.

(Ord. No. 001-2001, § 16.6, 2-13-2001)

Sec. 23-378. Minimum lot size regulations.

The principal lot size shall be no less than the adjacent contiguous lots sizes within the C-1 zoning district.

(Ord. No. 001-2001, § 16.7, 2-13-2001)

Sec. 23-379. Minimum lot width regulations.

The lot width shall be no less than the adjacent contiguous lots square footage within the C-1 zoning district.

(Ord. No. 001-2001, § 16.8, 2-13-2001)

Sec. 23-380. Parking space standards.

Parking space standards shall be as established in article V, division 3 of this chapter.

(Ord. No. 001-2001, § 16.9, 2-13-2001)

Secs. 23-381—23-400. Reserved.

DIVISION 11. C-2 NEIGHBORHOOD COMMERCIAL DISTRICT

Sec. 23-401. Intent.

The purpose of this district is to provide locations for neighborhood shopping facilities in which are found retail commercial uses which have a neighborhood orientation and which supply necessities usually requiring frequent purchasing with a minimum of consumer travel. Such facilities should be located so that their frequency and distribution patterns reflect their neighborhood orientation. In addition, such facilities should not be so large or so broad in scope of services as to attract substantial amounts of trade from outside the neighborhood commercial zone and should not be located in close proximity to other commercial areas.

(Ord. No. 001-2001, § 17.1, 2-13-2001)

Sec. 23-402. Required conditions.

(a) Retail sales, displays of merchandise, and storage must be within an appropriate enclosure (building or structure) as specified in the city's standard building and housing codes. However, the commission may grant an exception to this requirement as a conditional use where it finds that enforcement would create an unreasonable hardship. No single business activity shall occupy more than 40,000 square feet of building area.

(b) Specified conditional uses will be permitted within the C-2 district after review and recommendation by the planning commission and a formal approval by the city council, pursuant to section 23-404. This mixed-use environment will help preserve the historic character of any existing neighborhoods and allow for a greater degree of flexibility in dealing with existing properties.

(Ord. No. 001-2001, § 17.2, 2-13-2001)

Sec. 23-403. Permitted uses.

Structures and land may be used for only the following purposes:

(1) All uses permitted within the C-1 central business district.

(2) Pet shops and pet grooming establishments, provided that no pets are left outside.

(Ord. No. 001-2001, § 17.3, 2-13-2001; Ord. No. 8-2005, § 1, 8-11-2005)

Sec. 23-404. Conditional uses.

Structures and land may be used under specific conditions for only the following purposes:

(1) Public utility structures and buildings, including electric and natural gas substations, telephone exchanges, and similar structures for the storage of supplies, equipment, or service operations, when properly screened.

(2) Veterinary hospitals treating small animals only, provided that any structure or outside area used for such purposes shall be a minimum of 100 feet from any residential district.

(3) Minor shopping centers. The following guidelines govern construction of shopping centers:

a. Shopping centers shall not exceed 60,000 square feet in gross floor area.

b. Leading tenants shall not exceed 40,000 feet in gross floor area.

c. These strip shopping centers shall be limited to 250 feet in length, and may not exceed this length in the C-2 zoning district.

d. Shopping centers shall be located along arterial, collector or secondary streets.

e. Required green space and open space buffers, as required by this chapter.

(4) Group personal care homes and supportive living homes.

(5) Motels, hotels and bed and breakfast facilities, provided that the number of rooms available for occupancy does not exceed 50.

(6) Fast food restaurants.

(7) Taxicab businesses.

(8) Kindergarten[s], daycare center[s], nursery[ies] or playschool[s].

(9) Adult day care.

(Ord. No. 001-2001, § 17.4, 2-13-2001; Ord. No. 8-2005, § 1, 8-11-2005; Ord No. 14-2005, § 1, 11-8-2005; Ord. No. 2007O-11, § 1, 11-13-2007; Ord. No. 2019O-03, § 2, 2-12-2019)

Sec. 23-405. Yard requirements.

The following minimum building setback requirements shall be provided for all buildings and structures, as measured from street right-of-way lines:

(1) Front yard: 40 feet on major streets, and 40 feet on minor streets.

(2) Rear yard: None required, except 15 feet if not abutting an alley, and 20 feet if abutting a residential district.

(3) Side yard: None required, except 15 feet if any side yard is provided, and 20 feet if abutting a residential district.

(Ord. No. 001-2001, § 17.5, 2-13-2001)

Sec. 23-406. Building height regulations.

No building or structure shall exceed 50 feet in height.

(Ord. No. 001-2001, § 17.6, 2-13-2001)

Sec. 23-407. Parking space standards.

Parking space standards shall be as established in article V, division 3 of this chapter.

(Ord. No. 001-2001, § 17.7, 2-13-2001)

Secs. 23-408—23-430. Reserved.

DIVISION 12. C-3 GENERAL COMMERCIAL DISTRICT

Sec. 23-431. Intent.

The C-3 general commercial district is intended to promote general commercial activities in appropriate and concentrated locations along major streets and the existing city center.

(Ord. No. 001-2001, § 18.1, 2-13-2001)

Sec. 23-432. Required conditions.

(a) Retail sales, displays of merchandise, and storage must be within an appropriate enclosure (building or structure) as specified in the city's standard building and housing codes. However, the commission may grant an exception to this requirement as a conditional use where it finds that enforcement would create an unreasonable hardship. No single business activity shall occupy more than 40,000 square feet of building area.

(b) Specified conditional uses will be permitted in the C-3 district after review and recommendation by the planning commission and a formal approval by the city council (see section 23-434). This mixed-use environment will help preserve the historic character of the downtown area and allow for a greater degree of flexibility in dealing with existing properties.
(Ord. No. 001-2001, § 18.2, 2-13-2001)

Sec. 23-433. Permitted uses.

Structures and land may be used for only the following purposes:

(1) All permitted uses in the C-1 central business and C-2 neighborhood commercial districts.

(2) Bottling works for soft drinks.

(3) Painting, blueprinting, bookbinding, photostatting, lithograph, and publishing establishments.

(4) Newspaper publishing establishments.

(5) Sanitariums or convalescent or nursing homes.

(6) Bowling alleys and billiard rooms.

(7) Office buildings.

(8) Radio and television broadcasting studios.

(9) Telephone offices or communications centers.

(10) Accessory buildings and uses located on the same lots or parcels of land as the main structures and customarily incidental to the permitted or conditional uses.

(11) Major shopping centers. The following guidelines govern construction of shopping centers:

a. Shopping centers may exceed 40,000 square feet in gross floor area.

b. Shopping centers shall be located along arterial, collector or secondary streets.

c. Required green space and open space buffers, as required by this chapter.

(12) Fast food restaurants.
(Ord. No. 001-2001, § 18.3, 2-13-2001; Ord. No. 8-2005, § 1, 8-11-2005)

Sec. 23-434. Conditional uses.

Structures and land may be used under specific conditions for only the following purposes:

(1) Ice plants.

(2) Drive-in theaters.

(3) Public utility structure and buildings, including electric and natural gas substations, telephone exchanges, communication towers, radio and television stations and similar structures for the storage of supplies, equipment, or service operations, when properly screened.

(4) Churches and other places of worship with attendant educational and recreational buildings and their appurtenant accessory uses (i.e., cemeteries, mausoleums, etc.).

(5) Colleges, private and public schools, and libraries.

(6) Kindergartens, day care centers and homes, and nursery or play schools.

(7) Hospitals, clinics, or convalescent and nursing homes.

(8) Bus, railroad, and air terminal facilities.

(9) Drive-in restaurants.

(10) Automobile laundries or carwashes.

(11) Milk bottling and distribution plants and ice cream manufacturing plants.

(12) Places of assembly, including auditoriums, stadiums, coliseums, dancehalls and nightclubs.

(13) Produce and farmer's markets.

(14) Wholesale warehouses.

(15) Garages, tire retreading and recapping establishments, provided that no buildings for such uses are located within 100 feet of a residential district.

(16) Veterinary hospitals or clinics, provided any structure used for such purpose shall be a minimum of 100 feet from any residential district, and provided further that such uses shall not adversely affect adjacent uses.

(17) Recreational, amusement, or entertainment facilities.

(18) Trade shops, including sheet metal, roofing, upholstering, electrical, plumbing, Venetian blind, cabinetmaking and carpentry, rug and carpet cleaning and sign painting shops, provided that all operations are conducted entirely within a building and are not within 100 feet of any residential district.

(19) Trade or business schools.

(20) Group personal care homes and supportive living homes.

(21) Automobile service stations.

(22) Miniwarehouses, subject to the following conditions:

a. The warehouse is limited to storage, and to provide one warehouse office only; this office shall be used for the daily operation of the miniwarehouse.

b. All storage shall be within the building area.

c. No commercial sales or uses shall be conducted on the site. Any auctions are limited to the sales of contents, and there shall be no more than nine per year.

d. A fencing and landscaping plan shall be approved by the commission.

(23) Retail sales, displays of merchandise, and storage.

(24) Auction houses.

(25) Bed and breakfast inns, provided that all parking can be maintained on the lot and not along collector or secondary streets.

(26) Major shopping centers. The following guidelines govern construction of shopping centers:

a. Shopping centers may exceed 60,000 square feet in gross floor area.

b. Leading tenants shall not exceed 40,000 square feet in gross floor area.

c. Shopping centers shall be located along arterial, collector, or secondary streets.

d. Required green space and open space barriers shall be as required by this chapter.

(27) Taxicab businesses.

(28) Pawn shops.

(29) Adult day care.

(Ord. No. 001-2001, § 18.4, 2-13-2001; Ord. No. 8-2005, § 1, 8-11-2005; Ord. No. 14-2005, § 1, 11-8-2005; Ord. No. 2008O-11, § 1, 11-18-2008; Ord. No. 2019O-03, § 3, 2-12-2019)

Sec. 23-435. Yard requirements.

The following minimum building setback requirements shall be provided for all buildings and structures as measured from the street right-of-way lines:

(1) Front yard: 35 feet on major streets, and 30 feet on minor streets;

(2) Rear yard: 20 feet, provided that when abutting an area zoned the same, it shall be 15 feet; and

(3) Side yard: 20 feet, provided that when abutting an area zoned the same, it shall be 15 feet.

(Ord. No. 001-2001, § 18.5, 2-13-2001)

Sec. 23-436. Building height regulations.

No building or structure shall exceed 50 feet in height.
(Ord. No. 001-2001, § 18.6, 2-13-2001)

Secs. 23-437—23-460. Reserved.

DIVISION 13. O-I OFFICE-INSTITUTIONAL DISTRICT

Sec. 23-461. Intent.

The O-I office-institutional districts are intended to promote and preserve districts with lower density office activities, institutional, clinical, and professional types uses. This district also allows for a mix of certain compatible residential activities. The O-I district in many cases is a practical tool for providing transition from residential uses where it is elected not to use a buffer. The O-I development standards require adequate yard space and off-street parking and service facilities. Permitted uses are restricted to protect the character of the city and from encroachment of uses capable of adversely affecting the limited character of the district.
(Ord. No. 001-2001, § 19.1, 2-13-2001)

Sec. 23-462. Required conditions.

Specialized retail sales, displays of merchandise, and storage must be within a completely enclosed building. Certain residential uses will be allowed in the O-I district as conditional uses; particular commercial uses will be permitted as conditional uses after review by the planning commission and city council (see sections 23-44 through 23-48). This mixed-use environment will help preserve the historic character and allow for a greater degree of flexibility in the use of transitional zones with other existing properties.
(Ord. No. 001-2001, § 19.2, 2-13-2001; Ord. No. 8-2005, § 1, 8-11-2005)

Sec. 23-463. Permitted uses.

Structures and land may be used for only the following purposes:

(1) Office buildings.

(2) Colleges, private and public schools, and libraries.

(3) Kindergartens, nursery or play schools, and day care centers and homes.

(4) Trade or business schools.

(5) Hospitals, clinics, or convalescent and nursing homes.

(6) Veterinary hospitals or clinics, provided that any structure used for such purpose shall be a minimum of 100 feet from any residential district, and provided further that such use shall not adversely affect adjacent uses.

(7) Convalescent and nursing homes.

(8) Funeral homes, not including crematoriums.

(9) Museums and institutions of a similar nature.

(10) Churches and other places of worship with attendant educational and recreational buildings, and their appurtenant accessory uses (e.g., cemeteries, mausoleums, etc.).

(11) Private clubs, fraternal orders, or lodges.

(12) Real estate offices.

(13) Bed and breakfast inns, provided that all parking can be maintained on the lot and not along collector or secondary streets.

