

**THE CODE
OF THE CITY OF
CLAXTON, GEORGIA**

Published in 2018 by Order of the City Council

municode

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OFFICIALS

of the

CITY OF

CLAXTON, GEORGIA

AT THE TIME OF THIS RECODIFICATION

Terry Branch
Mayor

Joy Brittany Freeman (District 1)
Tina Hagan (District 1)
Dean Cameron (District 2)
Lisa Perry (District 2)
Larry Anderson (Mayor Pro Tempore—District 2)
C. Scott Lynn (District 2)
Risher Willard (District 2)
City Council

Vacant
City Administrator

William E. Callaway, Jr.
City Attorney

Diane Parker
City Clerk

PREFACE

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

Source materials used in the preparation of the Code were the 1982 Code, as supplemented through October 20, 1997, 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 1982 Code, as supplemented, and any 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:

CHARTER	CHT:1
CHARTER COMPARATIVE TABLE	CHTCT:1
CODE	CD1:1
CODE APPENDIX	CDA:1
CODE COMPARATIVE TABLES	CCT:1
STATE LAW REFERENCE TABLE	SLT:1
CHARTER INDEX	CHTi:1
CODE INDEX	CDi:1

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 Amanda Heath, 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 Mr. Carter Crawford, Contract City Administrator, and Ms. Diane Parker, 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.

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TABLE OF CONTENTS

	Page
Officials of the City at the Time of this Recodification	iii
Current Officials (Reserved).....	v
Preface	vii
Adopting Ordinance (Reserved)	

PART I

CHARTER

Charter.....	CHT:1
Charter Comparative Table—Georgia Laws	CHTCT:1
Charter Comparative Table—Legislation.....	CHTCT:3

PART II

CODE OF ORDINANCES

Chapter	
1. General Provisions	CD1:1
2. Administration.....	CD2:1
Art. I. In General.....	CD2:3
Art. II. City Council	CD2:3
Art. III. Officers and Employees	CD2:4
Art. IV. Finance	CD2:4
3. Reserved.....	CD3:1
4. Alcoholic Beverages	CD4:1
Art. I. In General.....	CD4:5
Art. II. Malt Beverages and Wine	CD4:6
Div. 1. Generally.....	CD4:6
Div. 2. Off-Premises Consumption Licenses.....	CD4:7
Div. 3. On-Premises Consumption	CD4:11
Div. 4. Malt Beverages Excise Tax.....	CD4:12
Div. 5. Wine Excise Tax	CD4:12
Art. III. Distilled Spirits for Off-Premises Consumption	CD4:13
Div. 1. Generally.....	CD4:13
Div. 2. License.....	CD4:16

CLAXTON CODE

Chapter	Page
5. Reserved.....	CD5:1
6. Animals and Fowl.....	CD6:1
Art. I. In General.....	CD6:3
Art. II. Dogs.....	CD6:3
7. Reserved.....	CD7:1
8. Aviation.....	CD8:1
Art. I. In General.....	CD8:3
Art. II. City/County Airport Authority.....	CD8:3
9. Reserved.....	CD9:1
10. Buildings and Building Regulations.....	CD10:1
Art. I. In General.....	CD10:3
Art. II. Technical Codes.....	CD10:3
Div. 1. Generally.....	CD10:3
Div. 2. Electrical Codes.....	CD10:5
Subdiv. I. In General.....	CD10:5
Subdiv. II. Electrical Inspectors.....	CD10:6
Subdiv. III. Permit.....	CD10:7
Subdiv. IV. Temporary Wiring.....	CD10:9
Div. 3. Water-Conserving Plumbing Fixtures.....	CD10:10
Div. 4. Property Maintenance Code.....	CD10:10
11. Reserved.....	CD11:1
12. Community Development.....	CD12:1
Art. I. In General.....	CD12:3
Art. II. Downtown Development Authority.....	CD12:3
13. Reserved.....	CD13:1
14. Emergency Management and Emergency Services.....	CD14:1
15. Reserved.....	CD15:1
16. Environment.....	CD16:1
Art. I. In General.....	CD16:3
Art. II. Environmental Conservation, On-Site Sewage Management and Permits.....	CD16:3
Art. III. Trees.....	CD16:13
Art. IV. Soil Erosion and Sedimentation Control.....	CD16:16
Art. V. Wellhead Protection.....	CD16:34
17. Reserved.....	CD17:1

TABLE OF CONTENTS—Cont'd.

Chapter	Page
18. Fire Prevention and Protection	CD18:1
19. Reserved	CD19:1
20. Flood Damage Prevention	CD20:1
Art. I. In General.....	CD20:3
Art. II. Administration.....	CD20:11
Art. III. Flood Hazard Reduction.....	CD20:14
21. Reserved	CD21:1
22. Licenses, Taxation and Miscellaneous Business Regulations	CD22:1
Art. I. In General.....	CD22:3
Art. II. Ad Valorem Tax.....	CD22:3
Art. III. Sales and Use Tax	CD22:3
Art. IV. Insurance License Taxes	CD22:4
Art. V. Occupation Tax.....	CD22:6
Art. VI. Yard Sales	CD22:12
23. Reserved	CD23:1
24. Nuisances	CD24:1
Art. I. In General.....	CD24:3
Art. II. General Abatement Procedure.....	CD24:3
Art. III. Alternative Abatement Procedure.....	CD24:4
25. Reserved	CD25:1
26. Offenses and Miscellaneous Provisions.....	CD26:1
27. Reserved	CD27:1
28. Signs	CD28:1
29. Reserved	CD29:1
30. Solid Waste.....	CD30:1
Art. I. In General.....	CD30:3
Art. II. Collection and Disposal.....	CD30:4
Art. III. Litter	CD30:9
31. Reserved	CD31:1
32. Streets, Sidewalks and Other Public Places	CD32:1
Art. I. In General.....	CD32:3
Art. II. Parades.....	CD32:3
Div. 1. Generally.....	CD32:3
Div. 2. Permit	CD32:4

CLAXTON CODE

Chapter	Page
33. Reserved	CD33:1
34. Traffic and Vehicles.....	CD34:1
Art. I. In General.....	CD34:3
Art. II. Stopping, Standing and Parking	CD34:8
35. Reserved	CD35:1
36. Utilities	CD36:1
Art. I. In General.....	CD36:3
Art. II. Water and Sewers, Generally	CD36:3
Art. III. Sewer Use.....	CD36:5
Art. IV. Natural Gas System	CD36:16
Code Comparative Table—1982 Code.....	CCT:1
Code Comparative Table—Legislation	CCT:5
State Law Reference Table	SLT:1
Charter Index.....	CHTi:1
Code Index	CDi:1

PART I
CHARTER*

- Sec. 1. Incorporated, powers, corporate name.
- Sec. 2. Corporate limits.
- Sec. 3. Existing ordinances.
- Sec. 4. Prior debts.
- Sec. 5. Mayor and councilmen.
- Sec. 6. Qualifications of mayor and councilmen.
- Sec. 7. Terms and election of mayor and council.
- Sec. 8. Municipal court.
- Sec. 9. Clerk and treasurer.
- Sec. 10. City attorney.
- Sec. 11. Qualified voters.
- Sec. 12. Permanent registration system.
- Sec. 13. Elections.
- Sec. 14. Tax returns.
- Sec. 15. Tax assessors.
- Sec. 16. Taxes due, execution, contest.
- Sec. 17. Business licenses.
- Sec. 18. Cash basis.
- Sec. 19. Condemnation.
- Sec. 20. Streets.
- Sec. 21. Authority to furnish.
- Sec. 22. Payment and collection of charges.
- Sec. 23. Zoning.
- Sec. 24. Additional powers.
- Sec. 25. [Repealer.]

***Editor's note**—Printed herein is the city Charter, being 1961 Ga. Laws (Act No. 463), page 3312. 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 and punctuation errors have been corrected without notation. For stylistic purposes, headings and catchlines have been made uniform and the same system of capitalization and expression of numbers in text as appears in the Code of Ordinances has been used. Additions made for clarity are indicated by brackets. Pursuant to O.C.G.A. § 36-32-1, the term "recorder's court" has been changed to "municipal court" and the term "recorder" has been changed to "municipal judge."

An Act to grant a new Charter to the City of Claxton in the County of Evans; to provide for the general powers of said city; to provide that said city shall be responsible for all debts and contracts of the former City of Claxton; to preserve all existing and valid ordinances; to provide for the corporate limits of said city; to provide for a mayor and councilmen, their powers, duties and functions; to provide for the passage of ordinances; to provide for the meetings of the city council, the eligibility requirements of the mayor and councilmen; to provide for the compensation of said mayor and councilmen; to provide for elections; to provide for the filling of vacancies in the offices of mayor and councilmen; to provide for the taking of office by said officials and the oath in connection therewith; to provide for its elections in said city; to provide for qualification and registration of voters in said city; to provide for a municipal court in said city and the procedure in such court; to provide for taxation by said city, and the procedure in connection therewith; to provide for licensing and regulation of trades and occupations; to provide for the maintenance and construction of streets, roads and sidewalks in said city; to provide for the maintenance and establishment of utility systems in said city, and the collection of charges in connection therewith; to provide for the creation and alteration of a fire district in said city; to provide for planning and zoning regulations in said city; to provide for condemnation of private property by said city; to authorize said city to contract debts and issue bonds; to expressly enumerate certain powers of said city; to provide that the powers enumerated in this Act shall not be restrictive; to provide restrictions upon the sale of property by said city; to provide that said city shall operate upon a cash basis, and that all debts for current operating expenses shall be paid in the fiscal year in which incurred; to repeal conflicting laws; and for other purposes.

Be it enacted by the General Assembly of Georgia:

Sec. 1. Incorporated, powers, corporate name.

The City of Claxton in the County of Evans is hereby incorporated under the name and style of the City of Claxton. Said City of Claxton as a municipality shall have perpetual succession and is vested with the right to contract and be contracted with, to plead and be impleaded, to buy, own, enjoy and sell property of all kinds and to have and use a common seal and do all other things and acts as may be necessary or needful to exercise such rights, powers, functions, privileges and immunities as ordinarily belongs to municipal corporations generally under the law, as well as those hereinafter enumerated. Said corporate body under the name and style of the City of Claxton shall have all the rights, powers and privileges to purchase, acquire by gift, lease or otherwise to receive, hold, possess, enjoy and retain in perpetuity or for any term of years, or dispose of in any manner known to law any interest in any real or personal property of whatsoever kind or nature or description within or without the limits of said city for corporate purposes, subject to the restrictions contained in this Charter. Said city shall have the right to adopt such ordinances, rules, regulations and resolutions for the welfare and proper government of the city and for the transaction of the business thereof as may be deemed good

and proper, consistent with the laws and Constitution of the State of Georgia and of the United States. Said City of Claxton shall be the legal successor to the City of Claxton in Evans County existing at the time of the passage of this Charter, and shall receive all of the property of said former city, and be responsible for all debts, contracts and obligations for which said former city is now obligated.

Sec. 2. Corporate limits.

The corporate limits of the City of Claxton shall be as follows: beginning at a point in the center of the main line of the Seaboard Air Line Railroad 2,640 feet east of the mid-point of the Seaboard Air Line Railroad Depot, run thence due north 2,640 feet, then due west 6,579.5 feet, thence due south 431 feet, thence south 74 degrees 56 minutes west 2,090.9 feet, then 15 degrees 04 minutes east 2,590 feet to a point on the north right-of-way of said railroad, thence north 74 degrees 56 minutes east 777.5 feet along said railroad right-of-way to a point adjacent to a culvert beneath said railroad, thence south 15 degrees 04 minutes east 2,690 feet, thence eastwardly parallel with said railroad to a point 2,640 feet south of the point of beginning, thence due north 2,640 feet to the point of beginning.

Sec. 3. Existing ordinances.

All existing, valid ordinances, rules, bylaws, regulations and resolutions of the City of Claxton shall remain in effect until altered, amended or repealed.

Sec. 4. Prior debts.

The City of Claxton is hereby made responsible as a corporate body for all legal debts, contracts and obligations for which the City of Claxton as incorporated under an Act approved July 28, 1911 (Ga. L. 1911, p. 942), as amended, is now obligated.

Sec. 5. Mayor and councilmen.

The government of the City of Claxton shall be vested in a mayor and seven councilmen to be called the city council to be elected as hereinafter provided.

Editor's note—A 1984 court order expanded council membership from five to seven members. The above sentence reflects the court order.

- (a) *Mayor.* The mayor shall be the chief executive officer of the city; have general supervision of the affairs of the city; and shall see that the laws of said city are executed and the officers of said city are faithful in the discharge of their duties. He shall cause the books and records of said city and of its officers to be inspected; and shall have control of the police force of said city and may appoint special police officers whenever he deems necessary. He may exercise within the corporate limits of said city all the powers conferred on a sheriff or constable to keep the peace and suppress riot and disorder, and, to that end, shall have power, when necessary in his opinion, to call on every male

inhabitant of said city over 18 years of age to aid in suppressing riot and disorder and in enforcing the laws of said city. The mayor shall have the right and authority to name all of the city appointments to all boards and commissions; however, the appointments are subject to the approval of the council. The mayor shall further have the right and authority to name all committee chairpersons from the membership of the council and designate to them the administrative assistance necessary to run their department.

- (b) *City council.* The council of the City of Claxton shall be the legislative body. It shall pass all ordinances pursuant to the authority herein set forth. Ordinances shall be proposed and read at a regular meeting of the council, and shall not be passed until the next regular meeting. The city clerk, under the direction of the mayor and council, shall prepare an annual budget. The budget, once approved, shall become the approved expenditures for the fiscal year and all other expenditures must be approved by the city council except capital improvement equipment which must be approved by the mayor and city council. The council, upon the advice of the mayor, shall prescribe the compensation of all city employees and officials, except that of the mayor and councilmen.
- (c) *Oath.* The mayor and councilmen elected under this Charter shall take office on January 1 after their election and shall be installed in office by taking and subscribing the following oath:
- "I do solemnly swear that I will faithfully discharge the duties devolved upon me as mayor or councilman (as the case may be) of the City of Claxton; that I will faithfully execute and enforce the laws of said city to the best of my ability, skill and knowledge; and that I will do all in my power to promote the general welfare of the inhabitants of said city and common interest thereof."
- (d) *Council meetings.* The council shall meet in regular session upon the first and third Monday in each month. Special meetings of the council may be called at any time by the mayor or by a majority of the members of the council. The mayor shall preside over all meetings of the council, but shall have no vote except when the vote of the council is equally divided. At the first regular meeting of the council following the regular election of new members thereof, the council shall elect one of its members present as a mayor pro tem, who shall, in the event of the absence, disability or disqualification of the mayor, perform all the duties and exercise all the rights and powers and privileges of the office of mayor.
- (e) *Ordinances.* Said city is authorized to enact any and all ordinances, rules and regulations necessary to lay out and prescribe fire districts in said city, and to enlarge, change, or modify its limits from time to time; to prescribe when, how and of what material buildings in said limits may be erected, repaired, or covered; how thick the walls may be; how the chimneys, stoves, pipes and flues are to be constructed; to provide for fire

escapes in said buildings; and, generally to do all such things and pass such laws and ordinances as the city may deem necessary in order to protect said city as far as possible from fire, and to prevent the spread of fire from one building to another and for the protection and safety of the people. It shall also have the authority to order any change in the construction or arrangements of buildings, chimneys, stoves, pipes or flues and to order the removal thereof when, in its judgment, the same are dangerous or likely to become so, and to make the owner of the premises pay the expenses of such changes or removal, which expense may be collected as taxes are collected; and if any person, firm or corporation shall erect or maintain any building that is not in accordance with the laws and ordinances of said city, the city may order such building removed or altered, and if such persons, firm or corporation shall not remove or alter such buildings after notice to do so, as may be prescribed, then said mayor and council shall have authority to remove and/or alter the same at the expense of the owner, which expense may be collected by execution issued and enforced in the same manner that executions for ad valorem taxes are enforced.

All ordinances for the government of the City of Claxton shall be introduced in writing at a regular meeting of the city council and referred to the proper committee, who shall report on it at the next regular meeting when it may be re-read and put upon its passage. By unanimous consent of council, an ordinance may be put upon its second reading and passed at the first meeting. All ordinances shall be signed by the mayor and recorded and posted at three conspicuous places in said city at least ten days before becoming effective.

- (f) *Veto.* The mayor of the City of Claxton has the power and authority to veto any action approved by the city council and must exercise said power and authority by or during the next regular meeting of the mayor and city council or lose said power and authority. The city council may override said veto by having a simple two-thirds majority vote of the city council and said right to override said veto shall vest until the conclusion of the next regular meeting of the mayor and city council.

(1982 Ga. Laws (Act No. 1046), page 4242, §§ 1—3)

Sec. 6. Qualifications of mayor and councilmen.

To be eligible to be mayor of the City of Claxton, a person shall be at least 25 years of age, shall have resided in the City of Claxton a period of at least two years and shall be a registered, qualified voter of the State of Georgia and of the City of Claxton. To be eligible to be a member of the council of said city, a person must be at least 21 years of age, a resident of the City of Claxton for a period of at least one year and a registered, qualified voter of the State of Georgia and the City of Claxton. Should the mayor or any councilman during his or their term of office remove his residence from the corporate limits of said city or cease to be a bona fide resident thereof, his or their office shall thereby become vacant.

Sec. 7. Terms and election of mayor and council.

(a) The mayor and councilmen serving at the time of the adoption of this Charter shall continue to serve for and during the term for which they were elected. On the first Thursday in December 1961, and every two years thereafter, an election shall be held in said city at the city hall, or such other place as the mayor and councilmen may designate, for the election of a mayor, whose term shall run for two years, or until his successor is elected and qualified; that on the first Thursday in December 1961, and every two years thereafter, an election shall be held in said city, at the city hall, or such other place as the mayor and councilmen may designate, for the election of three councilmen; provided that the two candidates in said election receiving the largest number of votes shall be elected for terms of two years each, and the candidate in said election receiving the next largest number of votes shall be elected for a term of one year; that annually thereafter on said date that an election shall be held for the election of councilmen, at which election, there shall be elected councilmen to succeed councilmen whose terms will expire at the end of the current year, and all councilmen thus elected in said elections to be held on and after the election to be held on the first Thursday in December 1961, shall be elected for a term of two years; provided, further, that the mayor and councilmen shall be qualified to run in any of said elections to succeed themselves. All candidates for the office of mayor and councilmen shall qualify at the city hall on a regular business day, during regular business hours, at least 15 days prior to the date of the election in which they desire to be a candidate. The compensation of the mayor shall be fixed in the discretion of the mayor and councilmen, and shall not exceed \$500.00 per annum.

(b) Runoffs. Should any election held in and for said city under the provisions of this Charter result in a tie vote, then in the event, the council of said city shall call a special election within ten days; and said special election shall be held in the same manner as any other election, except that no person shall be a candidate in said election other than those who received the same number of votes in the prior election; and no person shall be allowed to vote in said special election unless he or she shall have been qualified to vote in the regular election held just prior to said special election.

(c) Vacancies. In the event that the office of mayor or of councilman of the City of Claxton should become vacant by death, resignation, removal or otherwise, said vacancy shall be filled by an election ordered by the council to take place not more than 40 days from the time such vacancy occurs under the same rules and regulations that govern regular elections in said city. The clerk of said city shall cause notice of the holding of such election, and the time and place thereof, to be published once a week for two weeks prior to said election in the newspaper in which sheriff's advertisements for Evans County are published. In the event such vacancy in the office of mayor occurs within six months preceding the expiration of term of office of said mayor shall be filled by mayor pro tem for the remainder of the term; and provided, further, in event such vacancy should occur more than six (6) months to a regular election to be held on the first Thursday in December, then, in the event no special election shall be called or held, the

vacancy shall be filled by mayor pro tem, who shall serve until such regular election, and the vacancy shall be filled by election of a mayor for the remainder of the unexpired term. To be eligible for election in any special election authorized by this section, a person shall qualify in the same manner as provided for regular elections. In the event that the council cannot, for want of a quorum or any other reason, call the elections authorized by this section, it shall be the duty of the ordinary of Evans County to issue the call for the election.

(d) The compensation of the mayor shall be fixed in the discretion of the mayor and councilmen and shall not exceed \$1,200.00 per annum. The compensation of the councilmen shall be fixed by the mayor and councilmen and shall not exceed \$600.00 per annum each. The compensation of the mayor and councilmen when so fixed, as provided herein, shall be paid in equal monthly installments from the funds of the City of Claxton. The compensation of the clerk, marshal, superintendent of waterworks, and any and all other officers and employees of said City of Claxton shall be fixed by the mayor and councilmen as in their discretion is just and proper.

(1968 Ga. Laws (Act No. 1144), page 3475, § 1)

Sec. 8. Municipal court.

(a) *Creation.* There is hereby established a court to be known as the "Municipal Court, City of Claxton" which shall have jurisdiction and authority to try offenses against the laws and ordinances of said city and to punish for a violation of the same. Such court shall have the power to enforce its judgments by the imposition of such penalties as may be provided by the laws of Georgia, to subpoena witnesses, to punish witnesses for nonattendance, and to try all offenses occurring within the territorial limits of the City of Claxton including traffic cases which, under the laws of Georgia, are now or hereafter placed within the jurisdiction of municipal or police courts to the extent of and in accordance with the provisions of such laws and all laws subsequently enacted amendatory thereof. The presiding officer of such court shall be known as the municipal judge. Said court shall be convened at such times as designated by ordinance or at such times as deemed necessary to keep current the dockets thereof.

(b) *Municipal judge.* No person shall be qualified or eligible to serve as municipal judge unless he shall have attained the age of 25 years, shall be a qualified voter in the City of Claxton, and shall have resided therein at least one year immediately preceding his appointment, and shall continue to reside therein during his term of office. At the first regular meeting in January of each year, the mayor and council shall appoint the municipal judge who shall serve for a term of one year and until his successor is appointed and qualified. The mayor and council shall also fill any vacancy or unexpired term in such office. The compensation of the municipal judge shall be fixed by the mayor and council. At the discretion of the mayor and council, the mayor shall be authorized to serve as municipal judge.

Before entering on the duties of his office, the municipal judge shall take an oath before some officer duly authorized to administer oaths, that he will truly, honestly and faithfully discharge the duties of his office to the best of his ability without fear, favor or partiality. This oath shall be entered upon the minutes of the mayor and council.

(c) *Jurisdiction.* The municipal judge shall have power to impose fines for the violation of any law or ordinance of the City of Claxton passed in accordance with this Charter, to an amount not to exceed \$1,000.00, to imprison offenders for a period of not more than six months, or at labor on the roads and streets or other public works of said city for not more than six months, [and] shall have the power and authority to impose any one or more of these punishments when he shall find that the facts of the case so justify. Said municipal judge shall not have the authority to inflict a greater punishment for contempt than to impose a fine of \$500.00 or imprisonment not exceeding 25 days or any combination of the two. He shall have the authority of a magistrate, so far as to enable him to issue warrants for offenses committed within the limits of the City of Claxton, which warrants may be executed by any police officer of said city, to hold committal hearings, and to commit the offender to jail or admit them to bail in bailable cases for their appearance at the next term of a court of competent jurisdiction to be held in said city. Except as may be herein otherwise specified, the municipal judge is vested with all of the jurisdiction and powers as to the entire area within the corporate limits of the City of Claxton. The municipal court is specifically vested with all jurisdiction and powers throughout the entire area within the corporate limits granted by state laws generally to municipal courts, and particularly such laws as authorize the abatement of nuisances.

Municipal courts.

- (1) Source of jurisdiction—General.
 - (a) City Charter.
 - (b) Georgia Constitution, Art. 6, Section I, Paragraph 1 (art. 6, § 1, ¶ 1). Municipal courts shall have jurisdiction over ordinance violations and other such jurisdiction as provided by law.
 - (c) *Kolker v. State*, 260 Ga. 240, 391 S.E. 2d.391 (1990). Pursuant to article 6, § 1, paragraph 1 of Georgia Constitution, (1983), the general assembly has authority to vest municipal courts with authority over violations of state laws. It is implicit that legislature has to specifically set forth the jurisdiction.
- (2) Sources of jurisdiction (specific).
 - (a) O.C.G.A. § 40-13-21 - ... Any and all criminal laws of this state relating to traffic upon the public road, streets and highways of this state when the penalty for the offense does not exceed that [of] the grade of misdemeanor." O.C.G.A. § 40-6-1 et al.

- (b) O.C.G.A. § 40-13-22 Violations of O.C.G.A. § 40-2-8, i.e., car registrations and tags.
- (c) O.C.G.A. § 36-32-6 Possession of marijuana under an ounce.
- (d) O.C.G.A. § 36-32-7 No insurance.
- (e) O.C.G.A. § 36-32-8 Without certificate of emission inspection.
- (f) O.C.G.A. § 36-32-9 Shoplifting under \$100.00.
- (g) O.C.G.A. § 36-32-10 Minors and alcoholic beverages.
- (h) O.C.G.A. § 36-32-10.1 Criminal trespass where there is no state court.
- (i) O.C.G.A. § 40-6-395 Fleeing or attempting to elude police officer.
- (j) O.C.G.A. § 41-2-5 Abatement of nuisances; judgment enforced by contempt powers of court.

(d) *Right of certiorari.* The right of certiorari to the superior court from the municipal court shall lie in the same manner and under the same procedure as prescribed for certiorari to the various justice courts of the state.

(e) *Vacancy in office.* In the absence, sickness or disqualification of the municipal judge or vacancy in such office, a municipal judge pro tempore appointed by the mayor and council, the mayor, or any member of the council designated by the mayor may preside over the municipal court and hear and try all cases therein, and in the performance of said office shall be clothed with the same powers and authority as are granted to the municipal judge under this Charter and the laws of the State of Georgia. The council is empowered to provide for the compensation of any such person appointed to preside over said court as herein provided.

(f) *Court costs.* In all cases in the municipal court of the City of Claxton, the costs incurred and allowable therein shall be computed under the provisions of the laws of the State of Georgia fixing costs in the justice of the peace courts of said states.

(g) *Rules for courts.* With the approval of the mayor and council, the municipal judge shall have full power and authority to make rules and regulations necessary and proper to secure the efficient and successful administration of the business of said court; provided, however, the rules of evidence applicable to the superior courts of this state shall apply in the municipal court of the City of Claxton.

(1968 Ga. Laws (Act No. 1144), page 3475, § 2; 1971 Ga. Laws (Act No. 154), page 2327, § 1; Ord. of 7-2-1999; 2000 Ga. Laws page 4806)

Sec. 9. Clerk and treasurer.

A city clerk and treasurer, the office of which may be combined if the mayor and council see fit, shall be a regular employee of the city and therefore shall be governed by the rules and regulations of the personnel policies adopted from time to time by mayor and council.

(1982 Ga. Laws (Act No. 1046), page 4242, § 4)

Sec. 10. City attorney.

The mayor and council of the City of Claxton, Georgia, shall be authorized to name and elect a city attorney at the same time at which the other officers of the city are elected, and to pay him such compensation as they deem proper. Whenever it shall be deemed advisable, the said mayor and council shall be authorized to employ additional counsel to assist the city attorney and to pay such compensation to such assistant attorney or attorneys as may be reasonable and proper.

The compensation of the city attorney or any assistant or assistants [is] to be paid out of the city treasury, unless the duty or duties performed by such city attorney or assistants shall be related to a revenue production facility or utility of the city, when in such case the mayor and council may direct compensation to such attorney or attorneys to be paid out of a particular fund.

Sec. 11. Qualified voters.

No person shall be allowed to vote in any election held in said city, except he or she [shall] be eligible under the provisions of the Constitution and laws of Georgia to vote for members of the General Assembly from the County of Evans and unless he shall have bona fide and continuously resided in said City of Claxton as a citizen thereof, for six months next preceding said election at which he offers to vote, and shall have registered as a qualified voter in the manner hereinafter provided.

Sec. 12. Permanent registration system.

There shall be established in the City of Claxton created by this Charter a permanent registration system of the qualified voters of said city.

- (a) *Registration.* Within 30 days after approval of this Charter, the mayor and council of said city shall provide a suitable book or books for the permanent registration of qualified voters of said city. On or near the first page of each of such permanent registration books shall be printed or placed the oath prescribed by subsection (c) of this section.
- (b) *Registration books.* The clerk of said city or any deputy clerk employed in the office of said clerk shall have for registration of voters within ten days after they are provided, and shall cause notice of such facts to be published in one issue of the newspaper in which sheriff's advertisements for Evans County are published. Said clerk or deputy clerk shall keep books open for registration of qualified voters at all times when the said clerk's office is open for business, except during the period next preceding the date of any election in said city, when all candidates in such election shall have qualified.

- (c) *Oath.* Every person, before registering, shall take the following oath, which shall be read by or to the person offering to register, viz:

"I do solemnly swear that I am 18 years of age (or will be at the time of the next city election) and possess all of the qualifications necessary under the Constitution of the State of Georgia to entitle me to vote for members of the General Assembly from the County of Evans, and that I have bona fide and continuously resided in the City of Claxton as a citizen thereof for six months (or will have by the time of the next city election)."

The clerk or deputy clerk shall have authority to administer said oath, and thereafter to permit registration of any such person. All persons registering shall sign their full names at the place indicated on the book by the clerk or deputy clerk, who shall immediately thereafter enter at the places providing the ages, sex, and race of each person registering.

- (d) *Registration permanent.* No person registering as herein provided, or who is now registered, shall be required to again register as a qualified voter of said city, so long as he or she remains a resident of said city and does not otherwise become disqualified, it being the purpose of this section to provide a permanent registration of the qualified voters of said city; provided, however, names may be excluded from the registration lists for failure to vote in two consecutive regular elections and for other reasons hereinafter set forth subject to notice and request of hearing as hereinafter set forth.
- (e) *Appeals.* Any person denied the right to register as a voter in said municipality by the clerk shall have the right to appeal to the mayor and council, which appeal need not be in writing, at a time not later than the next regular council meeting after he has been denied the right to register, and if such mayor and council on appeal shall find that such person is entitled to register and vote in elections in such municipality, the name of such person shall be added to the list of qualified voters by the city clerk at any time prior to the election, even though the voter's book shall have been closed as to other registrants.
- (f) *Registrars, voters list.* The said City of Claxton, Georgia, shall prepare and file with the managers of any election, regular or special, which may be held in the municipality, at least two lists of the registered, qualified voters in such municipality before the polls open, which lists shall be dated and certified by the clerk of said municipality as being a true and correct list of the persons entitled to vote in such election.
- (g) *Procedure where voter challenged.* No person offering to vote at any election held in and for the municipality, whose vote is challenged, shall be allowed to vote unless he shall take the following oath to be administered by one of the election managers:

"I do solemnly swear (or affirm) that I am a citizen of the State of Georgia and have attained the age of 18 years; that I have resided in the State of Georgia one year and in

the City of Claxton, Georgia, six months next preceding this election; that I am duly qualified to vote in this election according to the laws of the state and that I have not previously voted in this election, so help me, God."

- (h) *Illegal voting.* Any person voting illegally at any such election or elections shall be guilty of a misdemeanor, and on conviction thereof shall be so punished, as provided by the laws of the State of Georgia.

Editor's note—Voter registration is controlled by O.C.G.A. § 21-2-210 et seq.

Sec. 13. Elections.

Whenever any election is to be held in and for said city, the said registration books are to be closed at the time when candidates for such election may no longer qualify and delivered to the mayor of said city, who shall, with advice and consent of the council, appoint some person or persons not exceeding three in number, as registrar or registrars. Said registrar or registrars shall be residents of said city, and before entering on their duties shall be sworn to faithfully and impartially perform the duties of their office. It shall be the duty of said registrar or registrars to make from said registration books a list of voters qualified to vote in said election, and, in making such lists, to exclude therefrom the names of all persons on the books who have died or removed from the limits of said city, or who are otherwise disqualified for any lawful cause; provided, however, that they shall not exclude the name of any registered person, who is still a resident of said city, from said list as disqualified, without first serving such person with a notice to show cause why his (or her) name should not be excluded. Such notice shall state the time and place of the hearing as to such disqualification, and shall be served on each person at least 12 hours before the time of such hearing (leaving at most notorious place of abode shall be deemed and held to be sufficient service). Such person shall be allowed to appear and submit evidence as to their qualification. Said registrar or registrars shall have power to subpoena witnesses, to compel their attendance and the production of records and documents, administer oaths and to determine the qualification or disqualification of all voters. After the completion of any such hearing, said registrar or registrars shall strike from the permanent registration books and from the voters' list the names of all persons found to be deceased or disqualified to vote. Thereafter, they shall prepare three identical lists of the voters qualified to vote in said election, and certify the same. One copy shall be retained and two copies shall be filed with the clerk of said city, one of which shall be open to inspection during said clerk's office hours and the other copy shall be safely kept and delivered to the managers of said election when the polls open. Said registrar or registrars shall complete said lists at least two days before said election.

No person shall be allowed to vote in said election whose name does not appear on the list certified by the registrar or registrars, unless he shall produce a certificate signed by the registrar, or a majority of the registrars, that his name was omitted therefrom by accident or mistake.

The City of Claxton shall have full power to define and provide for the punishment of illegal registration and illegal voting, and to provide additional rules and regulations governing the registration of voters. It shall also fix the compensation to be paid by the city to such registrar and may designate the clerk of said city to act as a registrar or as one of the registrars provided for under this section if they deem proper.

The City of Claxton shall have full power and authority to define and provide by ordinances the manner in which elections shall be held, including but not limited to providing how absentee ballots shall be cast and prohibiting loitering and soliciting of voters in and about the polling places and voting booths.

Editor's note—Voter registration is controlled by O.C.G.A. § 21-2-210 et seq.

Sec. 14. Tax returns.

All persons owning property in said city shall be required to make a return under oath, annually to the board of tax assessors of said city of all their property, real and personal, subject to taxation by said city, as of January 1 of each year. The books for recording same shall be open on January 1 and close on April 1 of each year. Said property shall be returned by the property owner on blanks furnished for that purpose at the fair market value thereof. The city shall have the right to levy a tax on all real and personal property within the corporate limits of said municipality.

Sec. 15. Tax assessors.

The mayor of said city, with approval of the council, within a reasonable time after the approval of the Charter, and annually thereafter, on or before the first regular meeting of the city council in January, may in his discretion, select not more than three upright freeholders residing in said city as a board of tax assessors. The mayor shall fix the per diem compensation of said tax assessors, which shall not exceed \$15.00 per day for each tax assessor. Vacancies on said board may be filled by the mayor as they occur during the year. Before entering upon the discharge of their duties, each assessor shall be sworn to faithfully and impartially perform the duties of said office. It shall be the duty of said tax assessors to assess the value of all real estate and personal property subject to taxation by said city, at its fair market value; and, it shall be their duty to examine the tax return made to them by property owners, and to increase the evaluation of any real estate or personal property when, in their judgment, the value placed thereon in any return is too small. If any person or corporation fails or refuses to make return of any of his, her or its real estate or personal property, as hereinafter required, by the first day of April in any year, said tax assessors shall assess such property of the person, firm or corporation failing to make such return, at double the fair market value thereof. They shall make a return of their work within 30 days after the close of the books for receiving returns, unless additional time is granted by the mayor and council. When their return is made, said assessor shall appoint a time and place for the hearing of objections to their assessments, and

they shall cause notice to be given to all persons whose property valuation has been raised or doubled taxes assessed against their property five days before said hearing, stating the time and place of hearing and the increase so made by said board. Residents of said city shall be served personally or by leaving notice at their most notorious place of abode; and the mailing to a non-resident taxpayer, with postage prepaid, to his last-known address shall constitute legal notice to him.

- (a) *Appeals.* Any person dissatisfied with the assessment made on any of his property under the provisions of this Charter shall have the right of appeal from the same to the council of said city, provided said appeal be filed in writing with the clerk of said city within five days after the hearing before said assessors, setting forth distinctly the items of property whose valuation has been raised, the amount at which same has been assessed, and the fair market value as contended for by the appellant; said appeal shall be heard by said council at its next regular meeting, unless continued for cause, and its decision shall be final. The council of said city shall have power and authority, after notice and opportunity for him to be heard, to raise the valuation of any property, real or personal, of any tax assessor, if in their opinion it is returned and assessed below its fair market value.
- (b) *Collection.* The council shall also have the power to provide for the collection of taxes on property subject thereto which is not returned and not shown on the digest of the assessors, and to make such additional regulations as they deem necessary to secure the payment of taxes on all property subject thereto.

Sec. 16. Taxes due, execution, contest.

The taxes of said city shall fall due on December 20 of each year, and tax executions shall be issued against all persons who have not paid their taxes by that time. All tax executions shall be signed by the clerk, and bear teste in the name of the mayor of said city, the sheriffs, deputy sheriffs and constables of this state shall have authority to execute same by levy and sale and other means provided in chapters 92-42 and 92-44 of the Code of Georgia, sections 92-4301, etc., and 92-4401 [see now O.C.G.A. § 48-5-359 et seq.].

Sec. 17. Business licenses.

The City of Claxton created by this Charter shall have full power and authority to license, regulate, control or prohibit all businesses, including, but not limited to, theatrical exhibitions, merry-go-rounds, circuses, dance halls, skating rinks, shows and exhibitions of all kinds; dray automobiles, jitneys, trucks, taxis and public and private vehicles of all kinds; traveling vendors of patent medicines, soaps, notions and all other articles; also hotels, boarding houses, restaurants, lunch stands, drinking stands, fish stands or markets, meat markets, mercantile establishments, chain stores, laundries, billiard or pool or other kind of tables, tenpins, shooting galleries, and bowling alleys, slot machines of any games operated by "coin-in-slot"

devices for carrying on games; also, bakeries, dairies, barber shops, livery stables, sales stables; slaughter houses, tan-yards, garage or motor vehicle repair shops, blacksmith shops, gins, sawmills, planing mills; also, auctioneers, peddlers, and pawn brokers; all agents of fire, health, accident, indemnity, casualty and life insurance companies; the sale of all kinds of beverages, cigars, cigarettes and tobacco products of all kinds; also, dealers in and/or dispensers of gasoline, either at wholesale or retail, from tanks or otherwise; and, all businesses, occupations, callings, trades or avocations which under the laws of this state are subject to license. Said city shall have the power to require registration of, and to assess and collect a license tax on all such businesses, etc., and all other businesses, trades, professions, occupations or callings conducted or engaged in within the corporate limits of said city, and such occupation tax or license tax shall constitute a lien upon all the property of the taxpayer or person liable and shall take rank and be enforceable by execution in the same manner as ad valorem taxes due said city. Said city may require the registration of, and payment of license tax on, all such businesses, etc., as a prerequisite to the right to operate or engage in said business in said city, and shall have power to punish anyone conducting or engaging in such business, etc., without first registering and paying said license taxes. Said city shall have full and complete power to provide by ordinance for classification of all classes of businesses, and all other rules and regulations necessary and proper in the premises.

Sec. 18. Cash basis.