(14) Accessory buildings and uses located on the same lot or parcel of land as the main structure and customarily incidental to the permitted or conditional uses.

(Ord. No. 001-2001, § 19.3, 2-13-2001)

Sec. 23-464. Conditional uses.

Structures and land may be used under specific conditions for only the following purposes:

(1) Places of assembly, including auditoriums, stadiums, coliseums, convention centers, and visitor centers.

(2) Golf, swimming, tennis, or country clubs, public and private community clubs or associations, athletic fields, parks and recreational areas. The size and intensity

of the proposed use as it relates to adjacent land uses shall be a determinative factor.

(3) Group personal care homes and supportive living homes.

(4) Newspaper and magazine publishing establishments.

(5) Radio and television broadcasting studios.

(6) Telephone offices or communications centers.

(7) Public utility structures and buildings, including electric and natural gas substations, telephone exchanges, communication towers, radio and television stations and similar structures for the storage of supplies, equipment, or service operations, when properly screened.

(8) Recreational, amusement, or entertainment facilities.

(9) Drive-in restaurants, diners, cafes, and "al fresco" style establishments.

(10) Bakeries and delicatessens, retail in nature.

(11) Shops and boutiques, not to exceed 2,000 square feet.

(12) Dry cleaning and laundry establishments.

(13) Auction houses.

(14) Motels and hotels.

(15) Roominghouses.

(16) Efficiency apartments.

(17) Single-family dwellings.

(18) Two-family dwellings.

(19) Multiple dwellings.

(20) Loft-style dwellings.

(Ord. No. 001-2001, § 19.4, 2-13-2001; Ord. No. 8-2005, § 1, 8-11-2005)

Sec. 23-465. Yard requirements.

The following minimum building setback requirements shall be provided for all buildings and structures as measured from the street right-of-way lines:

(1) Front yard: 35 feet on major streets, and 30 feet on minor streets;

(2) Rear yard: 20 feet, except that when abutting an area zoned the same, it shall be 15 feet; and

(3) Side yard: 20 feet, except that when abutting an area zoned the same, it shall be 15 feet.

(Ord. No. 001-2001, § 19.5, 2-13-2001)

Sec. 23-466. Minimum lot width regulations.

The lot width must front a city, county, state or federally maintained street, road, or highway and which has been legally recorded and maintained as such. The minimum width of such lot shall be no less than 100 feet.

(Ord. No. 001-2001, § 19.6, 2-13-2001)

Sec. 23-467. Minimum lot size regulations.

The minimum lot area required shall be 22,000 square feet.

(Ord. No. 001-2001, § 19.7, 2-13-2001)

Sec. 23-468. Building height regulations.

No building or structure shall exceed 35 feet in height.

(Ord. No. 001-2001, § 19.8, 2-13-2001)

Sec. 23-469. Parking space standards.

Parking space standards shall be as established in article V, division 3 of this chapter.

(Ord. No. 001-2001, § 19.9, 2-13-2001)

Secs. 23-470—23-490. Reserved.

DIVISION 14. I-1 LIGHT INDUSTRIAL DISTRICT

Sec. 23-491. Intent.

The I-1 light industrial district is intended for wholesale and light industrial uses where resultant noise, odors, pollution, and congestion are almost nonexistent. Residential development is prohibited. This district is not suitable for heavy industrial uses.

(Ord. No. 001-2001, § 20.1, 2-13-2001)

Sec. 23-492. Permitted uses.

Structures and land may be used for only the following purposes:

(1) Office buildings.

(2) Ice plants.

(3) Public utility structures and buildings, including electric and natural gas substations, telephone exchanges, communication towers, radio and television stations, and similar structures for the storage of supplies, equipment or service operations.

(4) Automobile and travel trailer sales (new and used).

(5) Scientific and technology industries and parks.

(6) Vehicle laundries or carwashes.

(7) Drive-in restaurants.

(8) Vehicle service stations, repair garages, or mechanic/body establishments.

(9) Dry cleaning and laundry facilities.

(10) Veterinary hospitals or clinics.

(11) Recreation, amusement, and entertainment establishments.

(12) Contractors' storage and equipment yards.

(13) Building and lumber supply establishments.

(14) Establishments for repair, assembly or processing and light manufacturing which is not objectionable by reason of smoke, dust, odor, bright lights, noise, or vibration.

(15) Wholesale warehouses.

(16) Clothing and fabric outlets to allow retail to coincide with the manufacturing.

(Ord. No. 001-2001, § 20.2, 2-13-2001)

Sec. 23-493. Conditional uses.

Structures and land may be used under specific conditions for only the following purposes:

(1) Churches and other places of worship with attendant educational and recreational buildings, and their appurtenant accessory uses (e.g., cemeteries, mausoleums, etc.).

(2) Clinics.

(3) Theaters, including drive-in theaters.

(4) Bus, railroad and air terminals.

(5) Places of assembly including auditoriums, stadiums, coliseums and dancehalls.

(6) Produce and farmers' market.

(7) Motels and hotels.

(8) Truck terminals.

(9) Auto auctions.

(10) Trade shops including sheet metal, roofing, upholstering, electrical, plumbing, Venetian blinds, cabinetmaking and carpentry, rug and carpet cleaning, and sign painting, provided that all operations are conducted entirely within a building.

(11) Frozen dessert and milk processing plants.

(12) Milk bottling and distribution plants and ice cream manufacturing plants.

(13) Vehicle repair garages, mechanical and body establishments.

(Ord. No. 001-2001, § 20.3, 2-13-2001)

Sec. 23-494. Lot and area requirements.

No development or construction shall be located on a tract containing less than 22,000 square feet.

(Ord. No. 001-2001, § 20.4, 2-13-2001)

Sec. 23-495. Yard requirements (building setback distance).

The following minimum setback requirements shall be provided for all buildings or structures, as measured from street right-of-way lines:

(1) Front yard: 50 feet for major and minor streets;

(2) Rear yard: 50 feet; and

(3) Side yard: 50 feet.

(Ord. No. 001-2001, § 20.5, 2-13-2001)

Sec. 23-496. Minimum lot width regulations.

The lot width must front a city, county, state or federally maintained street, road, or highway and

which has been legally recorded and maintained as such. The minimum width of such lot shall be no less than 125 feet.
(Ord. No. 001-2001, § 20.6, 2-13-2001)

Sec. 23-497. Building height regulations.

No structure shall exceed 60 feet in height.
(Ord. No. 001-2001, § 20.7, 2-13-2001)

Sec. 23-498. Parking space standards.

Parking space standards shall be as established in article V, division 3 of this chapter.
(Ord. No. 001-2001, § 20.8, 2-13-2001)

Secs. 23-499—23-520. Reserved.

DIVISION 15. I-2 GENERAL INDUSTRIAL DISTRICT

Sec. 23-521. Intent.

The I-2 general industrial district is intended for wholesale and heavy industrial uses where resultant noise, odors, pollution, and congestion are minimized. Residential development is prohibited. This district is not suitable for heavy industrial use which collects, stores, or disposes of hazardous materials and its by-products.
(Ord. No. 001-2001, § 21.1, 2-13-2001)

Sec. 23-522. Permitted uses.

All uses permitted in the I-1 district may be used within the I-2 district.
(Ord. No. 001-2001, § 21.2, 2-13-2001)

Sec. 23-523. Conditional uses.

Structures and land may be used under specific conditions for only the following purposes:

(1) Churches and other places of worship with attendant educational and recreational buildings, and their appurtenant accessory uses (e.g., cemeteries, mausoleums, etc.).

(2) Clinics.

(3) Theaters, including drive-in theaters.

(4) Bus, railroad and air terminals.

(5) Places of assembly including auditoriums, stadiums, coliseums and dancehalls.

(6) Produce and farmers' market.

(7) Truck terminals.

(8) Auto auctions.

(9) Development of natural resources, including the removal of minerals and other natural resources, together with necessary building, machinery, and appurtenances related thereto.

(10) Trade shops, including sheet metal, roofing, upholstering, electrical, plumbing, cabinetmaking and carpentry, rug and carpet cleaning, and sign painting, provided that all operations are conducted entirely within a building.

(11) Food processing plants, such as bakeries, meat packers, or fish and poultry houses.

(12) Frozen dessert and milk processing plants.

(13) Salvage yards, junkyards, and collection yards for metals, tires, etc., meeting additional requirements such as:

a. It must be surrounded by a buffer, natural buffer, such as trees and shrubs, or manmade buffer, such as fencing at least eight feet high.

b. All buildings, structures, and appurtenant accessories shall be 50 feet or greater from all property lines.

c. It must meet all applicable federal and state requirements.

(Ord. No. 001-2001, § 21.3, 2-13-2001)

Sec. 23-524. Lot and area requirements.

No development or construction shall be located on a tract containing less than 22,000 square feet.
(Ord. No. 001-2001, § 21.4, 2-13-2001)

Sec. 23-525. Yard requirements (building setback distance).

The following minimum setback requirements shall be provided for all buildings or structures, as measured from street right-of-way lines:

(1) Front yard: 50 feet for major and minor streets;

(2) Rear yard: 50 feet; and

(3) Side yard: 50 feet.

(Ord. No. 001-2001, § 21.5, 2-13-2001)

Sec. 23-526. Minimum lot width regulations.

The lot width must front a city, county, state or federally maintained street, road, or highway and which has been legally recorded and maintained as such. The minimum width of such lot shall be no less than 125 feet.

(Ord. No. 001-2001, § 21.6, 2-13-2001)

Sec. 23-527. Building height regulations.

No structure shall exceed 60 feet in height.

(Ord. No. 001-2001, § 21.7, 2-13-2001)

Sec. 23-528. Parking.

Parking standards shall be as established in section 23-380.

(Ord. No. 001-2001, § 21.8, 2-13-2001)

Secs. 23-529—23-550. Reserved.

DIVISION 16. I-3 HEAVY INDUSTRIAL DISTRICT

Sec. 23-551. Intent.

The I-3 heavy industrial district is intended for heavy and extensive industrial uses where resultant noise, odors, pollution, and congestion occur, but are kept to a minimum. Residential development is prohibited. This district is not suitable for industrial or manufacturing that collects, stores, or disposes of hazardous materials and its by-products.

(Ord. No. 001-2001, § 22.1, 2-13-2001)

Sec. 23-552. Permitted uses.

Structures and land may be used for only the following purposes:

(1) All permitted uses in the I-1 light industrial district, and I-2 general industrial district.

(2) Office buildings.

(3) Development of natural resources including the removal of minerals and natural materials together with necessary buildings, machinery, and appurtenances related thereto.

(4) Food processing plants, such as bakeries, meat packers, or fish and poultry houses.

(5) Frozen dessert and milk processing plants.

(Ord. No. 001-2001, § 22.2, 2-13-2001)

Sec. 23-553. Conditional uses.

Structures and land may be used under specific conditions for only the following purposes:

(1) Churches and other places of worship with attendant educational and recreational buildings, and their appurtenant accessory uses (e.g., cemeteries, mausoleums, etc.).

(2) Clinics.

(3) Theaters, including drive-in theaters.

(4) Bus, railroad and air terminals.

(5) Places of assembly including auditoriums, stadiums, coliseums and dancehalls.

(6) Produce and farmers' market.

(7) Truck terminals.

(8) Auto auctions.

(9) Trade shops including sheet metal, roofing, upholstering, electrical, plumbing, cabinetmaking and carpentry, rug and carpet cleaning, and sign painting, provided that all operations are conducted entirely within a building.

(10) Salvage yards, junkyards, and collection yards for metals, tires, etc., meeting additional requirements such as:

a. It must be surrounded by a buffer area, such as trees and shrubs, or manmade buffer, such as fencing, at least eight feet high.

b. All buildings, structures, and appurtenant storage areas or accessories shall be 50 feet or greater from all property lines.

c. It must meet all applicable federal and state requirements.

(Ord. No. 001-2001, § 22.3, 2-13-2001)

Sec. 23-554. Lot and area requirements.

No development or construction shall be located on a tract containing less than 22,000 square feet, unless a conditional use is required. In the conditional uses, lot and area must be dictated by appropriate local development standards, as well as state and federal regulations whenever required.

(Ord. No. 001-2001, § 22.4, 2-13-2001)

Sec. 23-555. Yard requirements (building setback distance).

The following minimum setback requirements shall be provided for all buildings or structures, as measured from street right-of-way lines:

(1) Front yard: 50 feet for major and minor streets;

(2) Rear yard: 50 feet; and

(3) Side yard: 50 feet.

(Ord. No. 001-2001, § 22.5, 2-13-2001)

Sec. 23-556. Minimum lot width regulations.

The lot width must front a city, county, state or federally maintained street, road, or highway and which has been legally recorded and maintained as such. The minimum width of such lot shall be no less than 125 feet.

(Ord. No. 001-2001, § 22.6, 2-13-2001)

Sec. 23-557. Building height regulations.

No structure shall exceed 60 feet in height.

(Ord. No. 001-2001, § 22.7, 2-13-2001)

Sec. 23-558. Parking.

Parking standards shall be as established in section 23-380.

(Ord. No. 001-2001, § 22.8, 2-13-2001)

Secs. 23-559—23-580. Reserved.

DIVISION 17. PD PLANNED DEVELOPMENT DISTRICT

Sec. 23-581. Purpose.

(a) Planned development zoning is of a substantially different character than other types of zoning. Because of the difference in character, special standards and procedures are hereby established to govern and guide the creation of planned development zoning districts.

(b) Planned development zoning is a privilege to be earned and not a right which can be claimed simply upon complying with all the standards established in this division. The planning commission and/or city council may require any reasonable condition or design consideration which will promote proper development of benefit to the community. It is not intended that the commission and/or council automatically grant the maximum use exceptions or density increases in the case of each planned development. The commission and council shall grant only such increase or latitude which is consistent with the benefit accruing to the city as a result of the planned development. As a condition for approval, each planned development must be compatible with the character and objectives of the zoning district within which it is located, and each planned development shall be consistent with the objectives of the city comprehensive plan and all applicable laws, ordinances and regulations of the city.

(c) Some specific purposes of the planned development procedures are:

(1) To take advantage of advances in technology, architectural design and functional land use design;

(2) To permit flexibility of design in the placement, height, and uses of buildings, open spaces, circulation facilities and off-street parking areas, and to more efficiently utilize potentials of site characterized by special features of geography, topography, size and shape; and

(3) To protect floodplains from encroachment by development within the city.

(Ord. No. 001-2001, § 23.01, 2-13-2001; Ord. No. 8-2005, § 1, 8-11-2005)

Sec. 23-582. Types of planned development.

The types of planned development are:

(1) PD-1, planned residential development;

(2) PD-2, planned commercial (business) development; and

(3) PD-3, planned industrial development.

(Ord. No. 001-2001, § 23.02, 2-13-2001; Ord. No. 8-2005, § 1, 8-11-2005)

Sec. 23-583. General standards for planned developments.

Before an application for planned development can be approved, the applicant must present evidence which clearly supports the following conclusions:

(1) The proposed development advances the general welfare of the community and the immediate vicinity;

(2) The plan is in conformity with the comprehensive plan and other applicable laws, ordinances and/or regulations;

(3) The proposed development is consistent in all respects with the purpose and intent of this chapter;

(4) The site will be accessible from public roads that are adequate to carry the traffic that will be imposed upon them by the proposed development, and the streets and driveways on the site of the proposed development will be adequate to serve the residents or occupants of the proposed development;

(5) The development will not impose an undue burden on public services and facilities, such as fire and police protection;

(6) The location and arrangement of structures, parking areas, walks, lighting, and appurtenant facilities shall be compatible with the surrounding land uses, and any part of a planned development not used for structures, parking and loading areas, or accessways shall be landscaped or otherwise improved. The height of buildings shall be compatible with surrounding land uses as well as the general characteristics of the area to be developed and the surrounding area and acceptable to the criteria for height restrictions established by this chapter and/or applicable fire regulations;

(7) Natural features such as watercourses, trees and rock outcrops will be preserved, to the degree possible, so that they can be incorporated into the layout to enhance the overall design of the planned development; and

(8) The planned development can be substantially completed within the period of time specified in the schedule of development submitted by the developer.

(Ord. No. 001-2001, § 23.03, 2-13-2001; Ord. No. 8-2005, § 1, 8-11-2005)

Sec. 23-584. Procedure for approval.

(a) *Preapplication conference*. Prior to filing a formal application for approval of a planned development, the developer shall request a preapplication conference with the planning commission, to include city staff and such persons as determined by the city that may provide adequate representation for the city. The purpose of such conference is to allow the developer to present a general concept of his proposed development prior to the preparation of detailed plans. For this purpose, the presentation shall include, but not be limited to the following:

(1) Written letter of intent from the developer establishing his intentions as to development of the land.

(2) Topographic survey and location map.

(3) Sketch plans and conceptual objectives regarding land use pattern, structure location and type, street and lot arrangement and tentative lot sizes.

(4) Tentative proposals regarding water supply, sewage disposal, surface drainage, street improvements and flood control measures.

(5) The planning commission shall then instruct the developer to file an application and advise the developer to familiarize himself with the city zoning requirements, comprehensive plan, and all other development regulations affecting the proposed development. A copy of this division shall be made available upon request.

(b) *Preliminary plan.* Seven copies of the preliminary plan of the planned development and the application shall be filed with the zoning officer, who shall, in turn, forward them to the planning commission for consideration. The required procedure for consideration and approval of the preliminary plan shall be as follows:

(1) An application for zoning amendment shall be secured from the zoning officer. The completed application shall be filed with the zoning officer accompanied by other subdivision requirements as specified in this Code.

(2) The planning commission shall study materials received and confer with other agencies, as appropriate, and city officials to determine general acceptability of the proposal as submitted. In the course of such preliminary consideration, the planning commission may request and the applicant shall supply additional material needed to make specific determinations.

(3) Following such study, the planning commission shall hold a conference or conferences with the applicant to discuss desirable changes in the first or succeeding drafts of the preliminary development plan and report.

(4) Recommendations of the planning commission to the applicant shall be in writing, and following any such conference, agreements between the applicant and the planning commission as to changes in the preliminary plan or other matters are to be recorded and acknowledged by the planning commission and the applicant in writing. Items on which no agreement is reached or on which there is specific disagreement shall be recorded, and the applicant may place in the record his reasons for any disagreement.

(5) Upon the occurrence of either of the following conditions, the planning commission will schedule the proposed plan for a public hearing:

a. When the preliminary development plan has been approved in principal (as a whole or with reservations specifically indicated); or

b. When the applicant indicates in writing that no further negotiations with the planning commission are desired before proceeding.

Regardless of which subsection (b)(5)a or (b)(5)b of this section is satisfied, the planning commission must schedule the proposed plan for the public hearing within 60 days from the submission of the preliminary plan application.

(3) Following the public hearing, the planning commission shall make its recommendations to the city council. Such recommendations shall indicate approval, approval with specific reservations or disapproval with reasons.

(4) Within 60 days from the public hearing for the preliminary plan and respective planned development zone designation, the city council shall approve the proposal outright, approve the proposal subject to conditions, or deny the proposal. Council approval shall be by ordinance. If conditions are attached to council approval, there shall be no change in the zoning map until such conditions are formally accepted in writing by the developer. When approved, the area of land proposed for development shall be designated PD-1, PD-2, or PD-3, and shall be used only in accordance with the uses and densities shown on the planned development approved and adopted preliminary plan.

(c) *Approval and recording of final development plan.*

(1) The purpose of such recording is to designate with particularity the land subdivided into conventional lots, as well as the dimension of other lands not so treated, into common open areas and building areas, and also to define each building site as well as the use of the land in general.

(2) The approval and recording of the final development plan may be accomplished in stages if the stages have been specified in the construction schedule approved with the preliminary plan.

a. Upon the designation of the planned development district by council, the final development plan shall be presented and approved in a form suitable for recording with the county clerk's office.

b. The proposed plat (the final development plan in a form suitable for re-zoning) shall then be forwarded to the planning commission for review and, if approved, shall be forwarded to the city manager, who shall make appropriate arrangement with the applicant to ensure the accomplishment of public improvements at the applicant's expense and as provided by this Code. The city manager shall consult with the council concerning any land to be publicly or commonly owned and shall arrange for the necessary legal deeds.

c. The final plat shall be presented by the city manager and the proposed developers to the city council for formal approval and recording.

d. The approved record plat shall then be submitted to the county clerk's office for recording within six months after approval by council.

e. No final development plan within the corporate limits of the city shall be so recorded unless it shall have the approval of council, as indicated by the signatures of the mayor and the city clerk, inscribed thereon.

(d) *Zoning permit.* No zoning permit shall be issued by the zoning officer until the final development plan has been approved and duly recorded.

(e) *Certificate of zoning compliance.*

(1) The zoning officer shall issue no certificate of zoning compliance until all utilities have been accepted by the city in accordance with the final development plan.

(2) If all utilities, including roadways, have not been accepted by the city, the zoning officer may issue a temporary certificate of zoning compliance upon certification by the city manager that the existing public utilities are functionally acceptable and adequate for the use of the premises. Should the city manager find, while the temporary certificate of zoning compliance is in force, that the existing utilities are no longer functionally acceptable and adequate, the city manager may order the cancellation of the temporary certificate of zoning compliance and direct the developer to vacate the premises of occupants.

(3) The temporary certificate of zoning compliance remains in effect until all utilities, including roadways, are accepted by the city, at which time the zoning officer will issue a permanent certificate of occupancy.

(f) *Changes in the planned development.*

(1) A planned development shall be developed only according to the approved and recorded final plan, and all recorded amendments shall be binding on the applicants, their successors, grantees and assignees and shall limit and control the use of premises (including the general internal use of buildings and structures) and location of structures in the planned development as set forth therein. Any deviation from the approved and recorded final plan must have planning commis-

sion review and city council approval in writing and as an amendment to the plan.

(2) All requested changes or revisions to an approval and recorded final plat must be made to the planning commission. The commission must determine if these proposed changes are deemed "minor" or "major" plan revisions, as hereinafter defined. For purposes of this chapter, these terms are defined as follows:

a. *Major changes.* Changes which alter the concept or intent of the planned development, including, but not limited to, increases in the number of units per acre; change in location or amount on nonresidential land use; more than ten percent modification in proportion of housing types; reductions of proposed open space; significant redesign of roadways, utilities or drainage may be approved only by submission of a new preliminary plan and supporting data, and following the "preliminary approval" steps and subsequent amendment of the final planned development plan.

b. *Minor changes.* A minor change is any change not defined as a major change. The city zoning officer and the planning commission may jointly approve minor changes in the planned development which do not change the concept or intent of the development without repeating the "preliminary approval" steps. The zoning officer shall enter in detail all minor changes on the official final development plan on record with the city.

(g) *Schedule of construction.* A modification of the schedule may be approved by the city council if the developer shall present satisfactory evidence of reasonable effort toward meeting the initial schedule and justification for the modification. If construction falls more than one year behind schedule, as determined by the city engineer, and the developer fails to justify the delay to the council's satisfaction, council may proceed to complete all or any part of such improvements and recover the costs thereof by laying claim to the guarantee specified in section 23-589(b)(2).

(h) *Effect of denial of a planned development.*

(1) If an application for a planned development is denied wholly or partly, then for a period of one year from the date of submission thereof, the planning commission need not consider any resubmission therefore.

(2) If a preliminary development plan is approved and the final development plan is thereafter disapproved, the applicant, or his successor in interest, may at any time submit one or more new versions of the final development plan, so long as the new versions are in full compliance with the approved preliminary development plan, including any conditions attached to said plan.

(Ord. No. 001-2001, § 23.04, 2-13-2001; Ord. No. 8-2005, § 1, 8-11-2005)

Sec. 23-585. PD-1 planned residential development.

(a) *Policies guiding development.* This district is intended to provide flexibility in the arrangement and design of residential dwellings, based upon a unified development plan conceived and carried out for an entire area. Within this district, appropriate and reasonable population density is maintained while a variety of dwelling unit types is encouraged. Natural features such as topography, trees and drainageways are encouraged to remain in their natural state to the degree possible. Such developments are generally characterized by a significant proportion of usable open space and a unified design concept with particular attention devoted to the periphery of the development, the overall objective being the compatibility of the development with its surroundings.

(b) *Permitted uses.*

(1) Permitted uses are those included as permitted and accessory uses in residential zones R-1 to R-7, as established by this chapter.

(2) Convenience establishments as conditional uses are those established as necessary for the proper development of the community and to be so located, designated and operated to serve primarily the needs of the persons within the planned development plot. Uses shall be generally limited to those uses permitted in the C-2 district, with no direct access or advertising signs for such uses to be visible from the exterior of the development. Such convenience establishments and their parking areas shall not occupy more than five percent of the total area of the development. No separate building or structure designed or intended to be used, in whole or in part, for business purposes shall be constructed within a residential planned development until not less than 30 percent of the dwelling units proposed in the development plan are certified for occupancy.

(c) *Area requirements.* The minimum land area required for a planned residential development shall be five acres. This area requirement may be reduced at the discretion of the planning commission and city council if it can be demonstrated that a waiver is necessary to achieve an improved site design and that surrounding neighborhoods and public facilities will not be adversely affected.