The City of Claxton shall operate strictly upon a cash basis. No employee or official of the city shall have authority to bind the city for any debts for current operating expenses to be paid at a time other than in the fiscal year. The fiscal year shall be determined by the council with the approval of the mayor.

- (a) *Bond.* The council of said City of Claxton shall have power and authority to contract debts and issue bonds of said city as the valid obligations thereof, under and in accordance with the limitations provided in the constitution and laws of said state, for the purpose of refunding valid existing debts, establishing, improving and maintaining a water supply system; establishing, improving and maintaining a sewerage system; for the paving or otherwise improving streets, sidewalks or public places; and, for any other improvements, convenience or necessity for the use of said city or the citizens thereof, or for any other lawful purposes.

Sec. 19. Condemnation.

The City of Claxton shall have full power and authority to condemn private property for any public purpose, including, but not limited to, establishing public streets, sidewalks, parks and playgrounds; for the right-of-way for any water supply, gas or sewer line or sewerage disposal plant; for sites for the building or enlarging of any public building reservoir or structure necessary for the operation and conduct of the fire department, water plant, gas works or

system, sewerage system, including lines and disposal plants, or any other department of said city; and for any other public use whatsoever, whenever same is necessary in their opinion. Whenever the city shall desire to exercise the power and authority to condemn property as granted and conferred herein, said power and authority shall be exercised, whether the land sought to be condemned is in the hands of the owner or trustees, executor, administrator, guardian or agent; and all proceedings for condemnation shall be in the manner provided by the general laws of the State of Georgia for condemnation of private property by towns and cities as contained in Georgia Code, 1933, section 36-301 et seq. [See now O.C.G.A. § 22-1-1 et seq.]

Sec. 20. Streets.

(a) The City of Claxton, created by this Charter, shall have full power and authority in their discretion to grade, pave, macadamize and otherwise improve for travel and drainage the streets, sidewalks and public lanes and alleys of said city; and shall have full power and authority to open, lay out, to widen and to straighten public streets, lanes, alleys and sidewalks; to put down curbing, cross drains, crossings, intersections and otherwise improve the same. In order to carry into effect the authority above delegated, the Act of the General Assembly of Georgia, approved August 25, 1927 (Ga. L. 1927, pp. 321-335), (Chapter 69-4 of the Code of Georgia, as amended [now O.C.G.A. § 36-39-1 et seq.], with the exception of Code Section 69-402 [now O.C.G.A. § 36-39-2]), providing a method for making improvements in municipalities having a population of 600 or more population, is hereby adopted and made a part of this Charter, is hereby made the governing body referred to and authorized to act under the terms of said Charter hereby adopted and made a part hereof.

(b) In the cases where street paving or repairing is contemplated on any street in said city, in which water mains, sewers, pipes or electric wiring conduits are laid, or are to be laid, said city shall have the power to extend such mains, sewers, pipes, etc., from the main line to the property line, to thereafter avoid the necessity of tearing up or damaging said paving, to make house collections, and to assess and collect the cost of making such property line extensions against the property to which said connections are made, and in the same manner as assessments for street paving are made and collected.

(Ord. of 1965; 1966 Ga. Laws (Act No. 436), page 3454)

Sec. 21. Authority to furnish.

Said City of Claxton shall have full power and authority to furnish water, gas, and heat service for the public use of said city, and for private use and charge therefor; to own, construct, enlarge, operate and maintain a system of waterworks and sewerage, and/or heat, and to maintain the supplying of said public utility service.

Sec. 22. Payment and collection of charges.

Said City of Claxton shall have full power and authority to regulate and enforce the collection of and insure payment of, charges for supplying of water, gas, heat, sewer service by the following methods:

- (a) By making said charges for water, gas, heat and sewer service, a charge upon the property of real estate served and in case prompt payment is not made for any such service, it may be provided that the water, gas, heat or sewer service shall be shut off from the building, place or premises, and shall not be compelled to again supply said building, place or premises, until said arrears, with interest and other charges thereon, is fully paid; and further it may be provided for the issuance of an execution for the unpaid charges for water, gas, heat, or sewer service against the real estate served and the owner thereof, which shall be a lien on said real estate, and enforceable in the same manner as ad valorem taxes are enforced.
- (b) The provisions of this section shall be applicable to charges for any public utility service provided or furnished by said city, including water, gas, heat and sewer service.

Sec. 23. Zoning.

(a) The City of Claxton may, in the interest of public health, safety, order, convenience, comfort, prosperity or general welfare, adopt by ordinance a plan or plans for the districting or zoning of the city for the purpose of regulating the location of trades, industries, apartment houses, dwellings, or other uses of property; and for the purpose of regulating the height of the buildings, fences, or other structures, or the area or dimensions of lots or of the wards used in connection with buildings or other structures, or for the purpose of regulating the alignment of buildings or other structures near street frontages. The zoning regulations may be based upon one or more of the purposes above described. The city may be divided into such number of zones or districts, and such districts may be of such shape and area as the mayor and council shall deem best suited to accomplish the purpose of the zoning regulations. In the determination and establishment of districts and regulations, classification may be based on the nature or character of the trade, industry, or other activity conducted, or to be conducted, upon the premises; the number of persons, families, or other group units to reside in or use buildings; the public, quasi-public, or private nature of the use of premises; or, upon any other basis or bases relevant to the promotion of the public health, safety, order, morals, conveniences, prosperity or welfare. Said mayor and council may provide by ordinance for a zoning commission to be composed of not more than three members to be elected by said mayor and council for terms of three years, provided, however, that said terms shall be staggered and the members of said commission shall be initially appointed for terms of three years, two years and one year, respectively and thereafter, upon the expiration of their respective terms for terms of three years and to prescribe their powers and salaries and duties; and are authorized to provide the method of appeal from finding of said zoning commission; and to provide for a board of

zoning appeals, to be elected by said mayor and council, to hear such appeals, and to provide their powers and duties; and to provide for the right of certiorari from said board of zoning appeals to the superior court of Evans County.

(b) In lieu of the above power of planning and zoning the City of Claxton is authorized to adopt any Act of the General Assembly conferring planning and zoning powers, upon municipalities and counties.

Sec. 24. Additional powers.

In addition to the powers and authority vested in said City of Claxton, created by the general laws of this state, and to those heretofore and herein granted by this Charter, the said mayor and council are hereby authorized and empowered to adopt such ordinances and regulations as they may deem proper, not in conflict with the Constitution and laws of the United States or of this state.

- (a) To protect and advance the morals of said city; to secure peace, good order and quiet in said city; and to protect the health and welfare of said city; to prevent the spread of and to suppress infectious, contagious or dangerous diseases in said city.
- (b) To create and elect a board of health in said city and to prescribe its powers and duties and to maintain said board; to provide for the quarantine in and treatment of contagious, infectious or dangerous diseases, either in or outside of said city, and to cooperate in the management and control of any public hospital or clinic for treatment generally of diseases and accidents; and to contribute money to the same.
- (c) To own and regulate cemeteries and parks, either within or without said city; to establish, control and govern a municipal market in the said city; to own or contribute to the support and maintenance of swimming pools, golf links, parks and playgrounds, either within or without the corporate limits of said city.
- (d) To regulate and prohibit the keeping of explosives and other dangerous substances in the fire limits and at other places in said city; to regulate or prohibit sale and shooting of fireworks and other explosives in said city; and to regulate the erection and maintenance of steam boilers in said city.
- (e) To regulate the character of buildings to be erected in said city and to adopt and enforce building requirements and/or permits, and to condemn buildings which are or may become dangerous to life or health, and require the removal or repair of same and to regulate plumbing and electric wiring in structures in said city.
- (f) To prevent or condemn encroachment or obstructions in, upon or over any sidewalk, street or alley, and to require removal of such.

- (g) To grant franchises, easements and rights-of-way, in, under or along the public streets, sidewalks, alleys, parks, or other property of said city, on such terms and conditions as may be prescribed; and to regulate all public services or utility corporations doing business in said city in any manner not in conflict with state or federal law.
- (h) To establish, equip and maintain a fire department.
- (i) To define and prohibit nuisances within the corporate limits of said city, and to prescribe the mode of trial for all nuisance cases, and to abate the same.
- (j) To provide, equip and maintain a prison and chain gang, and to regulate the same; and to provide for the working of convicts on the streets of said city or any public works of said city, both within and without the corporate limits.
- (k) To prescribe and regulate the use of its streets and to classify said streets, and regulate the use thereof according to such classifications; to prohibit the sale or barter of any merchandise or thing from any stand, vehicle, or conveyance on the public streets, sidewalks or ways of said city; to limit and regulate the speed of all animals, trains, engines (diesel or steam), vehicles, or motor vehicles on said streets and the operation thereof; to prescribe and regulate the fees of drays, hacks, taxis, jitneys, and transfer companies operating in said city and to regulate the operation thereof.
- (l) To suppress and prohibit houses where illegal, immoral or disorderly practices are had.
- (m) To lay out and open new streets and alleys in said city and to change the grades thereof.
- (n) To provide a uniform scale of costs of the clerk and police officers of said city for all service in the arrest and prosecution of offenders in the municipal court and in the issuance and collection of tax and other executions, and for their collections and payment into the city treasury.
- (o) To require connection with water and/or sewerage by property owners whose property abut on streets having water and/or sewer mains therein.
- (p) The mayor and council shall have no right or power to grant license to sell by retail or otherwise any spirituous vinous, malt or other intoxicating liquor in said city.

Sec. 25. [Repealer.]

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

CHARTER COMPARATIVE TABLE

GEORGIA LAWS

This table shows the location of amendments to the Charter. The Charter is derived from 1961 Ga. Laws (Act No. 463), page 3312, as amended.

Ga. Laws Year	Act No.	Page	Section	Section this Charter
		4806	—	8
1966	436	3454	—	20
1968	1144	3475	1	7
			2	8
1971	154	2327	1	8
1982	1046	4242	1	5
			2	5
			3	5
			4	9

CHARTER COMPARATIVE TABLE

LEGISLATION

This table gives the location within the Charter of those ordinances which are included herein.

Ordinance Number	Date	Section	Section this Charter
Ord. of 1965	1965	—	20
Ord. of 7-2-1999	7-2-1999	—	8

PART II

CODE OF ORDINANCES

Chapter 1

GENERAL PROVISIONS

- Sec. 1-1. Designation and citation of Code.
- Sec. 1-2. Definitions and rules of construction.
- Sec. 1-3. Catchlines of sections; effect of notes; references in Code.
- Sec. 1-4. Effect of repeal of ordinances.
- Sec. 1-5. Amendments to Code; effect of new ordinances; amendatory language.
- Sec. 1-6. Supplementation of Code.
- Sec. 1-7. Severability of parts of Code.
- Sec. 1-8. Penalties for violation of Code.
- Sec. 1-9. Prior offenses, penalties, contracts or rights not affected by adoption of Code.
- Sec. 1-10. Provisions considered as continuation of existing ordinances.
- Sec. 1-11. Certain ordinances not affected by Code.

Sec. 1-1. Designation and citation of Code.

The ordinances embraced in the following chapters, articles and sections shall constitute and be designated "The Code of the City of Claxton, Georgia," and may be so cited.

(Code 1982, § 1-1)

State law reference—Duty to codify ordinances, 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 contains any express provisions excluding such construction or where the subject matter or context of the section may be repugnant thereto.

Generally.

- (1) The ordinary meaning shall be applied to all words, except words of art or words connected with a particular trade or profession or subject matter when they shall have the meaning attached to them by experts in such trade or profession or with reference to such subject matter.
- (2) In all interpretations, the courts shall look diligently for the intention of the city council, keeping in view, at all times, the old law, the evil, and the remedy. Grammatical errors shall not vitiate, and a transposition of words and clauses may be resorted to when the sentence or clause is without meaning as it stands.
- (3) 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.
- (4) Where any provision of this Code imposes greater restrictions on the subject matter than the other provisions of this Code, the provisions imposing the greater restriction or regulation shall be deemed to be controlling. The specific controls over the general.

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

Charter. The term "Charter" means the city Charter, as amended.

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

City council, council, governing body. The terms "council," "city council" and "governing body" mean the city council of the City of Claxton, Georgia.

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

Computation of time. Whenever a notice is required to be given or an act to be done, a certain length of time before any proceeding shall be had, the day on which such notice is given, or such act is done, shall not be counted in computing the time, but the day on which such proceeding is to be had shall be counted. If the last day falls on Saturday or Sunday, the party having such privilege or duty shall have through the following Monday to exercise such privilege or to discharge the duty. When the last day prescribed for such action shall fall on a public or legal holiday as set forth in state law, the party having such privilege or duty shall have through the following business day to exercise such privilege or to discharge the duty. When the period of time prescribed is less than seven days, an intermediate Saturday, Sunday, and legal holiday shall be excluded in the computation.

Conjunctions. Where a provision involves two or more items, conditions, provisions, or events connected by any of the conjunctions "and," "or," "either ... or," or "neither ... nor," the conjunction shall be interpreted as follows, provided in appropriate cases the terms "and" and "or" are interchangeable:

- (1) The term "and" indicates that all the connected items, conditions, provisions or events shall apply.
- (2) The term "or" indicates that the connected items, conditions, provisions, or events may apply singly or in any combination.
- (3) The terms "either ... or" and "neither ... nor" indicate that the connected items, conditions, provisions, or events shall apply singly, but not in combination.

County. The term "county" means Evans County, Georgia.

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

Following. The term "following" means next after.

Gender. A word importing one gender shall extend and be applied to the other genders.

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

Keeper and proprietor. The terms "keeper" and "proprietor" mean and include persons, as the term "person" is defined herein, whether acting by themselves or through an agent or employee.

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

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

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

Number. Words used in the singular include the plural, and words in the plural include the singular number.

Oath. The term "oath" includes an affirmation in all cases in which by law an affirmation may be substituted for an oath, and in such cases the terms "swear" and "sworn" shall be equivalent to the terms "affirm" and "affirmed."

O.C.G.A., state acts. The abbreviation "O.C.G.A." refers to the Official Code of Georgia Annotated, as amended. References to state acts are to state acts, as amended.

Officials, officers, etc. References to officials, employees, boards, commissions, or other agencies by title only shall be construed as referring to the city officials, city employees, city boards, city commissions, or other city agencies.

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

Person. The term "person" includes individuals and any association, club, society, firm, corporation, limited liability company, partnership, body politic and corporate, or any combination thereof.

Personal property. The term "personal property" includes every species of property except real property, as defined in this section.

Preceding. The term "preceding" means next before.

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

Public place. The term "public place" means any park, cemetery, shopping center, schoolyard, or open space adjacent thereto, or any area available and accessible to the public, regardless of whether privately or publicly owned, and any place that the public is invited or permitted to go or to congregate.

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

Shall. The term "shall" is mandatory.

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

Signature and subscription. The terms "signature" and "subscription" include a mark when the person cannot write.

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

Street or road. The term "street" or "road" means and includes any public way, road, highway, street, avenue, boulevard, parkway, court, circle, way, alley, lane, viaduct, bridge, and the approaches thereto and any area owned or dedicated as public rights-of-way within the city.

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, such building or land, either alone or with others.

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

Week. The term "week" means seven calendar days, unless otherwise specified.

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

Written and in writing. The terms "written" and "in writing" shall be construed to include any representation of words, letters, numbers, or figures, whether by printing, electronically or otherwise.

Year. The term "year" means a calendar year.
(Code 1982, § 1-2)

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

(a) The catchlines of the several sections of this Code are intended as mere catchwords to indicate the contents of the section and shall not be deemed or taken to be titles of such sections, nor as any part of the section, 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 intended merely to indicate the source of matter contained in the section. Editor's notes, Charter references and state law references and other references that 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 1982, § 1-3)

Sec. 1-4. Effect of repeal of ordinances.

(a) The repeal of an ordinance shall not revive any ordinances in force before or at the time the ordinance repealed took effect.

(b) The repeal of an ordinance shall not affect any punishment or penalty incurred before the repeal took effect, nor any suit, prosecution, or proceedings pending at the time of the repeal, for an offense committed under the ordinance repealed.
(Code 1982, § 1-4)

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

(a) All ordinances passed subsequent to the passage of the ordinances originally included herein, which amend, repeal or in any way affect this Code, may be numbered in accordance with the numbering system of this Code and added hereto. In the case of repealed chapters, sections and subsections, or any part thereof, by subsequent ordinances, such repealed portions may be excluded from this Code by omission from reprinted pages affected thereby.

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

(c) In the event a new section not theretofore existing in this Code is to be added, the following language may be used: "The Code of the City of Claxton, Georgia, is hereby amended by adding a section (or article or chapter) to be numbered ____, which said section (or article or chapter) reads as follows:...." The new section (or article or chapter) 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.
(Code 1982, § 1-6)

Sec. 1-6. Supplementation of Code.

(a) By contract or by city personnel, supplements to this Code shall be prepared and printed whenever authorized or directed by the council. A supplement to this Code shall include all substantive, permanent and general parts of ordinances passed by the council or adopted by initiative and referendum during the period covered by the supplement and all changes made thereby in this Code. The pages of a supplement shall be so numbered that they will fit properly into this Code and will, where necessary, replace pages that have become obsolete or partially obsolete. The new pages shall be so prepared that, when they have been inserted, this Code will be current through the date of the adoption of the latest ordinance included in the supplement. Charter amendments may be included in like manner.

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

(c) When preparing a supplement to this Code, the codifier (meaning the person, agency or organization 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 codifier may:

- (1) Organize the ordinance material into appropriate subdivisions;

- (2) Provide appropriate catchlines, headings and titles for sections and other subdivisions of this 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 this Code and, where necessary to accommodate new material, change existing section or other subdivision numbers;
- (4) Change the words "this ordinance" or words of the same meaning to "this chapter," "this article," "this division," etc., as the case may be, or to "sections ____ through ____" (inserting section numbers to indicate the sections of this Code which embody the substantive sections of the ordinance incorporated into this Code); and
- (5) Make other nonsubstantive changes necessary to preserve the original meaning of ordinance sections inserted into this Code; but in no case shall the codifier make any change in the meaning or effect of ordinance material included in the supplement or already embodied in this Code.

Sec. 1-7. Severability of parts of Code.

It is declared to be the intention of the city council that 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 by the valid judgment or decree of any court of competent jurisdiction, such unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs, and sections of this Code. If any phrase, clause, sentence, paragraph or section of this Code shall be declared inapplicable in any situation by the valid judgment or decree of any court of competent jurisdiction, such judgment or decree shall not affect the applicability of such phrase, clause, sentence, paragraph, and section to other situations.

(Code 1982, § 1-5)

Sec. 1-8. Penalties for violation of Code.

- (a) In this section, the term "violation of this Code" means:
 - (1) Doing an act that is prohibited or made or declared to be unlawful, a misdemeanor, an offense, or a violation 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 an offense, a misdemeanor or a violation by ordinance or by rule or regulation authorized by ordinance.

(b) 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 of this Code that it is the intent of the city to impose the penalty provided for in this section upon the city officer or city employee.

(c) Except as otherwise provided, a person convicted of a violation of this Code shall be punished by a fine not exceeding \$1,000.00, imprisonment for a term not exceeding six months, labor on the roads and streets or other public works of the city for not more than six months, or any combination thereof.

(d) Except as otherwise provided:

(1) With respect to violations that are continuous with respect to time, each day that the violation continues is a separate offense.

(2) As to other violations, each act is a separate offense.

(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.

(f) The imposition of a penalty does not prohibit equitable relief.

(g) The imposition of a penalty shall not prevent the forceable removal or abatement of unlawful conditions and the imposition of a lien on the subject property for the cost thereof. The imposition of a penalty does not prohibit revocation or suspension of a license, permit, or franchise or the imposition of other administrative sanctions.

(Code 1982, § 1-8)

State law reference—Penalty for ordinance violations, O.C.G.A. § 36-35-6(a)(2).

Sec. 1-9. Prior offenses, penalties, contracts or rights not affected by adoption of Code.

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

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

Sec. 1-10. Provisions considered as continuation of existing ordinances.

The provisions appearing in this Code, so far as they are substantially the same as ordinances existing at the time of the effective date of this Code, shall be considered continuations thereof and not as new enactments.

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

Nothing in this Code or the ordinance adopting this Code shall be construed to repeal or otherwise affect the validity of any of the following:

- (1) Any ordinance amending the Charter;
- (2) Any ordinance annexing or deannexing property or describing the corporate limits;
- (3) Any ordinance promising or guaranteeing the payment of money for the city, or authorizing the issuance of any bonds for the city or any evidence of the city's indebtedness, or any contract or obligation assumed by the city;
- (4) Any ordinance consistent with this Code fixing salaries of, or providing policies and programs for, or providing retirement, disability or death benefits for officials, officers or employees of the city or providing personnel policies;
- (5) Any budget ordinance or appropriation ordinance and any ordinance levying any tax not codified in this Code;
- (6) Any right or franchise granted by any ordinance or resolution;
- (7) Any ordinance dedicating, naming, establishing, locating, relocating, opening, closing, paving, widening or vacating any street or public way in the city;
- (8) Any ordinance establishing and prescribing the street grades of any street in the city;
- (9) Any ordinance providing for local improvements or assessing taxes therefor;
- (10) Any ordinance dedicating or accepting any plat or subdivision in the city;
- (11) Any ordinance approving, accepting or vacating any subdivision plat;
- (12) Any ordinance not codified herein prescribing traffic regulations for specific locations;
- (13) Any ordinance rezoning property or otherwise pertaining to zoning;
- (14) Any ordinance adopted for purposes that have been consummated;
- (15) Any ordinance that is temporary, although general in effect, or special, although permanent in effect.

All such ordinances or resolutions are hereby recognized as continuing in full force and effect to the same extent as if set out at length in this Code.

Chapter 2

ADMINISTRATION

Article I. In General

Sec. 2-1. Criminal history check.
Secs. 2-2—2-20. Reserved.

Article II. City Council

Sec. 2-21. Rules of council.
Secs. 2-22—2-45. Reserved.

Article III. Officers and Employees

Sec. 2-46. Personnel rules and benefits.
Secs. 2-47—2-65. Reserved.

Article IV. Finance

Sec. 2-66. Purchasing policy.

ARTICLE I. IN GENERAL**Sec. 2-1. Criminal history check.**

An employer requesting criminal history to be run on pre-employment persons, which consist of the authorization forms to be signed by the person being checked, shall pay to the city the fee established by the city.

(Code 1982, § 16-39; Mo. of 6-19-1995)

Secs. 2-2—2-20. Reserved.**ARTICLE II. CITY COUNCIL****Sec. 2-21. Rules of council.**

The following rules shall govern meetings of the council:

- (1) As provided by Charter section 5(d), the mayor shall preside at all meetings except that, in his absence or when disqualified, the mayor pro tem shall preside, at which times the mayor pro tem shall have and exercise all the rights and powers of the mayor. In case of absence of both the mayor and mayor pro tem, four members of the council being present may select one from their body to preside over them.
- (2) Three members of council being present with the mayor or mayor pro tem shall constitute a quorum; in the absence of both, it shall take four councilmembers for a quorum. All business transacted shall be legal, except that at a called meeting, no business shall be transacted except that which is stated in the call.
- (3) As provided by Charter section 5(d), a called meeting may be had at any time on a petition of a majority of the council, or the mayor may at any time call a meeting, but must give each member of council due notice if within the city. All called meetings are subject to the provisions of subsection (2) of this section.
- (4) All resolutions shall be made in writing, met with a second, and be balloted upon, and be recorded in the minutes of the meeting by the city clerk.
- (5) All ordinances shall be introduced and enacted as provided in the Charter.

(Code 1982, § 2-20; Mo. of 1-17-1927)

Secs. 2-22—2-45. Reserved.

ARTICLE III. OFFICERS AND EMPLOYEES

Sec. 2-46. Personnel rules and benefits.

Personnel rules and benefits for city officers and employees shall be as established by the city.

Secs. 2-47—2-65. Reserved.

ARTICLE IV. FINANCE

Sec. 2-66. Purchasing policy.

The city's purchasing policy shall be as established by the city.

Chapter 3

RESERVED

Chapter 4

ALCOHOLIC BEVERAGES*

Article I. In General

- Sec. 4-1. Definitions.
- Sec. 4-2. Consumption upon public ways or public property.
- Sec. 4-3. Sanitary conditions.
- Sec. 4-4. Business restricted.
- Secs. 4-5—4-26. Reserved.

Article II. Malt Beverages and Wine

Division 1. Generally

- Sec. 4-27. Sale of wine and malt beverages during certain hours and on certain days prohibited.
- Sec. 4-28. Separation of stock and locking of the same when sale prohibited.
- Sec. 4-29. Location restrictions.
- Sec. 4-30. Display.
- Secs. 4-31—4-48. Reserved.

Division 2. Off-Premises Consumption Licenses

- Sec. 4-49. Required.
- Sec. 4-50. Separate place of business.
- Sec. 4-51. Separate license per class.
- Sec. 4-52. One license per place of business.
- Sec. 4-53. Applicant information.
- Sec. 4-54. Application granted by council.
- Sec. 4-55. Restrictions of licenses.
- Sec. 4-56. Consideration by council.
- Sec. 4-57. Fees.
- Sec. 4-58. Term.
- Sec. 4-59. Suspension.
- Sec. 4-60. Revocation; grounds.
- Sec. 4-61. False information.
- Sec. 4-62. Same procedure.
- Secs. 4-63—4-84. Reserved.

Division 3. On-Premises Consumption

- Sec. 4-85. Definition.

***State law references**—Alcoholic beverages, title 3; local powers relative to alcohol, O.C.G.A. § 3-3-2 et seq.

CLAXTON CODE

- Sec. 4-86. License prerequisites.
- Sec. 4-87. License fee.
- Sec. 4-88. House of sale.
- Secs. 4-89—4-119. Reserved.

Division 4. Malt Beverages Excise Tax

- Sec. 4-120. Levied.
- Sec. 4-121. Report of sales and payment of tax; delinquency; false or fraudulent reports.
- Sec. 4-122. Tax additional to other fees, taxes or charges.
- Secs. 4-123—4-142. Reserved.

Division 5. Wine Excise Tax

- Sec. 4-143. Levied; rate.
- Sec. 4-144. Collection and remittance by wholesaler.
- Sec. 4-145. Compensation of wholesaler for collection.
- Sec. 4-146. Sale, delivery, etc., of wine on which tax is not paid.
- Secs. 4-147—4-175. Reserved.

Article III. Distilled Spirits for Off-Premises Consumption

Division 1. Generally

- Sec. 4-176. Definitions.
- Sec. 4-177. Violations; penalties.
- Sec. 4-178. Purpose.
- Sec. 4-179. Hours of sales.
- Sec. 4-180. Intoxicated persons; gambling; disorderly conduct.
- Sec. 4-181. Breaking package or drinking on premises.
- Sec. 4-182. Removal of open containers.
- Sec. 4-183. Restriction on size of packaging/containers.
- Secs. 4-184—4-204. Reserved.

Division 2. License

- Sec. 4-205. Required; classifications, etc.
- Sec. 4-206. Procedure for issuance.
- Sec. 4-207. Qualifications.
- Sec. 4-208. Application procedures.
- Sec. 4-209. Renewal.
- Sec. 4-210. Transfer.
- Sec. 4-211. Change in business ownership.
- Sec. 4-212. Temporary license.
- Sec. 4-213. Suspension/revocation.
- Sec. 4-214. Automatic revocation.
- Sec. 4-215. Responsibility of named licensee.
- Sec. 4-216. Display of license.

ALCOHOLIC BEVERAGES

- Sec. 4-217. Retention of records.
- Sec. 4-218. Knowledge of chapter provisions.

ARTICLE I. IN GENERAL**Sec. 4-1. 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:

License means the authorization by the city council to engage in the sale of alcoholic beverages.

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 14 percent alcohol by volume and including ale, porter, brown, stout, lager beer, small beer, and strong beer. The term "malt beverage" does not include sake, known as Japanese rice wine.

Premises or *business premises* means the physical location of said business, including the building and parking areas provided by said business for its customers.

Retail dealer or distributor means any person selling to the general public alcoholic beverages not to be consumed on the premises and not for resale.

Wholesale dealer and distributor means any person engaged in distributing or selling to licensees for the resale of alcoholic beverages.

Wine means any alcoholic beverage containing not more than 24 percent alcohol by volume made from fruits, berries, or grapes, either by natural fermentation or by natural fermentation with brandy added. The term "wine" includes, but is not limited to, all sparkling wines, champagnes, combinations of such beverages, vermouths, special natural wines, rectified wines, and like products. The term "wine" does not include cooking wine mixed with salt or other ingredients so as to render it unfit for human consumption as a beverage.

(Code 1982, § 4-1)

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

Sec. 4-2. Consumption upon public ways or public property.

It shall be unlawful for any person to drink any alcoholic beverages in or upon any public way or public property, or in or upon any public place.

(Code 1982, § 4-4)

Sec. 4-3. Sanitary conditions.

All premises for the sale of alcoholic beverages, or for the storage of alcoholic beverages, or for the storage of alcoholic beverages for sale, shall be kept in full compliance with the ordinances regulating the condition of premises used for the storage or sale of food for human consumption.

(Code 1982, § 4-7)

Sec. 4-4. Business restricted.

No licensee shall sell or deliver any alcoholic beverage to any person except in said licensee's place of business.

(Code 1982, § 4-9)

Secs. 4-5—4-26. Reserved.

ARTICLE II. MALT BEVERAGES AND WINE*

DIVISION 1. GENERALLY

Sec. 4-27. Sale of wine and malt beverages during certain hours and on certain days prohibited.

(a) No wine or malt beverages shall be sold or offered for sale in the city between the hours of 12:00 midnight on Saturday and 5:00 a.m. on the following Monday, nor between the hours of 1:00 a.m. and 5:00 a.m. on the other days of the week.

(b) No wine or malt beverages shall be sold or offered for sale in the city on Christmas Day or any other day on which the sale of the same shall be prohibited by order of the city council.

(Code 1982, § 4-5)

Sec. 4-28. Separation of stock and locking of the same when sale prohibited.

All holders of a license for the sale of wine and malt beverages shall separate the stock of said beverages from nonalcoholic merchandise, so that such stock may be closed off at all times when its sale is prohibited, and the same shall be closed off at such time.

(Code 1982, § 4-6)

Sec. 4-29. Location restrictions.

No license to sell wine or malt beverages shall be granted for a location at which the sale of alcohol is prohibited by O.C.G.A. § 3-3-21.

(Code 1982, § 4-8)

Sec. 4-30. Display.

(a) Licenses issued under this chapter shall be displayed prominently in public view at all times on the premises for which the same was issued.

***State law references**—Malt beverages, O.C.G.A. § 3-5-1 et seq.; wine, O.C.G.A. § 3-6-1 et seq.

(b) All persons holding a license issued pursuant to this chapter shall display the license prominently at all times on the premises for which the license is issued.
(Code 1982, §§ 4-19, 4-29)

Secs. 4-31—4-48. Reserved.

DIVISION 2. OFF-PREMISES CONSUMPTION LICENSES*

Sec. 4-49. Required.

It shall be unlawful to operate a place of business as a retail dealer in alcoholic beverages within the corporate limits of the city without first obtaining a license as required by this chapter and paying the fee required by the current business license ordinance.
(Code 1982, § 4-26)

Sec. 4-50. Separate place of business.

A separate malt beverage and wine license shall be required for each separate business premises.
(Code 1982, § 4-16)

Sec. 4-51. Separate license per class.

A separate malt beverage and wine license is required for each class of business as listed below:

(1) Class I—retail.
(Code 1982, § 4-17)

Sec. 4-52. One license per place of business.

Only one malt beverage and wine license at a time shall be issued to each separate business premises.
(Code 1982, § 4-18)

Sec. 4-53. Applicant information.

An application filed pursuant to the provisions of this division shall contain the following:

(1) The name and address of the applicant in the case of an individual; in the case of a co-partnership, the person entitled to share in the profits thereof; in the case of a

***State law references**—Local license requirements for malt beverages, O.C.G.A. § 3-50-40 et seq.; local license requirements for wine, O.C.G.A. § 3-4-60.

corporation, the names and addresses of the officers and directors, and if 25 percent or more interest of the stock in such corporation is owned by one person or his nominee, the names and addresses of such persons.

- (2) The type of business of the applicant, and in the case of a corporation, the objects for which it was formed.
- (3) The length of time the said applicant has been in business of that type, or in the case of a corporation, the date when its Charter was issued.
- (4) The location and description of the premises or place of business which is to be operated under such license.
- (5) A statement whether the applicant has made application for a similar or other license on premises other than described in this application and disposition of such application.
- (6) A statement that the applicant has never been convicted of a felony and is not disqualified to receive a license by reason of any matter or thing contained in this article, laws of the state, or the ordinances of this city.
- (7) Whether a previous license by any state or subdivision thereof, or by the federal government has been revoked, and the reasons thereof.
- (8) A statement that the applicant will not violate any of the laws of the state or of the United States, or any ordinance of the city in the conduct of its place of business.

(Code 1982, § 4-31)

Sec. 4-54. Application granted by council.

(a) No new license shall be granted, except by direct action of the city council and upon written application therefor in the form and manner prescribed by the council, which form shall be made available by the city clerk to the general public.

(b) A renewal license shall be granted, without prior approval of the city council, and the city clerk shall be authorized to issue said renewal license, after review of said application, unless the city council, on its own initiative and within five days of submission of said renewal application, determines that a review of the renewal license by the city council is necessary to protect the public health, safety, welfare and morals of the city.

(Code 1982, § 4-27; Ord. of 11-2-1998)

Sec. 4-55. Restrictions of licenses.

No license shall be issued to:

- (1) A person who is an illegal alien.

- (2) A person who has been convicted of a felony, provided that the city council may, at its discretion, issue a license to persons with felony convictions more than five years before the application for license is made.
 - (3) A person whose license under this chapter has been revoked for cause.
 - (4) A co-partnership, unless all the members of such co-partnership shall be qualified to obtain a license.
 - (5) A person whose place of business is conducted by a manager or agent unless the said manager or agent possesses the same qualifications required of an individual licensee.
 - (6) A person who has been convicted of a violation of any federal law, state law or city ordinance, concerning the manufacture or sale of alcoholic beverages or who shall have forfeited his bond to appear in court to answer charges for any such violation.
 - (7) A person who does not own the premises for which a license is sought or does not have a lease thereon for the full period for which the license is issued.
- (Code 1982, § 4-32)

Sec. 4-56. Consideration by council.

The city council, in their discretion, may consider any extenuating circumstances which may reflect favorably or unfavorably upon the applicant for a license required by this chapter, application, or the proposed location of the business. If, in their judgement, 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.

(Code 1982, § 4-34)

Sec. 4-57. Fees.

The annual fee for a license required by this chapter shall be as established by the city.

(Code 1982, § 4-30)

Sec. 4-58. Term.

(a) Each license issued under the provisions of the chapter shall be purchased on or before January 1 of each year.

(b) A license granted under this chapter shall be valid only for the calendar year indicated thereon.

(c) A license shall be a purely personal privilege and shall not constitute property. No license issued under the provisions of this chapter shall be automatically transferred to another individual, co-partnership or corporation. A license applicant who desires to continue the business of a prior licensee shall be considered a new applicant and shall be required to comply with all provisions of this chapter currently in effect.

(Code 1982, § 4-28)

Sec. 4-59. Suspension.

The city council shall have the right, upon the recommendation of the chief of police, to suspend any alcoholic beverage license pending the hearing provided for hereinbelow where, in the judgement of the council, such action is necessary to protect the public health, safety, welfare, and morals.

(Code 1982, § 4-20)

Sec. 4-60. Revocation; grounds.

Any person violating the rules and regulations set out in this chapter shall be subject to the revocation of his license and punishment as prescribed by the city council. In addition to the rules and regulations hereinabove set out, each licensee doing business in the city under this chapter shall comply with all laws of the state, federal laws, and rules and regulations of the state revenue commissioner, relating to the sale and distribution of alcoholic beverages in the state, and any violation of the same shall subject said licensee to immediate suspension or revocation of his license and also subject said licensee to criminal prosecution by the proper authority as provided by law and the ordinances of the city.

(Code 1982, § 4-21)

Sec. 4-61. False information.

The making of any statement on an application for license to sell alcoholic beverages which shall be later found to be false shall constitute grounds for revocation of said license.

(Code 1982, § 4-33)

Sec. 4-62. Same procedure.

No license which has been issued by the city under this chapter shall be revoked or suspended except for due cause. Upon information provided to the council concerning any licensee violating any of the provisions outlined in this chapter, the licensee shall be given notice in writing to show cause before the council at a time and place specified therein not less than three days nor more than 14 days from the service of the notice why said license should not be revoked, stating the grounds therefor. At the appointed time and place, the licensee shall have an opportunity to show cause why said license should not be revoked, after which the council shall take such action as it, in its judgement, shall deem warranted under the facts.

(Code 1982, § 4-22)

Secs. 4-63—4-84. Reserved.

DIVISION 3. ON-PREMISES CONSUMPTION*

Sec. 4-85. Definition.

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

On-premises consumption refers to the sale for consumption of malt beverage and/or wine in the building housing the point of sale.

(Ord. of 7-18-2016, § I)

Sec. 4-86. License prerequisites.

The business establishment for which a license can be issued for the sale and service of malt beverage and/or wine for on-premises consumption shall be a business engaged in the food service business, with full meals offered, and with food sales being at least 50 percent of its income.

(Ord. of 7-18-2016, § II)

Sec. 4-87. License fee.

The annual license fee for an on-premises consumption license shall be as established by the city, due and payable on December 15 of the preceding year, with a 20 percent late fee if not sooner paid. The annual license fee shall be prorated for 2016, and for any new business applicant in subsequent years.

(Ord. of 7-18-2016, § III)

Sec. 4-88. House of sale.

The holder of an on-premises consumption license shall be authorized to sell and serve malt beverage and/or wine from 11:00 a.m. until 12:00 midnight on Monday through Saturday, and as provided by state law.

(Ord. of 7-18-2016, § IV)

Secs. 4-89—4-119. Reserved.

***State law references**—Local license requirements for malt beverages, O.C.G.A. § 3-50-40 et seq.; local license requirements for wine, O.C.G.A. § 3-4-60.

DIVISION 4. MALT BEVERAGES EXCISE TAX*

Sec. 4-120. Levied.

There is hereby levied and imposed upon each wholesale dealer selling malt beverages within the city an excise tax in the amount specified in O.C.G.A. § 3-5-80.
(Code 1982, § 4-35)

Sec. 4-121. Report of sales and payment of tax; delinquency; false or fraudulent reports.

(a) The failure to make a timely report and remittance pursuant to O.C.G.A. § 3-5-81 and other applicable law shall render a wholesale dealer liable for a penalty equal to 20 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 of any portion thereof during which such report and remittance are not made.

(b) The filing of a false or fraudulent report under this provision shall render the wholesale dealer 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.
(Code 1982, § 4-37)

Sec. 4-122. Tax additional to other fees, taxes or charges.