(d) *Density requirements.* Any combination or cluster of housing units is permitted, provided that the average lot area per family or dwelling unit contained in the site, exclusive of the area of street rights-of-way, parking areas and commercial areas, must be at least 80 percent of the average lot area per family required in the surrounding nonagricultural districts. This density requirement may be varied at the discretion of the planning commission and city council if it can be demonstrated that a waiver is necessary to achieve an improved site design and that surrounding neighborhoods and public facilities will not be adversely affected.

(e) *Site design.*

(1) All housing shall be sited to preserve privacy and to ensure natural light.

(2) Lot widths may be varied to permit a mixture of structural designs. Varied setback is encouraged.

(3) Where feasible, housing units should be situated to abut common open space or similar areas. A clustering of dwellings is encouraged.

(f) *Structure spacing.* A minimum of 20 feet shall be maintained between principal structures.

(g) *Length.* There shall be no continuous structure of townhouses, attached dwellings or apartments containing more than 12 dwelling units on ground floor level.

(h) *Height.* The building height of any residential structure within a planned development shall not exceed 45 feet or 3½ stories. However, the planning commission may grant an exception if it is demonstrated that additional height can be achieved with concurrent expansion of suitable open space to protect adjacent structures from adverse reduction of light and air.

(i) *Setback and screening.* A minimum setback of 50 feet shall be provided along the entire perimeter of the development and retained in natural woods, or be suitably landscaped with grass and/or ground cover, shrubs and trees. Projects located adjacent to commercial or industrially zoned areas shall provide suitable screening to the residential development as adjudged by the planning commission. Screening shall not obscure traffic visibility within 50 feet of an intersection.

(j) *Common open space.*

(1) A minimum of 25 percent of the total land in any planned residential development shall be reserved for permanent common open space and recreational facilities for the residents or users of the area being developed. In extreme topographical conditions, at the discretion of the planning commission, this requirement may be reduced.

(2) Only area having minimum dimensions of 50 feet by 100 feet shall qualify for computation as usable open space.

(k) *Parking requirements.* A minimum of two spaces per unit, with two extra spaces for each building with multiple units.

(l) *Signs.* Permitted sizes and locations of signs within the PD-1 development shall be in compliance with the standards established in article III of chapter 5.

(m) *Utilities.* All utilities, including electric, telephone, gas, water and sewer lines must be buried, except when deemed unfeasible as determined by the city engineer.
(Ord. No. 001-2001, § 23.05, 2-13-2001; Ord. No. 8-2005, § 1, 8-11-2005)

Sec. 23-586. PD-2 planned commercial development.

(a) *Policies guiding development.* This district is provided in recognition that many commercial establishments seek to develop within unified commercial areas, usually under single ownership and control and typically called "shopping centers." Within the premises of the zone, such centers would have all the necessary services and facilities comprehensively provided in accordance with an approved development plan. Provisions of this zone are formulated to achieve harmoniously designed structures upon a well landscaped site, achieving a high degree of pedestrian-vehicular separation, all of which would be compatible with surrounding land uses.

(b) *Permitted uses.* Uses included are those permitted, accessory and conditional uses in all commercial districts and O-I office-industrial district developed in accordance with the approved development plan, but subject to review of the planning commission and the approval of the city council.

(c) *Arrangement and design of commercial uses.*

(1) Commercial buildings and establishments shall be planned as groups having common parking areas and common ingress and egress points in order to reduce the number of potential accident locations at intersections with thoroughfares.

(2) The plan of the project shall provide for the integrated and harmonious design of buildings and for adequate and properly arranged facilities as may be necessary to make the project attractive and efficient from the standpoint of the adjoining and surrounding existing or potential developments.

(3) The buildings, all facade areas and general design shall be presented, by computer model or artist rendering, so that the concept of the design may be thoroughly reviewed by the planning commission and city council. This shall include, but not necessarily limited to, the use of brick, hardy plank, or other appropriate construction material on the front facade and side views as might be necessary to enhance the overall appearance of all buildings proposed to be constructed in the plan. In addition, the plan shall provide information concerning the overhang adjacent to the building, common walkways, color schemes to be used, and other similar enhancement features for the development.

(4) The construction of buildings shall maintain a general common theme or design, so as to protect the special integration of the project as much as practicable. Concrete block shall not be exposed, unless approved. The developer shall furnish a general specification list of materials to be used in the construction of improvements to all commercial building and establishments planned for the development.

(d) *Area requirements.* The minimum land area for a planned commercial development shall be two acres.

(e) *Structure spacing.* A minimum of 20 feet shall be required between adjacent principal buildings.

(f) *Setback and screening.*

(1) A setback of at least 50 feet shall be provided along the entire perimeter of the development. However, where the planned development adjoins a business or indus-

trial district, the setback and screening requirements shall be at the discretion of the planning commission.

(2) Where situated adjacent to a residentially zoned area, a minimum of 20 feet along the exterior property line shall be planted with an evergreen hedge or dense planting of evergreen shrubs not less than three feet in height at the time of planting. A landscaped mound adequate to provide screening may be substituted for hedge or shrubs.

(3) In no case shall screening be placed within 50 feet of a curb cut or intersection.

(4) Vehicular access through such landscaped strip when leading from residential areas shall be permitted only for convenience of residents of adjoining residential areas, and not designed for use by the general public.

(g) *Parking requirements.* Standards for parking shall be as established in article V, division 3 of this chapter.

(h) *Loading and unloading areas.* Standards for loading and unloading areas shall be as established in article V, division 3 of this chapter.

(i) *Signs.* Standards for the sizes and locations of signs shall be as established in article III of chapter 5.

(j) *Utilities.* Wherever possible, utilities shall be housed in structures compatible with the development so as not to detract from the overall aesthetic design.
(Ord. No. 001-2001, § 23.06, 2-13-2001; Ord. No. 8-2005, § 1, 8-11-2005)

Sec. 23-587. PD-3 planned industrial district.

(a) *Policies guiding development.* The provisions of this district are provided in recognition that many industrial establishments seek to develop within unified industrial areas having all necessary services and facilities comprehensively provided in accordance with a predetermined development plan. As in the planned business zone (PD-2), provisions of this zone are formulated to encourage a high degree of coordinated development upon well landscaped premises. Particular attention is devoted to design of the periphery of the development with the objective of achieving compatibility with existing and potential surrounding land uses.

(b) *Permitted uses.* The following uses will be permitted in accordance with the approved development plan:

(1) Assembly plants.

(2) Automobile repair establishments, but no commercial wrecking, dismantling or salvage yards.

(3) Auto service stations.

(4) Automobile, truck, or boat sales establishments.

(5) Bottling works.

(6) Builders supply store.

(7) Building and trades, including contractor's yard and utilities storage yard.

(8) Carpet cleaning, dry cleaning and dyeing, and laundry establishments.

(9) Cold storage plants.

(10) Commercial greenhouses.

(11) Dairy products manufacturing facilities.

(12) Facilities for the fabrication, processing, packaging and/or manufacture of food products and condiments excluding fish products, slaughterhouses and rendering and refining of fats, oils, fish, vinegar, yeast and sauerkraut.

(13) Facilities for the fabrication, processing, packaging and/or manufacture of cosmetics, drugs, perfumes, pharmaceuticals, and toiletries.

(14) Facilities for the fabrication, processing, packaging and/or manufacture of articles or merchandise from the following previously prepared materials: bone, canvas, cellophane, cloth, cork, feathers, felt, fiber, horn, leather, paint, paper, plastics, precious or semi-precious metals or stones, textiles, tobacco, wax, wood and yarn.

(15) Facilities for the fabrication, processing, packaging, and/or manufacturing of musical instruments, toys, novelties, rubber or metal stamps.

(16) Facilities for the fabrication, processing, packaging and/or manufacture of ice, cold storage plant, bottling plant.

(17) Farm implements and contractor equipment sales and service.

(18) Foundry casting lightweight nonferrous metals or electric foundry, not causing noxious fumes or odors.

(19) Fuel or coal company.

(20) Furniture reupholstering and repair.

(21) Industrial research laboratories.

(22) Inflammable liquids, underground storage only.

(23) Lumberyards including incidental millwork, coal, brick, stone.

(24) Monument sales, including incidental mechanical operations.

(25) Motor freight depot or trucking terminal provided, the truck entrance and exits are on to streets whose pavement width is at least 30 feet between curbs.

(26) Painting or varnishing shops.

(27) Call centers.

(28) Plumbing supply and contracting shops, including storage yards.

(29) Public garages, motor vehicle and bicycle repair shops, auto paint and body shops.

(30) Publishing and printing establishments.

(31) Railroad freight stations, but not including switching, storage, freight yards, sidings or maintenance or fueling facilities.

(32) Repair, rental and servicing for appliances.

(33) Sign contractors.

(34) Stone grinding, dressing and cutting.

(35) Storage yard for building supplies and equipment, contractors equipment, food fabrics, hardware and similar goods when located entirely within a building, provided such buildings shall not be used for wrecking or dismantling of motor vehicles.

(36) Television and radio broadcasting towers.

(37) Veterinary clinic or kennels, animal hospital, provided that all animals are housed in buildings or enclosures which are at least 500 feet from any residential district.

(38) Warehouses.

(39) Wholesale distributors.

(c) *Restrictive covenants.* No use shall be allowed within any planned industrial district which violates the restrictive covenants presented, promulgated, or hereinafter enacted that govern the construction of any industrial-related improvements within the city's 101 Business Park. These restrictions are permanently recorded and placed upon the deed records of the county. Reference to them is hereby made as if particularly set forth in this chapter.
(Ord. No. 001-2001, § 23.07, 2-13-2001; Ord. No. 8-2005, § 1, 8-11-2005)

Sec. 23-588. Preliminary plan stage.

(a) *Application.* An application for preliminary planned development shall be secured from, and the fully completed application shall be filed with, the zoning officer, together with the appropriate fee in accordance with the city prevailing rate schedule.

(b) *Material to be submitted with applications.*

(1) Identification of all property owners within the proposed development, evidence of unified control of the entire area of the development, tentative agreement of all owners to proceed with development according to plan or to provide adequate sureties for completion.

(2) A map or maps indicating the relation of the proposed development to the surrounding area. As appropriate to the development proposed, such map or maps shall demonstrate access to major streets, and

show the approximate location and sizes of existing public sewers, water lines and storm drainage systems.

(3) Topographic data map drawn to a scale of 100 feet or less to one inch by a registered surveyor and/or engineer showing:

a. Boundary lines, bearing and distances;

b. Easements, location, width and purpose;

c. Wooded areas, streams, lakes, marshes and other physical conditions affecting the site;

d. Ground elevations on the tract;

e. If deemed necessary by the city engineer, subsurface conditions on the tract, including the location and results of tests made to ascertain the conditions of subsurface soil, rock and groundwater;

f. Name, address and phone number of the registered surveyor, registered engineer and/or urban professional planner assisting in the preparation of the preliminary development plan.

(c) *Preliminary development plan and report.* A preliminary development plan and report shall accompany the application with maps at a scale of 100 feet or less to the inch, including as appropriate to the kind of planned development proposed; the following information, presented in generalized form:

(1) Proposed land uses and appropriate height, bulk and location of principal structures sufficient to permit an understanding of the style of the development. Proposals containing residential units shall specify the number of housing units by size and type proposed within the initial phase of the proposal or within the overall development if the development is not to be staged.

(2) Proposed automotive and pedestrian circulation patterns including streets by type (major, collector or minor) and width, public or private bicycle paths and pedestrian ways and existing or plotted streets proposed to be vacated.

(3) Major off-street parking areas.

(4) Proposed parks, playgrounds, school sites and other major open spaces as well as the general form of organization proposed to own and maintain any common open space.

(5) General locations of utility installations and easements.

(6) A schedule of construction which shall indicate the estimated date for the start of construction and the duration of the construction period in months. The commencement date of construction may be set relative to the plan's approval date. If development is to be in stages, indication as to order and timing of development and demonstration that each stage, when completed, would complement any completed earlier, and would form a reasonably independent unit even though succeeding stages were delayed.

(7) Proposals for provision of public facilities, utilities or services where lacking or unlikely to be available when needed for the planned development, or for providing suitable private facilities, utilities or services. A report shall be provided containing proposals for improvement and continuing maintenance and management of any private streets, facilities, retention ponds or other common areas.

(8) The substance of covenants, grants and easements or other restrictions proposed to be imposed upon the use of the land, building and structures including proposed easements or grants for public utilities. All agreements for the planned development reached, or finally approved as a part of this process between the applicant and the city shall become a part of covenants, grants or easements recorded upon the deed records of the county as

may be necessary or applicable to insure compliance with all terms and provisions of the planned development.

(Ord. No. 001-2001, § 23.08, 2-13-2001; Ord. No. 8-2005, § 1, 8-11-2005)

Sec. 23-589. Final plan stage.

(a) *Requirements for the final development plan.*

(1) A map in the form required by the governing subdivision regulations for recording of final plats or subdivisions, with such modifications and additions as required to achieve the design flexibility of the planned development concept. Similar modifications of standards contained in the governing subdivision regulations or in other regulations or policies applying generally may be reflected in such maps and reports if the planning commission shall find and shall certify, after consultations with other agencies of government as appropriate in the specific case, that the public purposes of such regulations or policies are as well or better served by specific proposals of the formal plan and reports.

(2) A general site and land use plan for the planned development as a whole, indicating subareas for phase development, if any, and showing location and use of structures and portions of structures in relation to building sites reserved for future use and uses for which sites are reserved, automotive and pedestrian circulatory networks, principal parking areas, open space not in building sites and the use for which it is intended, and such other matters as are required to establish a clear pattern of the relationships to exist between structures, uses, circulation and land.

(b) *Agreements, contracts, deed restrictions and sureties.*

(1) All agreements, contracts and deed restrictions shall be submitted in a form acceptable to the city. Acceptance of the documents shall be in the form of a letter from the city manager certifying that all such requirements have been met. The applicant shall guarantee the installation of the public improvements specified in the final development plan through one of the following methods:

a. Filing a performance and labor and material payment bond in the amount of 125 percent of the estimated construction cost as determined by the city.

b. Depositing or placing in escrow a certified check or cash or any other acceptable pledge, in the amount of 125 percent of the construction cost as approved by the city.

Acceptance of the form of guarantee selected shall be evidenced by a formal letter from the city manager.

(2) The owners of the planned development or persons legally representing them shall execute a legally binding agreement providing for the maintenance of commonly owned open space, recreation areas, and automotive and pedestrian circulatory networks. In addition, such owners or persons legally representing them shall authorize the city police department and any other properly constituted law enforcement agency to exercise full powers of arrest on the premises.

(Ord. No. 001-2001, § 23.09, 2-13-2001; Ord. No. 8-2005, § 1, 8-11-2005)

Secs. 23-590—23-610. Reserved.

DIVISION 18. FH FLOOD HAZARD OVERLAY DISTRICT

Sec. 23-611. Intent.

The FH flood hazard district is an overlay zone of permitted and proposed uses that fall in areas prone to flooding. All permitted and proposed uses within the flood hazard overlay district must comply with article V of chapter 5, as amended.

(Ord. No. 001-2001, § 25.1, 2-13-2001)

Sec. 23-612. Permitted uses.

Structures and land may be used for only the following purposes:

(1) All permitted uses in R-1, R-2, R-3, R-4, R-5, R-6, and R-7 residential zoning districts, after review by the planning commission to ensure compliance with article V of chapter 5, as amended.

(2) All permitted uses in the C-1, C-2, and C-3 commercial zoning districts, after review by the planning commission to ensure compliance with article V of chapter 5, as amended.

(3) All permitted uses in the I-1, I-2 and I-3 industrial zoning districts, after review by the planning commission to ensure compliance with article V of chapter 5, as amended.

(4) All permitted uses in O-I, and special zoning districts, after review by the planning commission to ensure compliance with article V of chapter 5.

(Ord. No. 001-2001, § 25.2, 2-13-2001)

Sec. 23-613. Conditional uses.

All conditional uses listed in this chapter and proposed for development in the flood hazard district shall be reviewed by the planning commission to ensure compliance with article V of chapter 5, as amended.

(Ord. No. 001-2001, § 25.3, 2-13-2001)

Secs. 23-614—23-640. Reserved.

ARTICLE V. SUPPLEMENTAL ZONING REGULATIONS

DIVISION 1. GENERALLY

Secs. 23-641—23-660. Reserved.

DIVISION 2. HOME OCCUPATIONS

Sec. 23-661. Defined; purpose.

Home occupations are accessory uses in residential districts and shall be governed by the standards set out in this division. These standards are intended to ensure compatibility with the residential character of the neighborhood and to emphasize the clearly secondary or incidental status of the home occupation in relation to the residential use of the main building. Home occupations will be authorized upon issuance of a occupational tax permit from the city.

(Ord. No. 001-2001, § 5.1, 2-13-2001)

Sec. 23-662. Standards.

The following standards must be met for all home occupations:

(1) Such occupation shall be located and conducted in such a manner that the average neighbor, under normal circumstances, would not be aware of its existence.

(2) Solely occupants at the residence shall conduct such occupations.

(3) No internal or external alterations inconsistent with the residential use of the building, accessory building or property shall be permitted, and no more than 25 percent of the gross floor area shall be utilized.

(4) The applicant must be the owner of the property on which the home occupation is to be located, or, if the applicant is a tenant, he must have written approval of the owner of the property.

(5) No stock in trade (except articles produced by the members of the immediate family residing on the premises) shall be displayed or sold upon the premises.

(6) No outside storage related to the home occupation shall be permitted.

(7) No uses shall create noise, dust, vibration, smell, smoke, glare, electrical interference, fire hazard, or any other hazard or nuisance to a greater or more frequent extent than that usually experienced in an average residential occupancy.

(Ord. No. 001-2001, § 5.2, 2-13-2001; Ord. No. 8-2005, § 1, 8-11-2005)

Sec. 23-663. Occupations allowed.

Home occupations include, but are not limited to, the following:

(1) Telephone and office use:

a. Applicant's business activities at the residence shall be confined to home office consisting of a personal computer, fax machine, phone, or any other accessory office equipment typically used to establish a home office;

b. No employee or jobbers shall meet or congregate at the applicant's residence;

(2) Artists, sculptors, authors, or composers;

(3) Dressmakers, seamstresses, or tailors;

(4) Home crafts, such as model making, rug weaving, and lapidary work;

(5) Office facility for a minister, rabbi, or priest;

(6) Office facility for a salesperson, sales representative, or manufacturer's representative, provided that no retail or wholesale transactions are made on the premises;

(7) Tutors and musical instructors;

(8) Professional offices provided no clients, customers or business activities occur on the premises, so as to violate section 23-662, standards; and

(9) Any other occupation that the commission finds compatible with the purposes and intent of this section.

(Ord. No. 001-2001, § 5.3, 2-13-2001; Ord. No. 8-2005, § 1, 8-11-2005)

Sec. 23-664. Occupations prohibited.

Home occupations allowed shall not, in any event, be deemed to include the following:

(1) Funeral chapels or funeral homes;

(2) Nursery schools, kindergartens, day care homes, or centers;

(3) Private clubs;

(4) Restaurants;

(5) Tourist homes;

(6) Stables or kennels;

(7) Auto repair or similar establishments; or

(8) Any other occupation that the planning commission finds incompatible with the purposes and intent of this section. Any occupational activities that promulgate or include lewd, illicit, lascivious, illegal, and iniquitous behavior shall not be allowed.

(Ord. No. 001-2001, § 5.4, 2-13-2001)

Sec. 23-665. Expiration.

An occupation tax permit for home occupations shall expire:

(1) Whenever the applicant ceases to occupy the premises for which the home occupation permit was issued. No subsequent occupant shall engage in any home occupation until proper application has been made, and a new permit issued.

(2) Whenever the holder of such permit fails to carry on the occupation for which the permit was issued for any continuous period of 90 days.

(Ord. No. 001-2001, § 5.5, 2-13-2001)

Sec. 23-666. Improper or illegal use of the home occupation permit.

If the planning commission finds that a home occupation is being conducted in violation of this or any other provision of these regulations, then such permit may be suspended or rendered void, provided that a regular hearing shall be conducted prior to any action to suspend, modify or revoke the permit.

(Ord. No. 001-2001, § 5.6, 2-13-2001)

Secs. 23-667—23-690. Reserved.

DIVISION 3. OFF-STREET PARKING AND LOADING

Sec. 23-691. General requirements for off-street parking.

(a) Parking spaces for all dwellings shall be located on the same lot with the main building.

(b) Parking spaces for other uses shall be provided on the same lot or not more than 300 feet distance, measured along the nearest pedestrian walkway.

(c) Parking requirements for two or more uses of the same or different types may be satisfied by the allocation of the required number of spaces for each use in a common parking facility provided the total number of spaces is not less than the sum of the individual requirements and that the requirements of location are complied with.

(d) Areas reserved for off-street parking or loading shall not be reduced in area or changed to any other use unless the permitted use which it serves is discontinued or modified, or unless equivalent parking or loading is provided on another approved site or parking structure to the satisfaction of the planning commission.

(e) Lighting facilities shall be arranged so that light is reflected away from adjacent properties.

(f) Along lot lines of a parking area which abut a residential district, a dense planting of trees and shrubs shall be established on a strip of land not less than ten feet in width adjacent to the districts, and such planting shall not be less than six feet in height and a substantial bumper rail of wood, metal, or concrete shall be installed on the inside of the planting strip except where topography or other conditions would make the bumper rail unnecessary or impractical.
(Ord. No. 001-2001, § 6.1, 2-13-2001)

Sec. 23-692. Drainage, construction and maintenance.

All off-street parking, loading, and service areas shall be constructed of concrete or asphalt. All such areas shall be at all times maintained, at the expense of the owners thereof, in a clean, orderly, and dust-free condition. Construction of parking areas should accommodate drainage so that water runoff does not accumulate on adjacent properties.
(Ord. No. 001-2001, § 6.2, 2-13-2001)

Sec. 23-693. Separation from walkways, sidewalks and streets.

All off-street parking, loading, and service areas shall be separated from walkways, sidewalks, and streets by curbing or other suitable protective devices. Curbing and other protection devices must be set back a minimum of three feet to prevent vehicle overhang.
(Ord. No. 001-2001, § 6.3, 2-13-2001)

Sec. 23-694. Parking area design.

Parking spaces shall have a minimum width of nine feet and a length of 18 feet. There shall be provided adequate interior driveways to connect each parking space with a public right-of-way. Interior driveways shall be at least 24 feet wide where used with 90-degree angle parking, at least 18 feet wide where used with 60-degree angle parking, at least 13 feet wide where used with 45-degree parking, and at least 12 feet wide where used with parallel parking. If there is no parking, interior driveways shall be at least ten feet wide for one-way traffic movement and at least 20 feet wide for two-way traffic movement. The city building inspector shall, based upon surrounding uses, drainage, topography, and any other special conditions related to the site, ultimately approve all parking area designs.
(Ord. No. 001-2001, § 6.4, 2-13-2001)

Sec. 23-695. Pavement markings and signs.

Each off-street parking space shall be clearly marked, and pavement directional arrows or signs shall be provided in each travel way wherever necessary. Markers, directional arrows and signs shall be properly maintained so as to ensure their maximum efficiency.
(Ord. No. 001-2001, § 6.5, 2-13-2001)

Sec. 23-696. Rights-of-way.

No sign, whether permanent or temporary, shall be placed within the public right-of-way. Signs and planting strips shall be arranged so that they do not obstruct visibility for drivers or pedestrians.
(Ord. No. 001-2001, § 6.6, 2-13-2001)

Sec. 23-697. Landscaping and greenspace requirements.

Landscaping for any parking lot of 20 or more spaces shall provide interior landscaping according to the following standards: For each 20 park-

ing spaces, there shall be required adjacent to the parking spaces, at a minimum, three canopy trees, two understory trees and six shrubs. Unless otherwise specifically indicated by the planning commission, all plant materials required shall meet the following minimum size standards, when planted:

(1) Canopy tree, 12 feet in height.

(2) Understory tree, four feet in height.

(3) Shrub, one foot in height.

(Ord. No. 001-2001, § 6.7, 2-13-2001)

Sec. 23-698. Parking space requirements for all districts.