The excise tax imposed by this division shall be in addition to any license fee, tax or charge which may now or in the future be imposed upon the business of selling malt beverages at retail or wholesale within the corporate limits of the city.
(Code 1982, § 4-39)

Secs. 4-123—4-142. Reserved.

DIVISION 5. WINE EXCISE TAX†

Sec. 4-143. Levied; rate.

There is hereby levied an excise tax, computed at the rate of \$0.22 per liter, on all wines sold, displayed or stored in the city. Such tax shall be prorated on fractional liter sizes, so that each bottle or individual size container shall be taxed on the basis of \$0.22 per liter.
(Code 1982, § 4-40)

***State law reference**—Malt beverage excise tax, O.C.G.A. § 3-5-80 et seq.

†**State law reference**—Wine excise tax, O.C.G.A. § 3-6-60.

Sec. 4-144. Collection and remittance by wholesaler.

Each wholesale wine dealer selling, shipping or in any way delivering wine to any wine dealer in the city shall collect the tax levied by this division at the time of delivery and shall remit the same, together with a summary of all deliveries to each retailer, to the city on or before the 20th day of the month following.

(Code 1982, § 4-41)

Sec. 4-145. Compensation of wholesaler for collection.

Each wholesale wine dealer shall be paid three percent of the amount of taxes collected under this division as reimbursement for the collection of such taxes.

(Code 1982, § 4-42)

Sec. 4-146. Sale, delivery, etc. of wine on which tax is not paid.

It shall be unlawful for any wholesale wine dealer to sell, ship or deliver in any manner, any wine to a retail wine dealer without having collected the tax levied by this division. It shall likewise be unlawful for any retail wine dealer to possess, own, hold, store, display or sell any wine on which such tax has not been paid.

(Code 1982, § 4-43; Ord. of 1-18-1994)

Secs. 4-147—4-175. Reserved.**ARTICLE III. DISTILLED SPIRITS FOR OFF-PREMISES CONSUMPTION*****DIVISION 1. GENERALLY****Sec. 4-176. 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:

License means the authorization by the mayor and city council to engage in the purchase and sale of distilled spirits.

Licensed premises includes not only the room wherein distilled spirits are sold.

Licensee includes an individual licensee, and in the case of the partnership or corporation, includes both the partnership or corporation and the named licensee.

Licensees for the sale of distilled spirits means any person, partnership or corporation duly licensed to sell distilled spirits.

***State law reference**—Distilled spirits, O.C.G.A. § 3-4-1 et seq.

Premises or business premises means the physical location of said business, including the building and parking areas provided by said business for its customers.

Wholesale dealer and distributor means any person engaged in distribution or selling to licensees for the resale of distilled spirits.

(Ord. of 9-18-2017, § 3)

Sec. 4-177. Violations; penalties.

(a) Any person who violates any provision of this article shall, upon conviction, be punished as provided in this Code, which may include a fine or imprisonment, or by both such fine or imprisonment. Any such punishment, if imposed, shall be in addition to and not in lieu of suspension or revocation.

(b) The violation of any of the provisions of this article shall be grounds for suspension or revocation of any license issued hereunder.

- (1) For the first violation there shall be a \$500.00 fine.
- (2) For the second offense there shall be a fine of \$750.00 and revocation of license privileges for a period of 30 days.
- (3) For the third violation there shall be a fine of \$1,000.00 and the license shall be automatically suspended subject to a process hearing, if requested, before the mayor and council, with the license holder being able to present evidence, be represented by an attorney and make a transcript of the proceeding.
- (4) Any suspension or revocation of a license may be appealed to the mayor and city council within 30 days' time and full due process shall be afforded during the appeal.
- (5) Violations shall be accumulated for only two years.
- (6) For the third violation within a two-year period, the license shall be suspended for two years.

(Ord. of 9-18-2017, § 4)

State law reference—Penalty for ordinance violations, O.C.G.A. § 36-35-6(a)(2).

Sec. 4-178. Purpose.

The purposes of this article shall include, without necessarily being limited to, the following:

- (1) Compliance with and effectuation of the general state law;
- (2) Prevention and control of the sale of distilled spirits by unfit persons;
- (3) The protection of schools, homes, churches, parks, and other institutions;
- (4) Protection of the public health, safety, and welfare; and

- (5) To the maximum extent permissible under state and federal law, the business of selling distilled spirits shall, under this chapter, be considered to be a privilege to be accorded in conformity with the foregoing and other public policies of the city, rather than a right.

(Ord. of 9-18-2017, § 2)

Sec. 4-179. Hours of sales.

(a) Package sales of distilled spirits shall be between the hours of 6:00 a.m. and 12:00 midnight, Monday through Friday, and between the hours of 9:00 a.m. and 12:00 midnight on Saturday.

(b) State law. No alcoholic beverages are to be sold on Christmas Day.

(Ord. of 9-18-2017, § 22)

Sec. 4-180. Intoxicated persons; gambling; disorderly conduct.

(a) No licensee shall allow persons who are noticeably intoxicated to congregate on licensed premises.

(b) No licensee shall permit any gambling, betting, illegal lottery, or other device for the hazarding of any money or other thing of value on the licensed premises.

(c) No licensee shall permit on the licensed premises any disorderly conduct, breach of the peace, or activity which is disturbing to the surrounding neighborhood.

(Ord. of 9-18-2017, § 23)

State law reference—Sales to intoxicated persons, O.C.G.A. § 3-3-23.

Sec. 4-181. Breaking package or drinking on premises.

It shall be unlawful for any person to open or consume any distilled spirits on premises licensed for the sale of distilled spirits by the package.

(Ord. of 9-18-2017, § 24)

Sec. 4-182. Removal of open containers.

It shall be unlawful for any person to drink or have in his possession an open container of any alcoholic beverage on any public street, sidewalk, park or other public place within the city.

(Ord. of 9-18-2017, § 25)

State law reference—Possession of open container of alcohol in motor vehicle, O.C.G.A. § 40-6-253.

Sec. 4-183. Restriction on size of packaging/containers.

All distilled spirits sold within the city shall contain a minimum of one pint per bottle/container. The sale of salesman's samples, half pints, or any quantity less than one pint within one package is hereby prohibited.

(Ord. of 9-18-2017, § 26)

Secs. 4-184—4-204. Reserved.

DIVISION 2. LICENSE

Sec. 4-205. Required; classifications, etc.

(a) *Required.* It shall be unlawful for any person to sell or offer for sale any distilled spirits within the city except under a valid license issued under this article and in compliance with the provisions of this article.

(b) *Pay schedule.* License fees shall be payable in advance for an entire year. License fees shall not be prorated for a part of a year. The suspension or revocation of any license granted pursuant to this article shall not entitle the licensee to a return of any portion of the license fee.

(c) *Classification fee.* Classes of licenses issued under this article, activities permitted and regulated thereunder, and the annual license fees shall be as follows:

(1) *Retail package licenses.* Package sales for distilled spirits for off-premises consumption of distilled spirits has an annual fee as is established by the city.

(d) *Application fees.* Each application for a license under this article shall be accompanied by a nonrefundable application fee in the amount established by the city.

(e) *Payment of fees.* Application fees shall be paid at the time the application is filed and shall not be refunded under any circumstances. An applicant may pay the annual license fee at the time the application is filed; and, in such event, the annual license fee shall be refunded if the license applied for is not issued. If the annual license fee is not paid at the time of the application, the annual license fee shall be paid prior to the issuance of the license by the mayor and city council and no later than 14 days after notification of approval of the license by the mayor and city council.

(Ord. of 9-18-2017, §§ 1, 5)

Sec. 4-206. Procedure for issuance.

(a) A license issued to an individual shall be issued in the name of the individual. A license issued to a partnership shall be issued in the name of the partnership and in the name of one of the partners who shall be the named licensee. A license issued to a corporation having as its principal business the sale of alcoholic beverages shall be issued in the name of the corporation

and in the name of the majority stockholder or a principal officer of the corporation; and such majority stockholder or officer shall be the named licensee. A license issued to a corporation having as its principal business an activity other than the sale of alcoholic beverages shall be issued in the name of the corporation and in the name of the officer or employee of the corporation primarily responsible for the operation of the licensed premises; and such officer or employee shall be the named licensee.

(b) In the case of a partnership, each partner shall join as an applicant for the license and each partner must meet the qualifications of an individual licensee, as provided herein.

(c) In the case of a corporation having as its principal business the sale of distilled spirits, the majority stockholder and each principal officer of the corporation shall join as applicants for the license; and each such person must meet the qualifications of an individual licensee, as provided herein except for the residency requirement which shall be required only for the named licensee.

(d) In the case of a corporation having as its principal business an activity other than the sale of distilled spirits, the officer or employee who is to be the named licensee shall be the applicant and must meet the qualifications of an individual licensee, as provided herein, provided, however, that the mayor and city council may require the fingerprinting and investigation of officers and shareholders of the corporation if they deem it necessary in making their investigation.

(e) In the case of a partnership, each partner shall be responsible for the actions of the named licensee and the conduct of the licensed business. In the case of a corporation, the corporation shall be responsible for the actions of the named licensee and the conduct of the licensed business.

(Ord. of 9-18-2017, § 6)

Sec. 4-207. Qualifications.

Licensees must meet the following qualifications:

- (1) A licensee must be at least 21 years of age, of good moral character and not an illegal alien;
- (2) A licensee shall not have been convicted within the past five years of any felony, any misdemeanor involving moral turpitude, or any other misdemeanor or violation of city alcohol ordinances within the past two years, or at any time of any criminal offense relating to alcoholic beverages, drugs, taxes or gambling. This subsection shall apply with respect to the laws of the state, other states, the United States, and other countries. A plea of nolo contendere or the forfeiture of a bond shall be considered a conviction for purposes of this subsection. The mayor and city council may, at their discretion,

waive the conviction of a misdemeanor for purposes of this subsection if the mayor and city council determine that the misdemeanor does not have a bearing on the applicant's fitness for a license;

- (3) A licensee shall not have been denied or revoked, within the five years next preceding his application, any license to sell distilled spirits issued by any governmental entity; and
- (4) A licensee shall be the owner of the premises to be licensed or the holder of a lease thereon for substantially the same period to be covered by the license.

(Ord. of 9-18-2017, § 7)

Sec. 4-208. Application procedures.

(a) Application for a license for the retail sale of distilled spirits in the city shall be filed with the city clerk upon forms prescribed by the city and made available at city hall. The application shall be subscribed by the applicant under oath and fully completed and executed.

(b) There shall be attached to the application a bank money order, certified check or like remittance of the application and the license fee in full. There shall also be attached as an affidavit of publication in compliance with this section.

(c) As a prerequisite to the issuance of the license, the applicant shall furnish a complete set of fingerprints to be forwarded to the state bureau of investigation which shall search the files and forward the fingerprints to the state bureau of investigation and/or the Federal Bureau of Investigation to determine past criminal activity.

(d) Failure to fully complete and execute an application for a license or to furnish accurately all data, information and records required by the application form as well as failure to accompany the application with the payment of the prescribed fee or the affidavit of publication shall be deemed just cause for denying the application with prejudice.

(e) Upon proper completion of the application and payment of fees, the city clerk shall refer the application to the chief of police for such investigation and hearings thereon as deemed necessary under this article.

(f) After its investigation, the chief of police shall make a recommendation to the mayor and city council which shall act thereon, thereby either granting or denying the application for a license.

(g) If the application is denied, the application fee shall not be refunded.

(Ord. of 9-18-2017, § 8)

Sec. 4-209. Renewal.

All distilled spirits licensees shall be required to apply for renewal of their licenses annually on forms prescribed by the city clerk and must comply with all provisions of this article, with

the exception that publication of notice and submission of fingerprints shall not be required for renewal of a license unless there has been a change of ownership of the business or other interest therein.

(Ord. of 9-18-2017, § 9)

Sec. 4-210. Transfer.

(a) Except as provided in this section, no license shall be transferable to any other person or location.

(b) If a licensee seeks to move his place of business from the licensee's premises to another place within the city, application shall be made as for an original license.

(c) In the case of death of an owner of a license or financial interest therein, such license or interest therein may be transferred to the administrator, executor, or adult heir of the deceased unless the mayor and city council determine that it would otherwise violate this article. If the transferee cannot meet all the requirements of this chapter when the time comes to renew the license, it shall not be renewed.

(d) Nothing in this section shall prohibit one or more partners in a partnership from retiring therefrom in favor of one or more of the other partners; provided such withdrawal shall not, without application for an issuance of a new license, introduce any new partner or result in any new person acquiring an interest in the licensed business.

(e) Where a license is issued to a corporation having as its principal business an activity other than the sale of distilled spirits, a change in the named licensee may be permitted by the mayor and city council if the new named licensee meets the requirements of new license applicants.

(f) In the circumstances described in subsections (c), (d) and (e) of this section, the license may be revoked if the mayor and city council determine that the change results in a failure to meet the requirements of this article.

(Ord. of 9-18-2017, § 10)

Sec. 4-211. Change in business ownership.

(a) If any licensee withdraws from, sells or otherwise transfers the licensee's interest in the licensed business, the licensee shall immediately notify the mayor and city council and surrender the license.

(b) In the case of such a withdrawal, transfer, or sale, a new application shall be made as for an original license.

(Ord. of 9-18-2017, § 11)

Sec. 4-212. Temporary license.

(a) A temporary license may be issued by the mayor and city council if, in their judgment, the denial of a temporary license would create an undue hardship such as the closing of an existing business. The temporary license shall be issued for an extra fee established by the city for a 90-day period with one additional 90-day extension if needed.

(b) A temporary license may be revoked, with or without cause, by the mayor and city council at any time, and the grant or denial of a temporary license shall not affect or have any bearing upon the grant or denial of a permanent license.

(Ord. of 9-18-2017, § 12)

Sec. 4-213. Suspension/revocation.

(a) Upon final disposition of a case by any court of competent jurisdiction, a license may be suspended or revoked by the mayor and city council for any violation of this article and/or other city ordinances, for any violation of state or federal law, for any material misrepresentation or omission in the application for the license, or if the licensee or the licensed business ceases to meet the eligibility requirements for a license.

(b) The mayor and city council are authorized to suspend the sale of alcoholic beverages under any license for any emergency situation such that the mayor and city council deem such suspension necessary for the protection of the public health, safety or welfare. Such suspension may be made effective immediately and may remain in force until the mayor and city council determine that the emergency is over or until the next meeting of the mayor and city council, at which time the suspension shall cease unless it is extended by the mayor and city council.

(c) Prior to suspending or revoking a license, except as noted in emergency situations herein, the clerk shall provide written notice to the applicant or licensee of the clerk's order to deny, suspend or revoke the license. Such written notification shall set forth in reasonable detail the reasons for such action and shall notify the applicant or licensee of the right to appeal under the provisions of this article. Any applicant or licensee who is aggrieved or adversely affected by a final action of the city clerk may have a review thereof by appeal to the city council. Such appeal shall be by written petition, filed in the office of the city clerk within 15 days after the final order or action of the city clerk. A hearing shall be conducted within 30 days of the filing with the city clerk. The appellant shall have the right to be represented by an attorney at his own expense. The findings of the city council shall be final.

(Ord. of 9-18-2017, § 13)

Sec. 4-214. Automatic revocation.

A license shall be automatically revoked by operation of law if:

- (1) The licensee's state alcoholic beverage license is revoked.

- (2) Payment of the annual license fee is not received by the city within 14 days after notification that the issuance of a license has been approved by the mayor and city council.
- (3) Operation of the licensed activity is not commenced within six months after the license is issued.
- (4) Operation of the licensed activity is commenced and then discontinued for a period of 30 days unless extended by the mayor and city council for good cause.
- (5) The licensed business declares bankruptcy or receivership, is the subject of levy or legal process, or fails to properly account for, file, report and pay any tax.
- (6) The licensed business fails to properly account for, file, report and maintain any records or remit any license fee or tax imposed.
- (7) Payment of the annual renewal license fee is not received by the city within the time prescribed.
- (8) The named licensee is convicted of a felony by a court of competent jurisdiction.
(Ord. of 9-18-2017, § 14)

Sec. 4-215. Responsibility of named licensee.

The named licensee shall be active in the operation of the licensed business and shall be personally present on the licensed premises sufficiently to ensure compliance with the provisions of this article.

(Ord. of 9-18-2017, § 16)

Sec. 4-216. Display of license.

Each license issued under this article shall at all times be kept plainly exposed to view upon the licensed premises.

(Ord. of 9-18-2017, § 17)

Sec. 4-217. Retention of records.

(a) All licensees shall keep and preserve records of all distilled spirits purchased and sold by the licensee, as well as all records required by the state department of revenue. Such records shall, at all times during normal business hours, be open for inspection by an authorized agent of the city. Such records shall be maintained for a period of at least three years, provided that the mayor and city council may authorize the disposal of records prior to the expiration of three years if the maintenance of such records is no longer required by the city.

(b) Any document required by the state department of revenue and any other documents, reports, records, or books as shall be required by the mayor and city council.

(Ord. of 9-18-2017, § 18)

Sec. 4-218. Knowledge of chapter provisions.

Every licensee shall, prior to applying for a license, read and familiarize himself with the provisions of this article, and an application shall constitute a certification by the applicant that he has done so. Every licensee shall maintain a copy of the ordinance from which this article is derived on the licensed premises and shall instruct each employee engaged in the sale or handling of distilled spirits on the relevant provisions of the ordinance from which this article is derived.

(Ord. of 9-18-2017, § 19)

Chapter 5

RESERVED

Chapter 6

ANIMALS AND FOWL*

Article I. In General

- Sec. 6-1. Keeping of livestock prohibited.
- Secs. 6-2—6-20. Reserved.

Article II. Dogs

- Sec. 6-21. General provisions.
- Sec. 6-22. Definitions.
- Sec. 6-23. Confinement or leashing required.
- Sec. 6-24. Removal of dog excrement required; exceptions.
- Sec. 6-25. Nuisances.
- Sec. 6-26. Tethering.
- Sec. 6-27. Destructive dogs.
- Sec. 6-28. Collar and identification tag required.
- Sec. 6-29. Rabies vaccination.
- Sec. 6-30. Impounding; required; right of entry.
- Sec. 6-31. Impounding fees.

***State law references**—Animals generally, O.C.G.A. title 4; cruelty to animals, O.C.G.A. § 16-12-4.

ARTICLE I. IN GENERAL**Sec. 6-1. Keeping of livestock prohibited.**

Except as provided in O.C.G.A. § 2-1-6, it shall be unlawful for any person to keep within the city any horse, mule, cow, bull, steer, goat, sheep, swine, fowl, or other livestock. This prohibition shall not apply to the transportation by vehicle of such animals through the city, with only momentary stops in the city.

(Ord. of 6-2-2014, § 5-2)

Secs. 6-2—6-20. Reserved.**ARTICLE II. DOGS*****Sec. 6-21. General provisions.**

It is the intention of the government of the city to control and regulate all dogs. Violations of this article shall be enforced by city law enforcement personnel. City law enforcement shall enforce O.C.G.A. title 4, ch. 8 (O.C.G.A. § 4-8-1 et seq.).

(Ord. of 6-2-2014, § 5-20)

Sec. 6-22. 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:

Dog control officer means the person designated to enforce the provisions of this article.
(Ord. of 6-2-2014, § 5-21)

Sec. 6-23. Confinement or leashing required.

(a) Any person owning or having custody of a dog within the city shall confine such dogs on the premises of the owner of the dogs, or on the premises of some responsible person authorized by the owner. Dog pens, fenced-in yards or electronic devices for dogs will be accepted.

(b) It shall be unlawful for any dog to be on the streets, lanes, highways, roads, or squares of the city, unless such dog is on a leash and secured by a person.

(Ord. of 6-2-2014, § 5-22)

***State law references**—Dogs generally, O.C.G.A. § 4-8-1 et seq.; Responsible Dog Ownership Law, O.C.G.A. § 4-8-20 et seq.

Sec. 6-24. Removal of dog excrement required; exceptions.

It shall be unlawful for any person owning, keeping or having custody or control of a dog to fail to remove immediately the dog excrement from any public or private property other than property owned or occupied by the person owning, keeping or having custody or control of said dog. The provisions of this section shall not apply to guide or leader dogs used by blind persons or to dogs used by police officers for law enforcement or tracking purposes or to service dogs for physically limited persons who are unable to comply with this section.

(Ord. of 6-2-2014, § 5-23)

Sec. 6-25. Nuisances.

No person shall allow a dog over which he has custody or control to remain on his property or premises if the same shall constitute a nuisance per se for a dog to bark, howl, whine, or emit any noises whatsoever in a continuous manner for a period of one hour or longer so as to disturb any occupant of any adjoining or adjacent property within hearing distance of such property, or for a condition to result from the keeping of such dog whereby an obnoxious odor emanates therefrom, detectable beyond the limits of the property of such owner or keeper.

(Ord. of 6-2-2014, § 5-24)

Sec. 6-26. Tethering.

It shall be unlawful to retain or confine dogs in a manner achieved by stationary or nonstationary dog houses, barrels, or chains that confine a dog within the property.

(Ord. of 6-2-2014, § 5-25)

Sec. 6-27. Destructive dogs.

It shall be unlawful for the owner's dogs to engage in destructive acts of destroying another person's property. In the event that there is a violation of this article, the owner will be held fully responsible for any accident or damage caused by the animal, subject to the court.

(Ord. of 6-2-2014, § 5-26)

Sec. 6-28. Collar and identification tag required.

It shall be a violation of this article for the owner to permit a dog off the premises of that owner's property without a collar and identification tag for each animal. The identification tag shall give the name, current address and telephone number of the owner.

(Ord. of 6-2-2014, § 5-27)

Sec. 6-29. Rabies vaccination.

(a) *Required.* All persons residing within the city limits who own, have and keep dogs within the city limits are required to have the dogs treated annually for rabies by some licensed veterinarian.

(b) *Impoundment of unvaccinated animals.* If the owner of a dog, after ten days' notice to him, fails or refuses to have his dog so treated, the city police officer shall have the dog impounded and fees shall be paid under section 6-31.

(c) *Tag.* All owners of dogs shall be required to secure a tag from the veterinarian treating the dog.

(Ord. of 6-2-2014, § 5-28)

Sec. 6-30. Impounding; required; right of entry.

Law enforcement officers or dog control officers shall immediately impound any dog that is not confined to his owner's premises as provided in section 6-23. The dog control officer or his assistant shall have the specific right to enter upon any private property to secure capture of any dog in violation of this article. Dog control officers shall have the right to impound a dog if a law enforcement officer believes the dog poses a threat to the public's safety.

(Ord. of 6-2-2014, § 5-29)

Sec. 6-31. Impounding fees.

(a) All charges established by the city for the impounding of dogs shall be paid by the owner to the office of the city administrator before taking control of his dog.

(b) The payment for services may be increased by the city administrator due to increased expenses and approved by the city council.

(c) Dogs that have been impounded for five days without being redeemed by the owners thereof shall be disposed of by commercial means or action by humanely disposing of the animal as stated by O.C.G.A. § 4-11-9.6.

(Ord. of 6-2-2014, § 5-30)

Chapter 7

RESERVED

Chapter 8

AVIATION*

Article I. In General

Secs. 8-1—8-18. Reserved.

Article II. City/County Airport Authority

- Sec. 8-19. Creation; membership.
- Sec. 8-20. Quorum; required vote for action.
- Sec. 8-21. Organization.
- Sec. 8-22. Powers.
- Sec. 8-23. Finances.
- Sec. 8-24. Dissolution authorized.

***State law reference**—Powers of local governments as to air facilities, O.C.G.A. § 6-3-1 et seq.

ARTICLE I. IN GENERAL

Secs. 8-1—8-18. Reserved.

ARTICLE II. CITY/COUNTY AIRPORT AUTHORITY**Sec. 8-19. Creation; membership.**

(a) A governmental body to be known as the Claxton-Evans County Airport Authority is created, which authority shall consist of five members who shall reside within the county and who shall be sui juris. The initial four members of the authority shall be determined as follows: two members shall be appointed by the city and two members shall be appointed by the county. Members shall be appointed for a term of five years, and all appointments to fill vacancies shall be for the unexpired term.

(b) Upon the expiration of a member's term, the remaining four members shall select the new member, who shall reside within the county, and be sui juris, and alternately, upon approval of the city council or the county board of commissioners such member shall be appointed. Commencing with the year 1971, the city council shall approve all selections of new members or members to fill unexpired terms made in odd-numbered years and the county board of commissioners shall approve all selections of new members or members to fill unexpired terms made in even-numbered years. If, at the end of any term of office of any member, a successor thereto shall not have been appointed, the member whose term of office shall have expired shall continue to hold office until his successor shall be so appointed. The members shall receive no compensation for their services as such members, but shall be reimbursed for their actual expenses incurred in the performances of their duties.

(Code 1982, § 3-20; Res. of 4-6-1970, § 1)

Sec. 8-20. Quorum; required vote for action.

A majority of the members shall constitute a quorum, but no action may be taken by the authority without the affirmative vote of a majority of the full membership of the authority.

(Code 1982, § 3-21; Res. of 4-6-1970, § 2)

Sec. 8-21. Organization.

The members shall elect one of their members as chairperson, another as vice-chairperson and shall also elect a secretary-treasurer. The authority shall make bylaws and regulations for its government and may delegate to one or more of its members such powers and duties as may be deemed necessary and proper.

(Code 1982, § 3-22; Res. of 4-6-1970, § 3)

Sec. 8-22. Powers.

The authority shall have all of the powers necessary and convenient to carry out and effectuate the purposes of its creation which, under the laws of the state, may be delegated by the respective municipal and county legislative bodies, including the following:

- (1) To expand, equip, improve, maintain and operate the existing airport or landing field in the county. The expense of such expansion, equipment, improvement, maintenance and operation shall be the responsibility of the city and county.
- (2) Subject to any existing contracts and the regulations of the department of transportation, to adopt regulations and establish charges, fees and tolls for the use of such airport or landing field, fix penalties for the violation of such regulations, and establish liens to enforce payment of such charges, fees and tolls.
- (3) To lease such airport or landing field to private parties for operation or to lease or assign to private parties for operation, space, area, improvements and equipment on such airport or landing field; provided in each case that, in so doing, the public is not deprived of its rightful, equal and uniform use thereof.
- (4) To retain agents, engineers, attorneys, fiscal agents, accountants and employees, and to provide their compensation and duties.
- (5) To make and execute contracts and other instruments necessary to exercise the powers of the authority; provided no contract shall be entered into or obligation created which requires the expenditure of revenue received or obtained from the levy of taxes by the city or county until approval thereof shall have been obtained from both the city council and the county board of commissioners.

(Code 1982, § 3-23; Res. of 4-6-1970, § 4)

Sec. 8-23. Finances.

The authority shall retain all monies or funds received from the operation of the airport or landing field and such monies or funds shall be used for the payment of the expenses of the authority and the expansion, equipment, improvement, maintenance and operation of said airport or landing field. The authority shall make a full report of its actions, including an accounting of the herein described monies or funds, to both the city council and the county board of commissioners annually or at any time upon written request of either.

(Code 1982, § 3-24; Res. of 4-6-1970, § 5)

Sec. 8-24. Dissolution authorized.

By joint resolution of the city council and the county board of commissioners, this authority may be dissolved, provided no such dissolution shall in any way impair the rights of third persons or any contract of the authority.

(Code 1982, § 3-25; Res. of 4-6-1970, § 6)

Chapter 9

RESERVED

Chapter 10

BUILDINGS AND BUILDING REGULATIONS*

Article I. In General

- Sec. 10-1. Prefabricated housing; permit required.
Secs. 10-2—10-18. Reserved.

Article II. Technical Codes

Division 1. Generally

- Sec. 10-19. Technical codes; adopted; penalty for violation.
Sec. 10-20. Building official—Office created; appointment; acting official.
Sec. 10-21. Same—Duties.
Sec. 10-22. Same—Right of entry.
Sec. 10-23. Appeals from permit denial.
Sec. 10-24. Building permit.
Secs. 10-25—10-36. Reserved.

Division 2. Electrical Codes

Subdivision I. In General

- Sec. 10-37. Work exempt from provisions of this division.
Sec. 10-38. Cure of defects upon notice.
Sec. 10-39. Conditions to resuming service to buildings damaged by fire.
Sec. 10-40. Removal of obsolete wiring.
Sec. 10-41. Covering wiring.
Sec. 10-42. Concealing unsoldered joints.
Sec. 10-43. Approval of work by electrical inspector; turning on of current.
Secs. 10-44—10-54. Reserved.

Subdivision II. Electrical Inspectors

- Sec. 10-55. Powers and duties in general.
Sec. 10-56. Right of entry.
Sec. 10-57. Location of wires and appliances.
Sec. 10-58. Discontinuing current generally.
Sec. 10-59. Condemnation; discontinuing current after notice.
Sec. 10-60. Making and promulgating rulings, regulations.
Secs. 10-61—10-78. Reserved.

Subdivision III. Permit

- Sec. 10-79. Required.

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

CLAXTON CODE

- Sec. 10-80. Application.
- Sec. 10-81. Information required; payment of fees.
- Sec. 10-82. For additional work.
- Sec. 10-83. Inspection or permit fees.
- Sec. 10-84. Layout or blueprint; required generally.
- Sec. 10-85. Requirement may be waived.
- Secs. 10-86—10-113. Reserved.

Subdivision IV. Temporary Wiring

- Sec. 10-114. Purposes.
- Sec. 10-115. Approval if installation safe.
- Sec. 10-116. Portions of building.
- Sec. 10-117. Time for which issued; application for temporary service.
- Secs. 10-118—10-147. Reserved.

Division 3. Water-Conserving Plumbing Fixtures

- Sec. 10-148. Exemption from state requirements.
- Secs. 10-149—10-179. Reserved.

Division 4. Property Maintenance Code

- Sec. 10-180. Code adopted; penalty for violation.
- Sec. 10-181. Property maintenance code appeals.

ARTICLE I. IN GENERAL**Sec. 10-1. Prefabricated housing; permit required.**

(a) It shall be unlawful for any person, firm or corporation to move into the city limits from any location outside such city limits and/or to relocate any preconstructed house or housing from one location to another within the city limits, without first having made application for a specific permit to do so, and until such permit shall have been approved by the city council.

(b) Such application for a permit shall specify the full description of the building proposed to be so located, including dimensions, type of construction, number of rooms, character of heating, plumbing, lighting equipment to be contained, its present location, the proposed site of its location, and the value thereof.

(Code 1982, § 6-11; Ord. of 3-5-1973)

Secs. 10-2—10-18. Reserved.**ARTICLE II. TECHNICAL CODES*****DIVISION 1. GENERALLY****Sec. 10-19. Technical codes; adopted; penalty for violation.**

The mandatory state minimum codes specified in O.C.G.A. §§ 8-2-20(9)(B)(i) and 8-2-25(a), as modified or amended by the state, are hereby adopted. Any person violating any of the provisions of this section shall be punished as provided in section 1-8.

(Code 1982, § 6-1; Ord. of 11-20-1961; Ord. of 11-18-1985)

Sec. 10-20. Building official—Office created; appointment; acting official.

(a) The office of building official is hereby created.

(b) The building official shall be a qualified inspector as provided in O.C.G.A. § 8-2-26.1.

(c) During temporary absence or disability of the building official, the appointing authority shall designate an acting building official.

(Code 1982, § 6-3; Ord. of 11-20-1961, § 2; Ord. of 8-1-1977, § 2)

Sec. 10-21. Same—Duties.

It shall be the duty of the building official to enforce all laws relating to the construction, alteration, removal, and demolition of buildings and structures.

(Code 1982, § 6-4; Ord. of 11-20-1961, § 3)

***State law reference**—State building codes, O.C.G.A. § 8-20-20 et seq.

Sec. 10-22. Same—Right of entry.

The building official, in the discharge of his official duties and upon proper identification, shall be and have authority to enter any building, structure or premises at any reasonable hour. (Code 1982, § 6-5; Ord. of 11-20-1961, § 4)

Sec. 10-23. Appeals from permit denial.

From a denial of a building permit by the building official, any applicant may appeal to the council. (Code 1982, § 6-7; Ord. of 5-6-1946, § 3)

Sec. 10-24. Building permit.

(a) A permit shall be required to construct, enlarge, alter, or repair, additions, including painting and new roof replacement, move, demolish, or change the occupancy of a building or structure, or to erect, install, enlarge, alter, repair, remove, convert or replace any electrical, gas, mechanical, or plumbing system the installation of which is regulated by the technical codes, or to cause any such work to be done in the city.

- (1) *Exception.* Permits shall not be required for the following mechanical work:
- a. Any portable heating appliance;
 - b. Any portable ventilation equipment;
 - c. Any portable cooling unit;
 - d. Any steam, hot or chilled water piping within any heating or cooling equipment regulated by this Code;
 - e. Replacements of any part which does not alter its approval or make it unsafe;
 - f. Any portable evaporative cooler;
 - g. Any self-contained refrigeration system containing one 1.0 lb. (4.54 kg.) or less of refrigerant and actuated by motors of one horsepower (746 W) or less.
- (2) *Minor repairs.* Ordinary minor repairs and painting by property owner or resident does not require a permit if property owner or resident does the work themselves, provided that such repairs shall not violate any of the provisions of the technical codes.

(b) The fees for such permits shall be as established by the city.

(c) No fee shall be charged for building permits for the churches, schools, hospitals or governmental institutions.

(Code 1982, § 6-12; Ord. of 9-3-1975; Mo. of 11-21-1983; Ord. of 7-6-1998, § 1)

Secs. 10-25—10-36. Reserved.

DIVISION 2. ELECTRICAL CODES

*Subdivision I. In General***Sec. 10-37. Work exempt from provisions of this division.**

This division shall not cover minor electrical repairs, involving no new work, alteration or change whatever, that may be necessary or incident only to the maintenance in good condition of any established plant, installation or system of wiring, but this qualification does not extend to installation of new circuits or the extension of any circuits already installed, or the installation of any apparatus, devices or materials whatever for which a permit is required under this division.

(Code 1982, § 6-44)

Sec. 10-38. Cure of defects upon notice.

Any person who shall fail to correct any defects in his work within five days after having been duly notified of such defects by the electrical inspector shall not receive any further permit until such defects have been corrected. Immediately after the correction of such defects, the electrical inspector shall be notified of such corrections.

(Code 1982, § 6-38)

Sec. 10-39. Conditions to resuming service to buildings damaged by fire.

(a) Electric service shall not be resumed on or in the premises of any building or structure damaged by fire without approval of the electrical inspector.

(b) Before beginning work on any electrical installation damaged by fire, a ruling shall be obtained from the electrical inspector as to what portion of the wiring must be replaced.

(Code 1982, § 6-39)

Sec. 10-40. Removal of obsolete wiring.

Any person making major changes in wiring installation of old buildings shall remove all obsolete wiring.

(Code 1982, § 6-40)

Sec. 10-41. Covering wiring.

It shall be unlawful for any person to cover or conceal any electric light or power wiring without prior inspection and written authorization by the electrical inspector.

(Code 1982, § 6-41)

Sec. 10-42. Concealing unsoldered joints.

It shall be unlawful for any person to place tape on or otherwise conceal an unsoldered joint on any electric light, heat or power system unless a solderless connection is used which has been approved by the electrical inspector for that purpose.

(Code 1982, § 6-42)

Sec. 10-43. Approval of work by electrical inspector; turning on of current.

Upon notification of the completion of electrical work, it shall be the duty of the electrical inspector to inspect said wiring or work, and if approved by him as being in conformity with this division, the rules prescribed hereunder, the statutes of the state, and the approved methods of construction for safety to life and property, he shall issue his certificate of approval which shall authorize the current to be turned on; provided this section shall not apply to cases where temporary approval may be granted as herein set out.

(Code 1982, § 6-43)

Secs. 10-44—10-54. Reserved.*Subdivision II. Electrical Inspectors***Sec. 10-55. Powers and duties in general.**

It shall be the duty of the electrical inspector to inspect or have inspected all electrical construction, installation and equipment of whatever character, whether inside or outside of buildings, and he shall have power to order removed, repaired or rebuilt any such construction, installation or equipment when, in his judgment, life or property will be better protected thereby; and it shall be his duty to see that all laws governing electric engineering or construction are strictly complied with.

(Code 1982, § 6-21)

Sec. 10-56. Right of entry.

The electrical inspector shall have the right in the discharge of his duties, to enter any building under construction or completed, or enter any manhole, or climb any pole, for the purpose of examining and testing any electrical wiring, construction, or appliance therein or thereon. For that purpose he shall be given prompt access to all buildings, public or private, and to all manholes or poles, on application to the person owning or in charge of the same.

(Code 1982, § 6-22)

Sec. 10-57. Location of wires and appliances.

It shall be the duty of the electrical inspector to regulate and determine the placing of wires and other appliances for electric light, heat or power in the city, and to cause all such wires or appliances to be so placed, constructed and guarded as not to cause fires or accidents endangering life or property.

(Code 1982, § 6-23)

Sec. 10-58. Discontinuing current generally.

In any case of failure to comply with this division, the electrical inspector shall have authority, after due notice, to cut off current in any locality concerned and to enforce discontinuance of the same until said requirements are complied with.

(Code 1982, § 6-24)

Sec. 10-59. Condemnation; discontinuing current after notice.

The electrical inspector shall have authority to condemn any electric wiring, equipment or appliance which, in his opinion, is unsafe to life or property and, after three days' notice, shall order the current discontinued from such electric wiring, equipment or appliance.

(Code 1982, § 6-25)

Sec. 10-60. Making and promulgating rulings, regulations.

The electrical inspector may make such rulings or promulgate such regulations as he may deem necessary to properly administer this division.

(Code 1982, § 6-26)

Secs. 10-61—10-78. Reserved.*Subdivision III. Permit***Sec. 10-79. Required.**

No alteration shall be made in the wiring of any building or structure for light, heat or power, or increase in the rated load, as fixed by the city electrical code, carried by such wires, without a permit therefor from the electrical inspector.

(Code 1982, § 6-27)

Sec. 10-80. Application.

Before beginning any work of electrical installation, construction or repair, an application for permit shall be made to the electrical inspector on forms furnished for that purpose, which application shall contain an accurate and detailed account of the electrical work contemplated as provided for in the forms furnished.

(Code 1982, § 6-28)

Sec. 10-81. Information required; payment of fees.

Any person proposing to do wiring work and installation of electrical apparatus or fixtures for use in connection with electricity shall, before undertaking said work or working said installations, file with the electrical inspector a statement in writing which shall give the proposed location by street and number and the name of the person for whom the work is to be done, and also shall set out in detail the amount or scope of wiring, electrical work, electrical apparatus, or other electrical devices or fixtures for use in connection with electricity, and shall pay to the city, on statements prepared in the office of the electrical inspector, the amount of fees set out herein. When said fees have been paid, the electrical inspector shall approve said application and issue a permit therefor. The fees herein set forth are to cover the cost of making necessary periodic inspections of electrical installations as set forth herein, throughout the progress of the work and until the same has been finally completed and approved by the electrical inspector. If required by the electrical inspector, said applicant shall file a general plan of construction and detailed description of apparatus, devices, appliances or fixtures to be used in said work.