At the time of erection of any principal building or structure, or at any time any principal building or structure is enlarged or increased in capacity by adding dwelling units, guestrooms, floor space or seats, there shall be provided minimum off-street parking space with adequate means of ingress and egress from a public street or alley by an automobile of standard size, in:

Residential	*Minimum Parking Spaces Required*
Apartments	1½ per dwelling unit
Duplexes	2 per dwelling unit
Efficiency apartments	1 per dwelling unit
Housing for the elderly	1 per dwelling unit
Single-family homes	2 per dwelling unit

Commercial	*Minimum Parking Spaces Required*
Bed and breakfast inns	1 per each guestroom
Roominghouses	1 per each guestroom
Single-family dwelling; loft-style single-family housing	2 per dwelling unit
Amusement centers, arcades, assembly halls, or pool halls (without fixed seating arrangements)	1 per 100 square feet of gross floor space
Animal hospital or kennels	Parking area equals 30 percent of the total enclosed or covered area
Athletic hospital or health spa	1 per 100 square feet of gross floor area (excluding courts); 3 per court (racquet ball or tennis)
Auto repair services, garages	1 for each 400 square feet or retail area plus 2 for each service bay; minimum of 4 spaces
Bars, nightclubs, taverns	2 per 100 square feet of gross floor area; minimum of 10 spaces
Bowling alleys	3 per alley
Funeral parlors	1 for every 4 seats in main assembly hall
Furniture store	1 per 400 square foot of floor area
General business; retail	1 for every 200 square feet of floor area designated for retail sales only
Grocery and food store	1 for every 100 square feet of floor area designated for retail sales only
Hotels and motels	1 for every sleeping unit
Medical offices	4 for every doctor and/or dentist; 1 for every 200 square feet of floor area
Miniwarehouse	1 for every 10 storage cubicles (parking equally distributed throughout site); 2 for every manager or quarters
Manufacturing, industrial and warehouses	1 for every 3 employees or the largest shift of the day; 1 for every 200 square feet exclusive of storage area
Office buildings (business, professional, commercial)	1 for every 300 square feet of floor area
Personal service establishments	1 for every 200 square feet of floor area

Commercial	*Minimum Parking Spaces Required*
Restaurant (food consumed on premises)	1 for every 3 seats; minimum of 10
Restaurant (carry out only)	1 for every 150 square feet of gross floor area; minimum of 10
Shopping centers	1 for every 250 square feet of gross floor area
Skating rink	1 for every 200 square feet of gross floor area
Theater or auditorium	1 for every 4 seats
Travel trailer parks	1 for every trailer site; 1 for every 2 employees

Institutional	*Parking Spaces*
Churches	1 for every 4 seats in main assembly hall (seats mean seating capacity)
Governmental offices	1 for every 300 square feet of floor area
Hospital	2 for every 3 beds
Libraries	1 for every 300 square feet of floor space
Nursing homes	1 for every 2 beds plus 1 for every employee on largest shift
Private club or lodge	1 for every 2 employees plus 1 for every 200 square feet of gross floor area
Schools	1 for every 4 seats in assembly hall or 1 for every employee plus 5 for every classroom for high schools and colleges

(Ord. No. 001-2001, § 6.8, 2-13-2001)

Sec. 23-699. Off-street loading requirements.

On the same premises with every building, structure or part thereof, erected and occupied for manufacturing, storage, warehouse, truck freight terminal, goods display, department store, wholesale store, market, hotel, hospital, mortuary, laundry, dry cleaning or other uses similarly involving the receipt or distribution of vehicles, materials, or merchandise, there shall be provided and maintained on the lot an adequate space for standing, loading and unloading services in order to avoid undue interference with public use of the streets and alleys.

(1) Such loading and unloading space, unless otherwise adequately provided for, shall be an area 12 feet by 50 feet, with a 15-foot height clearance, and shall be provided according to the following schedule.

(2) Off-street loading spaces shall be provided as appropriate to the functions and scope of operation of individual or groups of buildings and uses.

(3) Off-street loading spaces shall be designed and constructed so that all maneuvering to park and unpark is within the property lines of the premises. Loading spaces shall be provided so as not to interfere with the free, normal movement of vehicles and pedestrians on public rights-of-way.

Square Footage of Facility	*Number of Spaces*
0—10,000	1
10,001—100,000	1 space for the first 10,001 square feet plus 1 additional space for each additional 40,000 square feet in excess of 10,001 square feet
100,001—500,000	3 spaces for the first 100,001 square feet plus 1 additional space for each 60,000 square feet in excess of the 100,001 square feet

Square Footage of Facility	*Number of Spaces*
Over 500,000	7 spaces for the first 500,001 square feet plus 1 space for each additional 100,000 square feet in excess of 500,001 square feet

(Ord. No. 001-2001, § 6.9, 2-13-2001)

Sec. 23-700. Storage and parking of trailers and commercial vehicles.

(a) Commercial vehicles and trailers of all types, including travel, boat, camping and hauling, shall not be parked or stored on any lot occupied by a dwelling or any lot in any residential district except in accordance with the following requirements:

(1) No more than one commercial vehicle per dwelling shall be permitted, and in no case shall a commercial vehicle used for hauling explosives or flammable products be permitted. This commercial vehicle shall be prohibited from parking on any streets or right-of-way easements. These vehicles shall be parked in the driveway or in the rear or side yards.

(2) A commercial vehicle shall be of a size no greater than 18,000 pounds or six tons in gross vehicle weight.

(3) Travel trailers, hauling trailers, or boat trailers shall be permitted if parked or stored behind the front yard building line; and/or in the driveway area, for single-family homes.

(4) A travel trailer shall not be occupied either temporarily or permanently while it is parked or stored in any area, except in a travel trailer park authorized under this chapter.

(b) Nothing contained herein shall prevent more stringent storage and/or parking requirements by ordinance, restrictive covenants or other measures.

(Ord. No. 001-2001, § 6.10, 2-13-2001)

CODE COMPARATIVE TABLE

1904 CODE

This table gives the location within this Code of those sections of the 1904 Code that are included in the Code.

1904 Code Section	Section in Code
26	2-24
31—33	2-53—2-55
34	2-52
35	2-56
44	2-51
62	4-4
80	4-8
87	18-1
104	21-201
122	12-259
130	4-3
132	4-3
132, 133	18-7, 18-8
134	4-10
152, 153	18-1, 18-2
154	18-1
157	18-5
160	18-1
161	18-6
163	18-3
169—171	4-4—4-6
173, 174	4-7
225	2-22
235	2-23

CODE COMPARATIVE TABLE

1976 CODE

This table gives the location within the Code of those sections of the 1976 Code that are included in the Code.

1976 Code Section	Section in Code	1976 Code Section	Section in Code
1-1—1-3	1-1—1-3	11-226, 11-227	11-436, 11-437
1-4	1-8	11-229—11-245	11-438—11-454
1-6	1-6	11-251	11-483
1-7	1-4	11-252, 11-253	11-481, 11-482
1-8	1-7	11-254—11-261	11-484—11-491
2-20, 2-21	2-21, 2-22	11-301, 11-302	11-611, 11-612
2-24, 2-25	2-23, 2-24	11-304—11-308	11-613—11-617
2-30—2-35	2-51—2-56	12-10	12-6
2-53—2-55	2-81—2-83	12-14.1, 12-14.2	12-36, 12-37
3-1	3-10	12-15.1, 12-15.2	12-38, 12-39
3-5	3-12	12-16.1—12-16.4	12-40—12-43
3-16—3-32	3-62—3-78	12-17	12-44
3-34—3-36	3-79—3-81	12-18	12-9
3-38	3-83	12-20—12-23	12-186—12-189
4-1	4-1	12-29	12-259
4-3, 4-4	4-2, 4-3	12-39	12-261
4-6—4-10	4-4—4-8	12-66—12-69	12-71—12-74
4-12	4-10	14-1—14-5	14-21—14-25
4-20—4-22	4-36—4-38	14-31—14-35	14-41—14-45
4-38, 4-39	4-39, 4-40	15-31—15-35	15-31—15-35
4-42	4-41	15-41—15-46	15-71—15-76
5-1	5-21	15-51—15-56	15-111—15-116
5-5, 5-6	5-1, 5-2	17-1—17-12	17-1—17-12
5-20	5-21	17-21—17-28	17-41—17-48
5-30	5-21	17-29—17-36	17-50—17-57
5-40	5-21	17-37	17-59
5-46	5-3	17-38—17-41	17-61—17-64
5-50—5-54	5-45—5-49	17-42, 17-43	17-66, 17-67
5-60—5-65	5-71—5-76	17-61—17-64	17-91—17-94
5-70	5-21	18-2	18-1
5-80	5-21	18-4—18-10	18-2—18-8
5-81	5-106	18-21—18-28	18-41—18-48
5-111	5-21	19-16	19-23
10-2—10-4	10-2—10-4	19-17	19-22
10-12—10-20	10-21—10-29	19-18	19-24
10-42	12-3	19-19	19-26
11-1—11-3	11-26—11-28	19-20, 19-21	19-28, 19-29
11-6—11-15	11-29—11-38	19-22—19-25	19-34—19-37
11-16	11-40	19-26, 19-27	19-39, 19-40
11-66—11-71	11-186—11-191	19-42—19-46	19-71—19-75
11-111—11-117	11-216—11-222	20-1	21-1
11-136—11-141	11-276—11-281	20-3	21-2
11-146—11-149	11-306—11-309	20-4(a)—20-4(i)	21-31—21-39
11-161—11-164	11-336—11-339	20-6—20-8	21-71—21-73
11-166—11-170	11-340—11-344	20-9	21-101
11-206—11-216	11-401—11-411	20-20—20-22	21-131—21-133

1976 Code Section	Section in Code
20-26, 20-27	21-134, 21-135
20-50, 20-51	21-201, 21-202
21-1—21-7	22-1—22-7
21-20—21-29	22-20—22-29
21-29.1	22-30
21-30—21-36	22-31—22-37

CODE COMPARATIVE TABLE

ORDINANCES

The following table is a chronological listing of the ordinances of the city used in this Code.

Ordinance Number	Date	Section	Section in Code
20	10- 1-1907		18-4
125	12- 2-1924		4-3
132	9- 1-1925	1—4	5-45—5-48
		6	5-49
179	2- 3-1931		21-101
188	3-11-1931		21-201
204	4- 2-1935	5	22-21
		9	22-23
		11, 12	22-24, 22-25
		13	22-1
		14	22-26
		15	22-28
		16	22-27
		18	22-31
		20—22	22-32—22-34
		23	22-36
		24	22-35
		26	22-22
		27	22-29
192	2- 5-1936		4-1
			4-4
218	4- 1-1941	4	21-71
		8, 9	21-72, 21-73
222	3-18-1943	2	21-202
252	1-29-1954	1	4-2
		4	4-2
	3- 2-1954(Res.)	1, 2	10-2, 10-3
		3—9	10-4
225	2- 4-1956	5	21-134
259	1-28-1960		21-134
261	1-28-1960		22-2
272	11- 2-1960	2—5	5-71—5-74
		6—8	5-74—5-76
	1—1971(Res.)	1	22-4
	6-11-1974(Ord.)	1, 2	22-4
		3	22-5
	9-10-1974(Res.)		2-22
1975-001	2-11-1975	1	21-1, 21-2
		2	21-2
			21-31—21-39
1975-002	2-11-1975	1	21-133
		2—5	21-2
		6	21-31—21-39
		7	21-2
1975-001(Amd. No. 1)	6-10-1975	1, 2	21-131, 21-132
		3	21-2
			21-31—21-39
	7-13-1976(Mo.)		5-21
1976-010	8-17-1976	1	12-186, 12-187
		2—4	12-187—12-189

Ordinance Number	Date	Section	Section in Code
		5	12-189
1977-001	2- 8-1977	1	22-1, 22-2
			22-4—22-7
		2	22-20
		3	22-30
			22-37
1978-002	3-14-1978	1, 2	12-261
1978-005	8- 7-1978	1	22-4
1978-007	8- 7-1978	1—4	12-71—12-74
1980-001	1- 8-1980	1(17-1)—1(17-4)	17-1—17-4
		1(17-5)—1(17-8)	17-6—17-9
		1(17-9)	17-41
		1(17-11), 1(17-12)	17-93, 17-94
		1(17-13)	17-55
		1(17-14)	17-5
		1(17-15)	17-50
		1(17-15.1)	17-54
		1(17-15.2)	17-61
		1(17-15.3), 1(17-15.4)	17-43, 17-44
		1(17-15.5)	17-51
		1(17-15.6)	17-53
		1(17-15.7)	17-63
		1(17-15.8)	17-56
		1(17-15.9)	17-64
		1(17-15.10)	17-57
		1(17-15.11(A))	17-59
		1(17-15.11(B))	17-11
		1(17-15.12)	17-62
		1(17-16.1)	17-45
		1(17-16.2)	17-10
		1(17-16.3)	17-47
		1(17-16.4)	17-92
		1(17-16.5)	17-46
		1(17-16.6)	17-48
		1(17-16.7)	17-57
		1(17-16.8), 1(17-16.9)	17-66, 17-67
		1(17-16.10)	17-52
		1(17-16.11)	17-12
		1(17-19)	17-42
		1(17-67)	17-10
1980-004	1-15-1980		15-31—15-35
1980-008	3- 3-1980	1	22-3
1980-009	3- 3-1980	2, 3	9-23, 9-24
1980-012	3-11-1980	1	19-24
		2	19-22
		3(a), (b)	19-29
		3(c)	19-37
		4	19-34
		5	19-40
		6	19-36
		7	19-28
		8	19-39
		9	19-26
		9(h)	19-29
		10	19-35
		11	19-23
		12	19-37

Ordinance Number	Date	Section	Section in Code
		13(b)	19-34
1980-015	5-20-1980	1(11-101)	11-29
		1(11-102(1), (2), (4))	11-30
		1(11-102(3))	11-31
		1(11-102(5))	11-26
		1(11-103), 1(11-104)	11-36, 11-37
		1(11-105)	11-32
		1(11-106)	11-38
		1(11-107)—1(11-109)	11-33—11-35
		1(11-110), 1(11-111)	11-27, 11-28
		1(11-114)	11-40
		1(11-203(1))	11-276
		1(11-203(1), (2))	11-278
		1(11-203(3))	11-277
		1(11-203(4))—1(11-203(6))	11-279—11-281
		1(11-204(1), (2))	11-187
		1(11-204(3))	11-186
		1(11-204(4))	11-190
		1(11-204(5))	11-189
			11-191
		1(11-204(6))	11-188
		1(11-205(1))	11-337
		1(11-205(2))	11-336
		1(11-205(3))	11-339
		1(11-205(5))	11-338
		1(11-205(6))	11-340
		1(11-205(7))—1(11-205(9))	11-342—11-344
		1(11-205(10))	11-341
		1(11-206(1))	11-401
		1(11-206(2)(a)), 1(11-206(2)(b))	11-403, 11-404
		1(11-206(2))	11-402
		1(11-206(3))—1(11-206(5))	11-405—11-407
		1(11-206(6)), 1(11-206(7))	11-409, 11-410
		1(11-206(8))	11-408
		1(11-206(9))	11-411
		1(11-207(1))	11-437
		1(11-207(2))	11-436
		1(11-207(4))	11-438, 11-439
			11-443
			11-444
		1(11-207(5))	11-442
		1(11-207(6)(a)), 1(11-207(6)(b))	11-440, 11-441
		1(11-207(7))—1(11-207(11))	11-445—11-449
		1(11-207(11))	11-450
		1(11-207(12))	11-453
		1(11-207(13))	11-452
		1(11-207(14))	11-451
		1(11-207(15))	11-454
		1(11-208(1))—1(11-208(4))	11-306—11-309

Ordinance Number	Date	Section	Section in Code
		1(11-209(1), (9))	11-216
		1(11-209(2)), 1(11-209(3))	11-217, 11-218
		1(11-209(3)), 1(11-209(4))	11-219, 11-220
		1(11-209(5))	11-222
		1(11-209(6)—(8))	11-221
1980-018	5-20-1980	1, 2	19-71
		3(a)	19-72
		3(b)	19-74
		4	19-73
		5(a)	19-75
		5(b)	19-72
1980-023	7-15-1980	1(11-212(1))	11-483
		1(11-212(2)), 1(11-212(3))	11-481, 11-482
		1(11-212(4))—1(11-212(11))	11-484—11-491
1980-025	8-28-1980	1	19-73
1980-029	10-14-1980	1-1—1-6	15-71—15-76
1981-004	3-10-1981	1	4-36
1981-005	3-10-1981	1	10-21—10-29
1981-007	3-16-1981	1	5-21
1981-008	6- 9-1981	1	22-2
		2	22-32
1981-011	7-27-1981	1	22-6
1981-012	9- 8-1981	1	2-81—2-83
1981-014	12- 8-1981	3(1)—3(6)	15-111—15-116
1982-003	2- 9-1982	1	11-446
		2	11-451
1982-010	6- 8-1982	1	11-446
1982-018	12-14-1982	1	15-115
1983-C	8- 9-1983(Res.)		14-41—14-45
1983-007	10-11-1983	4, 5	19-71
		8	19-72
1983-008	10-11-1983	1	19-26
1983-009	10-11-1983	1	12-6
1984-008	12-11-1984	1	22-2
1985-004	5-14-1985	1, 2	11-611, 11-612
		4, 5	11-613, 11-614
		6	11-616
		7	11-615
		8	11-617
1985-007	9-10-1985	1	18-41
		2—6	18-43—18-47
		7	18-42
1985-008	9-19-1985	1	22-4
1986-001	3-28-1986	1	11-613
1986-005	5-13-1986	1—5	5-2
1986-008	11-11-1986	1	15-111
1987-002	1-13-1987	1	18-41
		2—4	18-43—18-45
		5	18-48
		6, 7	18-46, 18-47
		8	18-42
1988-002A	3- 8-1988	1	22-35
1988-007	8- 9-1988	1, 2	2-83

Ordinance Number	Date	Section	Section in Code
1988-008	10- 4-1988	2	12-9
			12-36—12-44
1988-010	11- 9-1988	1	12-115
1988-011	12-13-1988	1	22-4
002-1989	3-14-1989	1	17-91
1989-004	4-11-1989	1	5-3
1989-005	6-13-1989	1	14-21—14-25
1990-001	2-13-1990	1—4	4-36—4-39
		4	4-40, 4-41
1990-004	4-10-1990	1(10-5.10)	12-3
1990-007	5- 8-1990	1	17-1
		2	17-50
		3, 4	17-63, 17-64
1990-009	8-14-1990	1	3-10
			3-12
			3-62—3-81
			3-83
1991-002	5-14-1991		15-31, 15-32
1991-003	5-14-1991		12-3
1991-006	10- 8-1991		5-21
1991-007	10- 8-1991		5-21
1991-008	10- 8-1991		5-21
1991-009	10- 8-1991		5-21
1991-010	10- 8-1991		5-21
1991-011	10- 8-1991		5-21
1992-002	3-10-1992	1—6	5-106
1992-003	5-12-1992	1	11-405
		2	11-446
1992-004	5-12-1992	1	22-2
		2	22-6
		3	22-5
		4	22-7
004-1994	10-11-1994	1	22-4
005-1994	11- 8-1994	1	11-66, 11-67
		2—6	11-68—11-72
001-1995	4-11-1995	2	19-22
		3	19-33
		4	19-29
		5	19-32
		6	19-31
		7	19-21
		8	19-34
		9	19-27
		10	19-25
			19-38
		12	19-30
		13, 14	19-41, 19-42
		17, 18	19-43, 19-44
		22	19-26
		23	19-40
		25	11-34
002-1995	9-12-1995	1(10.38)	10-111
		1(10.38.1)—1(10.38.16)	10-112—10-127
		1(10.38.18), 1(10.38.19)	10-128, 10-129
003-1995	9-12-1995	1—4	10-181—10-184

Ordinance Number	Date	Section	Section in Code
006-1995	12-12-1995	1	19-22
		2	19-27
2-1997	2-10-1997	2—4	3-64—3-66
		5	3-68
		6	3-67
		7	3-69
		8, 9	3-79, 3-80
		10	3-82
		11	3-79
		12	3-60, 3-61
1-1997	2-11-1997	1, 2	3-140
		3	3-141
		4—12	3-143—3-151
		15—22	3-152—3-159
004-1997	4- 8-1997	I	22-4
007-1997	7- 8-1997	1—3	2-83
002-1998	2-10-1998	I(5.90), I(5.91)	5-132, 5-133
		I(5.92(a))—I(5.92(h))	5-134—5-141
		I(5.93(a))—I(5.93(c))	5-176—5-178
		I(5.94(a))—I(5.94(c))	5-201—5-203
		I(5.94(d))	5-204, 5-205
		I(5.94(e))—I(5.94(f))	5-206—5-207
		I(5.95(a)), I(5.95(b))	5-226, 5-227
		I(5.96)	5-131
003-1998	4-14-1998	art. 2	22-62
		art. 3—art. 12	22-63—22-72
006-1998	5-12-1998	1	10-30
008-1998	9- 8-1998		21-171
009-1998	11-10-1998	2	22-73
005-1999	9-14-1999	2(19-61)—2(19-75)	19-121—19-135
006-1999	12-14-1999	art. A, § 1, art. A, § 2	2-102, 2-103
		art. A, § 3	2-101
		art. A, § 4—art. A, § 14	2-104—2-114
		art. B, § 1—art. B, § 5	2-141—2-145
		art. C, § 1—art. C, § 4	2-171—2-174
		art. C, § 4	2-175
		art. D, § 1	2-201
002-2000	3-14-2000	1—6	10-51—10-56
002-2001	12-13-2000	1	17-10
		2	17-57
		3	17-92
001-2001	2-13-2001	intro. ¶	23-1
			23-259
			23-288
		2.1	23-2
		3.1—3.6	23-81—23-86
		3.7, 3.8	23-56, 23-57
		4.1—4.10	23-101—23-110
		4.12—4.14	23-111—23-113
		4.16	23-114
		4.17	14-22
		5.1—5.6	23-661—23-666

Ordinance Number	Date	Section	Section in Code
		6.1—6.10	23-691—23-700
		7.1—7.15	23-41—23-55
		8.1—8.11	23-131—23-141
		9.1—9.11	23-161—23-171
		10.1—10.11	23-191—23-201
		11.1—11.10	23-221—23-230
		12.1—12.8	23-251—23-258
		12.10	23-260
		13.1—13.7	23-281—23-287
		13.9, 13.10	23-289, 23-290
		14.1—14.13	23-311—23-323
		15.1—15.8	23-341—23-348
		16.1—16.4	23-371—23-374
		16.4.1	23-375
		16.5—16.9	23-376—23-380
		17.1—17.7	23-401—23-407
		18.1—18.6	23-431—23-436
		19.1—19.9	23-461—23-469
		20.1—20.8	23-491—23-498
		21.1—21.8	23-521—23-528
		22.1—22.8	23-551—23-558
		23.01—23.09	23-581—23-589
		25.1—25.3	23-611—23-613
		26.2, 26.3	23-3, 23-4
		26.5—26.8	23-5—23-8
8-2002	8-13-2002	1	17-68
11-2002	11-12-2002	2	11-672
		3	11-671
		4—30	11-673—11-699
12-2002	11-12-2002	2—5	11-726—11-729
2-2003	2-11-2003	2, 3	13-1, 13-2
3-2003	2-11-2003	2	2-21
6-2003	6-16-2003	I	4-9
7-2003	7-10-2003	1(5.51)	5-41
		1(5.52)	5-43
		1(5.53)	5-42
		1(5.54)	5-44
		1(5.55)—1(5.59)	5-50—5-54
8-2003	7-10-2003	2(6-1)	6-2
		2(6-2)	6-1
		2(6-3)—2(6-9)	6-3—6-9
		2(6-10)	6-9
		2(6-11)—2(6-60)	6-11—6-60
	4-13-2004(Ord.)		5-316, 5-317
	7-13-2004(Ord.)	1	23-134
			23-164
			23-194
			23-223
	9-14-2004(Ord.)	II—IX	5-251—5-258
3-2005	7-12-2005	1—6	12-291—12-296
8-2005	8-11-2005	1	23-2
			23-258
			23-288
			23-403, 23-404
			23-433, 23-434
			23-462
			23-464

Ordinance Number	Date	Section		Section in Code
				23-581—23-589
				23-662, 23-663
12-2005	11- 8-2005			2-241
14-2005	11- 8-2005	1		23-374
				23-434
15-2005	12-13-2005	1, 2		3-64, 3-65
		3		3-69
		4		3-72
		5, 6		3-78, 3-79
		7		3-143
				3-154
		7(3.1)		3-142
		8		3-143
		9, 10		3-145, 3-146
		11		3-148
		12—14		3-150—3-152
		14		3-153
				3-156
		15		3-158
		16		3-68
		17		3-79
		18		3-6—3-9
16-2005	12-13-2005	1		3-1
		2(3-200)—2(3-225)		3-204—3-229
2-2006	1-10-2006	1(4-36)		4-36
		1(4-54), 1(4-55)		4-39, 4-40
		1(4-58)		4-41
3-2006	1-10-2006	3—6		11-971—11-974
4-2006	2-14-2006	I—XVI		20-26—20-41
5-2006	2-14-2006	2		23-114
6-2006	5- 9-2006	2		23-323
		3		23-320
		4		23-312
9-2006	5- 9-2006	2		14-22
2006-12	10-10-2006	2		11-1
2007O-11	11-13-2007	1	Added	23-404(8)
2007O-12	11-13-2007		Rpld	5-131—5-141, 5-176—5-178, 5-201—5-207, 5-226, 5-227
			Added	5-131—5-141, 5-176—5-178, 5-201—5-206, 5-226, 5-227
2008O-03	1- 8-2008	1		11-821
		2	Added	11-830
2008O-04	3-11-2008		Added	12-4.1
2008O-05	4- 8-2008	1		23-2
			Added	23-374(20)
2008O-08	8-12-2008	1	Added	9-41—9-43
2008O-10	8-12-2008			5-131—5-141, 5-176—5-178, 5-201—5-206, 5-226, 5-227
2008O-11	11-18-2008	1		23-2
				23-114(b)(3), (4)
			Added	23-58