(Code 1982, § 6-29)

Sec. 10-82. For additional work.

If after obtaining a permit for electrical work, it is found necessary to change or increase the load of electric current, an application for a permit covering the additional work shall be filed.

(Code 1982, § 6-30)

Sec. 10-83. Inspection or permit fees.

The fees established by the city shall be charged by the electrical inspector for his services, and shall be deposited to the account of the city.

(Code 1982, § 6-31)

Sec. 10-84. Layout or blueprint; required generally.

Before beginning work on the wiring of any new building or structure for light, heat or power, or any electrical equipment or appliance, a satisfactory layout or blueprint shall be submitted to the electrical inspector.

(Code 1982, § 6-32)

Sec. 10-85. Requirement may be waived.

The application for permit to perform work under this division may, in the discretion of the electrical inspector, be deemed to contain sufficient information and be accepted in lieu of

layout or blueprint, but the acceptance of such application for permit does not fulfill such requirements if, after its acceptance, in the opinion of the electrical inspector, such blueprint is deemed necessary.

(Code 1982, § 6-33)

Secs. 10-86—10-113. Reserved.

Subdivision IV. Temporary Wiring

Sec. 10-114. Purposes.

Temporary wiring may be installed when written permission is secured from the electrical inspector for the following purposes:

- (1) To be used to supply power for the purpose of hoisting material used in a building under construction or remodeling; and for the purpose of lighting said building or structure used in connection with the construction of such building;
- (2) For the purpose of lighting tents or buildings used for religious gatherings or shows; where said tents or buildings will only be used for a short duration of time, or for decorative purposes where wiring will only be used for a short time.

(Code 1982, § 6-34)

Sec. 10-115. Approval if installation safe.

Approval of temporary wiring may be issued covering work as outlined in section 10-114 when such work is installed in such manner as not to endanger life or property.

(Code 1982, § 6-35)

Sec. 10-116. Portions of building.

Approval of temporary wiring may be issued for the purpose of allowing current to be turned on for certain parts of wiring installations which have been made safe to the satisfaction of the electrical inspector in order to allow the testing out of certain electrical equipment, and in order to allow tenants, lessees or owners to use certain completed parts of buildings before the entire job is completed.

(Code 1982, § 6-36)

Sec. 10-117. Time for which issued; application for temporary service.

(a) Approval of temporary wiring shall be issued for a period of more than 90 days. If necessary for temporary work to remain for more than 90 days, a request for such extension of temporary approval shall be made in writing by the person holding the permit.

(b) Upon expiration of temporary approval, such service shall be immediately discontinued, unless approval of extension of time is obtained from the electrical inspector. The application for temporary service shall state the period of time the service is required and the necessity for the same.

(Code 1982, § 6-37)

Secs. 10-118—10-147. Reserved.

DIVISION 3. WATER-CONSERVING PLUMBING FIXTURES

Sec. 10-148. Exemption from state requirements.

The owner, or his agent, of the building undergoing new construction or repair or renovation, who is entitled to an exemption as specified in O.C.G.A. § 8-2-3(e), shall obtain the exemption by applying at the office of the building official for the city. A fee as established by the city shall be charged for the inspection and issuance of such exemption.

(Code 1982, § 6-84)

Secs. 10-149—10-179. Reserved.

DIVISION 4. PROPERTY MAINTENANCE CODE*

Sec. 10-180. Code adopted; penalty for violation.

The International Property Maintenance Code, as adopted by the state pursuant to O.C.G.A. § 8-2-20(9)(B)(i), is adopted. Any persons violating such code shall be punished as provided in section 1-8.

(Code 1982, § 6-60; Ord. of 2-3-2014)

Sec. 10-181. Property maintenance code appeals.

The city council shall hear appeals arising from the enforcement of the property maintenance code.

(Code 1982, § 6-61; Res. of 8-10-1967; Ord. of 2-3-2014)

***State law reference**—International Property Maintenance Code as permissive state code, O.C.G.A. §§ 8-2-20(9)(B)(i)(X), 8-2-25(b).

Chapter 11

RESERVED

Chapter 12

COMMUNITY DEVELOPMENT

Article I. In General

Secs. 12-1—12-19. Reserved.

Article II. Downtown Development Authority

- Sec. 12-20. Authority; creation.
- Sec. 12-21. Downtown development area.
- Sec. 12-22. No limitation intended by this action.

ARTICLE I. IN GENERAL

Secs. 12-1—12-19. Reserved.

ARTICLE II. DOWNTOWN DEVELOPMENT AUTHORITY***Sec. 12-20. Authority; creation.**

The city hereby creates the public body corporate and politic known as the "Downtown Development Authority of Claxton" in accordance with the Downtown Development Authorities Law (O.C.G.A. § 36-42-1 et seq.).
(Code 1982, § 19-20; Ord. of 8-2-1982)

Sec. 12-21. Downtown development area.

The city hereby designates the downtown development area, and this area constitutes the central business district of the city as contemplated by the Downtown Development Authorities Law. The boundary description is all that certain area in the downtown area of the city fronting southerly on U.S. Highway Number 280, extending from U.S. Highway Number 301 west to Courthouse Street; and fronting northerly on Railroad Avenue from Peter Street west to Grady Street; and fronting easterly and westerly on Newton Street from the north side of U.S. Highway Number 280 south to Liberty Street.
(Code 1982, § 19-23; Ord. of 8-2-1982)

Sec. 12-22. No limitation intended by this action.

The city does not intend in any way to affect any public corporation, industrial development, downtown development, or payroll authority previously created by legislative act or constitutional amendment, including, without limitation, its existence, purpose, organization, powers or function.
(Code 1982, § 19-24; Ord. of 8-2-1982)

***State law reference**—Downtown Development Authorities Law, O.C.G.A. § 36-42-1 et seq.

Chapter 13

RESERVED

Chapter 14

EMERGENCY MANAGEMENT AND EMERGENCY SERVICES*

- Sec. 14-1. Adoption of NIMS and the unified command system.
- Sec. 14-2. Riots and civil disobedience—Mayor's authority.
- Sec. 14-3. Same—Closing streets.

***State law reference**—Georgia Emergency Management Act of 1981, O.C.G.A. § 38-3-1 et seq.

Sec. 14-1. Adoption of NIMS and the unified command system.

The city hereby adopts the National Incident Management System (NIMS), as established under 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 and exercise and use these systems in their response operations.

(Ord. of 10-17-2005)

Sec. 14-2. Riots and civil disobedience—Mayor's authority.

Whenever riots, general civil disobedience or the threat of the same occurs in the city, and it is deemed necessary in order to suppress the riot or act of civil disobedience, the mayor, or mayor pro tempore in the absence of the mayor, shall have the power to do the following:

- (1) To declare hours of curfew for all persons, and during said hours of curfew, all persons shall be at their homes and shall not be on the streets, alleys or other public areas of the city. The curfew shall be declared in a proclamation of the mayor, or mayor pro tempore in the absence of the mayor, which proclamation shall be delivered to the chief of police, who shall then see that said proclamation is delivered to all news media within the city and who shall also use public address systems throughout the city and immediately notify the public of said proclamation and curfew and warn the public that any violation of the curfew shall subject violators to arrest.
- (2) To declare all or any business establishments to be closed and remain closed until further order. After such notice, refusing to close and remain closed shall be deemed an offense. The mayor, or the mayor pro tempore in the absence of the mayor, shall issue a proclamation which shall be delivered to the chief of police, who shall inform said businesses of said proclamation.

(Code 1982, § 16-29)

Sec. 14-3. Same—Closing streets.

In situations mentioned in section 14-2, the mayor, or mayor pro tempore in his absence, and the chief of police shall each have authority to temporarily close any or all streets, alleys and other public ways in the city to the public, whenever, in the opinion of such officer, it is necessary in order to maintain the peace of the community.

(Code 1982, § 16-30)

Chapter 15

RESERVED

Chapter 16

ENVIRONMENT

Article I. In General

Secs. 16-1—16-19. Reserved.

Article II. Environmental Conservation, On-Site Sewage Management and Permits

- Sec. 16-20. Short title.
- Sec. 16-21. Purpose.
- Sec. 16-22. Definitions.
- Sec. 16-23. General provisions.
- Sec. 16-24. Delegation of article administration.
- Sec. 16-25. Wetlands protection regulations.
- Sec. 16-26. Groundwater recharge areas protection regulations.
- Sec. 16-27. Major river corridor protection district regulations.
- Sec. 16-28. Variances.
- Sec. 16-29. Violations and penalties.
- Sec. 16-30. Court of jurisdiction.
- Sec. 16-31. Minimum lot sizing for on-site sewage management.
- Secs. 16-32—16-50. Reserved.

Article III. Trees

- Sec. 16-51. Purpose and intent.
- Sec. 16-52. Definitions.
- Sec. 16-53. Spacing.
- Sec. 16-54. Distance from street corners and fire hydrants.
- Sec. 16-55. Public tree care.
- Sec. 16-56. Tree topping.
- Sec. 16-57. Private property.
- Sec. 16-58. Removal of stumps.
- Sec. 16-59. Interference with city employees.
- Sec. 16-60. Review by mayor and city council.
- Sec. 16-61. Tree and shrubbery obstruction; right-of-way or street; beautification.
- Secs. 16-62—16-84. Reserved.

Article IV. Soil Erosion and Sedimentation Control

- Sec. 16-85. Title.
- Sec. 16-86. Definitions.
- Sec. 16-87. Exemptions.
- Sec. 16-88. Minimum requirements for erosion and sedimentation control using best management practices.
- Sec. 16-89. Application/permit process.

CLAXTON CODE

- Sec. 16-90. Inspection and enforcement.
- Sec. 16-91. Penalties and incentives.
- Sec. 16-92. Education and certification.
- Sec. 16-93. Administrative appeal judicial review; liability.
- Secs. 16-94—16-113. Reserved.

Article V. Wellhead Protection

- Sec. 16-114. Short title and purpose.
- Sec. 16-115. Definitions.
- Sec. 16-116. Establishment of wellhead protection zone.
- Sec. 16-117. Permitted uses.
- Sec. 16-118. Prohibited uses.
- Sec. 16-119. Administration.

ARTICLE I. IN GENERAL

Secs. 16-1—16-19. Reserved.

**ARTICLE II. ENVIRONMENTAL CONSERVATION, ON-SITE SEWAGE
MANAGEMENT AND PERMITS**

Sec. 16-20. Short title.

This article shall be known, referred to, and may be cited as "The Environmental Conservation, On-Site Sewage Management, and Permit Ordinance of the City of Claxton."
(Ord. of 10-18-2000, § 1)

Sec. 16-21. Purpose.

It is the intent and policy of the city to promote the health, safety, convenience, order, prosperity, and general welfare of the city and its residents; to protect the natural resources, the environment, and the public health of the city; to facilitate the adequate provision of on-site sewage management for all development in the local jurisdiction; to protect significant groundwater recharge areas from pollution by spills, discharges, leaks, impoundments, applications of chemicals, injections, and other development; to promote the wise use of wetlands and protect them from alterations that will significantly affect or reduce their primary functions for water quality, floodplain and erosion control, groundwater recharge, aesthetic natural areas, and wildlife habitat areas; to establish measures to preserve an adequate supply of safe drinking water and a quality for state waters which is necessary to protect the health and welfare of the public as well as to provide for future growth; to protect the environment, including the soils, air quality, and water resources, from pollution and inappropriate development; to assist in the orderly, efficient, and integrated development of the city; and to require permits for new development or locations within the city.
(Ord. of 10-18-2000, § 2)

Sec. 16-22. 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:

Hazardous waste means any solid waste which has been defined as a hazardous waste in regulations promulgated by the administrator of the United States Environmental Protection Agency (U.S. EPA) pursuant to the federal act, which are in force and effect on February 1, 1988, codified as 40 CFR 261, and as amended.

Lot means the contiguous land in the same ownership which is not divided by any public highway or alley, including any part thereof subject to any easement for any purpose other than a public highway or alley, but excluding any part thereof severed from another lot where the severance creates any nonconformity of size or use.

Perennial river/stream means a river/stream or section of a river/stream that normally flows continuously throughout the whole year.

Protected river corridor means all land, inclusive of islands, in areas of a protected river within a distance of 100 feet horizontally on both sides of the river measured from the uppermost part of the riverbank; the area between the top of the bank and the edge of the water is included in the protected area.

River/stream bank means the rising ground, bordering a river or a stream, which serves to confine the water to the natural channel during the normal course of flow.

Subdivision means all divisions of a tract or parcel of land into two or more lots, building sites, or other divisions for the purpose of sale, legacy, or building development, whether immediate or future. This shall include all divisions or re-subdivisions of land involving a new road or change in existing roads. Excluded from the definition of the term "subdivision" is the combination or recombination of portions of previously platted lots where the total number of lots is not increased.

Utility means public or private water or sewer piping systems, water or sewer pumping stations, electric power lines, fuel pipelines, telephone lines, roads, driveways, bridges, river/lake access facilities, stormwater systems and railroads or other utilities identified by a local government.

Wetlands means those areas that are inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs, and similar areas. The ecological parameters for designating wetlands include hydric soils, hydrological vegetation, and hydrological conditions that involve a temporary or permanent source of water to cause soil saturation. (Ord. of 10-18-2000, § 3)

Sec. 16-23. General provisions.

(a) *Permit required.* No building, mobile home, structure, or land within the jurisdiction of the city shall hereafter be erected, constructed, located, moved, used, subdivided, altered or disturbed except in conformity with the regulations herein and without first obtaining a permit from the city. This provision does and shall apply to the location of all manufactured housing and industrialized buildings in the city.

(b) *Minimum lot size.* All lots intended for residential or other use within the city shall be of such size as necessary to meet all requirements, rules, and regulations of the state department of human resources according to the "Rules of Georgia Department of Human Resources Public Health for On-Site Sewage Management Systems" Manual for On-Site Sewage Management; and as necessary to comply with the minimums set forth in the tables MT-1 and MT-2 in section 16-31, if on-site sewage management is utilized; and/or this article, whichever is stricter.

(c) *On-site sewage management permit required.* No person or business shall construct an on-site sewage management system on any lot within the city until site approval and an on-site sewage management construction permit has been obtained from and issued by the county health department.

(d) *Permit coordination.* The required permit under subsection (a) of this section shall not be issued until the county health department issues an on-site site sewage management construction permit or a site approval letter, whichever is appropriate, so that all lots proposed to be used or subdivided would satisfy the requirements of this article, including the "Rules of Georgia Department of Human Resources Public Health for On-Site Sewage Management Systems." If the county health department is delegated the responsibility for administering this article, the permit or letter under this subsection shall suffice as the permit required under subsection (a) of this section.

(e) *Requirements are minimum.* The regulations and requirements set by this article shall be the minimum requirements.

(f) *Compliance with state and federal regulations.* All developments, structures, and uses within the city shall also meet the requirements of all other local, federal and state regulations in effect, including, but not limited to, department of transportation regulations, state fire marshal regulations, the state's uniform construction codes, and the state department of natural resources and state environmental protection division environmental rules and regulations. Issuance of a permit under this article does not constitute certification of compliance with such codes or regulations, and does not abrogate responsibility of the owner to so comply.

(g) *Map interpretation.* If there is any uncertainty as to whether a lot, portion of lot, or a proposed construction or location impacts an environmental resource regulated by this article because of interpretation of the applicable map, the decision of the city, or the county health department if it is delegated the responsibility for administering this article shall take precedence and be considered correct and final, but may be appealed as set forth in subsection (h) of this section.

(h) *Map appeal.* Any person who feels aggrieved by a decision of the city or the county health department, as appropriate, regarding map interpretation may, at their own expense, request reconsideration. Such reconsideration shall include submission of scientific evidence for reversal of the alleged error in map interpretation, and such evidence must be documented

by a state-registered engineer, geologist, or soils scientist. To obtain a reversal of the decision of map interpretation, the evidence must be acceptable to the state department of natural resources' environmental protection division and the city or the county health department if the county health department is delegated responsibility for administering this article. Any costs for submission of evidence to the state department of natural resources' environmental protection division shall be borne by the person requesting reconsideration.

(i) *Coordination with zoning and other regulation.* This article shall be coordinated with any zoning or other regulations adopted by the city, and if there is any conflict with those zoning or other regulations, the stricter provisions shall apply. If zoning is or has been adopted, the provisions of this article shall be considered an overlay, or additional requirement to the requirements of underlying zoning regulations and district.

(j) *Fees.* Any fees for applications, inspections, and the issuance of permits or certificates required or issued under the provisions of this article shall be paid by the person seeking such permit at the time of application in advance of the issuance of such permits or certificates. The amount of such fees, if any, shall be those established by the mayor and council from time to time.

(Ord. of 10-18-2000, § 4)

Sec. 16-24. Delegation of article administration.

The city, because of the need for coordination, hereby charges the city zoning administrator with responsibility for administering this article and ensuring compliance with its provisions.

(Ord. of 10-18-2000, § 5)

Sec. 16-25. Wetlands protection regulations.

(a) *Findings of fact.* The wetlands within the city are indispensable and fragile natural resources with significant development constraints due to flooding, erosion and soil limitations. In their natural state, wetlands serve man and nature. They provide habitat areas for fish, wildlife, and vegetation; water quality maintenance and pollution control; flood control; erosion control; natural resource education; scientific study; open space; and recreational opportunities.

(b) *Reference map.* The official maps to be used as the determinant for location of wetlands in the city and to be regulated areas under this article will be the U.S. Fish and Wildlife Service's National Wetlands Inventory Maps for the county. These maps portray generalized wetlands inventory areas, and these wetlands inventory areas do not necessarily represent the boundaries of jurisdictional wetlands under the authority of the U.S. Army Corps of Engineers, and cannot serve as a substitute for a jurisdictional wetland determination or a wetland delineation by that agency.

(c) *Wetlands development permit requirements.* No activity or use, except those identified in subsection (d) of this section, shall be allowed within wetlands without a permit under this article. Activities or uses permitted under section 404 of the U.S. Clean Water Act may receive a local permit once any required federal permit or, if appropriate, letter of permission/determination, is obtained as described below, and any other applicable provisions of this article have been satisfied.

- (1) If there is a determination in the administration of this article that a proposed activity, use, or development subject to permit herein would not be located in or near an identified wetlands inventory area and would not disturb an identified wetlands inventory area, no further action concerning this particular section is necessary.
- (2) If there is a determination in the administration of this article that a proposed activity, use, or development subject to permit herein may be located in or near an identified wetlands inventory area and might disturb wetlands which appear to be under the jurisdiction of section 404 of the U.S. Clean Water Act, a U.S. Army Corps of Engineers' jurisdictional wetlands determination shall be required prior to issuance of a permit under this article.
- (3) If a U.S. Army Corps of Engineers' jurisdictional wetlands determination is required, no local permit under this article will be issued until the person requesting the permit, at his own expense, obtains either a section 404 permit, if so required, or a letter of permission/determination from the U.S. Army Corps of Engineers that no federal permit is required.
- (4) No action in the administration of this article, or no local permit issued pursuant to this article, relieves the landowner from any federal or state permitting requirements, including those relating to wetlands or land disturbance.

(d) *Permitted uses not requiring a permit.* The following uses are permitted without permit within the wetlands of the city to the extent they are not prohibited by any other ordinance or law and provided they do not require structures, grading, fill, draining, or dredging except as provided herein:

- (1) Forestry practices applied in accordance with best management practices approved by the state forestry commission. (Section 404 does not require permits for normal, ongoing silvicultural activities. However, section 404 does list some required road construction best management practices that must be followed in order to qualify for such an exemption.)
- (2) Conservation or preservation of soil, water, vegetation, fish, or other wildlife, provided they do not affect waters of the state or of the United States in such a way that would require a section 404 permit.

- (3) Outdoor passive recreational activities, including fishing, bird watching, hiking, boating, horseback riding, and canoeing.
 - (4) Natural water quality treatment or purification.
 - (5) Normal agriculture activities including the planting and harvesting of crops and pasturing of livestock. Such activities shall be subject to best management practices approved by the state department of agriculture.
- (e) *Prohibited uses.* In compliance with the Georgia Rules for Environmental Planning Criteria, the following uses are prohibited entirely and no permit shall be issued for them:
- (1) Receiving areas for toxic or hazardous waste or other contaminants.
 - (2) Hazardous or sanitary waste landfills.
- (Ord. of 10-18-2000, § 6)

Sec. 16-26. Groundwater recharge areas protection regulations.

(a) *Findings of fact.* Recharge areas are vulnerable to urban development activities as well as agricultural activities. Pesticides and herbicides sprayed on crops and animal waste, like septic tank effluents, contribute to a deterioration in the groundwater quality and can threaten the health of residents relying on well water. Development usually means an increase in the amount of land covered with impervious surfaces. Paving land in recharge areas can alter or impair their recharge characteristics thereby decreasing groundwater supplies.

(b) *Reference map.* The official map for delineation of significant groundwater recharge areas in the city to be regulated areas under this article is the state department of natural resources' "Significant Recharge Areas, Hydrological Atlas 18 (1989 edition)."

(c) *Groundwater recharge areas development permit requirements.* All uses except those identified in section (d) of this section and those subject to further restriction by any underlying zoning district are allowed. The following are additional requirements for specific uses:

- (1) All new aboveground chemical or petroleum storage tanks, having a minimum volume of 660 gallons, shall have secondary containment for 110 percent of the volume of such tanks or 110 percent of the volume of the largest tank in a cluster of tanks, and shall otherwise meet the requirements of U.S. EPA rules for oil pollution prevention, 40 CFR 112.1. Such tanks used for agricultural purposes are exempt, provided they comply with all federal requirements.
- (2) All single-family dwellings, multi-family dwellings, mobile home parks, or other uses located within a groundwater recharge area and not served by both public water and sewer systems shall be required to have 150 percent of the minimum lot or space size calculated based on application of the state department of human resources' Manual for On-Site Sewage Management Systems (DHR Manual) Tables MT-1 and MT-2 (included in section 16-31). The minimums set forth in Tables MT-1 and MT-2 may be

increased further based on consideration of other factors (set forth in sections A—F) of the DHR Manual. Said minimum lot size shall not be, in any case, less than the minimum lot size specified by any underlying zoning district. The regulations specifying the largest minimum lot size shall apply.

- (3) All lots shall have a minimum width of 150 feet, or as specified in any underlying zoning district, if stricter (larger), in the area where an approved on-site sewage management system is to be located.
 - (4) No construction may proceed on a building or mobile home to be served by a septic tank or other on-site sewage management system unless the county health department first approves the proposed on-site sewage management system installation as meeting the requirements of the state department of human resources' Manual for On-Site Sewage Management Systems and the provisions of this article.
 - (5) All new wastewater treatment basins shall have an impermeable liner except for the construction of mining settling basins.
 - (6) All new agricultural waste impoundment sites shall be lined. As a minimum, the liner shall be constructed of compact clay having a thickness of one foot and a vertical hydraulic conductivity of less than 5×10^{-7} cm/sec or other criteria established by the U.S. Natural Resources Conservation Service.
- (d) *Prohibited uses.* The following uses are prohibited entirely and no permit shall be issued for them:
- (1) All new hazardous waste storage, treatment and disposal facilities.
 - (2) New facilities handling 10,000 pounds or more of hazardous materials of the types listed in section 312 of the Resource Conservation and Recovery Act of 1976, as amended, excluding underground storage tanks, on any one day.
 - (3) Permanent stormwater infiltration basins.
- (Ord. of 10-18-2000, § 7)

Sec. 16-27. Major river corridor protection district regulations.

(a) *Findings of fact.* Perennial rivers or watercourses with an average annual flow of at least 400 cubic feet per second are of vital importance to the state in that they help preserve those qualities that make a river suitable for habitat for wildlife, a site for recreation, and a source for clean drinking water. These river corridors also allow the free movement of wildlife from area to area within the state, help control erosion and river sedimentation, and help absorb floodwaters.

(b) *District delineation.* Protected rivers, as defined under the Rules for Environmental Planning Criteria, adopted by the state department of natural resources, pursuant to O.C.G.A. § 12-2-8, includes any perennial river or watercourse with an average annual flow of at least 400

cubic feet per second. The Canoochee River through the county meets this criteria. A protected river corridor and a protective 100-foot vegetation buffer is hereby established along the entire length of this river within the county. The buffer area is measured horizontally from each riverbank, if any, within the city jurisdiction. Under the method prescribed by the Rules for Environmental Planning Criteria, no development or other land-disturbing activity will be allowed to occur within the protected river corridor and within a 100-foot buffer of the riverbank except for the following permitted uses.

(c) *Permitted uses.* No development or construction or other land-disturbing activity will be allowed to occur within the 100-foot buffer from the protected river except for the following uses, and the natural vegetative buffer shall be restored as quickly as possible following any land-disturbing activity or construction permitted within the river corridor for these acceptable uses:

- (1) Single-family dwellings, if any underlying zoning district so permits, provided each dwelling is located on a lot with a minimum size as specified by the county health department or the underlying zoning district regulations, but shall be the greater of these requirements; however, in any case, the lot for each dwelling shall not be less than two acres, not including any area between the riverbanks; and provided the septic tank drainfield is located outside of the 100-foot buffer area.
- (2) Any residential uses existing or under construction prior to the adoption of the ordinance from which this article is derived, provided the use has an on-site sewage management construction permit issued by the county health department prior to the date of adoption of the ordinance from which this article is derived.
- (3) Any industrial or commercial uses existing prior to the adoption of the ordinance from which this article is derived, providing they do not impair the drinking quality of the river water as defined by the federal Clean Water Act, as amended, and meet all other federal and state environmental regulations.
- (4) Road and utility crossings, providing the construction of these crossings meets the requirements of the Georgia Erosion and Sedimentation Act of 1975 (O.C.G.A. § 12-7-1 et seq.), as amended, or any local requirements, if stricter.
- (5) Timber production and harvesting, providing it is consistent with the best management practices established by the state forestry commission, and does not impair the drinking quality of the river water as defined by the federal Clean Water Act, as amended.
- (6) Agricultural production and management, provided it is consistent with the best management practices established by the state soil and water conservation commission, and all other state and federal laws and regulations, including those promulgated by the state department of agriculture; and does not impair the drinking quality of the river water as defined by the federal Clean Water Act, as amended.

- (7) Wildlife and fisheries management activities consistent with the purposes of O.C.G.A. § 12-2-8.
- (8) Natural water quality treatment or purification.
- (9) Wastewater treatment.
- (10) Recreational usage consistent with the maintenance of a natural vegetative buffer or with river-dependent recreation.

(d) *Prohibited uses.* In compliance with the Georgia Rules for Environmental Planning Criteria, the following uses are prohibited entirely and no permit shall be issued for them:

- (1) Facilities or areas used for the handling, receiving, storing, or disposal of hazardous wastes.
- (2) Hazardous or solid waste landfills.
- (3) Septic tank drainfields within the 100-foot buffer area under any circumstance.
- (4) Septic tanks within the 100-foot buffer area, except as expressly provided for single-family dwellings which are permitted under and comply with subsection (c)(1) of this section.

(Ord. of 10-18-2000, § 8)

Sec. 16-28. Variances.

When due to a particular hardship or extraordinary circumstance of the property involved which is not easily corrected, it is impractical for an owner or developer to comply with all of the requirements of this article, the city shall be authorized to vary such requirements (under its jurisdiction) only to such extent as to provide fairness to the owner or developer and as to not violate the intent and purposes of this article. Such variances shall only be granted in an official public meeting, and the reasons for granting them shall be entered into the minutes of the public meeting.

(Ord. of 10-18-2000, § 9)

Sec. 16-29. Violations and penalties.

(a) Violation of these provisions, prohibitions, and installation restrictions by any private individual, landowner, builder, remodeler, contractor, licensed electrician, licensed plumber, septic tank dealer or installer, mobile or manufactured home dealer or mover, or developer; or installation and delivery of any utility services by a public or private utility to any property which holds a septic tank system installed against these prohibitions and restrictions, shall be a violation of this article.

(b) Any person violating, neglecting, or refusing to comply with any provision of this article shall, upon conviction, be guilty of a misdemeanor. The city may take other actions or remedies as available at law to ensure compliance with or to prevent violation of provisions of this article. (Ord. of 10-18-2000, § 10)

Sec. 16-30. Court of jurisdiction.

The city or the county board of health, as appropriate, may bring complaints of violation of any provision of this article before either the magistrate court of the county, the state court of the county, or the city municipal court, as so desired. (Ord. of 10-18-2000, § 11)

Sec. 16-31. Minimum lot sizing for on-site sewage management.

(a) Minimum lot size requirements for those lots utilizing on-site management systems are as follows for single-family dwellings, including, but not limited to: manufactured or mobile homes, stick-built homes, modular homes, etc., and individual lots in subdivisions or mobile home lots located in areas other than commercial mobile home parks. Area requirements for multiple dwellings on a single recorded lot, where not prohibited by local zoning, must be provided in multiples of the following minimum lot sizes for each dwelling to be constructed on the recorded lot. See Table MT-1 as follows. The minimum lot size requirements in this table may be increased further based on consideration of other factors and requirements upon application of the state department of human resources' Manual for On-Site Sewage Management (DHR Manual), including those currently set forth in sections A—F of the DHR Manual.

Table MT-1
Minimum Lot Sizes, Minimum Lot Widths and Maximum Allowable Sewage Flow for the Type of Water Supply System

	<i>Type of Water Supply System</i>	
	<i>Non-Public* (Individual)</i>	<i>Public</i>
Minimum lot size	43,560 square feet	21,780 square feet
Minimum lot width	150 feet	100 feet
Maximum sewage flow	600 gpad**	1,200 gpad
*In this context the term "non-public" means an individual water supply system or any other water supply system which is not a public water supply system		
**gpad = gallons per acre per day = gal/acre/day		

(b) Minimum lot sizing requirements for those lots utilizing on-site sewage management systems are as follows in Table MT-2 for multi-family residential dwellings, all other non-single-family dwellings and commercial structures, and this also includes mobile home parks. These

minimum lot size requirements in this table may be increased further based on consideration of other factors and requirements upon application of the state department of human resources' Manual for On-Site Sewage Management (DHR Manual), including those currently set forth in sections A—F of the DHR Manual.

Table MT-2
Minimum Lot Sizes, Minimum Lot Widths and Maximum Allowable Sewage Flow for
the Type of Water Supply System

	<i>Type of Water Supply System</i>	
	<i>Non-Public*</i> <i>(Individual)</i>	<i>Public</i>
Minimum lot size	43,560 square feet	21,780 square feet
Minimum lot width	150 feet	100 feet
Maximum sewage flow	600 gpad**	1,200 gpad
*In this context the term "non-public" means an individual water supply system or any other water supply system which is not a public water supply system		
**gpad = gallons per acre per day = gal/acre/day		

(Ord. of 10-18-2000, app. 1)

Secs. 16-32—16-50. Reserved.

ARTICLE III. TREES

Sec. 16-51. Purpose and intent.

(a) Trees are recognized to be a valuable asset providing a healthier and more beautiful environment in which to live. Trees are economically beneficial in attracting new residents and visitors. Trees enhance the value and marketability of property and are valuable in providing shade and cooling effects as well as preventing air noise and visual pollution. Trees also prevent erosion and assist in flood control.

(b) Therefore, the objective of this article is to establish a tree planting program and tree protection regulations in order to preserve, protect, and enhance a most valuable natural resource for the health, safety, and welfare of the citizens of the city, thus making it a better place to live.

(c) The intent of this article is to establish standards limiting the removal of, and insuring the replacement of trees sufficient to safeguard the ecological and aesthetic environment necessary to a healthy, happy community. The intent is not to be punitive or to cause hardship to any individual, private or public company that uses care and diligence to protect trees within the city.

(Code 1982, § 8-1)

Sec. 16-52. 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:

Park trees means trees, shrubs, bushes and all other woody vegetation having individual names in city parks and all other areas owned by the city or available to the public as a park provided by the city.

Street trees means trees, shrubs, bushes and all other woody vegetation on land lying between right-of-way lines on either side of all city streets, avenues or ways within the city.
(Code 1982, § 8-2)

Sec. 16-53. Spacing.

The spacing of street trees may be planted no closer together than the following: small trees, 15 feet; medium trees, 30 feet; and large trees, 40 feet; except in special plantings designed or approved by a landscape architect.
(Code 1982, § 8-8)

Sec. 16-54. Distance from street corners and fire hydrants.

No street trees shall be planted closer than 18 feet to any street corner, measured from the point of nearest intersecting curbs and curblines. No street tree shall be planted closer than ten feet of any fire hydrant.
(Code 1982, § 8-9)

Sec. 16-55. Public tree care.

The city shall have the right to plant, prune, maintain and remove trees, plants and shrubs within the lines of all streets, alleys, avenues, lanes, squares, and public grounds, as may be necessary to ensure public safety or to preserve or enhance the symmetry and beauty of such public grounds. City officers and city employees may remove or cause or order to be removed, any tree or part thereof which is in an unsafe condition or which, by reason of its nature, is injurious to sewers, electric power lines, gas lines, water lines, or other public improvements, or affected with any injurious fungus, insect or other pest. This section does not prohibit the planting of street trees by adjacent property owners providing that the selection and location of said trees is in accordance with sections 16-52 through 16-56. Trees removed from city property must be replanted within 30 days or at proper tree planting time; provided the same shall not have been removed to ensure public safety or to preserve or enhance the symmetry and beauty of public grounds.
(Code 1982, § 8-10)

Sec. 16-56. Tree topping.

It shall be unlawful as a normal practice for any person, firm or city department to top any street tree, park tree, or other tree on public property. Topping is defined as the severe cutting back of limbs to stubs larger than three inches in diameter within the tree's crown to such a degree so as to remove the normal canopy and disfigure the tree. Trees severely damaged by storms or other causes, or certain trees under utility wires or other obstructions where other pruning practices are impractical, are exempted from this article.

(Code 1982, § 8-11)

Sec. 16-57. Private property.

At the time of issuing a building permit for new development within the city, a copy of this article shall be furnished to builders. A consultation with the city officers or city employees may be requested in order to attempt to protect existing trees that will add to the aesthetic beauty of said property.

(Code 1982, § 8-13)

Sec. 16-58. Removal of stumps.

All stumps of street and park trees shall be removed below the surface of the ground so that the top of the stump shall not project above the surface of the ground.

(Code 1982, § 8-14)

Sec. 16-59. Interference with city employees.

It shall be unlawful for any person to prevent, delay, or interfere with the city officers or city employees, or agents thereof, while engaging in and about the planting, cultivating, mulching, pruning, spraying or removing of any street trees and/or park trees.

(Code 1982, § 8-15)

Sec. 16-60. Review by mayor and city council.

The mayor and city council shall have the right to review the conduct, acts, and decisions of the city officers or city employees made pursuant to the provisions of this article. Any person may appeal from any ruling or order of the city officers or city employees made pursuant to the provisions of this article to the mayor and council who may hear the matter and make a final decision.

(Code 1982, § 8-16)

Sec. 16-61. Tree and shrubbery obstruction; right-of-way or street; beautification.

(a) It shall be unlawful for any property owner owning property within the city limits to permit any portion of any tree, bush or shrubbery to obstruct or hinder the use of any city right-of-way or street; this is to include the obstruction of the proper vision of any person using such right-of-way or street.

(b) It shall be the responsibility of said property owner to keep said trees, bushes or shrubbery from obstructing said right-of-way or street at his expense, and in the event that the owner fails to do so, the owner shall reimburse the city for the reasonable expenses incurred in removing said obstruction. All citizens of the city are urged to plant new trees and shrubbery. In the event that a tree or shrub is destroyed or dies, the city encourages that it be replaced by the planting of a new tree or shrub. Also the city encourages the citizens to plant one tree annually for the purpose of beautifying the city.

(Code 1982, § 20-3; Ord. of 9-20-1982; Ord. of 10-7-1982)

Secs. 16-62—16-84. Reserved.

ARTICLE IV. SOIL EROSION AND SEDIMENTATION CONTROL*

Sec. 16-85. Title.

This article will be known as "City of Claxton Soil Erosion and Sedimentation Control Ordinance."

(Ord. of 3-26-2006, § I)

Sec. 16-86. Definitions.

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

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

Board 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.

Commission means the state soil and water conservation commission.

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 excavated surface. Also known as excavation.

Department means the department of natural resources.

***State law references**—Erosion and Sedimentation Act of 1975, O.C.G.A. § 12-7-1 et seq.; local ordinance governing land-disturbing activities, O.C.G.A. § 12-7-4.

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

District means the Ogeechee River Soil and Water Conservation District.

Division means the environmental protection division 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 stormwater 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 and sedimentation control plan means a plan for the control of soil erosion and sedimentation resulting from a land-disturbing activity; also known as "the plan."

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

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 and 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 16-67(5).

Larger common plan of development of sale means a contiguous area where multiple separate and distinct construction of activities are occurring under one plan of development or sale. For the purposes of this definition, the term "larger common plan of development of sale" means an announcement; piece of documentation such as 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 colloiddally dispersed particles are present.

Operator means the party that has:

- (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 a stormwater pollution prevention plan for the site or other permit conditions, such as a person authorized to direct workers at a site to carry out activities required by the stormwater pollution prevention plan or to comply with other permit conditions.

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

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

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

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 way consisting of one or more defined lanes, with or without shoulder areas, and carrying water to a release point on the other side.

Sediment means solid material, both organic and inorganic, that is in suspension, is being transported, or has been moved from its site or origin by air, 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 and sedimentation control plan approved in writing by the Ogeechee River 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 general permit for stormwater runoff from construction activities as is now in effect or as may be amended or reissued in the future pursuant to the state's authority to implement the same through federal delegation under the Federal Water Pollution Control Act, as amended, 33 USC 1251 et seq., and O.C.G.A. § 12-5-30(f).

State waters 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 the state which are not entirely confined and retained completely upon the property of a single individual, partnership, or corporation.

Structural erosion and sedimentation control practices 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, sediment traps and land grading, etc. Such practices can be found in the Manual for Erosion and Sediment Control in Georgia.

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

Vegetative erosion and sedimentation control measures 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;
- (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 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 water or groundwater at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs, and similar areas.

(Ord. of 3-26-2006, § II)

State law reference—Definitions, O.C.G.A. § 12-7-3.

Sec. 16-87. Exemptions.