Ordinance Number	Date	Section		Section in Code
			Added	23-434(28)
		2		5-41
				5-50(c)
2009O-01	2-10-2009	1	Added	14-1
2009O-02	4-14-2009	1	Added	22-41—22-45
			Rpld	10-51—10-56
2009O-04	5-12-2009	2	Added	22-51—22-57
2009O-06	10-13-2009	2	Added	22-451—22-462
2009O-07	11-10-2009	2		15-111—15-116
2010O-02	4-13-2010		Rpld	5-251—5-258
		I—X	Added	5-251—5-260
2010O-06	12-14-2010	1, 2	Added	22-59, 22-60
2011O-02	10-11-2011	2	Added	2-300—2-313
2011O-03	12-13-2011	1		3-78
		2		3-151
		3		3-220
2012O-01	1-10-2012	1		3-78, (tit.)
		2		3-151, (tit.)
		3		3-220, (tit.)
2012O-07	10-18-2012	1		12-7
2013O-01	3-12-2013	1	Rpld	15-75(17)
2013O-03	8-13-2013	2	Rpld	15-31—15-35
		3	Added	15-31—15-37
		4		12-113
2013O-04	10- 8-2013	1	Rnbd	6-26
			as	6-26(a)
			Added	6-26(b)
		2		6-36(a)
		3	Rnbd	6-52
			as	6-52(a)
			Added	6-52(b)
2014O-01	7- 8-2014	I	Rpld	11-611—11-617
			Added	11-611—11-627
2015O-01	6- 9-2015	1	Added	10-251—10-259
2015O-02	6- 9-2015	1	Added	19-171—19-178
2016O-01	3- 8-2016	1	Rnbd	22-461, 22-462
			as	22-465, 22-466
		4		22-451
		5—8	Added	22-461—22-464
2016O-02	4-12-2016	1	Added	12-188(4)
2017O-01	3-14-2017	1		12-187(2)
2017O-05	10-10-2017	1		10-81
2018O-04	6-12-2018	1		13-1
2018O-05	6-12-2018	1	Added	22-8
2018O-06	7-10-2018	1, 2	Added	4-43
		1, 3		4-36
		1, 4—7	Added	4-44—4-47
2018O-07	8-14-2018	1(I)—1(X)		5-251—5-260
2019O-02	2-12-2019	1	Added	11-990—11-998
2019O-03	2-12-2019	1		23-2
		2	Added	23-404(9)
		3	Added	23-434(29)
2019O-04	5-14-2019	1		5-134
		2—4		5-131

STATE LAW REFERENCE TABLE

This table shows the location within the Charter and Code, either in the text or notes following the text, of references to the Official Code of Georgia Annotated (O.C.G.A.).

O.C.G.A. Section	Section in Code
1-3-1(3)—1-3-1(6)	1-2
1-3-1(a), (b)	1-2
1-3-3	5-253
	22-59
1-3-3(10)—1-3-3(12)	1-2
1-3-3(14)	1-2
1-3-3(16)	1-2
1-3-3(19)	1-2
1-3-3(24)	1-2
ch. 2	Char. § 5.01
	Char. § 5.07
2-10-1105	19-26
tit. 3	3-206
3-1-1 et seq.	Ch. 3
	3-206
3-1-2	3-1
3-1-2(2)	3-1
3-1-2(7)	3-1
3-3-2	Ch. 3
3-3-10	3-151
3-3-21 et seq.	3-69
3-3-23	3-1
	3-4
3-3-24	3-77
3-4-22	3-208
3-4-27	3-65
3-5-1 et seq.	Ch. 3, Art. II
3-5-80 et seq.	3-72
3-6-1 et seq.	Ch. 3, Art. III
3-6-60 et seq.	3-148
3-11-2	12-7
4-3-1 et seq.	4-4
4-4-1 et seq.	4-8
4-5-1 et seq.	Ch. 4
4-8-20 et seq.	4-38
4-8-28	4-41
4-11-1 et seq.	Ch. 4
8-2-1 et seq.	5-290
8-2-3	5-106
8-2-20(9)(B)(i), 8-2-20(9)(B)(ii)	5-21
8-2-25	9-21
8-2-25(a)	Ch. 9
8-2-50	Ch. 9
8-2-131(3)	5-286
8-2-200	Ch. 9
10-1-350 et seq.	Ch. 11, Art. XVI
10-1-392 et seq.	Ch. 11, Art. XVIII
12-2-8	5-254
12-4-72	5-253
12-5-20	5-252
12-5-23(a)(5)	5-255
12-5-30(f)	5-252
	5-254
12-5-102	22-54
12-5-120 et seq.	Ch. 10, Art. II
12-5-282	5-252
12-5-440 et seq.	5-252
ch. 12-7	5-252
12-7-1 et seq.	5-254
12-7-6	5-253
12-7-6(b)	5-253
	5-254
12-7-6(c)	5-254
12-7-7(e)	5-256
12-7-7(f)(1)	5-255
12-7-7.1	5-253
12-7-8(a)	5-252
	5-255
	5-256
12-7-17(9), (10)	5-255
12-7-19(b)(1), (4)	5-258
12-7-20	5-255
	5-258
12-8-20 et seq.	Ch. 17
12-8-31.1	Ch. 17
12-8-40.1, 12-8-40.2	Ch. 17
12-8-60 et seq.	Ch. 17
13-10-1	2-83
ch. 14	Char. § 2.05
16-6-17	Ch. 11, Art. XVIII
16-7-24	22-67
16-7-25	Ch. 18
	22-67
16-7-40 et seq.	Ch. 12, Art. III
	Ch. 17
	17-6
16-10-23	Ch. 9
16-10-24.1	Ch. 9
	9-1
16-10-27	Ch. 9
16-11-36	12-4.1

O.C.G.A. Section	Section in Code
16-11-38	12-9
16-11-41	3-12
16-11-43	Ch. 18
16-12-4	Ch. 4
16-12-23	11-409
	11-452
16-13-21(16)	12-291
16-13-25—	
16-13-29	12-291
16-13-30	12-6
16-13-49	12-295
16-13-71	12-291
17-6-1 et seq.	7-36
17-6-50	11-96
17-6-71	7-36
tit. 21	Char. § 5.06
21-1-1 et seq.	Char. § 1.04
	Char. § 5.06
21-2-1 et seq.	Char. § 5.01
	Char. § 5.07
	Ch. 8
	8-2
21-5-1 et seq.	Char. § 2.05
tit. 22	Char. § 1.04
25-2-1 et seq.	Ch. 9
25-2-40	Ch. 9
25-3-1 et seq.	Ch. 9
25-3-4	Ch. 9
25-4-1 et seq.	Ch. 9
25-6-1 et seq.	Ch. 9
25-7-1 et seq.	Ch. 9
25-9-6	22-456
25-10-1 et seq.	Ch. 9
25-11-1 et seq.	Ch. 9
26-2-373	Ch. 10
27-4-30 et seq.	Ch. 4
27-5-4 et seq.	Ch. 4
31-3-4(a)(4)	Ch. 10
31-3-5.2	22-59
31-3-6	Ch. 10
31-7-70 et seq.	10-2, 10-3
31-40-1	11-936
31-40-2 et seq.	11-940
32-1-1 et seq.	Ch. 18
32-1-8	Ch. 18
32-4-90 et seq.	Ch. 18
32-4-92	Ch. 18
32-6-1 et seq.	Ch. 18
33-3-5	11-66
33-3-5(1)	11-71
	19-71
33-8-4	11-70, 11-71
	19-71
33-8-8 et seq.	19-26
33-8-8.1	11-70
	19-71
33-8-8.2	11-71
	19-71
33-8-8.2(a)	19-71
36-1-16	Ch. 17
36-3-1 et seq.	Ch. 2
36-7-1-2(8)	19-22
36-18-1	5-253
36-30-1 et seq.	Ch. 2, Art. II
36-30-10	Ch. 18
36-31-1 et seq.	Ch. 2
36-32-1 et seq.	Ch. 7, Art. II
36-32-2.2	Char. § 6.02
36-32-6	12-6
36-32-10	3-4
36-34-1 et seq.	Ch. 2
36-34-2	Ch. 2
36-34-2(7)	Ch. 11, Art. XVII
36-34-3	Ch. 18
36-35-1 et seq.	Ch. 2
36-35-4	2-21
36-35-6(5)	Ch. 11, Art. XVII
36-35-6(a)(2)	1-7
36-36-6	23-43
36-39-1 et seq.	Ch. 18
36-60-1	11-216
36-60-13	Char. § 4.21
tit. 36, ch. 61	19-172
36-66-1 et seq.	Ch. 23
	23-43
	23-86
36-69-1 et seq.	Ch. 2, Art. VI
36-80-1	2-110
36-80-19	1-1
36-91-1 et seq.	Char. § 4.22
38-3-1 et seq.	Ch. 2, Art. VI
38-3-57	2-241
40-1-1	21-1
40-4-40 et seq.	Ch. 11, Art. XVI
40-6-2—	
40-6-395	21-1
40-6-183	21-171
40-6-200 et seq.	Ch. 21, Art. V
40-6-207	21-2
40-6-247	Ch. 9
	9-1
40-6-248	Ch. 9
	9-1
40-6-249	Ch. 17
40-6-253.1	Ch. 17
40-6-290 et seq.	21-71

O.C.G.A. Section	Section in Code
40-6-371(a)(1)	Ch. 21, Art. V
40-6-372—	
40-6-376	21-1
40-6-376	21-171
40-37-1	11-555
tit. 41	Ch. 10, Art. IV
41-1-6	10-87
41-2-7 et seq.	Ch. 10, Art. IV
41-3-1	Ch. 11, Art. XVIII
43-6-1 et seq.	Ch. 11, Art. XV
43-8-2(b)(3)	11-408
43-22-1	Ch. 11, Art. XVI
43-33-1 et seq.	Ch. 11, Art. XVIII
43-37-1 et seq.	Ch. 11, Art. XII
43-37-3	Ch. 11, Art. XII
43-45-15	19-26
43-48-1 et seq.	Ch. 11, Art. XVI
44-12-130	11-611
44-12-130 et seq.	Ch. 11, Art. XIII
	11-619
44-12-136	Ch. 11, Art. XIII
tit. 45	Char. § 2.03
tit. 46, ch. 3	19-26
46-3-1 et seq.	19-26
46-7-15	19-26
tit. 48	Char. § 1.04
48-1-1 et seq.	Char. § 1.04
	Ch. 19
48-3-1 et seq.	Ch. 11, Art. IX, Div. 2
48-3-2	Ch. 11, Art. IX, Div. 2
48-5-1 et seq.	Ch. 19, Art. VI
48-5-350 et seq.	Ch. 19, Art. VI
48-5-354	19-22
	19-26
48-5-354(a)(1)	19-29
48-5-354(a)(2), 48-5-354(a)(3)	19-26
48-5-355	19-26
48-5-358	Ch. 18
48-6-93	19-26
	19-101
48-6-93(d)	19-102
48-6-93(f)	19-26
48-8-50	19-129
48-13-4	19-26
48-13-5	Ch. 11, Art. XVIII
48-13-5 et seq.	Ch. 19, Art. II
48-13-5—	
48-13-26	19-21
48-13-6(c)	19-43
48-13-7	19-29
48-13-9(c)(1)—(18)	19-31
48-13-15	19-40
48-13-50 et seq.	Ch. 19, Art. V
48-13-55	19-26
50-5-100 et seq.	Ch. 2, Art. IV
50-8-7.3	Ch. 17
tit. 50, ch. 14	2-110
50-14-1	Char. § 3.03
	Char. § 3.08
50-14-1 et seq.	Char. § 2.05
	Char. § 3.19
	2-22
	2-110
50-18-70 et seq.	2-308
	19-133
50-18-90 et seq.	2-302
50-18-92	2-311
51-2	Ch. 4
51-26	4-1
58-5-356	19-26

CHARTER INDEX

CODE INDEX

*__Note—__The adoption, amendment, repeal, omissions, effective date, explanation of numbering system and other matters pertaining to the use, construction and interpretation of this Code are contained in the adopting ordinance and preface which are to be found in the preliminary pages of this volume.