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

- (1) Surface mining, as the same is defined in O.C.G.A. § 12-4-72;
- (2) Granite quarrying and land clearing for such quarrying;
- (3) Such minor land-disturbing activities as home gardens and individual home landscaping, repairs, maintenance work, fences, and other related activities which result in minor soil erosion;
- (4) The construction of single-family residences, when such construction disturbs less than one acre and is not a part of a larger common plan of development or sale with a planned disturbance of equal to or greater than one acre and not otherwise exempted under this subsection; provided, however, that construction of any such residence shall conform to the minimum requirements as set forth in section 16-88 and this subsection. For single-family residence construction covered by the provisions of this subsection, there shall be a buffer zone between the residence and any state waters classified as trout streams pursuant to the Georgia Water Quality Control Act (O.C.G.A. § 12-5-20 et seq.). In any such buffer zone, no land-disturbing activity shall be constructed between the residence and the point where vegetation has been wrested by normal stream flow or wave action from the banks of the trout waters. For primary trout waters, the buffer zone shall be at least 50 horizontal feet, and no variance to a smaller buffer shall be granted. For secondary trout waters, the buffer zone shall be at least 50 horizontal feet, but the director may grant variances to no less than 25 feet. Regardless of whether a trout stream is primary or secondary, for first order trout waters, which are streams into which no other streams flow except for springs, the buffer shall be at least 25 horizontal feet, and no variance to a smaller buffer shall be granted. The minimum requirements of section 16-88 and the buffer zones provided by this section shall be enforced by the issuing authority;

- (5) Agricultural operations as defined in O.C.G.A. § 1-3-3 (definitions), to include those practices involving the establishment, cultivation, or harvesting of products of the field or orchard; the preparation and planting of pasture land; farm ponds; dairy operations; livestock and poultry management practices; and the construction of farm buildings;
- (6) Forestry land management practices, including harvesting; provided, however, that when such exempt forestry practices cause or result in land-disturbing or other activities otherwise prohibited in a buffer, as established in section 16-88(c)(15) and (16), no other land-disturbing activities, except for normal forest management practices, shall be allowed on the entire property upon which the forestry practices were conducted for a period of three years after completion of such forestry practices;
- (7) Any project carried out under the technical supervision of the Natural Resources Conservation Service of the United States Department of Agriculture;
- (8) Any project involving less than one acre of disturbed area; provided, however, that this exemption shall not apply to any land-disturbing activity within a larger common plan of development or sale with a planned disturbance of equal to or greater than one acre or within 200 feet of the bank of any state waters, and for purposes of this subsection, the term "state waters" excludes channels and drainageways 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 drainageway, 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 state highway authority, or the state tollway authority; or any road construction or maintenance project, or both, undertaken by any county or municipality; provided, however, that construction or maintenance projects of the department of transportation or the state tollway authority which disturb one or more contiguous acres of land shall be subject to provisions of O.C.G.A. § 12-7-7.1; except where the department of transportation, the state highway authority, or the state road and tollway authority is a secondary permittee for a project located within a larger common plan of development or sale under the state general permit, in which case, a copy of a notice of intent under the state general permit shall be submitted to the local issuing authority, the local issuing authority shall enforce compliance with the minimum requirements set forth in O.C.G.A. § 12-7-6, as if a permit had been issued, and violations shall be subject to the same penalties as violations by permit holders;

- (10) Any land-disturbing activities conducted by any electric membership corporation or municipal electrical system or any public utility under the regulatory jurisdiction of the public service commission, any utility under the regulatory jurisdiction of the Federal Energy Regulatory Commission, any cable television system as defined in O.C.G.A. § 36-18-1, or any agency or instrumentality of the United States engaged in the generation, transmission, or distribution of power; except where an electric membership corporation or municipal electrical system or any public utility under the regulatory jurisdiction of the public service commission, any utility under the regulatory jurisdiction of the Federal Energy Regulatory Commission, any cable television system as defined in O.C.G.A. § 36-18-1, or any agency or instrumentality of the United States engaged in the generation, transmission, or distribution of power is a secondary permittee for a project located within a larger common plan of development or scale under the state general permit, in which case the local issuing authority shall enforce compliance with the minimum requirements set forth in O.C.G.A. § 12-7-6 as if a permit had been issued, and violations shall be subject to the same penalties as violations by permit holders; and
- (11) Any public water system reservoir.
(Ord. of 3-26-2006, § III)
State law reference—Similar provisions, O.C.G.A. § 12-7-17.

Sec. 16-88. Minimum requirements for erosion and sedimentation control using best management practices.

(a) General provisions. Excessive soil erosion and resulting sedimentation can take place during land-disturbing activities. Therefore, plans for those land-disturbing activities which are not exempted by this article shall contain provisions for application of soil erosion and sedimentation control measures and practices. The provisions shall be incorporated into the erosion and sedimentation control plans. Soil erosion and sedimentation control measures and practices shall conform to the minimum requirements of section 16-68(b) and (c). The application of measures and practices shall apply to all features of the site, including street and utility installations, drainage facilities and other temporary and permanent improvements. Measures shall be installed to prevent or control erosion and sedimentation pollution during all stages of any land-disturbing activity.

(b) Minimum requirements/BMPs.

- (1) Best management practices as set forth in subsections (b) and (c) of this section shall be required for all land-disturbing activities. Proper design, installation, and maintenance of best management practices shall constitute a complete defense to any action by the director or to any other allegation of noncompliance with subsection (b)(2) of this section or any substantially similar terms contained in a permit for the discharge of stormwater issued pursuant to 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(b).

- (2) A discharge of stormwater 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 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 subsection shall not apply to any land disturbance associated with the construction of single-family homes which are not part of a larger common plan of development or sale unless the planned disturbance for such construction is equal to or greater than five acres.
- (3) Failure to properly design, install, or maintain best management practices shall constitute a violation of any land-disturbing permit issued by a local issuing authority or of any state general permit issued by the division pursuant to O.C.G.A. § 12-5-30(f), 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.

(c) The rules and regulations, ordinances, or resolutions adopted pursuant to this article 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 state 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 practical 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 runoff water must be trapped by the use of debris basins, sediment basins, silt traps, or similar measures until the disturbed area is stabilized. As used in this subsection, a disturbed area is stabilized when it is brought to a condition of continuous compliance with the requirements of the Erosion and Sedimentation Act of 1975 (O.C.G.A. § 12-7-1 et seq.).
- (10) Adequate provisions must be provided to minimize damage from surface water to the cut face of excavations or the sloping of fills.
- (11) Cuts and fills may not endanger adjoining property.
- (12) Fills may not encroach upon natural watercourses or constructed channels in a manner so as to adversely affect other property owners.
- (13) Grading equipment must cross flowing streams by means of bridges or culverts except when such methods are not feasible, provided, in any case, that such crossings are kept to a minimum.
- (14) Land-disturbing activity plans for erosion and sedimentation control shall include provisions for treatment or control of any source of sediments and adequate sedimentation control facilities to retain sediments onsite or preclude sedimentation of adjacent waters beyond the levels specified in subsection (b)(2) of this section.
- (15) Buffer.
 - a. 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:
 1. As otherwise provided herein;
 2. Where the director determines to allow a variance that is at least as protective of natural resources and the environment;
 3. Where otherwise allowed by the director pursuant to O.C.G.A. § 12-2-8;

4. 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;
5. Along any ephemeral stream. As used in this subsection, the term "ephemeral stream" means a stream:
 - (i) That, under normal circumstances, has water flowing only during and for a short duration after precipitation events;
 - (ii) That has the channel located above the groundwater table year-round;
 - (iii) For which groundwater is not a source of water; and
 - (iv) For which runoff from precipitation is the primary source of water flow.

Unless exempted under subsection (c)(15)a.5 of this section, buffers of at least 25 feet established pursuant to O.C.G.A. title 12, ch. 5, art. 5, pt. 6 (O.C.G.A. § 12-5-440 et seq.) shall remain in force unless a variance is granted by the director.

- b. No land-disturbing activities shall be conducted within any such buffer; and a buffer shall remain in its natural, undisturbed state of vegetation until all land-disturbing activities on the construction site are completed, except as otherwise provided by this subsection. Once the final stabilization of the site is achieved, a buffer may be thinned or trimmed of vegetation as long as a protective vegetative cover remains to protect water quality and aquatic habitat and a natural canopy is left in sufficient quantity to keep shade on the stream bed; provided, however, that any person constructing a single-family residence, when such residence is constructed by or under contract with the owner for his own occupancy, may thin or trim vegetation in a buffer at any time as long as protective vegetative cover remains to protect water quality and aquatic habitat and a natural canopy is left in sufficient quantity to keep shade on the stream bed.
- (16) There is established a 50-foot buffer, as measured horizontally from the point where vegetation has been wrested by normal stream flow or wave action, along the banks of any state waters classified as trout streams pursuant to the Georgia Water Quality Control Act (O.C.G.A. § 12-5-20 et seq.), except where a roadway drainage structure must be constructed; provided, however, that small springs and streams classified as trout streams which discharge on average annual flow of 25 gallons per minute or less shall have a 25-foot buffer or they may be piped, at the discretion of the landowner, pursuant to the terms of a rule providing for a general variance promulgated by the board, so long as any such pipe stops short of the downstream landowner's property and the landowner complies with the buffer requirement for any adjacent trout streams. The director may grant a variance from such buffer to allow land-disturbing activity,

provided that adequate erosion control measures are incorporated in the project plans and specifications and are implemented. The following requirements shall apply to such buffer:

- a. No land-disturbing activities shall be conducted within a buffer and a buffer shall remain in its natural, undisturbed state of vegetation until all land-disturbing activities on the construction site are completed. Once the final stabilization of the site is achieved, a buffer may be thinned or trimmed of vegetation as long as a protective vegetative cover remains to protect water quality and aquatic habitat and a natural canopy is left in sufficient quantity to keep shade on the stream bed; provided, however, that any person constructing a single-family residence, when such residence is constructed by or under contract with the owner for his own occupancy, may thin or trim vegetation in a buffer at any time as long as protection 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 specification and are implemented:
 1. Stream crossings for water lines; or
 2. Stream crossings for sewer lines.

(d) Nothing contained in this article 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 subsections (b) and (c) of this section.

(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. of 3-26-2006, § IV)

State law reference—Similar provisions, O.C.G.A. § 12-7-6.

Sec. 16-89. Application/permit process.

(a) *General.* The property owner, developer and designated planners and engineers shall review the general development plans and detailed plans of the local issuing authority that affect the tract to be developed and the area surrounding it. They shall review the zoning ordinance, stormwater management ordinance, subdivision ordinance, flood damage preven-

tion ordinance, this article, and other ordinances which regulate the development of land within the jurisdictional boundaries of the local issuing authority. However, the operator is the only party who may obtain a permit.

(b) *Application requirement.*

- (1) No person shall conduct any land-disturbing activity within the city's jurisdictional boundaries without first obtaining a permit from the city to perform such activity.
- (2) The application for a permit shall be submitted to the city and must include the applicant's erosion and sedimentation control plan with supporting data, as necessary. Said plans shall include, as a minimum, the data specified in subsection (c) of this section. Soil erosion and sedimentation control plans shall conform to the provisions of section 16-88(b) and (c). Applications for a permit will not be accepted unless accompanied by three copies of the applicant's soil erosion and sedimentation 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 or that such a visit was not required in accordance with rules and regulations established by the board.
- (3) A fee in the amount established by the city shall be charged for each acre or fraction thereof in the project area.
- (4) 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.
- (5) 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 and sedimentation control plan. A district shall approve or disapprove a plan within 35 days of receipt. Failure of a 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 issuing authority. No permit will be issued unless the plan has been approved by the district, and any variances required by section 16-88(b)(15) and (16) and bonding, if required as per this subsection (b), have been obtained. Such review will not be required if the issuing authority and the

district have entered into an agreement which allows the issuing authority to conduct such review and approval of the plan without referring the application and plan to the district.

- (6) If a permit applicant has had two or more violations of previous permits, this section, or the Erosion and Sedimentation Act of 1975 (O.C.G.A. § 12-7-1 et seq.), as amended, within three years prior to the date of filing of the application under consideration, the local issuing authority may deny the permit application.
- (7) 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 article 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 16-88(b) and (c). Conformance with the minimum requirements may be attained through the use of design criteria in the current issue of the Manual for Erosion and Sediment Control in Georgia, published by the state soil and water conservation commission as a guide; 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 stormwater management facilities, local ordinances and state laws.
- (2) Data required for site plan:
 - a. Narrative or notes, and other information. Notes or narrative to be located on the site plan in general notes or in erosion and sediment control notes.
 - b. Description of existing land use at project site and description of proposed project.
 - c. Name, address, and telephone number of property owner.

- d. Name and telephone number of 24-hour local contact who is responsible for erosion and sedimentation controls.
 - e. Size of project, or phase under construction, in acres.
 - f. Activity schedule showing anticipated starting and completion dates for the project. Include the statement in bold letters, that "the installation of erosion and sedimentation control measures and practices shall occur prior to or concurrent with land-disturbing activities."
 - g. Stormwater and sedimentation management systems storage capacity, hydrologic study, and calculations, including off-site drainage areas.
 - h. Vegetative plan for all temporary and permanent vegetative measures, including species, planting dates, and seeding, fertilizer, lime, and mulching rates. The vegetative plan should show options for year-round seeding.
 - i. Detail drawings for all structural practices. Specifications may follow guidelines set forth in the Manual for Erosion and Sediment Control in Georgia.
 - j. Maintenance statement: "Erosion and sedimentation control measures will be maintained at all times. If full implementation of the approved plan does not provide for effective erosion and sediment control, additional erosion and sediment control measures shall be implemented to control or treat the sediment source."
- (3) Maps, drawings, and supportive computations shall bear the signature/seal of a registered or certified professional in engineering, architecture, landscape architecture, land surveying, or erosion and sedimentation control. After December 31, 2006, all persons involved in land development design, review, permitting, construction, monitoring, or inspection or any land-disturbing activity shall meet the education and training certification requirements as developed by the commission pursuant to O.C.G.A. § 12-7-20. The certified plans shall contain:
- a. Graphic scale and north point or arrow indicating magnetic north.
 - b. Vicinity maps showing location of project and existing streets.
 - c. Boundary line survey.
 - d. Delineation of disturbed areas within project boundary.
 - e. Existing and planned contours, with an interval in accordance with the following:

<i>Map Scale</i>	<i>Ground Slope</i>	<i>Contour Interval (feet)</i>
1 inch = 100 feet or larger scale	Flat 0—2 percent	0.5 or 1
	Rolling 2—8 percent	1 or 2
	Steep 8+ percent	2, 5 or 10

- f. Adjacent areas and feature areas such as streams, lakes, residential areas, etc., which might be affected should be indicated on the plan.
 - g. Proposed structures or additions to existing structures and paved areas.
 - h. Delineate the 25-foot horizontal buffer adjacent to state waters and the specified width in MRPA areas.
 - i. Delineate the specified horizontal buffer along designated trout streams, where applicable.
 - j. Location of erosion and sedimentation control measures and practices using coding symbols from the Manual for Erosion and Sediment Control in Georgia, chapter 6.
- (4) Maintenance of all soil erosion and sedimentation control practices, whether temporary or permanent, shall be at all times the responsibility of the property owner.
- (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.
 - (2) No permit shall be issued by the local issuing authority unless the erosion and sedimentation 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 16-88(c)(15) and (16) are obtained, bonding requirements, if necessary as per subsection (b) of this section are met and all ordinances and rules and regulations in effect within the jurisdictional boundaries of the local issuing authority are met. If the permit is denied, the reason for denial shall be furnished to the applicant.
 - (3) If the tract is to be developed in phases, then a separate permit shall be required for each phase.
 - (4) The permit may be suspended, revoked, or modified by the local issuing authority, as to all or any portion of the land affected by the plan, upon finding that the holder or his successor in the title is not in compliance with the approved erosion and sedimentation control plan or that the holder or his successor in title is in violation of this article. A holder of a permit shall notify any successor in title to him as to all or any portion of the land affected by the approved plan of the conditions contained in the permit.

(Ord. of 3-26-2006, § V)

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

Sec. 16-90. Inspection and enforcement.

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

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

(c) No person shall refuse entry or access to any authorized representative or agent of the issuing authority, the commission, the district, or division who requests entry for the purposes of inspection, and who presents appropriate credentials, nor shall any person obstruct, hamper or interfere with any such representative while in the process of carrying out his official duties. (Ord. of 3-26-2006, § VI)

Sec. 16-91. Penalties and incentives.

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

(b) *Stop-work orders.*

(1) For the first and second violations of the provisions of this article, the 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 of 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 of 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;
- (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 designee, have been or are being discharged into state waters and where best management practices have not been properly designed, installed, and maintained, a stop-work order shall be issued by the local issuing authority or by the director or his designee. All such stop-work orders shall be effective immediately upon issuance and shall be in effect until the necessary corrective action or mitigation has occurred. Such stop-work orders shall apply to all land-disturbing activity on the site with the exception of the installation and maintenance of temporary or permanent erosion and sediment controls.

(c) *Bond forfeiture.* If, through inspection, it is determined that a person engaged in land-disturbing activities has failed to comply with the approved plan, a written notice to comply shall be served upon that person. The notice shall set forth the measures necessary to achieve compliance with the plan and shall state the time within which such measures must be completed. If the person engaged in the land-disturbing activity fails to comply within the time specified, he shall be deemed in violation of this article and, in addition to other penalties, shall be deemed to have forfeited his performance bond, if required to post one under the provisions of section 16-89(b)(7). The issuing authority may call the bond or any part thereof to be forfeited and may use the proceeds to hire a contractor to stabilize the site of the land-disturbing activity and bring it into compliance.

(d) *Monetary penalties.* Any 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 the city Charter to the contrary, municipal courts shall be authorized to impose a penalty not to exceed \$2,500.00 for each violation. Notwithstanding any limitation of law as to penalties which can be assessed for violations of county ordinances, any magistrate court or any other court of competent jurisdiction trying cases brought as violations of this article under county ordinances approved

under this article shall be authorized to impose penalties for such violations not to exceed \$2,500.00 for each violation. Each day during which violation or failure or refusal to comply continues shall be a separate violation.

(Ord. of 3-26-2006, § VII)

State law reference—Penalties, O.C.G.A. § 12-7-15.

Sec. 16-92. Education and certification.

After December 31, 2006, all persons involved in land development design, review, permitting, construction, monitoring, or inspection or any land-disturbing activity shall meet the education and training certification requirements, dependent on their level of involvement with the process, as developed by the commission in consultation with the division and the stakeholder advisory board created pursuant to O.C.G.A. § 12-7-20.

(Ord. of 3-26-2006, § VIII)

State law reference—Education and training certification requirements, O.C.G.A. § 12-7-19.

Sec. 16-93. Administrative appeal judicial review; liability.

(a) *Administrative remedies.* The suspension, revocation, modification or grant with condition of a permit by the issuing authority upon finding that the holder is not in compliance with the approved erosion and sediment control plan; or that the holder is in violation of permit conditions; or that the holder is in violation of any ordinance; shall entitle the person submitting the plan or holding the permit to a hearing before the mayor and council within 30 days after receipt by the issuing authority of written notice of appeal.

(b) *Judicial review.* Any person aggrieved by a decision or order of the issuing authority, after exhausting his administrative remedies, shall have the right to appeal de novo to the superior court of the county.

(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 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 (O.C.G.A. § 12-7-1 et seq.), the Georgia Water Quality Control Act (O.C.G.A. § 12-5-20 et seq.) or the rules and regulations promulgated and approved thereunto or pollute any waters of the state as defined thereby.

(Ord. of 3-26-2006, §§ IX, X)

Secs. 16-94—16-113. Reserved.

ARTICLE V. WELLHEAD PROTECTION

Sec. 16-114. Short title and purpose.

(a) This article shall be known as the "Wellhead Protection Ordinance."

(b) The purpose of this article is to ensure the provision of a safe and sanitary drinking water supply for the city by the establishment of wellhead protection zones surrounding the wellheads for all wells which are the supply sources for the city water system and by the designation and regulation of property uses and conditions which may be maintained within such zones.

(Ord. of 5-4-1998, § 1)

Sec. 16-115. 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:

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 incapacitation reversible illness; or
- (2) Pose a substantial present or potential hazard to human health or to 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. of 5-4-1998, § 2)

Sec. 16-116. Establishment of wellhead protection zone.

There is hereby established a use district 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 100 feet.

(Ord. of 5-4-1998, § 3)

Sec. 16-117. Permitted uses.

The following uses shall be permitted within wellhead protection zones:

- (1) Any use permitted within existing agricultural or single-family residential districts, except that the minimum residential lot size for a lot any portion of which lies within the wellhead protection zone shall not be less than one acre; and
- (2) Any other open land use where any building located on the property is incidental and accessory to the primary open land use.

(Ord. of 5-4-1998, § 4)

Sec. 16-118. Prohibited uses.

The following uses or conditions shall be and are hereby prohibited within wellhead protection zones, whether or not such use or condition may otherwise be ordinarily included as a part of a use permitted under section 16-117:

- (1) Surface use or storage of hazardous material, expressly including commercial use of agricultural pesticides;
- (2) Septic tanks or drain fields appurtenant thereto;
- (3) Impervious surfaces other than roofs of buildings, and streets, driveways and walks serving buildings permitted under section 16-117;
- (4) Sanitary landfills;
- (5) Hazardous waste disposal sites;
- (6) Stormwater infiltration basins;
- (7) Underground storage tanks;
- (8) Sanitary sewer lines within 150 feet of a wellhead.

(Ord. of 5-4-1998, § 5)

Sec. 16-119. Administration.

The policies and procedures for administration of any wellhead protection zone established under this article, including, without limitation, those applicable to nonconforming uses, exceptions, enforcement and penalties, shall be the same as provided in the existing zoning ordinance for the city, as the same is presently enacted or may from time to time be amended.

(Ord. of 5-4-1998, § 6)

Chapter 17

RESERVED

Chapter 18

FIRE PREVENTION AND PROTECTION*

- Sec. 18-1. Fire prevention code; adoption, penalty for violation.
- Sec. 18-2. Chief of the fire department's authority at fires—Absolute control.
- Sec. 18-3. Same—Destroying buildings.

***State law references**—Fire protection and safety, O.C.G.A. title 25; local fire departments generally, O.C.G.A. § 25-3-1 et seq.; Georgia Firefighter Standards and Training Act, O.C.G.A. § 25-4-1 et seq.; obstructing or hindering firefighters, O.C.G.A. § 16-10-24.1; false fire alarm, O.C.G.A. § 16-20-27.

Sec. 18-1. Fire prevention code; adoption, penalty for violation.

There is hereby adopted the International Fire Code as adopted by the state. Any person violating any provision of the fire code adopted herein shall be punished as prescribed by section 1-8.

(Code 1982, § 10-1; Ord. of 11-15-1982)

State law reference—International Fire Code as mandatory state code, O.C.G.A. §§ 8-2-20(9)(B)(i)(VIII), 8-2-25(a).

Sec. 18-2. Chief of the fire department's authority at fires—Absolute control.

The chief of the fire department shall have complete control at all fires, and the chief of police and other peace officers of the city shall be subject to his orders and commands. The control of the chief of the fire department shall continue until all danger has passed.

(Code 1982, § 10-2)

Sec. 18-3. Same—Destroying buildings.

The chief of the fire department shall have power to pull down or blow up any building, or portion of any building, when he deems it necessary in order to halt the spread of any fire.

(Code 1982, § 10-3)

Chapter 19

RESERVED

Chapter 20

FLOOD DAMAGE PREVENTION

Article I. In General

- Sec. 20-1. Definitions.
- Sec. 20-2. Authorization.
- Sec. 20-3. Findings of fact.
- Sec. 20-4. Statement of purpose.
- Sec. 20-5. Objectives.
- Sec. 20-6. Lands to which this chapter applies.
- Sec. 20-7. Basis for area of special flood hazard.
- Sec. 20-8. Establishment of development permit.
- Sec. 20-9. Compliance.
- Sec. 20-10. Abrogation and greater restrictions.
- Sec. 20-11. Interpretation.
- Sec. 20-12. Warning and disclaimer of liability.
- Sec. 20-13. Penalties for violation.
- Secs. 20-14—20-33. Reserved.

Article II. Administration

- Sec. 20-34. Designation of chapter administrator.
- Sec. 20-35. Permit procedures.
- Sec. 20-36. Duties and responsibilities of the administrator.
- Sec. 20-37. Variance procedures.
- Secs. 20-38—20-67. Reserved.

Article III. Flood Hazard Reduction

- Sec. 20-68. General standards.
- Sec. 20-69. Specific standards.
- Sec. 20-70. Building standards for streams without established base flood elevations and/or floodway (A zones).
- Sec. 20-71. Standards for areas or special flood hazard (Zones AE) with established base flood elevations without designated floodways.
- Sec. 20-72. Standards for areas of shallow flooding (AO zones).
- Sec. 20-73. Standards for subdivisions.
- Sec. 20-74. Standards for critical facilities.

ARTICLE I. IN GENERAL**Sec. 20-1. Definitions.**

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

Accessory structure means a structure having minimal value and used for parking, storage and other nonhabitable 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 city administrator's interpretation of any provision of this chapter.

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 20-7.

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

Base flood elevation (BFE) means the elevation shown on the flood insurance rate map for Zones AE, AH, A1-A30, AR, AR/A, AR/AE, AR/A1-A30, AR/AH, AR/AO, V1-V30 and VE that indicates the water surface elevation resulting from a flood that has a one percent chance of equaling or exceeding that level in any given year.

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

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

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

- (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 manmade change to improved or unimproved real estate, including, but not limited to, buildings or other structures, mining, dredging, filling, grading, paving, excavating, drilling operations, and storage of materials or equipment.

Elevated building means a nonbasement 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, for the purposes of determining rates, means structures for which the start of construction commenced before July 22, 2010.

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 July 22, 2010.

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; and
- (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 nonstructural 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 the 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 or vehicles, building access, or storage, in an area other than a basement, is not considered a building's lowest floor, provided that such enclosure is not built so as to render the structure in violation of other provisions of this Code.

Manufactured home means a building, transportable in one or more sections, built on a permanent chassis and designed to be used with or without a permanent foundation when connected to the required utilities. The term "manufactured home" also includes park trailers, travel trailers, and similar transportable structures placed on a site for 180 consecutive days or longer and intended to be improved property.

Manufactured home park or subdivision means a parcel (or contiguous 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 the National Flood Insurance Program, the National Geodetic Vertical Datum (NGVD) of 1929 or other datum, to which base flood elevations shown on a community's flood insurance rate map are referenced.

National Geodetic Vertical Datum (NGVD), as corrected in 1929, means a vertical control used as a reference for establishing varying elevations within the floodplain.

New construction, for the purpose of determining insurance rates, means structures for which the start of construction commenced after July 22, 2010, the effective date of the initial FIRM, and includes any subsequent improvements to such structures. For floodplain management purposes, the term "new construction" means structures for which the start of construction commenced after July 22, 2010, the effective date of the first floodplain management ordinance adopted by the community, and includes any subsequent improvements to such structures.

New manufactured home park or subdivision means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed after July 22, 2010, the effective date of the first floodplain management regulations adopted by a community.

North American Vertical Datum (NAVD) has replaced the National Geodetic Vertical Datum of 1929 in existing and future FEMA flood modernization maps.

Recreational vehicle means a vehicle which is:

- (1) Built on a single chassis;
- (2) 400 square feet or less when measured at the largest horizontal projection;
- (3) Designed to be self-propelled or permanently towable by a light-duty truck; and
- (4) Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

Start of construction means the date the development permit was issued, provided the actual start of construction, repair, reconstruction, or improvement was within 180 days of the permit date. The actual start means the first placement or permanent construction of the structure such as the pouring of slabs or footings, installation of piles, construction of columns, or any work beyond the stage of excavation, and includes the placement of a manufactured home on a foundation. Permanent construction does not include initial land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers or foundations or the erection of temporary forms; nor does it include the installation on the property of buildings appurtenant to the permitted structure, such as garages or sheds not occupied as dwelling units or part of the main structure (Note: accessory structures are not exempt from any ordinance requirements). For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

Structure means a walled and roofed building that is principally above ground, a manufactured home, or a gas or liquid storage tank.

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

Substantial damage means damage of any origin sustained by a structure whereby the cost of restoring the structure to 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 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.

The term "substantial improvement" includes structures which have incurred substantial damage, regardless of the actual amount of repair work performed.

(Ord. of 6-21-2010, art. 6)

Sec. 20-2. Authorization.

Ga. Const. article IX, section II and O.C.G.A. § 36-1-20(a) have delegated the responsibility to local governmental units to adopt regulations designed to promote the public health, safety, and general welfare of its citizenry. Therefore, the city council does ordain as provided in this chapter.

(Ord. of 6-21-2010, art. 1, § A)

Sec. 20-3. Findings of fact.

(a) The flood hazard areas of the city are subject to periodic inundation which results in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood relief and protection, and impairment of the tax base, all of which adversely affect the public health, safety and general welfare.

(b) These flood losses are caused by the occupancy in flood hazard areas of uses vulnerable to floods, which are inadequately elevated, floodproofed, or otherwise unprotected from damages, and by the cumulative effect of obstructions in floodplains causing increases in flood heights and velocities.

(Ord. of 6-21-2010, art. 1, § B)

Sec. 20-4. Statement of purpose.

It is the purpose of this chapter 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 floodwaters or which may increase flood hazards to other lands;
- (5) Control the alteration of natural floodplains, stream channels, and natural protective barriers, which are involved in the accommodation of floodwaters.

(Ord. of 6-21-2010, art. 1, § C)

Sec. 20-5. Objectives.

The objectives of this chapter 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 floodprone 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 ensure that potential homebuyers are notified that property is in a flood area.
- (Ord. of 6-21-2010, art. 1, § D)

Sec. 20-6. Lands to which this chapter applies.

This chapter shall apply to all areas of special flood hazard within the jurisdiction of the city.
(Ord. of 6-21-2010, art. 2, § A)

Sec. 20-7. Basis for area of special flood hazard.

(a) The areas of special flood hazard identified by the Federal Emergency Management Agency in its flood insurance study (FIS), dated July 22, 2010, with accompanying maps and other supporting data and any revision thereto, are adopted by reference and declared a part of this chapter.

(b) For those land areas acquired by a municipality through annexation, the current effective FIS dated July 22, 2010, with accompanying maps and other supporting data and any revision thereto, for the unincorporated county are hereby adopted by reference.

(c) 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.

(d) The repository for public inspection of the flood insurance study (FIS), accompanying maps and other data is located in the city.
(Ord. of 6-21-2010, art. 2, § B)

Sec. 20-8. Establishment of development permit.

A development permit shall be required in conformance with the provisions of this chapter prior to the commencement of any development activities.

(Ord. of 6-21-2010, art. 2, § C)

Sec. 20-9. Compliance.

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

(Ord. of 6-21-2010, art. 2, § D)

Sec. 20-10. Abrogation and greater restrictions.

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

(Ord. of 6-21-2010, art. 2, § E)

Sec. 20-11. Interpretation.

In the interpretation and application of this chapter all provisions shall be:

- (1) Considered as minimum requirements;
- (2) Liberally construed in favor of the city council; and
- (3) Deemed neither to limit nor repeal any other powers granted under state statutes.

(Ord. of 6-21-2010, art. 2, § F)

Sec. 20-12. Warning and disclaimer of liability.

The degree of flood protection required by this chapter is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur; flood heights may be increased by manmade or natural causes. This chapter 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 chapter shall not create liability on the part of the city or by any officer, or employee thereof, for any flood damages that result from reliance on this chapter or any administrative decision lawfully made hereunder.

(Ord. of 6-21-2010, art. 2, § G)

Sec. 20-13. Penalties for violation.

Failure to comply with the provisions of this chapter or with any of its requirements, including conditions and safeguards established in connection with grants of variance or special exceptions, shall constitute a violation.

(Ord. of 6-21-2010, art. 2, § H)

Secs. 20-14—20-33. Reserved.

ARTICLE II. ADMINISTRATION

Sec. 20-34. Designation of chapter administrator.

The city administrator is hereby appointed to administer and implement the provisions of this chapter.

(Ord. of 6-21-2010, art. 3, § A)

Sec. 20-35. Permit procedures.

Application for a development permit shall be made to the city administrator 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 nonresidential structure will be floodproofed;
 - c. Design certification from a registered professional engineer or architect that any proposed nonresidential floodproofed structure will meet the floodproofing criteria of section 20-69(2);
 - d. Description of the extent to which any watercourse will be altered or relocated as a result of a proposed development.
- (2) *Construction stage.* For all new construction and substantial improvements, the permit holder shall provide to the administrator an as-built certification of the regulatory floor elevation or floodproofing level immediately after the lowest floor or floodproofing is completed. Any lowest floor certification made relative to mean sea level shall be prepared by or under the direct supervision of a registered land surveyor or professional engineer and certified by same. When floodproofing is utilized for nonresidential structures, said certification shall be prepared by or under the direct supervision of a professional engineer or architect and certified by the same.

Any work undertaken prior to submission of these certificates shall be at the permit holder's risk. The city administrator shall review the above-referenced certification data submitted. Deficiencies detected by such review shall be corrected by the permit holder immediately and

prior to further progressive work being allowed to proceed. Failure to submit certification or failure to make said corrections required hereby, shall be cause to issue a stop-work order for the project.

(Ord. of 6-21-2010, art. 3, § B)

Sec. 20-36. Duties and responsibilities of the administrator.

Duties of the city administrator shall include, but shall not be limited to the following:

- (1) Review proposed development to ensure that the permit requirements of this chapter have been satisfied.
- (2) Review proposed development to ensure that all necessary permits have been received from governmental agencies from which approval is required by federal or state law, including section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 USC 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 20-7, obtain, review and reasonably utilize any base flood elevation and floodway data available from federal, state or other sources in order to administer the provisions of Article III of this chapter.
- (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 section 20-35(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 section 20-35(2).
- (7) When floodproofing is utilized for a structure, obtain certification of design criteria from a registered professional engineer or architect in accordance with section 20-35(1)c and sections 20-69(2) or 20-71(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 state department of natural resources prior to any alteration or relocation of a watercourse and submit evidence of such notification to the Federal Emergency Management Agency (FEMA).

- (10) For any altered or relocated watercourse, submit engineering data/analysis within six months to FEMA to ensure accuracy of community flood maps through the letter of map revision process. Ensure 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 conflict between a mapped boundary and actual field conditions) make the necessary interpretation. Any person contesting the location of the boundary shall be given an appeal as provided in this chapter.
 - (12) All records pertaining to the provisions of this chapter shall be maintained in the office of the administrator and shall be open for public inspection.
- (Ord. of 6-21-2010, art. 3, § C)

Sec. 20-37. Variance procedures.

- (a) The mayor, as established by the city council, shall hear and decide requests for appeals or variance from the requirements of this chapter.
- (b) The mayor and city council shall hear and decide appeals when it is alleged an error in any requirement, decision, or determination is made by the city administrator in the enforcement or administration of this chapter.
- (c) Any person aggrieved by the decision of the mayor and city council may appeal such decision to the superior court of the county, as provided in O.C.G.A. § 5-4-1.
- (d) Variances may be issued for the repair or rehabilitation of historic structures upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and the variance is the minimum to preserve the historic character and design of the structure.
- (e) Variances may be issued for development necessary for the conduct of a functionally dependent use, provided the criteria of this chapter are met, no reasonable alternative exists, and the development is protected by methods that minimize flood damage during the base flood and create no additional threats to public safety.
- (f) Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.
- (g) In reviewing such requests, the mayor and city council shall consider all technical evaluations, relevant factors, and all standards specified in this section and other sections of this chapter.

(h) Conditions for variances.

(1) A variance shall be issued only when there is:

- a. A finding of good and sufficient cause;
- b. A determination that failure to grant the variance would result in exceptional hardship; and
- c. A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, or extraordinary public expense, create a nuisance, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.

(2) The provisions of this chapter are minimum standards for flood loss reduction; therefore, any deviation from the standards must be weighed carefully. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief; and in the instance of an historic structure, a determination that the variance is the minimum necessary so as not to destroy the historic character and design of the building.

(3) Any applicant to whom a variance is granted shall be given written notice specifying the difference between the base flood elevation and the elevation of the proposed lowest floor and stating that the cost of flood insurance will be commensurate with the increased risk to life and property resulting from the reduced lowest floor elevation.

(4) The city administrator shall maintain the records of all appeal actions and report any variances to the Federal Emergency Management Agency upon request.

(i) Upon consideration of the factors listed above and the purposes of this chapter, the mayor and city council may attach such conditions to the granting of variances as it deems necessary to further the purposes of this chapter.

(Ord. of 6-21-2010, art. 5)

Secs. 20-38—20-67. Reserved.

ARTICLE III. FLOOD HAZARD REDUCTION

Sec. 20-68. 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 directions;
 - b. So as not to violate the lowest floor criteria of this chapter, 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), and 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 floodwaters into the system;
- (8) New and replacement sanitary sewer systems shall be designed to minimize or eliminate infiltration of floodwaters into the systems and discharges from the systems into floodwaters;
- (9) On-site waste disposal systems shall be located and constructed to avoid impairment to them or contamination from them during flooding; and

- (10) Any alteration, repair, reconstruction or improvement to a structure, which is not compliant with the provisions of this chapter, shall be undertaken only if the nonconformity is not furthered, extended or replaced.

(Ord. of 6-21-2010, art. 4, § A)

Sec. 20-69. 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. 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 the standards of section 20-68(4). All heating and air conditioning equipment and components (including ductwork), and all electrical, ventilation, plumbing, and other service facilities shall be elevated at or above one foot above the base flood elevation.
- (2) *Nonresidential 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 watertight to one foot above the base flood elevation, with walls substantially impermeable to the passage of water, and structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effect of buoyancy. A registered professional engineer or architect shall certify that the design and methods of construction are in accordance with accepted standards of practice for meeting the provisions above, and shall provide such certification to the official as set forth above and in section 20-36(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.
 - 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 subsections (3)(a) and (c) of this section.
- (4) *Floodway*. Located within areas of special flood hazard established in section 20-7 are areas designated as floodways. 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 (4)a of this section is satisfied, then any new construction or substantial improvement shall comply with all other applicable flood hazard reduction provisions of this article III.

(Ord. of 6-21-2010, art. 4, § B)

Sec. 20-70. Building standards for streams without established base flood elevations and/or floodway (A zones).

(a) Located within the areas of special flood hazard established in section 20-7, 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 20-7, then the city administrator shall obtain, review, and reasonably utilize any scientific or historic base flood elevation and floodway data available from a federal, state or other source, in order to administer the provisions of this article III. Only if data are not available from these sources, then the following subsections (a)(2) and (3) of this chapter 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 the standards of section 20-68(4).
 - a. All heating and air conditioning equipment and components (including ductwork), and 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.

(b) The administrator shall certify the lowest floor elevation level and the record shall become a permanent part of the permit file.

(Ord. of 6-21-2010, art. 4, § C)

Sec. 20-71. Standards for areas or special flood hazard (Zones AE) with established base flood elevations without designated floodways.

Located within the areas of special flood hazard established in section 20-7, where streams with base flood elevations are provided but no floodways have been designated (Zone AE), the following provisions apply:

- (1) No encroachments, including fill material, new structures or substantial improvements shall be located within areas of special flood hazard, unless certification by a registered

professional engineer is provided demonstrating that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot at any point within the community. The engineering certification should be supported by technical data that conforms to standard hydraulic engineering principles.

- (2) New construction or substantial improvements of buildings shall be elevated or floodproofed to elevations established in accordance with section 20-69.

(Ord. of 6-21-2010, art. 4, § D)

Sec. 20-72. Standards for areas of shallow flooding (AO zones).

Areas of special flood hazard established in section 20-7, may include designated AO shallow flooding areas. These areas have base flood depths of one to three feet above ground, with no clearly defined channel. The following provisions apply:

- (1) All new construction and substantial improvements of residential and nonresidential structures shall have the lowest floor, including basement, elevated to the flood depth number specified on the flood insurance rate map (FIRM), above the highest adjacent grade. If no flood depth number is specified, the lowest floor, including basement, shall be elevated at least three feet above the highest adjacent grade. Openings sufficient to facilitate the unimpeded movements of floodwaters shall be provided in accordance with standards of section 20-68(4). The administrator shall certify the lowest floor elevation level and the record shall become a permanent part of the permit file.
- (2) New construction or the substantial improvement of a nonresidential structure may be floodproofed in lieu of elevation. The structure, together with attendant utility and sanitary facilities, must be designed to be watertight to the specified FIRM flood level plus one foot above the 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 required in section 20-35(1)c and (2).
- (3) Drainage paths shall be provided to guide floodwater around and away from any proposed structure.

(Ord. of 6-21-2010, art. 4, § E)

Sec. 20-73. 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.

(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. of 6-21-2010, art. 4, § F)

Sec. 20-74. 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. of 6-21-2010, art. 4, § G)

Chapter 21

RESERVED

Chapter 22

LICENSES, TAXATION AND MISCELLANEOUS BUSINESS REGULATIONS

Article I. In General

- Sec. 22-1. Fair or carnival; permit required.
- Secs. 22-2—22-20. Reserved.

Article II. Ad Valorem Tax

- Sec. 22-21. Duties of clerk as tax collector.
- Sec. 22-22. Returns.
- Sec. 22-23. Assessment.
- Secs. 22-24—22-49. Reserved.

Article III. Sales and Use Tax

- Sec. 22-50. Imposed.
- Sec. 22-51. Formula for distribution.
- Secs. 22-52—22-75. Reserved.

Article IV. Insurance License Taxes

- Sec. 22-76. Insurer license fees.
- Sec. 22-77. License fee for life insurers insuring certain risks at additional business locations.
- Sec. 22-78. Life insurance agency license fee; independent life insurance agencies, brokers, etc., not otherwise licensed.
- Sec. 22-79. Gross premiums tax imposed on life insurers.
- Sec. 22-80. Gross premiums tax, all other insurers.
- Sec. 22-81. Due date for license fees.
- Secs. 22-82—22-105. Reserved.

Article V. Occupation Tax

- Sec. 22-106. Definitions.
- Sec. 22-107. Administrative fee.
- Sec. 22-108. Tax levied; limitations.
- Sec. 22-109. Occupation tax certificate.
- Sec. 22-110. Practitioners of professions and occupations.
- Sec. 22-111. Exemptions.
- Sec. 22-112. Evidence of state registration when required.
- Sec. 22-113. Evidence of qualification required if applicable.
- Sec. 22-114. Filing returns; other information required or requested.
- Sec. 22-115. Date due; penalty.
- Sec. 22-116. Enforcement; violations.

CLAXTON CODE

Secs. 22-117—22-145. Reserved.

Article VI. Yard Sales

Sec. 22-146. Permit.

Sec. 22-147. Permit fee.

ARTICLE I. IN GENERAL**Sec. 22-1. Fair or carnival; permit required.**

It shall be unlawful for a fair or carnival to be held within the city limits without first obtaining a permit from the city, which will need prior approval four months in advance.
(Code 1982, § 16-36; Ord. of 12-1-1980)

Secs. 22-2—22-20. Reserved.**ARTICLE II. AD VALOREM TAX****Sec. 22-21. Duties of clerk as tax collector.**

It shall be the duty of the city clerk to act as tax collector, and, as such, to receive the tax returns, make the tax digest and submit the same over to the council. It shall be the duty of the tax collector to collect the taxes and turn the same over to the treasurer and issue tax executions.
(Code 1982, § 9-20; Mo. of 1-17-1927, ¶ 16)

Sec. 22-22. Returns.

It shall be the duty of every person owning property of any description, both real and personal, within the city, subject to taxation, to make an itemized return of such property to the board of tax assessors on blanks to be furnished by the city for such purpose, which return shall be made on or before April 1 in each year and shall be under oath.
(Code 1982, § 9-21; Ord. of 12-1-1924, § 1)

Sec. 22-23. Assessment.

Taxes shall be assessed as provided in section 15 of the Charter.
(Code 1982, § 9-22; Ord. of 12-1-1924, § 2)

Secs. 22-24—22-49. Reserved.**ARTICLE III. SALES AND USE TAX****Sec. 22-50. Imposed.**

Starting October 1, 1980, the city does hereby levy a joint county and municipal sales and use tax of one percent within the special district whose boundaries are conterminous with the boundaries of the county and in accordance with O.C.G.A. § 48-8-86.
(Code 1982, § 9-30; Ord. of 5-5-1980)

Sec. 22-51. Formula for distribution.

The city hereby agrees to the following formula for the distribution of the one percent joint county and municipal sales and use tax as a means of financing county and municipal government:

Evans County	48 percent
City of Claxton	38 percent
City of Hagan	9 percent
City of Bellville	3 percent
City of Daisy	2 percent

(Code 1982, § 9-31; Ord. of 3-19-1980; Mo. of 4-17-1995)

Secs. 22-52—22-75. Reserved.

ARTICLE IV. INSURANCE LICENSE TAXES*

Sec. 22-76. Insurer license fees.

There is hereby levied for the year 1993, and for each year thereafter, an annual license fee upon each insurer doing business within the city in the amount of \$40.00. For each separate business location in excess of one which is operating on behalf of such insurers within the city, there is hereby levied a license fee in the amount of \$40.00. 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.

(Code 1982, § 15-30; Ord. of 10-18-1993)

State law reference—Authority for above section, O.C.G.A. § 33-8-8.

Sec. 22-77. License fee for life 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 a life insurance, said insurer shall pay an additional license fee of \$14.00 per location for the year 1984 and for each year thereafter.

(Code 1982, § 15-31)

State law reference—Authority for above section, O.C.G.A. § 33-8-8.

***State law reference**—Insurance license taxes, O.C.G.A. § 33-8-8 et seq.

Sec. 22-78. Life insurance agency license fee; independent life insurance agencies, brokers, etc., not otherwise licensed.

There is hereby levied for the year 1984, and for each year thereafter, an annual license fee upon independent agencies and brokers for each separate business location from which a life insurance business is conducted and which is not subject to the company license fee imposed by section 22-76, in the amount of \$35.00 for each such location within the city.

(Code 1982, § 15-32)

State law reference—Authority for above section, O.C.G.A. § 33-8-8.

Sec. 22-79. Gross premiums tax imposed on life insurers.

(a) There is hereby levied for the year 1984, and for each year thereafter, 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 section, means gross direct premiums as used in O.C.G.A. § 33-8-4. This tax shall not apply to annuity considerations.

(b) The premiums tax levied by this section is in addition to the license fees imposed by section 22-76.

(Code 1982, § 15-33)

State law reference—Authority for above section, O.C.G.A. § 33-8-8.1.

Sec. 22-80. Gross premiums tax, all other insurers.

There is hereby levied for the year 1984, and for each year thereafter, an 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 section, means gross direct premiums as used in O.C.G.A. § 33-8-8.2(a). The tax shall be imposed upon gross premiums received during the preceding calendar year from direct writing without any deductions allowed from premium abatement of any kind or character or for reinsurance or for losses or expenses of any kind; provided, however, deductions shall be allowed for premiums returned or change of rate or canceled policies; provided, further, that deductions shall be permitted for returned premiums or assessments, including all policy dividends, refunds, or other similar returns paid or credited to policyholders.

(Code 1982, § 15-34)

State law reference—Authority for above section, O.C.G.A. § 33-8-8.2.

Sec. 22-81. Due date for license fees.

License fees imposed in sections 22-76, 22-77, and 22-78 shall be due and payable on January 1, 1984 and on January 1 of each subsequent year.
(Code 1982, § 15-35)

Secs. 22-82—22-105. Reserved.**ARTICLE V. OCCUPATION TAX*****Sec. 22-106. Definitions.**

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

Administrative fee means the component of the occupation tax which approximates the reasonable cost of handling and processing the occupation tax.

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. 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.

Location or office includes any structure or vehicle where a business, profession, or occupation is conducted, but shall not include a temporary or construction site which serves a single customer or project, or a vehicle used for sales or delivery by a business or practitioner of a profession or occupation which has a location or office. The renter's or lessee's location, which is the site of personal property which is rented or leased from another, does not constitute a location or office for the personal property's owner, lessor, or the agent of the owner or lessor. The site of real property which is rented or leased to another does not constitute a location or office for the real property's owner, lessor, or the agent of the owner or lessor unless the real property's owner, lessor, or the agent of the owner or lessor, in addition to showing the property to prospective lessees or tenants and performing maintenance or repair of the property, otherwise conducts the business of renting or leasing the real property at such site or otherwise conducts any other business, profession, or occupation at such site.

Occupation tax means a tax levied for revenue purposes on persons, partnerships, corporations or other entities for engaging in an occupation, profession or business in the city.

***State law reference**—Occupation tax authorized, O.C.G.A. § 48-13-5 et seq.

Occupation tax certificate means a document issued by the city acknowledging payment of the occupation tax and administrative fee.

Practitioners of professions and occupations means those individuals listed in O.C.G.A. § 48-13-9(c)(1)—(18), but does not include a practitioner who is an employee of a business if such business pays an occupation tax.

Regulatory fee certificate means a document issued by the city acknowledging payment of a regulatory fee.

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 as 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 local government. A regulatory fee may not include an administrative fee or registration fee. Regulatory fees do not include development impact fees as defined by O.C.G.A. § 36-71-2(8) or other costs or conditions of zoning or land development.
(Code 1982, § 15-1; Ord. of 1-17-1995; Ord. of 12-2-1996)

State law reference—Similar provisions, O.C.G.A. § 48-13-5.

Sec. 22-107. Administrative fee.

A non-prorated, non-refundable administrative fee in the amount established by the city is required on all occupation tax accounts for the initial registration, annual renewal or reopening of such accounts.

(Code 1982, § 15-2; Ord. of 1-17-1995)

State law reference—Administrative fee authorized, O.C.G.A. § 48-13-10(e).

Sec. 22-108. Tax levied; limitations.

(a) Pursuant to O.C.G.A. § 48-13-6, an occupation tax based upon number of employees in the state is levied upon businesses and practitioners of professions and occupations with one or more locations or offices within the corporate limits of the city. The number of employees of the business or practitioner; as computed on a full-time position basis or full-time equivalent basis, provided that, for the purposes of this computation, an employee who works 40 hours or more weekly shall be considered a full-time employee and that 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 equivalents in the state in accordance with the schedule established by the city.

(b) The city shall not require the payment of more than one occupation tax for each location of a business or practitioner.

(c) A business or practitioner which is subject to an occupation tax by another local government and claiming an exemption from or limitation to the occupation tax imposed by this article shall submit documentation as to current payment of the occupation tax to the other local government and the basis of such tax.

- (1) A business or practitioner which has locations in the state subject to occupation tax by more than one local government in the state shall only be subject to occupation tax by the city for the number of employees who are employed within the corporate limits of the city. This limitation shall only apply when the business or practitioner has provided to the city satisfactory proof of current payment of the occupation tax of the other local government.
- (2) If an employee works for the same business or practitioner in more than one municipal corporation or county and the business or practitioner submits proof of this, the employee shall be counted as an employee in the city only if the city is the jurisdiction where such employee works for the longest period of time within the calendar year.

(d) If a business or practitioner commences business in the city on or after July 1 in any year, the occupation tax for the remaining portion of the year shall be 50 percent of the tax imposed for the entire year. The administrative fee shall not be reduced.

(e) If a business or practitioner does not know how many employees which are the basis of this occupation tax will be employed by the business or practitioner during the current calendar year, then the business or practitioner shall file a return estimating the number of employees which are the basis of this occupation tax. If such estimate is not accurate, then no later than December 31, the business or practitioner shall file an amended return indicating the actual number of employees during the previous calendar year. Any overpayment of the occupation tax may be credited to the business or practitioner's account for future tax liability, offset against other amounts due and owing to the city for any reason or paid to the business or practitioner at the discretion of the city clerk.

(f) Real estate brokers shall be subject to occupation tax pursuant to this article only if they maintain a principal or branch office in the city.

(Code 1982, § 15-4; Ord. of 1-17-1995)

State law references—Authority to levy license tax based upon the number of employees, O.C.G.A. § 48-13-10; restriction of taxation of real estate brokers, O.C.G.A. § 48-13-17.

Sec. 22-109. Occupation tax certificate.

Every business, practitioner and location subject to payment of the occupation tax levied by this article shall display a current occupation tax certificate in a conspicuous place at the

location for which such certificate was issued. If the taxpayer does not have a permanent location within the city, the occupation tax certificate shall be shown to any police officer upon request.

(Code 1982, § 15-5; Ord. of 1-17-1995)

Sec. 22-110. Practitioners of professions and occupations.

Practitioners of professions and occupations, as defined in this article, shall pay the occupation tax as set forth in section 22-108 or shall pay an occupation tax established by the city per practitioner. On the tax return for 1995, or such later time as the practitioner first commences business in the city, the practitioner shall elect a method of taxation. Such election shall be changed for subsequent calendar years only by a written request filed by the practitioner on or before February 1 of the year in which the election is to be changed.

(Code 1982, § 15-6; Ord. of 1-17-1995)

State law reference—Authority for above section, O.C.G.A. § 48-13-10(g).

Sec. 22-111. Exemptions.

- (a) No occupation tax shall be levied on the following:
- (1) Any practitioner whose office is maintained by, and who is employed in practice exclusively by, the United States, the state, a municipality or county of the state, or instrumentality of the United States, the state, or a municipality or county of the state;
 - (2) Those businesses regulated by the state public service commission and the state department of public safety;
 - (3) Those electrical service businesses organized under O.C.G.A. title 46, ch. 3 (O.C.G.A. § 46-3-1 et seq.);
 - (4) Any farm operation for the production from or on the land of agricultural products, but not including any agribusiness;
 - (5) Nonprofit, agricultural product cooperative marketing associations pursuant to O.C.G.A. § 2-10-105;
 - (6) Motor common carriers pursuant to O.C.G.A. § 40-1-116;
 - (7) Persons purchasing guano, meats, meal, flour, bran, cottonseed, or cottonseed meal or hulls in carload lots for distribution among the purchasers for use and not sale pursuant to O.C.G.A. § 48-5-355;
 - (8) Pursuant to O.C.G.A. § 48-5-356, persons selling or introducing into the city agricultural products or livestock, including animal products, raised in the state when the sale and introduction are made by the producer of the product and the sale is made within 90 days of the introduction of the product into the city;
 - (9) Depository institutions pursuant to O.C.G.A. § 48-6-93; or

(10) Any business where the levy of such occupation tax is prohibited by the laws of the state or the United States.

(b) The exemptions and limitations contained in this article shall not be construed to repeal or otherwise affect in any way any franchise fees, business taxes or other fees or taxes otherwise allowed by law.

(Code 1982, § 15-7; Ord. of 1-17-1995)

State law reference—Exempt businesses and practitioners, O.C.G.A. § 48-13-16.

Sec. 22-112. Evidence of state registration when required.

Each person who is licensed under O.C.G.A. title 43 by the examining boards of the secretary of state's office shall provide evidence of proper and current state licensure before any city occupation tax certificate or regulatory fee certificate may be issued.

(Code 1982, § 15-8; Ord. of 1-17-1995)

Sec. 22-113. Evidence of qualification required if applicable.

(a) Any business required to obtain health permits, bonds, certificates of qualification, certificates of competency or any other regulatory matter shall first, before the issuance of an occupation tax certificate or a regulatory fee certificate, show evidence of such qualification.

(b) Any business required to submit an annual application for continuance of the business shall do so before the registration is issued.

(Code 1982, § 15-9; Ord. of 1-17-1995)

Sec. 22-114. Filing returns; other information required or requested.

(a) On or before January 1 of each year, an individual, business or practitioner subject to this article shall file with the city clerk on a form approved by and available from the city a signed return attesting to the number of employees of such business or practitioner during the calendar year.

(b) Individuals, businesses and practitioners doing business in the city shall submit to the city clerk or make available within 30 days such information as may be required or requested by the city to determine the applicability and amount of the occupation tax or regulatory fee or to facilitate levying or collection of the occupation tax and/or regulatory fee.

(Code 1982, § 15-10; Ord. of 1-17-1995)

Sec. 22-115. Date due; penalty.

(a) Any occupation tax or regulatory fee due pursuant to this article shall be due and payable annually on January 1. In the event that any person commences business or initially engages in a regulated activity in the city after January 1 in any year, the tax and/or fee shall be due and payable on the date of the commencement of the business or regulated activity.

(b) Any individual, business or practitioner subject to any occupation tax or regulatory fee imposed by this article, which is unpaid for 90 days after the date on which payment was due, shall be subject to a penalty of ten percent of the tax or fee due.

(Code 1982, § 15-12; Ord. of 1-17-1995)

State law reference—When payment due, O.C.G.A. § 48-13-20.

Sec. 22-116. Enforcement; violations.

(a) It is the duty of the city clerk to administer and enforce the provisions of this article, to perform all functions necessary to administer and enforce this article and to summon violators of this article to appear before the municipal court. The city clerk may issue executions against individuals, businesses and practitioners for taxes and fees which are due and owing.

(b) The city clerk shall issue executions against individuals, businesses and practitioners for taxes and fees which are due and owing. Such executions shall bear interest at the rate authorized by O.C.G.A. § 48-2-40 or, if such statute should be repealed, one percent per month. The lien shall cover the property of the individual, business or practitioner liable for payment of the delinquent occupation tax or regulatory fee and become fixed as of the date and time the occupation tax or regulatory fee became delinquent. The execution shall be levied by city clerk upon property of the delinquent tax or fee payer located in the city and sufficient property shall be advertised and sold to pay the amount of the execution, including penalty, interest and costs. All other proceedings in relation thereto shall be as provided by this Code and Charter of the city and the laws of the state. The defendants at execution shall have the rights of defense, by affidavit of illegality of the tax or otherwise as provided by the Charter of the city and the laws of the state in regard to tax executions.

(c) When a nulla bona entry has been entered upon an execution, the person against whom the entry is made shall not be allowed or entitled to have or collect any fees or charged whatever for services rendered after the entry of the nulla bona. If, at any time after the nulla bona entry has been made, the person against whom the execution issues pays the tax in full, together with all interest and costs accrued on the tax, the person may collect any fees and charges due to such person as if such person had never defaulted in the payment of the tax.

(d) Individuals, businesses and practitioners who fail or refuse to pay any occupation tax or regulatory fee charged pursuant to this article shall be subject to appear before the municipal court.

(e) Individuals, businesses and practitioners who fail or refuse to make a timely or truthful tax return or make available truthful and accurate information the city requests or requires for determining applicability or amount of occupation tax or regulatory fee, or for levying or collecting such occupation tax or regulatory fee shall be subject to suspension of the right to conduct business.

(f) All persons subject to the occupation tax or regulatory fee imposed by this article shall be required to file for any pay such tax or fee. For failure to do so, any officers or agents soliciting for or obtaining such person business shall be subject to the same penalty as other persons, businesses or practitioners who fail to obtain, make a return for, or pay the applicable occupation tax or regulatory fee.

(Code 1982, § 15-13; Ord. of 1-17-1995)

State law references—Penalty and interest for default in payment, O.C.G.A. § 48-13-21; effect of nulla bona, O.C.G.A. § 48-13-25.

Secs. 22-117—22-145. Reserved.

ARTICLE VI. YARD SALES

Sec. 22-146. Permit.

All yard sales require a permit in writing from the city clerk to hold a yard sale. No person or resident can have more than two yard sales per year.

(Code 1982, §§ 16-60, 16-62)

Sec. 22-147. Permit fee.

Fees to be paid to the city for yard sale permits are as established by the city.

(Code 1982, § 16-61)

Chapter 23

RESERVED

Chapter 24

NUISANCES

Article I. In General

- Sec. 24-1. Weeds and other tall growths.
- Secs. 24-2—24-20. Reserved.

Article II. General Abatement Procedure

- Sec. 24-21. Nuisances prohibited.
- Sec. 24-22. Definitions.
- Sec. 24-23. Notice of hearing.
- Sec. 24-24. Entering abatement order.
- Sec. 24-25. Abatement by owner.
- Sec. 24-26. Abatement by city.
- Secs. 24-27—24-55. Reserved.

Article III. Alternative Abatement Procedure

- Sec. 24-56. Definitions.
- Sec. 24-57. Duty to maintain property.
- Sec. 24-58. Public officer designated.
- Sec. 24-59. Additional powers of public officer.
- Sec. 24-60. Standards for determining unfitness for habitation.
- Sec. 24-61. Abatement procedures.
- Sec. 24-62. Lien.
- Sec. 24-63. Appeals.
- Sec. 24-64. Alternative remedies.
- Sec. 24-65. Service of complaints and orders.

ARTICLE I. IN GENERAL

Sec. 24-1. Weeds and other tall growths.

(a) No person shall allow or permit weeds, grass and other vegetable matter to grow and be upon his premises uncut so as to render the premises unsightly or unhealthful from the growth and accumulation of such weeds, grass or other vegetable matter thereon.

(b) To permit the growth and accumulation of weeds, grass or other vegetable matter so as to render the premises unsightly or unhealthful is declared to be a nuisance.

(c) Such nuisance shall be abated as provided in sections 24-22 through 24-26.
(Code 1982, §§ 11-7—11-9)

Secs. 24-2—24-20. Reserved.

ARTICLE II. GENERAL ABATEMENT PROCEDURE

Sec. 24-21. Nuisances prohibited.

It shall be unlawful for any person to create or maintain within the city a nuisance of any kind.

(Code 1982, § 16-16; Ord. of 6-4-1894; Ord. of 6-5-1944, § 1)

Sec. 24-22. 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:

Nuisance means anything that constitutes a nuisance, as defined by the laws of the state, as well as anything that tends greatly to disturb the health, peace and quiet of the city, or to corrupt the morals of the people thereof.

(Code 1982, § 16-17; Ord. of 6-5-1944, § 2)

State law reference—Nuisance defined, O.C.G.A. § 41-1-1.

Sec. 24-23. Notice of hearing.

Upon affidavit of any police officer of the city that he has reason to believe that a nuisance exists, the municipal judge shall cause to be served upon the person creating or maintaining such nuisance, written notice not less than one day before the hearing, requiring such person to show cause at such time and place as may be designated in such notice why such matter complained of should not be declared a nuisance and why it should not be abated as such. Such notice shall be served by the chief of police or other officer designated by him.

(Code 1982, § 16-18; Ord. of 6-5-1944, § 3)

Sec. 24-24. Entering abatement order.

At such hearing, all parties may introduce evidence and be heard, either in person or by attorney. After the hearing duly had, if it should appear to the municipal judge that the matter complained of does constitute a nuisance, he shall so find and enter a judgment ordering the same abated.

(Code 1982, § 16-19; Ord. of 6-5-1944, § 4)

Sec. 24-25. Abatement by owner.

It shall be the duty of any person creating or maintaining a nuisance within the city to remove and abate same after it has been duly declared by the municipal judge to be a nuisance, and failure to do so within five days from the date of the judgment declaring it a nuisance shall subject such person to punishment as provided in section 1-8, unless such person shall show good cause and sufficient reasons for such failure.

(Code 1982, § 16-20; Ord. of 6-5-1944, § 5)

Sec. 24-26. Abatement by city.

Upon the failure of such person to remove and abate such nuisance after it has been ordered by the municipal judge as above provided for, the chief of police shall remove and abate it, and the cost thereof shall be borne by the offending party, and judgment thereof may be entered in the municipal court.

(Code 1982, § 16-21; Ord. of 6-5-1944, § 6)

Secs. 24-27—24-55. Reserved.**ARTICLE III. ALTERNATIVE ABATEMENT PROCEDURE****Sec. 24-56. Definitions.**

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

Applicable codes means:

- (1) Any optional housing or abatement standard provided in O.C.G.A. title 8, ch. 2 (O.C.G.A. § 8-2-20 et seq.) as adopted by ordinance or operation of law, or other property maintenance standards as adopted by ordinance or operation of law, or general nuisance law, relative to the safe use of real property;
- (2) Any fire or life safety code as provided for in O.C.G.A. title 25, ch. 2 (O.C.G.A. § 25-2-1 et seq.); and

- (3) The minimum standard codes provided in O.C.G.A. title 8, ch. 2 (O.C.G.A. § 8-2-20 et seq.), provided that such building or minimum standard codes for real property improvements shall be deemed to mean those building or minimum standard codes in existence at the time such real property improvements were constructed unless otherwise provided by law.

Closing means causing a dwelling, building, or structure to be vacated and secured against unauthorized entry.

Drug crime means an act which is a violation of the Georgia Controlled Substances Act (O.C.G.A. § 16-13-20 et seq.).

Dwellings, buildings, or structures means any building or structure or part thereof used and occupied for human habitation or commercial, industrial, or business uses, or intended to be so used, and includes any outhouses, improvements, and appurtenances belonging thereto or usually enjoyed therewith and also includes any building or structure of any design. The term "dwellings," "buildings," or "structures" shall not mean or include any farm, any building or structure located on a farm, or any agricultural facility or other building or structure used for the production, growing, raising, harvesting, storage, or processing of crops, livestock, poultry, or other farm products.

Interested parties means:

- (1) The owner;
- (2) Those parties having an interest in the property as revealed by a certification of title to the property conducted in accordance with the title standards of the State Bar of Georgia;
- (3) Those parties having filed a notice in accordance with O.C.G.A. § 48-3-9;
- (4) Any other party having an interest in the property whose identity and address are reasonably ascertainable from the records of the petitioner or records maintained in the county courthouse or by the clerk of the court. The term "interested parties" shall not include the holder of the benefit or burden of any easement or right-of-way whose interest is properly recorded which interest shall remain unaffected; and
- (5) Persons in possession of said property and premises.

Owner means the holder of the title in fee simple and every mortgagee of record.

Public authority means any member of the city council or any officer who is in charge of any department or branch of the government of the municipality, county, or state relating to health, fire, or building regulations or to other activities concerning dwellings, buildings, or structures in the city.

Public officer means the officer who is authorized to exercise the powers prescribed by such ordinances or any agent of such officer.

Repair means altering or improving a dwelling, building, or structure so as to bring the structure into compliance with the applicable codes in the jurisdiction where the property is located and the cleaning or removal of debris, trash, and other materials present and accumulated which create a health or safety hazard in or about any dwelling, building, or structure.

Resident means any person residing in the city on or after the date on which the alleged nuisance arose.

State law reference—Similar provisions, O.C.G.A. § 41-2-8.

Sec. 24-57. Duty to maintain property.

It is the duty of the owner of every dwelling, building, structure, or property within the jurisdiction to construct and maintain such dwelling, building, structure, or property in conformance with applicable codes in force within the city, or such ordinances which regulate and prohibit activities on property and which declare it to be a public nuisance to construct or maintain any dwelling, building, structure, or property in violation of such codes or ordinances.

State law reference—Required provisions, O.C.G.A. § 41-2-9(a)(1).

Sec. 24-58. Public officer designated.

The building official is designated as the public officer authorized to exercise the powers prescribed by this article.

State law reference—Required provisions, O.C.G.A. § 41-2-9(a)(2).

Sec. 24-59. Additional powers of public officer.

The public officer shall have the power:

- (1) To investigate the dwelling conditions in the city in order to determine which dwellings, buildings, or structures therein are unfit for human habitation or are unfit for current commercial, industrial, or business use or are vacant, dilapidated, and being used in connection with the commission of drug crimes;
- (2) To administer oaths and affirmations, to examine witnesses, and to receive evidence;
- (3) To enter upon premises for the purpose of making examinations; provided, however, that such entries shall be made in such manner as to cause the least possible inconvenience to the persons in possession.

State law reference—Similar provisions, O.C.G.A. § 41-2-11.

Sec. 24-60. Standards for determining unfitness for habitation.

(a) The public officer may determine, under existing ordinances, that a dwelling, building, or structure is unfit for human habitation or is unfit for its current commercial, industrial, or business use if he finds that conditions exist in such building, dwelling, or structure which are dangerous or injurious to the health, safety, or morals of the occupants of such dwelling,

building, or structure; of the occupants of neighborhood dwellings, buildings, or structures; or of other residents of such county or municipality. Such conditions may include the following (without limiting the generality of the foregoing):

- (1) Defects therein increasing the hazards of fire, accidents, or other calamities;
- (2) Lack of adequate ventilation, light, or sanitary facilities;
- (3) Dilapidation;
- (4) Disrepair;
- (5) Structural defects; and
- (6) Uncleanliness.

(b) The public officer may determine, under existing ordinances, that a dwelling, building, or structure is vacant, dilapidated, and being used in connection with the commission of drug crimes upon personal observation or report of a law enforcement agency and evidence of drug crimes being committed.

State law reference—Similar provisions, O.C.G.A. § 41-2-10.

Sec. 24-61. Abatement procedures.

(a) Whenever a request is filed with the public officer by a public authority or by at least five residents of the city charging that any dwelling, building, structure, or property is unfit for human habitation or for commercial, industrial, or business use and not in compliance with applicable codes; is vacant and being used in connection with the commission of drug crimes; or constitutes an endangerment to the public health or safety as a result of unsanitary or unsafe conditions, the public officer shall make an investigation or inspection of the specific dwelling, building, structure, or property. If the officer's investigation or inspection identifies that any dwelling, building, structure, or property is unfit for human habitation or for commercial, industrial, or business use and not in compliance with applicable codes; is vacant and being used in connection with the commission of drug crimes; or constitutes an endangerment to the public health or safety as a result of unsanitary or unsafe conditions, the public officer may issue a complaint in rem against the lot, tract, or parcel of real property on which such dwelling, building, or structure is situated or where such public health hazard or general nuisance exists and shall cause a summons and a copy of the complaint to be served on the interested parties for such dwelling, building, or structure. The complaint shall identify the subject real property by appropriate street address and official tax map reference; identify the interested parties; state with particularity the factual basis for the action; and contain a statement of the action sought by the public officer to abate the alleged nuisance. The summons shall notify the interested parties that a hearing will be held before the municipal court at a date and time certain. Such hearing shall be held not less than 15 days nor more than 45 days after the filing of said

complaint in the municipal court. The interested parties shall have the right to file an answer to the complaint and to appear in person or by attorney and offer testimony at the time and place fixed for hearing.

(b) If, after such notice and hearing, the court determines that the dwelling, building, or structure in question is unfit for human habitation or is unfit for its current commercial, industrial, or business use and not in compliance with applicable codes; is vacant and being used in connection with the commission of drug crimes; or constitutes an endangerment to the public health or safety as a result of unsanitary or unsafe conditions, the municipal court shall state in writing findings of fact in support of such determination and shall issue and cause to be served upon the interested parties that have answered the complaint or appeared at the hearing an order:

- (1) If the repair, alteration, or improvement of the said dwelling, building, or structure can be made at a reasonable cost in relation to the present value of the dwelling, building, or structure, requiring the owner, within the time specified in the order, to repair, alter, or improve such dwelling, building, or structure so as to bring it into full compliance with the applicable codes relevant to the cited violation and, if applicable, to secure the structure so that it cannot be used in connection with the commission of drug crimes; or
- (2) If the repair, alteration, or improvement of the said dwelling, building, or structure in order to bring it into full compliance with applicable codes relevant to the cited violations cannot be made at a reasonable cost in relation to the present value of the dwelling, building, or structure, requiring the owner, within the time specified in the order, to demolish and remove such dwelling, building, or structure and all debris from the property.

For purposes of this section, the municipal court shall make its determination of reasonable cost in relation to the present value of the dwelling, building, or structure without consideration of the value of the land on which the structure is situated; provided, however, that costs of the preparation necessary to repair, alter, or improve a structure may be considered. Income and financial status of the owner shall not be a factor in the court's determination. The present value of the structure and the costs of repair, alteration, or improvement may be established by affidavits of real estate appraisers with a state appraiser classification as provided in O.C.G.A. title 43, ch. 39A (O.C.G.A. § 43-39A-1 et seq.), qualified building contractors, or qualified building inspectors without actual testimony presented. Costs of repair, alteration, or improvement of the structure shall be the cost necessary to bring the structure into compliance with the applicable codes relevant to the cited violations in force in the city.

(c) If the owner fails to comply with an order to repair or demolish the dwelling, building, or structure, the public officer may cause such dwelling, building, or structure to be repaired, altered, or improved or to be vacated and closed or demolished. Such abatement action shall

commence within 270 days after the expiration of time specified in the order for abatement by the owner. Any time during which such action is prohibited by a court order issued pursuant to O.C.G.A. § 41-2-13, or any other equitable relief granted by a court of competent jurisdiction, shall not be counted toward the 270 days in which such abatement action must commence. The public officer shall cause to be posted on the main entrance of the building, dwelling, or structure a placard with the following words:

"This building is unfit for human habitation or commercial, industrial, or business use and does not comply with the applicable codes or has been ordered secured to prevent its use in connection with drug crimes or constitutes an endangerment to public health or safety as a result of unsanitary or unsafe conditions. The use or occupation of this building is prohibited and unlawful."

(d) If the public officer has the structure demolished, reasonable effort shall be made to salvage reusable materials for credit against the cost of demolition. The proceeds of any monies received from the sale of salvaged materials shall be used or applied against the cost of the demolition and removal of the structure, and proper records shall be kept showing application of sales proceeds. Any such sale of salvaged materials may be made without the necessity of public advertisement and bid. The public officer and city council are relieved of any and all liability resulting from or occasioned by the sale of any such salvaged materials, including, without limitation, defects in such salvaged materials.

(e) The amount of the cost of demolition, including all court costs, appraisal fees, administrative costs incurred by the city, and all other costs necessarily associated with the abatement action, including restoration to grade of the real property after demolition, shall be a lien against the real property upon which such cost was incurred.

State law reference—Required provisions, O.C.G.A. § 41-2-9(a)(3)—(7).

Sec. 24-62. Lien.

(a) The lien provided for in this article shall attach to the real property upon the filing of a certified copy of the order requiring repair, closure, or demolition in the office of the clerk of superior court in the county where the real property is located and shall relate back to the date of the filing of the lis pendens notice required under section 24-65. The clerk of superior court shall record and index such certified copy of the order in the deed records of the county and enter the lien on the general execution docket. The lien shall be superior to all other liens on the property, except liens for taxes to which the lien shall be inferior, and shall continue in force until paid.

(b) Upon final determination of costs, fees, and expenses incurred in accordance with this article, the public officer responsible for enforcement actions in accordance with this article shall transmit to the city tax collector or revenue officer a statement of the total amount due and secured by said lien, together with copies of all notices provided to interested parties. The

statement of the public officer shall be transmitted within 90 days of completion of the repairs, demolition, or closure. It shall be the duty of the city tax collector or city revenue officer, who is responsible or whose duties include the collection of municipal taxes, to collect the amount of the lien using all methods available for collecting real property ad valorem taxes, including specifically O.C.G.A. title 48, ch. 4 (O.C.G.A. § 48-4-1 et seq.); provided, however, that the limitation of O.C.G.A. § 48-4-78 which requires 12 months of delinquency before commencing a tax foreclosure shall not apply. The county tax commissioner shall collect and enforce liens imposed pursuant to this article in accordance with O.C.G.A. § 48-5-359.1. The county tax commissioner or city municipal tax collector or city revenue officer shall remit the amount collected to the city council.

(c) Enforcement of liens pursuant to this section may be initiated at any time following receipt by the county tax commissioner or city tax collector or city revenue officer of the final determination of costs in accordance with this article. The unpaid lien amount shall bear interest and penalties from and after the date of final determination of costs in the same amount as applicable to interest and penalties on unpaid real property ad valorem taxes. An enforcement proceeding pursuant to O.C.G.A. § 48-4-78 for delinquent ad valorem taxes may include all amounts due under this article.

(d) The redemption amount in any enforcement proceeding pursuant to this article shall be the full amount of the costs as finally determined in accordance with this article, together with interest, penalties, and costs incurred by the city council, county tax commissioner, city tax collector, or city revenue officer in the enforcement of such lien. Redemption of property from the lien may be made in accordance with the provisions of O.C.G.A. §§ 48-4-80 and 48-4-81.

(e) The city council may waive and release any such lien imposed on property upon the owner of such property entering into a contract with the county or municipality agreeing to a timetable for rehabilitation of the real property or the dwelling, building, or structure on the property and demonstrating the financial means to accomplish such rehabilitation.

State law reference—Similar provisions, O.C.G.A. § 41-2-9(b), (c).

Sec. 24-63. Appeals.

Review of a court order requiring the repair, alteration, improvement, or demolition of a dwelling, building, or structure shall be by direct appeal to the superior court under O.C.G.A. § 5-3-29.

State law reference— Similar provisions, O.C.G.A. § 41-2-9(d).

Sec. 24-64. Alternative remedies.

(a) In addition to the procedures and remedies in this article, the public officer may issue citations for violations of state minimum standard codes, optional building, fire, life safety, and other codes adopted by ordinance, and conditions creating a public health hazard or general nuisance, and seek to enforce such citations in municipal court prior to issuing a complaint in rem as provided in this article.

(b) Nothing in this article shall be construed to impair or limit in any way the power of the city to define and declare nuisances and to cause their removal or abatement by summary proceedings or otherwise.

State law reference—Similar provisions, O.C.G.A. § 41-2-9(e), (f).

Sec. 24-65. Service of complaints and orders.

(a) Complaints issued by a public officer pursuant to this article shall be served in the following manner: At least 14 days prior to the date of the hearing, the public officer shall mail copies of the complaint by certified mail or statutory overnight delivery, return receipt requested, to all interested parties whose identities and addresses are reasonably ascertainable. Copies of the complaint shall also be mailed by first-class mail to the property address to the attention of the occupants of the property, if any, and shall be posted on the property within three business days of filing the complaint and at least 14 days prior to the date of the hearing.

(b) For interested parties whose mailing address is unknown, a notice stating the date, time, and place of the hearing shall be published in the newspaper in which the sheriff's advertisements appear in the county once a week for two consecutive weeks prior to the hearing.

(c) A notice of lis pendens shall be filed in the office of the clerk of superior court of the county. Such notice shall have the same force and effect as other lis pendens notices provided by law.

(d) Orders and other filings made subsequent to service of the initial complaint shall be served in the manner provided in this section on any interested party who answers the complaint or appears at the hearing. Any interested party who fails to answer or appear at the hearing shall be deemed to have waived all further notice in the proceedings.

State law reference—Similar provisions, O.C.G.A. § 41-2-12.

Chapter 25

RESERVED

Chapter 26

OFFENSES AND MISCELLANEOUS PROVISIONS

- Sec. 26-1. Begging and soliciting alms.
- Sec. 26-2. Disorderly conduct.
- Sec. 26-3. Firearms, air guns; carrying, discharging.
- Sec. 26-4. Explosives.
- Sec. 26-5. Noise.
- Sec. 26-6. Failure to disperse.
- Sec. 26-7. Obstructing traffic to solicit contributions prohibited.

Sec. 26-1. Begging and soliciting alms.

(a) 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) It shall be unlawful for any person to solicit money or other things of value:

- (1) Within 15 feet of the entrance to or exit from any public toilet facility;
- (2) 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;
- (3) 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;
- (4) In any public transportation vehicle, or in any bus or subway station, or within 15 feet of any bus stop or taxi stand;
- (5) 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
- (6) 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) 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.

(Code 1982, § 16-1; Ord. of 10-2-1939)

Sec. 26-2. Disorderly conduct.

(a) It shall be unlawful for any person to do or engage in any disorderly conduct as defined in this section.

(b) Disorderly conduct is any one of the following acts:

- (1) Any act or behavior that tends to disturb public peace.
- (2) Any conduct of such nature as will affect the peace and quiet of reasonable persons who witness it or may be disturbed or driven to resentment by such conduct.
- (3) Any act in a violent, turbulent, boisterous, indecent or disorderly manner.
- (4) The use of profane, vulgar or obscene language reasonably calculated to provoke an immediate breach of the peace.
- (5) Any act which tends to a breach of the peace.
- (6) Any act while under the influence of beer, wine, liquor or opiate that disturbs or endangers the peace, welfare, health or lives of the citizens.

(Code 1982, § 16-3)

State law references—Disorderly conduct, O.C.G.A. § 16-11-39; public drunkenness, O.C.G.A. § 16-3-4.

Sec. 26-3. Firearms, air guns; carrying, discharging.

It shall be unlawful for any person to discharge in the city any firearm, except peace officers and military personnel in the discharge of their duties, and except when such discharge is necessary in the defense of life or property. It shall be unlawful for any person to carry or discharge in the city any air gun or pellet gun, except peace officers and military personnel in the discharge of their duties, and except when such discharge is necessary in the defense of life or property.

(Code 1982, § 16-4; Ord. of 12-1-1924; Mo. of 4-7-1958)

Sec. 26-4. Explosives.

It shall be unlawful for any person to shoot or explode any explosives in the city.

(Code 1982, § 16-5; Ord. No. 46, § 2, 12-9-2007)

Sec. 26-5. Noise.

The purpose of this section is to control noises and the nuisance thereby created in such a manner as to cause the least hardship or offense to the greatest number of people.

- (1) The following noises and other noises with the same characteristics, intensity or annoyance shall be prohibited at all times and at all places within the city:
 - a. *Radios, phonographs, etc.* The use or operation of any radio receiving set, musical instrument, phonograph or other machine or device for the producing or reproducing of sound in such manner as to disturb the peace, quiet and comfort of reasonable persons of ordinary sensibilities or at any time with louder volume than is necessary for convenient hearing for the person of normal hearing who is

in the room, vehicle or chamber in which such machine or device is operated and who is a voluntary listener thereto or allowing such use or operation. The operation of any such set, instrument, phonograph, machine or device between the hours of 11:00 p.m. and 7:00 a.m. in such a manner as to be plainly audible at a distance of 50 feet from the building, structure or vehicle in which it is located shall be prima facie evidence of a violation of this section.

- b. *Loudspeakers, amplifiers for advertising, etc.* The use or operation of any radio receiving set, musical instrument, phonograph, loudspeaker, sound amplifier or other machine or device for the producing or reproducing of sound which is cast upon the public streets for the purpose of advertising or attracting the attention of the public to any building, product, service, merchandise or political candidate, or allowing such use or operation, except as authorized by the city council.
- c. *Yelling, shouting, etc.* Yelling, shouting, hooting, whistling or singing on the public streets, particularly, or at any time or place so as to annoy or disturb between the hours of 11:00 p.m. and 7:00 a.m. the quiet, comfort or repose of reasonable persons of ordinary sensibilities in any office, or in any dwelling, hotel or other type of residence, or of any reasonable persons of ordinary sensibilities in the vicinity.
- d. *Animals, birds, etc.* The keeping of any animal or bird which, by causing frequent or long-continued noise, shall disturb the comfort or repose of any reasonable persons of ordinary sensibilities in the vicinity.
- e. *Steam whistles.* The blowing of any steam whistle attached to any stationary boiler except to give notice of the time to stop work or as a warning of fire or danger, or upon request of proper city authorities.
- f. *Exhausts.* The discharge into the open air of the exhaust of any steam engine, stationary internal combustion engine or motor vehicle except through a muffler or other device which will effectively prevent loud or explosive noises therefrom.
- g. *Defect in vehicle or load.* The use of any automobile, motorcycle or vehicle so out of repair, so loaded or in such manner as to create loud and unnecessary grating, grinding, rattling or other noises.
- h. *Loading, unloading and opening boxes, etc.* The creation of a loud and excessive noise in connection with the loading or unloading of any vehicle, or the opening and destruction of bales, boxes, crates and containers on Sundays, Christmas Day, New Year's Day or Thanksgiving Day, or before 7:00 a.m. or after 11:00 p.m.; provided, however, that under emergency conditions the city may grant exceptions thereto.
- i. *Adjacent to schools, courts, churches, hospitals, etc.* The creation of any excessive noise on any street adjacent to any school, institution of learning, church or court

while the same is in use, or adjacent to any hospital, which unreasonably interferes with the workings of such institutions, or which disturbs or unduly annoys patients in the hospital; provided that conspicuous signs are displayed in such streets indicating that the same is a school, hospital, church or court street.

- j. *Hawkers, peddlers, etc.* The shouting and crying of peddlers, hawkers and vendors which disturbs the peace and quiet of reasonable persons of ordinary sensibilities.
 - k. *Drums, etc.* The use of any drum or other instrument or device for the purpose of attracting attention by creation of noise to any performance, show or sale.
 - l. *Transportation of metal rails, pillars and columns.* The transportation of rails, pillars or columns of iron, steel or other material, over and along the streets and other public places upon carts, drays, cars, trucks or in any other manner so loaded as to cause loud noises or as to disturb the peace and quiet of such streets or other public places.
 - m. *Operation of public transportation buses.* The causing, permitting or continuing any excessive, unnecessary and avoidable noise in the operation of a public transportation bus.
 - n. *Pile drivers, hammers, etc.* The operation of any pile driver, steam shovel, pneumatic hammer, derrick, steam or electric hoist or other appliance, the use of which is attended by loud or unusual noise, except on written permission of the city prescribing the locality where, and the hours during which, such operation is permissible.
 - o. *Blowers.* The operation of any noise-creating blower or power fan, or any internal combustion engine, the operation of which causes noise due to the explosion of operating gases or fluids, unless the noise from such blower or fan is muffled and such engine is equipped with a muffler device sufficient to deaden such noise.
- (2) The city shall have the right to waive any or all of the requirements of this section in cases of emergency where the welfare of persons or property may be jeopardized by their strict enforcement.
- (3) The requirements of this section shall not be construed to prevent the operation of automobiles or light-delivery vehicles at any time; provided, however, that such motor vehicles shall not have any attachment thereon for creating unnecessary noise and shall be so operated as to create the least possible noise or nuisance.

(Code 1982, §§ 16-12—16-15)

Sec. 26-6. Failure to disperse.

Every person remaining present at the place of any riot or unlawful assembly after having been ordered to disperse by the police or any other lawful authority, shall be deemed guilty of a violation of this Code.

(Code 1982, § 16-31)

Sec. 26-7. Obstructing traffic to solicit contributions prohibited.

It shall be unlawful for any person, group of persons, or organization of any kind to use the public streets and ways of the city for the purpose of stopping or delaying traffic to solicit funds or contributions for any cause whatsoever. Violations of this section shall be punishable as for a misdemeanor, as provided in section 8(c) of the city Charter.

(Code 1982, § 16-35; Ord. of 6-4-1973)

Chapter 27

RESERVED

Chapter 28

SIGNS

- Sec. 28-1. Sign permit—Required.
- Sec. 28-2. Same—Obstructions prohibited.

Sec. 28-1. Sign permit—Required.

(a) It shall be unlawful for any person to place any sign advertising any sale or for any other purpose on the streets or sidewalks of the city without first having obtained a permit so to do from the city.

(b) No sign shall be erected or maintained on which any word, symbol or design is displayed by means of electric lights which flash or blink or are otherwise illuminated intermittently.

(c) No portable signs except residential signs and construction signs shall be placed within the boundaries of the city unless the user of the sign obtains from the proper official a temporary permit authorizing the use and placement of said sign. The permit shall only be valid for a reasonable period of time as determined by the proper official after considering the purposes and needs of the person or entity requesting the permit.

(d) No sign shall be erected or replaced without first obtaining a permit from the building official.

(Code 1982, § 6-8; Ord. of 10-10-1924; Ord. of 5-20-1985)

Sec. 28-2. Same—Obstructions prohibited.

No permit shall be issued for the erection of any sign that will in any way obstruct the view of people passing on the sidewalks or streets, or will interfere with the free use and passage on the streets or will obstruct any mercantile building or other business establishment other than the one before or upon which such sign is erected.

(Code 1982, § 6-9; Ord. of 10-10-1924)

Chapter 29

RESERVED

Chapter 30

SOLID WASTE*

Article I. In General

- Sec. 30-1. Disposal of garbage and refuse; promiscuous dumping prohibited.
- Sec. 30-2. Private landfills and dumps prohibited.
- Sec. 30-3. Open burning.
- Sec. 30-4. Permission required for haulers outside of city.
- Secs. 30-5—30-26. Reserved.

Article II. Collection and Disposal

- Sec. 30-27. Definitions.
- Sec. 30-28. Sanitation fee.
- Sec. 30-29. Prohibited acts.
- Sec. 30-30. Exemptions.
- Sec. 30-31. Enforcement.
- Sec. 30-32. Containers—Generally.
- Sec. 30-33. Same—To be kept closed; accessibility.
- Sec. 30-34. Rules and regulations.
- Secs. 30-35—30-58. Reserved.

Article III. Litter

- Sec. 30-59. Definitions.
- Sec. 30-60. Placement in receptacles so as to prevent scattering.
- Sec. 30-61. Cleanliness of sidewalk—Duty of owner or occupant.
- Sec. 30-62. Merchant's duty to keep sidewalks free of litter—Business premises.
- Sec. 30-63. Handbills—Throwing or handing out in public places.
- Sec. 30-64. Same—In or on vehicles.
- Sec. 30-65. Same—Depositing on uninhabited premises.
- Sec. 30-66. Same—Distributing consent of occupant of private premises.
- Sec. 30-67. Same—Method of leaving at private premises.
- Sec. 30-68. Dropping litter from aircraft.
- Sec. 30-69. Littering private premises—Generally.
- Sec. 30-70. Same—Vacant lot.
- Sec. 30-71. Same—Occupant's responsibility as to his property.
- Sec. 30-72. Same—Clearing by city.
- Sec. 30-73. Unlawful accumulations.

***State law references**—Georgia Comprehensive Solid Waste Management Act, O.C.G.A. § 12-8-20 et seq.; litter control, O.C.G.A. §§ 16-7-42 et seq., 16-7-51 et seq.

ARTICLE I. IN GENERAL**Sec. 30-1. Disposal of garbage and refuse; promiscuous dumping prohibited.**

All garbage and refuse shall be taken to and deposited in the landfill, and it will be unlawful to otherwise dispose of the same. Promiscuous dumping of garbage and refuse is prohibited. (Code 1982, § 11-4.2; Ord. of 2-4-1974; Mo. of 9-16-1974)

Sec. 30-2. Private landfills and dumps prohibited.

(a) Any person, firm, corporation or other legal entity who receives solid waste from another, except as allowed by law, for disposal upon property located in the city that it owns or operates shall be guilty of a violation of this chapter, without obtaining a proper permit from the environmental protection division.

(b) Any person, firm, corporation or other legal entity that provides solid waste to another for disposal upon property located in the city that the other owns or controls or who disposes of solid waste onto the property of another without the consent of the owner of the property shall be guilty of a violation of this chapter, without obtaining a proper permit from the environmental protection division.

(c) For purposes of this section, the term "owner" means the actual holder of legal title of property located in the city.

(d) These provisions shall apply whether the disposal is for payment or is gratis. (Ord. of 10-19-1998, art. 3, § 3)

Sec. 30-3. Open burning.

Open burning is prohibited at all disposal sites and solid waste handling facilities. (Ord. of 10-19-1998, art. 3, § 4)

Sec. 30-4. Permission required for haulers outside of city.

(a) No person, firm, corporation or employee shall transport garbage from some other city or county of the state or from any other state for the purpose of dumping the same at a city-approved disposal or solid waste handling facility without first receiving written permission from the city council.

(b) Visitors to the city may dispose of household waste and recyclable items in city-approved containers and/or bags without obtaining such written permission. (Ord. of 10-19-1998, art. 3, § 5)

Secs. 30-5—30-26. Reserved.

ARTICLE II. COLLECTION AND DISPOSAL**Sec. 30-27. 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:

City-approved containers and/or bags means the container and/or bags approved by the city for the disposal of all household waste available for purchase at local commercial establishments.

Commercial establishment means any business, industrial establishment, hotel, motel, apartment dwelling, roominghouse, public or semipublic establishment of any nature or kind whatsoever other than a one- or two-family unit or condominium.

Commercial solid waste means all types of solid waste generated by stores, offices, restaurants, warehouses and other nonmanufacturing activities, excluding residential and industrial waste.

Condominium means individual ownership units in a multifamily residential structure with a front and back entrance to each unit on the ground level.

Construction/demolition waste means waste building materials and rubble resulting from construction, remodeling, repair and demolition operations performed to houses, commercial buildings, pavement and other structures. Such waste includes, but is not limited to, containers, wood, bricks, metal, concrete, wall board, paper cardboard, inert waste, landfill material and other nonputrescible waste which has a low potential for groundwater contamination.

Disposal facility means a facility or location where the final disposition of solid waste occurs and includes, but is not limited to, satellite collection stations, convenience centers, the central transfer station, or any future disposal facilities.

Garbage means food waste, including waste accumulation of animal or vegetable matter used or intended for use as food, or that attends the preparation, use, cooking, dealing in or storage of meat, fish, fowl, fruits or vegetables.

Household waste means solid waste, primarily consisting of garbage, produced by residential units.

Industrial waste means solid waste generated by manufacturing or industrial processes or operations that is not a hazardous waste regulated under the Georgia Hazardous Waste Management Act (O.C.G.A. § 12-8-622 et seq.). The term "industrial waste" includes, but is not limited to, waste resulting from the following manufacturing processes: electric power generation; fertilizer and agricultural chemicals; food-related products and byproducts: inorganic chemicals; iron and steel products; leather and leather products; nonferrous metal and foundry

products; organic chemicals; plastic and resins; pulp and paper; rubber and miscellaneous plastic products; stone, glass; clay and concrete products; textiles; transportation equipment. The term "industrial waste" does not include mining waste or oil and gas waste.

Municipal solid waste means any solid waste, including sanitary waste in septic tanks, derived from residential dwellings, hotels and motels, campgrounds, picnic grounds and recreation areas. The term "municipal solid waste" includes commercial solid waste, but does not include construction/demolition waste and solid waste from mining, agricultural, silvicultural or industrial processes or operations.

Open dump means an accumulation of solid waste from one or more sources left to decompose, burn or create a threat to health or the environment.

Owner means any person, firm or corporation owning, leasing, renting, occupying, possessing or managing any premises in the city.

Putrescible waste means waste that is capable of being decomposed by microorganisms. Examples of putrescible waste include, but are not limited to, kitchen waste, animal manure, offal hatchery and poultry processing plant waste, and garbage.

Reclamation means a controlled method of sorting and storing material from solid waste for future use.

Recovered materials means those materials which have a known use or recycling potential, and can be feasibly used, re-used or recycled, and have been diverted or removed from the solid waste stream for sale, use, re-use or recycling whether or not subsequent separation and processing is required.

Recycling means any process by which items which would otherwise become solid waste are collected, separated, or processed and reused or returned to use in the form of raw materials or products.

Refuse means garbage, rubbish or commercial solid waste.

Residential unit means any freestanding structure or shelter or any part thereof used or constructed for use as a residence for the family.

Rubbish means discarded wastepaper, cartons, boxes, wood, tree branches, yard trimmings, furniture, appliances, metals, cans, glass, crockery, dunnage and/or similar materials.

Scrap tire means a tire that is no longer suitable for its original purpose because of wear, damage or defect.

Solid waste means any garbage or refuse, sludge from a wastewater treatment plant, water supply treatment plant, or air pollution control facility, and other discarded material, including solid, semi-solid, or contained gaseous material resulting from industrial, commercial, mining, and agricultural operations and community activities, but does not include recovered materials;

solid or dissolved materials in domestic sewage; solid or dissolved materials in irrigation return flows or industrial discharges that are point sources subject to permit under 33 USC 1342; or source, special nuclear or byproduct material as defined by the federal Atomic Energy Act of 1954, as amended (68 Stat 923).

Solid waste handling means the storage, collection, transportation, treatment, utilization, processing, or disposal of solid waste or any combination of such activities.

Solid waste handling facility means any facility the primary purpose of which is the storage, collection, transportation, treatment, utilization, processing or disposal, or any combination thereof, of solid waste.

Special waste means the following:

- (1) Solid waste containing free liquids;
- (2) Solid waste containing sludge, as defined in 40 CFR 241/101 as amended;
- (3) Off-specification, outdated or discarded chemical products;
- (4) Petroleum products and petroleum contaminated soil; and
- (5) Solid waste generated by an industrial process other than cardboard or other inert substances or materials.

Transfer station means the central transfer station owned by the county.

Waste streams means the total flow of solid waste from residential units, commercial establishments, condominiums, apartments, institutions and the like, to its ultimate disposal site or facility.

Yard trimmings means leaves, brush, grass clippings, shrub and tree prunings, discarded Christmas trees, nursery and greenhouse vegetative residuals, and vegetative matter resulting from landscaping development and maintenance other than mining, agricultural, and silvicultural operations.

(Ord. of 10-19-1998, art. 1, § 1)

Sec. 30-28. Sanitation fee.

(a) All persons, businesses, corporations or associations, who, by ordinances of the city, are required to buy a business license, or occupation license, in accordance with chapter 22 of this Code, and who maintain a permanent location for the conduct of their business, within the city limits, are hereby required to pay a monthly sanitation fee, as fixed by the city council from time to time, in accordance with their resolutions or ordinances as adopted now or hereinafter, and any additional fees as uniformly scheduled therein.

(b) Excepted from the above provisions are those persons, businesses, corporations or associations who:

- (1) Do not maintain an office for the doing of business within the city; or
- (2) Utilize their residence for a place of doing business, but do not allow the general public access to said residence for the purpose of buying or selling of goods or services.

(Code 1982, § 11-40)

Sec. 30-29. Prohibited acts.

(a) No individual, partnership, corporation or other entity shall throw, litter, dump, or deposit (or cause or permit to be deposited) any waste unless authorized to do so by law or by a duly issued permit:

- (1) In or on any public highway, road, street, alley or thoroughfare, including any portion of the right-of-way thereof, or on any other public lands except in containers or areas lawfully provided for such dumping;
- (2) In or on any fresh water lake, river, canal or stream; and
- (3) On any private property, as allowed by law or permit, without the express permission of the owner.

(b) No owner or occupant shall allow the accumulation on his residential unit or commercial establishment of solid waste where such solid waste creates or may cause a health hazard to neighbors or other citizens, or is unsightly, or emits foul or obnoxious odors which constitute either a public or private nuisance. Such conduct shall constitute a violation of this article.

(c) The owner or occupant of any premises, office, business establishment, institution, industry or similar facility shall be responsible for the collection and transportation of all solid waste accumulated at the premises, office, business establishment, institution or similar facility to a city-approved disposal or solid waste handling facility. Each day the solid waste remains on the premises may constitute a separate violation of this article.

(d) The owner or occupant of any premises, office, business establishment, institution, industry or similar facility shall package solid waste in city-approved containers and/or bags, and shall deposit or cause such containers and/or bags to be delivered to a city-approved disposal or solid waste disposal facility.

(e) No person may store more than 100 scrap tires anywhere in the city, except as permitted by O.C.G.A. § 12-8-40.1(g).

(Ord. of 10-19-1998, art. 1, § 2)

Sec. 30-30. Exemptions.

The provisions of this article shall not apply to any individual, partnership, corporation or other entity not collecting and disposing of municipal solid waste, commercial solid waste, construction waste or industrial waste for a fee, but who are holders of valid solid waste handling permits from the director of the environmental protection division of the state department of natural resources pursuant to rules of the state department of natural resources environmental protection division (391-3-4-02 and 391-3-4-06) for disposal or on-site burial. Such disposal shall be governed by state environmental protection regulations and by the requirements of the current city development regulations. Provisions of this article shall not apply to any individual disposing of solid waste originating from his own residence onto land or facilities owned by him when disposal of such wastes does not thereby adversely affect the public health and is allowed by law and permit.

(Ord. of 10-19-1998, art. 1, § 3)

Sec. 30-31. Enforcement.

(a) In its discretion, the court may also order the violator to remove or render harmless any waste thrown, deposited, dropped or dumped in violation of this article, repair or restore property damaged by or pay damages resulting from such dumping, or perform public service related to the removal of illegally dumped waste or to the restoration of any area polluted by such waste, including from any public street, highway or right-of-way for a distance not to exceed one mile. In its sound discretion, the court may also order that the names of violators of this article be published in the legal organ, and assess the cost of such publication in addition to any other fine imposed pursuant to this article.

(b) The judge, the publisher of any legal organ which publishes such a notice, and any other person involved in the publication of an erroneous notice of conviction shall be immune from civil or criminal liability for such erroneous publication, provided such publication was made in good faith.

(c) All law enforcement agencies, officers, and officials of the state and city are authorized, empowered and directed to enforce compliance with this article.

(d) 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 has violated this article.

(e) Whenever litter dumped, deposited, thrown or left on public or private property in violation of this article is discovered to contain any article, including, but not limited to, letters, bills, publications, or other writings which display the name of the person thereon, addressed to such person or in any other manner indicating that the article belongs or belonged to such person, it shall be a rebuttable presumption that such person has violated this article.

(Ord. of 10-19-1998, art. 1, § 4)

Sec. 30-32. Containers—Generally.

All containers used by any person, firm, corporation or other legal entity for the storage or collection of garbage, debris or trash must comply with all city regulations. All garbage, debris or trash not placed in containers shall be kept free of rodents and insects.

(Ord. of 10-19-1998, art. 3, § 1)

Sec. 30-33. Same—To be kept closed; accessibility.

Garbage cans placed for city pick-up service shall have the lids securely in place at all times the can is not being attended. All cans shall be made accessible to garbage trucks.

(Code 1982, § 11-3; Mo. of 8-5-1946)

Sec. 30-34. Rules and regulations.

(a) Domestic household garbage and all other garbage shall be placed in city-approved containers and/or bags.

(b) It is unlawful for any person, firm, corporation or other legal entity to place appliances, automobile parts, farm implements, furniture, or parts thereof, dead animal carcasses or parts, trees or limbs, industrial, manufacturing or processing waste or any other solid waste that is not household garbage in or around solid waste handling or disposal facilities, except as authorized at an approved transfer station.

(c) It shall be unlawful to scavenge, sort, or remove the contents of solid waste handling or disposal facilities.

(d) It shall be unlawful to set afire the contents of solid waste handling or disposal facilities or to place burning or smoldering materials in solid waste handling or disposal facilities.

(Ord. of 10-19-1998, art. 3, § 2)

Secs. 30-35—30-58. Reserved.**ARTICLE III. LITTER*****Sec. 30-59. 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:

Aircraft means any contrivance invented, used or designated for flight.

Authorized private receptacle means a litter storage and collection receptacle as required and authorized by the city.

***State law reference**—Litter control, O.C.G.A. §§ 16-7-42 et seq., 16-7-51 et seq.

Commercial handbill means any printed or written matter, sample or device, dodger, circular, leaflet, pamphlet, paper, booklet, or any other printed or otherwise reproduced original or copies of any matter of literature:

- (1) Which advertises for sale any merchandise, product, commodity, or thing;
- (2) Which directs attention to any business or mercantile or commercial establishment or other activity, for the purpose of either directly or indirectly promoting the interest thereof by sales;
- (3) Which directs attention to or advertises any meeting, theatrical performance, exhibition or event of any kind, for which an admission fee is charged for the purpose of private gain or profit; but this clause shall not apply where an admission fee is charged or a collection is taken up for the purpose of defraying the expenses incident to such meeting, theatrical performance, exhibition or event of any kind, when it is held, given or takes place in connection with the dissemination of information which is not restricted under the ordinary rules of decency, good morals, public peace, safety and good order; provided that nothing contained in this clause shall be deemed to authorize the holding, giving or taking place of any meeting, theatrical performance, exhibition or event of any kind, without a license, where such license is or may be required by any law of the state, or under any ordinance of the city;
- (4) Which, while containing reading matter other than advertising matter, is predominately and essentially an advertisement, and is distributed or circulated for advertising purposes, or for the private benefit and gain of any person so engaged as advertiser or distributor.

Garbage means putrescible animal and vegetable wastes resulting from the handling, preparation, cooking and consumption of food.

Litter means garbage, refuse and rubbish, as defined herein, and all other waste material which is thrown or deposited, as herein prohibited, and tends to create a danger to public health, safety and welfare.

Newspaper means any newspaper of general circulation as defined by general law, any newspaper duly entered with the post office department of the United States, in accordance with federal statute or regulation, and any newspaper filed and recorded with any recording officer as provided by general law; and, in addition thereto, any periodical or current magazine regularly published with not less than four issues per year, and sold to the public.

Noncommercial handbill means any printed or written matter, sample, or device, dodger, circular, leaflet, pamphlet, newspaper, magazine, paper, booklet, or any other printed or otherwise reproduced original or copies of any matter of literature not included in the aforesaid definitions of a commercial handbill or newspaper.

Park means a park, reservation, playground, beach, recreation center or any other public area in the city, owned or used by the city and devoted to active or passive recreation.

Private premises means any dwelling, house, building, or other structure, designed or used either wholly or in part for private residential purposes, whether inhabited or temporarily or continuously uninhabited or vacant, and shall include any yard, grounds, walk, driveway, porch, steps, vestibule or mailbox belonging or appurtenant to such dwelling, house, building, or other structure.

Public place means any street, sidewalk, boulevard, alley or other public way, and any public park, square, space, ground or building.

Refuse means all putrescible and nonputrescible solid wastes (except body wastes), including garbage, rubbish, ashes, street cleanings, dead animals, abandoned automobiles, and solid market and industrial wastes.

Rubbish means nonputrescible solid wastes consisting of both combustible and non-combustible wastes, such as paper, wrappings, cigarettes, cardboard, tin cans, yard clippings, leaves, wood, glass, bedding, crockery and similar materials.

Vehicle means every device in, upon, or by which any person or property is or may be transported or drawn upon a highway, including devices used exclusively upon stationary rails or tracks.

(Code 1982, § 11-20; Ord. of 6-15-1970, § 2)

Sec. 30-60. Placement in receptacles so as to prevent scattering.

Persons placing litter in public receptacles or in authorized private receptacles shall do so in such a manner as to prevent it from being carried or deposited by the elements upon any street, sidewalk or other public place or upon private property.

(Code 1982, § 11-21; Ord. of 6-15-1970, § 4)

Sec. 30-61. Cleanliness of sidewalk—Duty of owner or occupant.

Persons owning or occupying property shall keep the sidewalk in front of their premises free of litter.

(Code 1982, § 11-23; Ord. of 6-15-1970, § 5)

Sec. 30-62. Merchant's duty to keep sidewalks free of litter—Business premises.

Persons owning or occupying places of business within the city shall keep the sidewalk in front of their business premises free of litter.

(Code 1982, § 11-24; Ord. of 6-15-1970, § 6)

Sec. 30-63. Handbills—Throwing or handing out in public places.

No person shall throw or deposit any commercial or noncommercial handbill in or upon any sidewalk, street or other public place within the city. However, it shall not be unlawful on any sidewalk, street, or other public place within the city for any person to hand out or distribute, without charge to the receiver thereof, any handbill to any person willing to accept it.

(Code 1982, § 11-29; Ord. of 6-15-1970; Ord. of 12-12-1985)

Sec. 30-64. Same—In or on vehicles.

No person shall throw or deposit any commercial or noncommercial handbill in or upon any vehicle except in a manner that will prevent it from being blown about or scattered by the elements.

(Code 1982, § 11-30; Ord. of 6-15-1970; Ord. of 12-12-1985)

Sec. 30-65. Same—Depositing on uninhabited premises.

No person shall throw or deposit any commercial or noncommercial handbill in or upon any private premises which are temporarily or continuously uninhabited or vacant.

(Code 1982, § 11-31; Ord. of 6-15-1970)

Sec. 30-66. Same—Distributing consent of occupant of private premises.

No person shall throw, deposit or distribute any commercial or noncommercial handbill upon any private premises, if requested by anyone thereon not to do so, or if there is placed on said premises in a conspicuous position near the entrance thereof, a sign bearing the words: "No Trespassing," "No Peddlers or Agents," "No Advertisement," or any similar notice, indicating in any matter that the occupants of said premises do not desire to be molested or have their right of privacy disturbed, or to have any such handbills left upon such premises.

(Code 1982, § 11-32; Ord. of 6-15-1970)

Sec. 30-67. Same—Method of leaving at private premises.

(a) No person shall throw, deposit or distribute any commercial or noncommercial handbill in or upon private premises which are inhabited, except by handing or transmitting any such handbill directly to the owner, occupant, or other person then present in or upon such private premises. However, in case of inhabited private premises which are not posted, as provided in this article, such person, unless requested by anyone upon such premises not to do so, may place or deposit any such handbill in or upon such inhabited private premises, if such handbill is so placed or deposited as to secure or prevent such handbill from being blown or drafted about such premises or on sidewalks, streets or other public places, and except that mailboxes may not be so used when so prohibited by federal postal law or regulation.

(b) The provisions of this section shall not apply to the distribution of mail by the United States, nor to the newspapers (as defined herein) except that newspapers shall be placed on private property in such a manner as to prevent their being carried or deposited by the elements upon any street, sidewalk or other public place or upon other private property.

(Code 1982, § 11-33; Ord. of 6-15-1970, § 15)

Sec. 30-68. Dropping litter from aircraft.

No person in an aircraft shall throw out, drop or deposit within the city any litter, handbill or any other object.

(Code 1982, § 11-34; Ord. of 6-15-1970, § 16)

Sec. 30-69. Littering private premises—Generally.

No person shall throw or deposit litter on an occupied private property within the city, whether owned by such person or not, except that the owner or person in control of private property may maintain authorized private receptacles for collection in such a manner that litter will be prevented from being carried or deposited by the elements upon any street, sidewalk or other public place or upon any private property.

(Code 1982, § 11-36; Ord. of 6-15-1970, § 18)

Sec. 30-70. Same—Vacant lot.

No person shall throw or deposit litter on any open or vacant private property within the city whether owned by such person or not.

(Code 1982, § 11-37; Ord. of 6-15-1970, § 20)

Sec. 30-71. Same—Occupant's responsibility as to his property.

The owner or person in control of any private property shall at all times maintain the premises free of litter. However, this section shall not prohibit the storage of litter in authorized private receptacles for collection.

(Code 1982, § 11-38; Ord. of 6-15-1970, § 19)

Sec. 30-72. Same—Clearing by city.

(a) *Notice to remove.* The mayor or his designee is authorized to notify the owner, or agent of the owner, of any private property within the city to properly dispose of litter located on such owner's property which constitutes a nuisance or which is dangerous to public health, safety or welfare. Notice shall be by hand delivery to the owner, or agent of the owner, or by registered mail addressed to the owner, or agent of the owner, at his last-known address.

- (1) *Litter removed by city.* The city will pick up leaves, grass clippings and small limbs when put in separate piles and placed at the property line of the owner next to the alley, sidewalk or street. Said debris shall be so located as not to constitute an obstruction or hazard to pedestrian or vehicular traffic nor near storm drains.

(2) *Litter not removed by city.* The city will not pick up old or abandoned furniture, appliances, carpet, scrap lumber, tires, tree tops, stumps, large limbs or other debris from private property. The disposal of such property shall be the responsibility of the landowner or his agent, and it shall be unlawful to place the same in or near the alley, sidewalk or street, or to otherwise abandon the same upon the property of the owner so as to constitute a nuisance or hazard to the public health, safety or welfare.

(b) *Action upon noncompliance.* Upon the failure, neglect or refusal of any owner or agent so notified, to properly dispose of litter dangerous to the public health, safety or welfare within ten days after receipt of written notice provided for in subsection (a) of this section, or within ten days after the date of such notice in the event the same is returned to the post office because of its inability to make delivery thereof, provided the same was properly addressed to the last-known address of such owner or agent, the mayor is authorized to pay for the disposing of such litter or to order its disposal by the city.

(c) *Charge included in tax bill.* When the city has effected the removal of such dangerous litter or has paid for its removal, the actual cost thereof, plus accrued interest at the rate of six percent per annum from the date of the completion of the work, if not paid by such owner prior thereto, shall be charged to the owner of such property on the next regular tax bill forwarded to such owner by the city, and said charge shall be due and payable by such owner at the time of payment of such bill.

(d) *Recorded statement constitutes lien.* Where the full amount due the city is not paid by such owner within 30 days after the disposal of such litter, as provided for in subsections (a) and (b) of this section, the mayor shall cause to be recorded in the office of the city clerk a sworn statement showing the cost and expense incurred for the work, the date the work was done and the location of the property on which such work was done. The recordation of such sworn statement shall constitute a lien on the property, and shall remain in full force and effect for the amount due in principal and interest, plus costs of court, if any, for collection, until final payment has been made. Said costs and expenses shall be collected in the manner fixed by law for the collection of taxes and, further, shall be subject to a delinquent penalty of six percent in the event same is not paid in full on or before the date the tax bill upon which said charge appears becomes delinquent. Sworn statements recorded in accordance with the provisions hereof shall be prima facie evidence that all legal formalities have been complied with and that the work has been done properly and satisfactorily, and shall be full notice to every person concerned that the amount of the statement, plus interest, constitutes a charge against the property designated or described in the statement and that the same is due and collected as provided by law.

(Code 1982, § 13-91; Ord. of 6-15-1970, § 21; Ord. of 10-15-2001)

Sec. 30-73. Unlawful accumulations.

(a) It shall be unlawful to allow trash and/or litter to accumulate upon public or private property within the city, when such trash and/or litter is not stored in approved containers located outside of public view.

(b) The chief of police shall make regular surveys of the city to determine compliance with this section, and shall also investigate any reports received of alleged violations of this section.

(c) The owner, and tenant or occupant, if any, of any residence, business or vacant lot, in violation of this section shall be issued a written citation by the chief of police requiring such person to take immediate action to remove the trash and/or litter from public view within ten days of issuance of said citation.

(d) The chief of police shall advise the mayor and clerk of all citations so issued, and shall follow up to determine compliance of said owner, tenant or occupant.

(e) In the event of failure of any owner, tenant or occupant to remove the trash and/or litter from public view and to properly store the same outside of public view or to properly dispose of the same after issuance of said citation, the chief of police shall issue a second citation requiring appearance on a day certain in municipal court to answer for said violations.

(f) Upon conviction of any person charged with violation of this section, in addition to the normal penalties provided by law, shall have the authority to authorize the city to remove the trash and/or litter from the property, and to dispose of the same, after giving the person charged and convicted with violation of this section an additional ten days to comply.

(Ord. of 9-21-2015, §§ 1—6)

Chapter 31

RESERVED

Chapter 32

STREETS, SIDEWALKS AND OTHER PUBLIC PLACES

Article I. In General

- Sec. 32-1. Obstructing.
- Sec. 32-2. Permit to cut pavement.
- Sec. 32-3. Street paving policy.
- Sec. 32-4. Streets signs; building numbers; penalty.
- Secs. 32-5—32-25. Reserved.

Article II. Parades

Division 1. Generally

- Sec. 32-26. Definitions.
- Sec. 32-27. Exemptions.
- Secs. 32-28—32-57. Reserved.

Division 2. Permit

- Sec. 32-58. Required.
- Sec. 32-59. Application.
- Sec. 32-60. Issuance standards.
- Sec. 32-61. Notice of denial.
- Sec. 32-62. Alternative permit.
- Sec. 32-63. Contents.
- Sec. 32-64. Revocation.
- Sec. 32-65. Compliance with laws and regulations.

ARTICLE I. IN GENERAL**Sec. 32-1. Obstructing.**

It shall be unlawful for any person in any way to obstruct or interfere with travel on the streets, sidewalks or other thoroughfares in the city.

(Code 1982, § 20-1; Ord. of 7-25-2004)

Sec. 32-2. Permit to cut pavement.

All persons shall obtain a permit from the council before cutting any street pavement or sidewalk.

(Code 1982, § 20-2; Mo. of 12-1-1952)

Sec. 32-3. Street paving policy.

All street paving done within the city shall be in accordance with department of transportation specifications and current additions or supplements thereto.

(Code 1982, § 20-4; Ord. of 10-7-1982)

Sec. 32-4. Streets signs; building numbers; penalty.

(a) All streets within the city limits will be appropriately marked with signs which show the name of the streets at each intersection. Further, each house and business in the city will be identified by a number which will conform to postal regulations.

(b) Punishments for violations of this section shall be as provided in section 1-8.
(Code 1982, § 6-10; Ord. of 11-5-1973)

Secs. 32-5—32-25. Reserved.**ARTICLE II. PARADES****DIVISION 1. GENERALLY****Sec. 32-26. 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:

Parade means any parade, march, ceremony, show, exhibition, pageant, or procession of any kind, or any similar display, in or upon any street or other public place.

Sec. 32-27. Exemptions.

This article shall not apply to:

- (1) Funeral processions;
- (2) 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;
- (3) A governmental agency acting within the scope of its functions.

Secs. 32-28—32-57. Reserved.

DIVISION 2. PERMIT

Sec. 32-58. Required.

No person shall engage in, participate in, aid, form or start any parade, without a parade permit issued by the city council.

(Code 1982, § 16-23)

Sec. 32-59. Application.

(a) A person desiring a parade permit shall file an application with the city clerk on forms provided by such officer. Such application shall be filed not less than ten days before the date on which it is proposed to conduct the parade.

(b) The application for a parade permit shall set forth the following information:

- (1) The name, address and telephone number of the person seeking to conduct such parade;
- (2) If the parade is proposed to be conducted for, on behalf of, or by an organization, the name, address and telephone number of the headquarters of the organization, and of the authorized and responsible heads of such organization;
- (3) The name, address and telephone number of the person who will be the parade chairperson and who will be responsible for its conduct;
- (4) The date when the parade is to be conducted;
- (5) The route to be traveled, the starting point and the termination point;
- (6) The approximate number of persons who, and animals and vehicles which, will constitute such parade; the type of animals, and description of the vehicles;
- (7) The hours when such parade will start and terminate;

- (8) A statement as to whether the parade will occupy all or only a portion of the width of the streets proposed to be traversed;
- (9) The location by streets of any assembly areas for such parade;
- (10) The time at which units of the parade will begin to assemble at any such assembly area;
- (11) The interval of space to be maintained between units of such parade;
- (12) If the parade is designed to be held by, and on behalf of or for, any person other than the applicant, a communication in writing from the person proposing to hold the parade, authorizing the applicant to apply for the permit on his behalf.

(c) The city council, where good cause is shown therefor, shall have the authority to consider any application hereunder which is filed less than ten days before the date such parade is proposed to be conducted.

(Code 1982, § 16-24)

Sec. 32-60. Issuance standards.

The city council shall issue a parade permit when, from a consideration of the application and from such other information as may otherwise be obtained, it finds that:

- (1) The conduct of the parade will not substantially interrupt the safe and orderly movement of other traffic contiguous to its route;
- (2) The conduct of the parade will not require the diversion of so great a number of police officers to properly police the line of movement and the areas contiguous thereto as to prevent normal police protection;
- (3) The conduct of such parade will not require the diversion of so great a number of ambulances as to prevent normal ambulance service to portions of the city other than that to be occupied by the proposed line of march and areas contiguous thereto;
- (4) The concentration of persons, animals and vehicles at assembly points of the parade will not unduly interfere with proper fire and police protection of, or ambulance service to, areas contiguous to such assembly areas;
- (5) The conduct of such parade will not interfere with the movement of firefighting equipment en route to fire;
- (6) The conduct of the parade is not reasonably likely to cause injury to persons or property, to provoke disorderly conduct or create a disturbance;
- (7) The parade is scheduled to move from its point of origin to its point of termination expeditiously and without unreasonable delays en route;

- (8) The parade is not to be held for the sole purpose of advertising any product, cause, goods or events and is not designed to be held purely for private profit.
(Code 1982, § 16-25)

Sec. 32-61. Notice of denial.

If the city council disapproves the application for a parade permit, the city clerk shall mail to the applicant, within three days after the date upon which the application was filed, a notice of such action.

Sec. 32-62. Alternative permit.

The city council, in denying an application for a parade permit, shall be empowered to authorize the conduct of the parade on a date, at a time, or over a route different from that named by the applicant. An applicant desiring to accept an alternate permit shall, within five days after notice of the action of the city council, file a written notice of acceptance with the chief of police. An alternate parade permit shall conform to the requirements of, and shall have the effect of, a parade permit under this division.

Sec. 32-63. Contents.

Each parade permit shall state the following information:

- (1) The starting time;
- (2) The minimum speed;
- (3) The maximum speed;
- (4) The maximum interval of space to be maintained between the units of the parade;
- (5) The portions of the streets to be traversed that may be occupied by the parade;
- (6) The maximum length of the parade in miles;
- (7) Such other information as the city council shall find necessary to the enforcement of this division.

Sec. 32-64. Revocation.

The city council shall have the authority, after a hearing affording due process, to revoke a parade permit upon application of the standards for issuance as set forth in this division.

Sec. 32-65. Compliance with laws and regulations.

A person holding a parade permit shall comply with all permit directions and conditions and with all applicable laws and ordinances.

Chapter 33

RESERVED

Chapter 34

TRAFFIC AND VEHICLES*

Article I. In General

- Sec. 34-1. Uniform rules of the road.
- Sec. 34-2. Traffic signs, signals, devices and marking ratified.
- Sec. 34-3. "U" turns.
- Sec. 34-4. Bicycle riding on sidewalk.
- Sec. 34-5. Interfering with vehicle.
- Sec. 34-6. Enforcement of load limitations.
- Sec. 34-7. Speed limits; on- and off-highway systems.
- Secs. 34-8—34-34. Reserved.

Article II. Stopping, Standing and Parking

- Sec. 34-35. Parallel parking areas.
- Sec. 34-36. No parking zones.
- Sec. 34-37. Loading and unloading—General prohibition.
- Sec. 34-38. Same—Use of zones required.
- Sec. 34-39. Trespass by a motor vehicle.
- Sec. 34-40. Requirements for parked vehicles.

***State law references**—Rules of the road, O.C.G.A. § 40-6-1 et seq.; powers of local authorities, O.C.G.A. § 40-6-371.

ARTICLE I. IN GENERAL**Sec. 34-1. Uniform rules of the road.**

Pursuant to O.C.G.A. §§ 40-6-372—40-6-376, the provisions of O.C.G.A. title 40, ch. 6 (O.C.G.A. § 40-6-1 et seq.), known as the Uniform Rules of the Road, and the definitions contained in O.C.G.A. § 40-1-1 are hereby adopted as and for the traffic regulations of the city, with like effect as if recited herein. 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 1-8.

(Code 1982, § 21-11; Ord. of 5-19-1980)

Sec. 34-2. Traffic signs, signals, devices and marking ratified.

The location and existence of all traffic control signs, signals, devices and markings on the effective date of this Code are hereby ratified and confirmed.

Sec. 34-3. "U" turns.

It shall be unlawful to make "U" turns or complete turns with any vehicle in any street.
(Code 1982, § 21-2)

Sec. 34-4. Bicycle riding on sidewalk.

It shall be unlawful for any person to ride a bicycle on the public sidewalks.
(Code 1982, § 21-5; Ord. of 11-1-1897, § 1)

Sec. 34-5. Interfering with vehicle.

It shall be unlawful for any person, other than the owner or person entrusted with the same, or a police officer or firefighter in the exercise of his duties, to get on or in, or in any way molest or meddle with any vehicle on the streets of the city without the consent of the owner or person in charge.

(Code 1982, § 21-9; Ord. of 8-8-2010, § 1)

Sec. 34-6. Enforcement of load limitations.

(a) The weight limitations are to protect the city streets from damage. It is unlawful for any person to operate or park a vehicle (tractor-trailer) over 26,001 pounds on a city street specified by the city unless that person has received a permit or that person is loading or unloading products.

(b) Permits must be approved by the mayor and council, and then the permits must be obtained in the business office during business hours.

(Code 1982, § 21-14A)

Sec. 34-7. Speed limits; on- and off-highway systems.

(a) The following speed zones are hereby established based on an engineering and traffic investigation as prescribed by law:

On-System Highways

<i>S.R.</i>	<i>Within the City Limits of or School Name</i>	<i>From</i>	<i>M.L.</i>	<i>To</i>	<i>M.L.</i>	<i>Length in Miles</i>	<i>Speed Limit in MPH</i>
SR 30/U.S. 280		Claxton W. city limits, a point 0.01 mile east of CR 25 Old Metter Rd.	4.43	SR 129	5.75	1.32	35
SR 30/U.S. 280 school zone 7:30 a.m. to 8:30 a.m. and 2:30 p.m. to 3:30 p.m. school days only	Claxton Middle School	CS 610 Dean Street	4.54	A point 0.03 mile east of CS 616 Clark Street	4.88	0.34	25
SR 30/U.S. 280		SR 129	5.75	Claxton E. city limits, a point 0.06 mile east of CS 653 Market Street	5.98	0.23	45
SR 73/U.S. 301 school zone 7:30 a.m. to 8:30 a.m. 2:45 p.m. to 3:45 p.m. school days only	Claxton Elementary School	A point 0.24 mile north of CR 59 no name	6.25	A point 0.32 mile south of CS 627 Pine Street	6.50	0.25	35
SR 73/U.S. 301		Claxton S. city limits, a point 0.07 mile south of CS 627 Pine Street	6.75	CS 608 Smith Street	7.04	0.29	45

<i>S.R.</i>	<i>Within the City Limits of or School Name</i>	<i>From</i>	<i>M.L.</i>	<i>To</i>	<i>M.L.</i>	<i>Length in Miles</i>	<i>Speed Limit in MPH</i>	
SR 73/U.S. 301		CS 608 Smith Street	7.04	CR 102 Long Street	7.55	0.51	35	
SR 73/U.S. 301		CR 102 Long Street	7.55	Claxton N. city limits, a point 0.19 mile north of CR 102 Long Street	7.74	0.19	45	
SR 129		Claxton city limits, a point 0.07 mile south of CR 59 Old Claxton Glennville Road	5.54	SR 30/U.S. 280	6.05	0.51	35	
SR 129		This segment of roadway runs common with State Route 30 from M.P. 6.05 to M.P. 6.85						
SR 129		SR 30/U.S. 280	6.85	CS 64 Womble Street	7.05	0.20	35	
SR 129		CS 64 Womble Street	7.05	Claxton N. city limits, a point 0.06 mile north of CS 64 Jones Street	7.36	0.31	40	

Signs to be erected by the department of transportation for all state routes.

Off-System Highways

<i>Road Name</i>	<i>Within the City Limits of or School Name</i>	<i>From</i>	<i>To</i>	<i>Length in Miles</i>	<i>Speed Limit in MPH</i>
Anderson Avenue		Railroad Street	Park Avenue	0.40	25
Broad Street		City limits	SR 30	0.40	30
Church Street		City limits	SR 30	0.60	30
Clark Street		Goode Street	City limits	1.00	30
Claxton Avenue		Long Street	Park Drive	0.70	25
College Street		Goode Street	City limits	0.80	30
Earl Avenue		College Street	Hendrix Street	0.30	30
Goode Street		Ralph Street	Stewart Street	0.80	30
Grady Street		City limits	SR 30/U.S. 280	0.40	30
James Street		Gregory Street	Bay Street	1.40	30
Liberty Street		Clark Street	Peter Street	1.00	30
Long Street		Church Street	City limits	0.90	30
Newton Street		Long Street	SR 30/U.S. 280	0.40	30
Oak Street		Long Street	City limits	0.20	30
Park Drive		Peter Street	Dead end	0.40	30
Peter Street		Long Street	City limits	0.70	30
Railroad Street		College Street	Market Street	1.30	25
Ralph Street		S city limits	Main Street	0.46	30
River Street		N city limits	James Street	0.35	30
Smith Street		College Street	Claxton Avenue	1.00	30
Turnpike Road		College Street	City limits	0.20	30

Signs to be erected by the city.

(b) Any person convicted of a violation of this ordinance shall be guilty of an offense.
(Ord. No. 081799, 10-4-1999)

Secs. 34-8—34-34. Reserved.

ARTICLE II. STOPPING, STANDING AND PARKING

Sec. 34-35. Parallel parking areas.

All vehicles shall be parked straight or parallel on the portions of streets designated by the city.

(Code 1982, § 21-26; Ord. of 3-6-1950)

Sec. 34-36. No parking zones.

It shall be unlawful for any person to park any vehicle at any time in the locations designated by the city.

(Code 1982, § 21-28; Ord. of 9-7-1965; Ord. of 7-21-1969; Ord. of 11-3-1975, § 1-4; Ord. of 5-17-1976)

Sec. 34-37. Loading and unloading—General prohibition.

Except as authorized herein, it shall be unlawful for trucks to stop or park in the streets to load and unload or to stop on the left-hand side of the streets in the business district.

(Code 1982, § 21-29; Ord. of 8-19-1963)

Sec. 34-38. Same—Use of zones required.

It shall be unlawful for any vehicle to stop on the streets for the purpose of loading or unloading cargoes of merchandise or things of any other description, unless such vehicle is properly parked in the parking spaces prescribed therefor and marked with yellow lines.

(Code 1982, § 21-31; Ord. of 2-7-1949, § 1)

Sec. 34-39. Trespass by a motor vehicle.

It is a misdemeanor, after being requested by a police officer not to do so, to park or stand in an occupied or unoccupied vehicle or repeatedly drive a motor vehicle through a parking area which is located on privately-owned property and is provided by a merchant or group of merchants. The area must be properly marked by a sign at each entrance, and the vehicle must not be transporting people to a place of business inside or for use of the telephones or for use of automatic tellers. This also does not apply to disabled vehicles.

(Code 1982, § 21-32; Ord. of 7-20-1987)

Sec. 34-40. Requirements for parked vehicles.

(a) All vehicles parked upon the streets and in the public parking areas of the city shall have a current automobile tag and registration, and shall have insurance enforced upon said vehicle as required by law.

(b) All vehicles parked upon the streets and in the parking areas of the city shall be in operating condition, with all tires and wheels mounted on said vehicle.

(c) All vehicles parked or located in residential areas of the city, as designated by the zoning ordinance, shall comply with subsections (a) and (b) of this section, except that the owner of said vehicle, or the owner of said property where located, shall have 30 days, after written notice, to either comply with the requirements of subsections (a) and (b) of this section, or to remove said vehicles from said property to a location designated for storage of said vehicles.

(d) Any business licensed to perform auto repairs within the city shall maintain its garage and parking areas in a neat and orderly condition, and shall not park, store or garage said vehicles in such a manner as to create a junkyard appearance.

(e) Any vehicle in violation of this article, or any section thereof, shall be towed away to a junkyard at the expense of said owner, and if said expenses are not paid within ten days of written notice, said vehicle shall be deemed abandoned, and shall be disposed of as abandoned personal property found within the city.

(Code 1982, § 21-33; Ord. of 10-3-1994)

Chapter 35

RESERVED

Chapter 36

UTILITIES

Article I. In General

- Sec. 36-1. Additions, etc., to systems; permit required.
- Sec. 36-2. Utility bills, when due and payable; delinquencies; cutoffs; restoration of services.
- Sec. 36-3. Permit to dig; city property.
- Secs. 36-4—36-24. Reserved.

Article II. Water and Sewers, Generally

- Sec. 36-25. Water connection.
- Sec. 36-26. Taps—Fees; monthly sewer charge.
- Sec. 36-27. Same—Prerequisite to issuance of building permit.
- Sec. 36-28. Same—House trailers.
- Sec. 36-29. Same—Performed by city.
- Sec. 36-30. Sewage treatment; spray irrigation site.
- Secs. 36-31—36-67. Reserved.

Article III. Sewer Use

- Sec. 36-68. Sewer and drain ordinance; adopted.
- Sec. 36-69. Definitions.
- Sec. 36-70. Use of public sewers required.
- Sec. 36-71. Building sewers and connections.
- Sec. 36-72. Wastewater discharge.
- Sec. 36-73. Industrial discharges.
- Sec. 36-74. Power and authority of inspectors.
- Sec. 36-75. Penalties.
- Secs. 36-76—36-96. Reserved.

Article IV. Natural Gas System

- Sec. 36-97. Rates.
- Sec. 36-98. Service policy.

ARTICLE I. IN GENERAL**Sec. 36-1. Additions, etc., to systems; permit required.**

It shall be unlawful for any person to connect to or with, or attempt to connect to or with, or extend or attempt to extend, in any matter whatsoever, any water, sewer or gas pipes belonging to the system of the city without first obtaining a permit from the city. All extensions, connections and additions to the systems shall be made or done by or under the supervision of the city.

(Code 1982, § 23-1; Ord. of 12-1-1924, § 1)

Sec. 36-2. Utility bills, when due and payable; delinquencies; cutoffs; restoration of services.

(a) Utility bills are due and payable on the tenth of each month. On the 11th of that month, the bill becomes delinquent and a ten percent penalty will be added. A notice for delinquent accounts will be mailed within four days.

(b) Service fees for trips to collect utility payments, disconnect fees for nonpayment of utility bills and reconnect fees shall be as established by the city.

(c) No one has the authority to extend any service beyond the 26th of each month unless the bill is paid in full and a fee established by the city is collected for all utility bills collected.

(Code 1982, § 23-2; Ord. of 4-5-1993)

Sec. 36-3. Permit to dig; city property.

It shall be unlawful for any person to plow or dig to a depth exceeding ten inches on any property owned by the city, without first obtaining a permit from the city, except, however, no permit shall be required for grading or digging of any hole less than eight inches in depth. This section does not apply to sidewalks. Violation of this section shall be punished as provided in section 1-8.

(Code 1982, § 23-4)

Secs. 36-4—36-24. Reserved.**ARTICLE II. WATER AND SEWERS, GENERALLY****Sec. 36-25. Water connection.**

(a) The city hereby requires that all persons, businesses and industries shall connect to the water facilities provided by the city, and that all water used for human consumption shall be from said city water facilities.

(b) No well shall be bored or drilled, either shallow or deep well, except for garden or lawn, and no well shall be tapped into the city water system.
(Code 1982, § 23-20; Ord. of 6-21-1982; Mo. of 10-15-1984)

Sec. 36-26. Taps—Fees; monthly sewer charge.

(a) Rates and charges for water and sewer service (including taps) are as established by the city.

(b) All master meters within the city serving more than five dwellings, apartments, mobile homes, etc., per meter will become the liability of the property owners, its lessor, or their agent.
(Code 1982, § 23-21; Mo. of 3-5-1973; Ord. of 6-18-1973; Ord. of 7-1-1973; Ord. of 3-15-1976; Ord. of 7-19-1976; Ord. of 8-30-1976; Ord. of 9-15-1980)

Sec. 36-27. Same—Prerequisite to issuance of building permit.

When a person applies for a building permit, he must apply for, pay the fee for, and obtain a water tap and sewerage tap when such facilities are available, before the building permit will be approved.
(Code 1982, § 23-21; Mo. of 1-7-1963)

Sec. 36-28. Same—House trailers.

All house trailers will be required to pay for a separate water and sewer tap.
(Code 1982, § 23-22; Ord. of 7-7-1965)

Sec. 36-29. Same—Performed by city.

The city will do the actual tapping of all water and sewer mains including the laying of the lines to the edge of the private property line.
(Code 1982, § 23-23; Mo. of 9-28-1960)

Sec. 36-30. Sewage treatment; spray irrigation site.

The city will not allow trees or shrubbery to be cut or otherwise damaged on the spray irrigation site operated by the city for the purpose of sewage treatment, unless such action becomes necessary to ensure proper operation of the site, and express written consent is obtained from the United States Environmental Protection Agency (U.S. EPA) and the environmental protection division for the state (EPD).
(Code 1982, § 23-25; Ord. of 1-5-1981)

Secs. 36-31—36-67. Reserved.

ARTICLE III. SEWER USE**Sec. 36-68. Sewer and drain ordinance; adopted.**

The city hereby adopts the sewer and drain ordinance regulating the use of public and private sewers and drains, private sewage disposal, the installation and connection of building sewers, and the discharge of waters and wastes into the public sewer system in the city.

(Code 1982, § 23-30; Ord. of 7-6-1981)

Sec. 36-69. 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:

Biochemical oxygen demand (BOD) means the quantity of oxygen utilized in the biochemical oxidation of organic matter under standard 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 the building 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.

City council means the duly elected city council of the City of Claxton or its authorized representative.

Garbage means solid wastes, including, but not limited to, waste from the preparation, cooking, and disposing of food, and from the handling, storage, and sale of produce.

Industrial wastes means the liquid wastes from industrial processes as distinct from sanitary sewage.

Natural outlet means any outlet into a watercourse, pond, ditch, lake or other body of surface water or groundwater.

Person means any individual, firm, company, association, society, corporation, or group.

pH means the logarithm of the reciprocal of the hydrogen concentration in moles per liter.

Properly shredded garbage means the wastes from the preparation, cooking, and dispensing of food that have been shredded to such 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 sewer in which all owners of abutting properties have equal rights, and is controlled by public authority.

Sanitary sewer means a sewer which carries sewage and to which stormwater, surface water, and groundwater are not intentionally admitted.

Sewage means a combination of the water-carried wastes from residences, business buildings, institutions, and industrial establishments, together with such groundwater, surface water and stormwater as may be present.

Sewage treatment plant means any arrangement of devices and structures used for treating sewage, presently owned or afterward acquired by the city.

Sewer means a pipe or conduit for carrying sewage.

Sewerage works means all facilities for collecting, pumping, treating, and disposing of sewage.

Shall is mandatory; the term "may" is permissive.

Significant user means any user discharging nondomestic waste or domestic waste in excess of 50,000 gallons per day or any industrial user designated by the city known to discharge incompatible or toxic wastes to the public sewer.

Slug means any discharge of water, sewage, or industrial waste which, in concentration of any given constituent or in quantity of flow, exceeds for any period of longer duration than 15 minutes more than five times its average daily concentration or flow. The term "part per million" (PPM) means a weight to weight ratio; the part per million value multiplied by the factor 8.34 shall be equivalent to pounds per million gallons of water.

Storm sewer or storm drain means a sewer which carries stormwater and surface waters and drainage, but excludes sewage and polluted industrial wastes.

Suspended solids means solids that either float on the surface of or are in suspension in water, sewage, or other liquids; and which are removable by laboratory filtering.

User means any person who discharges, causes or permits the discharge of wastewater into the sewerage works operated and maintained by the city.

Watercourse means a channel in which a flow of water occurs, either continuously or intermittently.

(Code 1982, § 23-31)

Sec. 36-70. Use of public sewers required.

(a) It shall be unlawful for any person to place, deposit, or permit to be deposited, in an unsanitary manner upon public or private property within the city, in any area under the jurisdiction of said city any human or animal excrement, garbage, or other objectionable waste.

(b) It shall be unlawful to discharge to any natural outlet within any area under the jurisdiction of said city, any sanitary sewage, industrial wastes, or other polluted waters, except where suitable treatment has been provided in accordance with subsequent provisions of this article.

(c) The owner of all houses, buildings, or properties used for human occupancy, employment, recreation or other purposes within the limits of the city and located within 250 feet of a line of public sanitary sewer now in existence or after constructed to which such house, building, or property may be connected so that sewage will flow therefrom and into such sewer line by gravity, is hereby required at his own expense to install suitable toilet facilities therein and to connect such facilities directly with said line of public sanitary sewer in accordance with the provisions of this article within 60 days after date of official notice to do so.

(Code 1982, § 23-32)

Sec. 36-71. 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 appurtenances thereof without first obtaining a written permit from the city.

(b) There shall be two classes of building sewer permits; for residential and commercial service, and for service to establishments producing industrial wastes. In either case, the owner or 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 city. Information required of industrial users is described in subsection 36-73(b).

(c) All cost and expense incident to the connection of the building sewer from the owner's building to the city property line shall be borne by the owner. Any connection from the city property line into the public sewer shall be made by the city, for which the owner shall pay the city a standard sewer tap fee.

(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 building sewer from the front building may be extended to the rear building and the whole considered as one building sewer.

(e) Old building sewers may be used in connection with new buildings when they are found, on examination and test by the city, to meet all requirements of this article.

(f) The building sewer shall be cast iron pipe; ASTM Specifications A74; vitrified clay sewer pipe, ASTM Specifications C13; PVC or Polyvinyl Chloride ASTM D-2661. Joints shall be tight and waterproof. Any part of the building sewer that is located within ten feet of a water

service shall be constructed of cast iron soil pipe with leaded joints. Cast iron pipe with leaded joints may be required by the city where the building sewer is exposed to damage by tree roots. If installed in filled or unstable grounds, the building sewer shall be cast iron pipe, except that nonmetallic material may be accepted if laid on a suitable concrete bed or cradle as approved by the city.

(g) The size and slope of the building sewer shall be subject to the approval of the city, 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.

(h) 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. The building sewer shall be laid at uniform grade and in straight alignment insofar as possible. Changes in direction shall be made only with properly curved pipes and fittings.

(i) In all buildings in which any building drain is too low to permit gravity flow to the public sewer, sanitary sewage carried by such drain shall be lifted by approved artificial means and discharged to the building sewer.

(j) All excavations required for the installation of a building sewer shall be open trench work unless otherwise approved by the city. Pipe laying and backfill shall be performed in accordance with ASTM Specification C12; except that no backfill shall be placed until the work has been inspected.

(k) All joints and connections shall be made gastight and watertight. Cast iron pipe joints shall be firmly packed with oakum or hemp and filled with molten lead (Federal Specification QQ-L-156) not less than one inch deep. Lead shall be run in one pouring caulked tight. No paint, varnish or other coatings shall be permitted on the joint material until after the joint has been tested and approved. Rubber joint cast iron pipe may be used as an alternate. All joints in vitrified clay or concrete pipe, or between such pipe and metals, shall be made with approved hot-pouring jointing material, as specified below or by using rubber gaskets or preformed factory-applied couplings, and shall have resilient properties in accordance with ASTM Specification C443-59T for concrete pipe, and ASTM Specification C425-64 for vitrified clay pipe, or the latest revisions thereof. Material for hot poured joints shall not soften sufficiently to destroy the effectiveness of the joint when subjected to a temperature of 160 degrees Fahrenheit, and not be soluble in any of the wastes carried by the drainage system. The joint shall first be caulked tight with jute, hemp, or similar approved material. Other jointing materials and methods may be used only by approval of the city.

(l) The connection of the building sewer into the public sewer shall be made at the "Y" branch, if such 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 install a "Y" branch in the public sewer to provide for the connection. Where the public sewer is greater than

12 inches in diameter, and no properly located "Y" is available, a neat hole may be cut into the public sewer to receive the building sewer, with entry in the downstream direction at an angle of about 45 degrees. A 45-degree ell may be used to make such connection, 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 the same or at a higher elevation than the invert of the public sewer. A smooth neat 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 city.

(m) The applicant for the building sewer permit shall notify the city when the building sewer is ready for inspection as required by the sewer permit.

(n) 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.

(Code 1982, § 23-33)

Sec. 36-72. Wastewater discharge.

(a) No person shall discharge, or cause to be discharged, any stormwater, surface water, groundwater, roof runoff, subsurface drainage, cooling water or unpolluted industrial process waters to any sanitary sewer.

(b) Stormwater and all other unpolluted drainage shall be discharged to such sewers as are specifically designated as storm sewers, or to a natural outlet approved by the city. Industrial cooling water or unpolluted process waters may be discharged upon approval of the city, to a storm sewer or natural outlet.

(c) Except as hereinafter provided, no person shall discharge, or cause to be discharged, any of the following described waters or wastes to any public sewer:

- (1) Any liquid or vapor having a temperature higher than 150 degrees Fahrenheit.
- (2) Any water or waste which may contain more than 100 milligrams per liter of fat, oil, or greases.
- (3) Any gasoline, benzene, naphtha, fuel oil, or other flammable or explosive liquid, solid or gas.
- (4) Any garbage that has not been properly shredded.
- (5) Any ashes, cinders, sand, mud, straw, shavings, metal, glass, rags, feathers, tar, plastics, wood, and paunch manure, or any other solid or viscous substance capable of causing obstruction to the flow in sewers or other interference with the proper operation of the sewage works.

- (6) Any waters or wastes having a pH lower than 5.5 or higher than 9.0, or having any other corrosive property capable of causing damage or hazard to structures, equipment, and personnel of the sewerage works.
- (7) Any waters or wastes containing a substance in sufficient quantity to injure or interfere with any sewage treatment process, constitute a hazard to humans or animals, or create any hazard in the receiving waters of the sewage treatment plant.
- (8) Any waters or wastes containing suspended solids or BOD of such character and quantity that unusual attention or expense is required to handle such materials at the sewage treatment plant.
- (9) Any noxious or malodorous gas or substance capable of creating a public nuisance.
- (10) Any wastes containing more than 1.0 ppm of sulfides as S.
- (11) Any waste containing concentrations greater than the following:
 - a. Chromium as Cr—2.0 ppm.
 - b. Cyanide as Cn—0.1 ppm.
 - c. Copper as Cu—1.0 ppm.
 - d. Nickel as Ni—1.0 ppm.
 - e. Cadmium as Cd—1.0 ppm.
 - f. Zinc as Zn—1.0 ppm.
 - g. Lead as Pb—1.0 ppm.
 - h. Mercury as Hg—0.002 ppm.
- (12) Any waste containing any material in concentrations in excess of that allowable under federal and state pretreatment standards.
- (13) Any raw grease.

(d) 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 grease in excessive amounts, or any flammable wastes, sand, and 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 city and shall be located as to be readily and easily accessible for cleaning and inspection. Grease and oil interceptors shall be constructed of impervious materials capable of withstanding abrupt and extreme changes in temperature. They shall be of substantial construction, watertight, and equipped with easily removable covers which, when bolted in place, shall be gastight and watertight.

(e) When installed, all grease, oil, and sand interceptors shall be maintained by the owner, at his expense, in continuously efficient operation at all times.

(f) When required by the city, the owner of any property serviced by a building sewer carrying industrial wastes shall install a suitable control manhole together with such necessary meters and other appurtenances in the building sewer to facilitate observation, sampling, and measurement of the wastes. Such manhole, when required, shall be accessibly and safely located, and shall be constructed in accordance with plans approved by the city. The manhole 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.

(g) All measurements, tests and analysis of the characteristics of waters and wastes to which reference is made in subsections (c) and (f) of this section shall be determined in accordance with Standard Methods for the Examination of Water and Sewage shall be determined at the control manhole provided in subsection (f) of this section, or upon suitable samples taken at such control manhole. In the event that no special manhole has been 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.

(h) If wastewaters containing any substance described in subsection (c) of this section are discharged or proposed to be discharged into the sewer system of the city, the city may take any action necessary to:

- (1) Prohibit the discharge of such wastewater.
- (2) Require a discharger to demonstrate that in-plant modifications will reduce or eliminate the discharge of such substances in conformity with this article.
- (3) Require pretreatment, including storage facilities, or flow equalization necessary to reduce or eliminate the objectionable characteristics or substances so that the discharge will not violate these rules and regulations.
- (4) Require the person making, causing or allowing the discharge to pay any additional cost or expense incurred by the city for handling and treating excess loads imposed on the treatment system.
- (5) Take such other remedial action as may be deemed desirable or necessary to achieve the purpose of this article.

(i) Where pretreatment or equalization of wastewater flows prior to discharge into any part of the wastewater treatment system is required, plans, specifications and other pertinent data or information relating to such pretreatment or flow-control facilities shall first be submitted to the city for review and approval. Such approval shall not exempt the discharge of such facilities from compliance with any applicable code, ordinance, rule, regulation or order of any governmental authority. Any subsequent alterations or additions to such pretreatment or flow-control facilities shall not be made without due notice to and prior approval of the city.

(j) If pretreatment or control of waste flows is required, such facilities shall be maintained in good working order and operated as efficiently as possible by the owner or operator at his own cost and expense, subject to the requirements of these rules and regulations and all other applicable codes, ordinances, and laws.

(k) Whenever it shall be necessary for the purposes of these rules and regulations, agents of the city, upon the presentation of credentials, may enter upon any property or premises at reasonable times for the purpose of:

- (1) Copying any records required to be kept under the provisions of this article;
- (2) Inspecting any monitoring equipment or method; and
- (3) Sampling any discharge of wastewater to the treatment works.

The city may enter upon the property at any hour under emergency circumstances.

(l) Each industrial user shall provide protection from accidental discharge of prohibited materials or other wastes regulated by this article. Facilities to prevent accidental discharge of prohibited materials shall be provided and maintained at the owner or operator's own cost and expense. Detailed plans showing facilities and operating procedures to provide this protection shall be submitted to the city for review, and shall be approved before construction of the facility. Review and approval of such plans and operating procedures shall not relieve the industrial user from the responsibility to modify his facility as necessary to meet the requirements of this article.

(m) If, for any reason, a facility does not comply with or will be unable to comply with any prohibition or limitations in this article, the user responsible for such discharge shall immediately notify the city so that corrective action may be taken to protect the treatment system. In addition, a written report addressed to the city detailing the date, time and cause of the accidental discharge, the quantity and characteristics of the discharge and corrective action taken to prevent further discharges, shall be filed by the responsible industrial user within five days of the occurrence of the noncomplying discharge.

(n) No statement contained in this article shall be construed as preventing any special agreement or arrangement between the city and any concern whereby a waste of unusual strength or character may be accepted by the city for treatment, subject to payment therefor by the industrial concern.

(Code 1982, § 23-34)

Sec. 36-73. Industrial discharges.

(a) Every significant industrial user shall file an annual discharge report at such intervals as are designated by the city. The city may require any other industrial users discharging or proposing to discharge into the treatment system to file such periodic reports.

- (1) The discharge report shall include, but, in the discretion of the city, shall not be limited to, nature of process, volume, rates of flow, mass emission rate, production quantities, hours of operation, concentrations of controlled pollutants or other information which relates to the generation of waste.

- (2) Such reports will also include the chemical constituents and quantity of liquid materials stored on site even though they are not normally discharged. In addition to discharge reports, the city may require information in the form of self-monitoring reports.

(b) All significant industrial users who discharge, or propose to discharge, wastewaters to the wastewater treatment system shall maintain such records of production and related factors, effluent flows, and pollutant amounts or concentrations as are necessary to demonstrate compliance with the requirements of this article and any applicable state or federal pretreatment standards or requirements. Such records shall be made available upon request by the city. All such records relating to compliance with pretreatment standards shall be made available to officials of the U.S. Environmental Protection Agency upon demand. A summary of such data indicating the industrial user's compliance with this article shall be prepared and submitted to the city as part of the user's annual discharge report.

(c) Compliance determinations with respect to prohibitions and limitations may be made on the basis of either instantaneous grab samples or composite samples of wastewater. Composite samples may be taken over a 24-hour period, or over a longer or shorter time span, as determined necessary by the city, to meet the needs of specific circumstances.

- (1) Laboratory analysis of industrial wastewater samples shall be performed in accordance with the current edition of Standard Methods, Methods for Chemical Analysis of Water and Waste published by the U.S. Environmental Protection Agency or the Annual Book of Standards, Part 23, Water, Atmospheric Analysis published by the American Society of Testing and Materials. Analysis of those pollutants not covered by these publications shall be performed in accordance with procedures established by the state department of natural resources, environmental protection division.
- (2) Sampling of industrial wastewater for the purpose of compliance determination with respect to prohibitions and limitations will be done at such intervals as the city may designate. However, it is the intention of the city to conduct compliance sampling or to cause such sampling to be conducted for all significant users at least once in every one-year period.

(d) All significant users proposing to connect to or discharge into any part of the wastewater treatment system must first obtain a discharge permit therefor. All existing significant users connected to or discharging to any part of the system must obtain a wastewater discharge permit within 90 days from and after the effective date of the ordinance from which this article is derived.

(e) Industrial users seeking a wastewater discharge permit shall complete and file with the city an application to the city. In support of this application, the user shall submit the following information:

- (1) Name, address and SIC number of applicant.

- (2) Volume of wastewater to be discharged.
- (3) Wastewater constituents and characteristics, including, but not limited to, those set forth in this article as determined by a reliable analytical laboratory.
- (4) Time and duration of discharge.
- (5) Average peak wastewater flow rates, including daily, monthly and seasonal variations, if any.
- (6) Description of activities, facilities and plant processes on the premises including all materials and types of materials which are, or could be, discharged.
- (7) Each product produced by type, amount, and rate of production.
- (8) Number and type of employees, and hours of work.
- (9) Any other information as may be deemed by the city to be necessary to evaluate the permit application.

The city will evaluate the data furnished by the user and may require additional information. After evaluation and acceptance of the data furnished, the city may issue a wastewater discharge permit subject to terms and conditions provided herein.

(f) Wastewater discharge permits shall be expressly subject to all provisions of this article and all other regulations, user charges and fees established by the city. The conditions of wastewater discharge permits shall be uniformly enforced in accordance with this article, and applicable state and federal regulations. A permit may be issued for a period of less than one year, or may be stated to expire on a specific date. If the user is not notified by the city council 30 days prior to the expiration of the permit, the permit shall automatically be extended for six months. The terms and conditions of the permit may be subject to modification and change by the city during the life of the permit, as limitations or requirements are modified and changed. The user shall be informed of any proposed changes in his permit at least 30 days prior to the effective date of change. Any changes or new conditions in the permit shall include a reasonable time schedule for compliance.

(g) Wastewater discharge permits are issued to a specific user for a specific operation. A wastewater discharge permit shall not be reassigned or transferred or sold to a new owner, new user, different premises, or a new or changed operation.

(h) Any user who violates the following conditions of his permit or of this article, or of applicable state and federal regulations, is subject to having his permit revoked. Violations subjecting a user to possible revocation of his permit include, but are not limited to, the following:

- (1) Failure of a user to accurately report the wastewater constituents and characteristics of his discharge;

- (2) Failure of the user to report significant changes in operations, or wastewater constituents and characteristics;
- (3) Refusal of reasonable access to the user's premises for the purpose of inspection or monitoring; or
- (4) Violation of conditions of the permit.

(i) Whenever the city finds that any person has violated or is violating this article, or any prohibition, limitation or requirement contained herein, he may serve upon such person a written notice stating the nature of the violation and providing a reasonable time, not to exceed 30 days, for the satisfactory correction thereof.

- (1) If the violation is not corrected by timely compliance, the city may order any person who causes or allows an unauthorized discharge to show cause before the city council why service should not be terminated. A notice shall be served on the offending party, specifying the time and place of a hearing to be held by the city council regarding the violation, and directing the offending party to show cause before said council why an order should not be made directing the termination of service. The notice of the hearing shall be served personally or by registered or certified mail at least ten days before the hearing. Service may be made on any agent or officer of a corporation.
- (2) The city council may itself conduct the hearing and take the evidence, or may designate any of its members or any officer or employee of the city to:
 - a. Issue in the name of the city notices of hearings requesting the attendance and testimony of witnesses and the production of evidence relevant to any matter involved in any such hearings.
 - b. Take the evidence.
 - c. Transmit a report of the evidence and hearing, including transcripts and other evidence, together with recommendations to the city council for action thereon.
- (3) At any public hearing, testimony taken before the city council or any person designated by it, must be under oath.
- (4) After the city council has reviewed the evidence, it may issue an order to the party responsible for the discharge directing that, following a specified time period, the sewer service be discontinued unless adequate treatment facilities, devices or other related appurtenances shall have been installed or existing treatment facilities, devices or other related appurtenances are properly operated, and such further orders and directives as are necessary and appropriate.

(j) Any discharge in violation of the substantive provisions of this article or an order of the city shall be considered a public nuisance. If any person discharges sewage, industrial wastes or other wastes into the city treatment system contrary to the substantive provisions of this article or any order of the city council, the council shall commence an action for appropriate legal and/or equitable relief in the superior court of the county.

(k) Any person who is found to have violated an order of the city council or who willfully or negligently failed to comply with any provision of this article, and the orders, rules and regulations issued hereunder, is subject to fine for each offense. Each day on which a violation shall occur or continue shall be deemed a separate and distinct offense. In addition to the penalties provided herein, the city may recover reasonable attorney's fees, court costs, court reporters' fees and other expenses of litigation by appropriate suit at law against the person found to have violated this article or the orders, rules and regulations issued hereunder.

(l) Information and data on a user obtained from reports, questionnaires, permit and monitoring programs and from inspections shall be available to the public or other governmental agency without restriction unless the user specifically requests and is able to demonstrate to the satisfaction of the city that the release of such information would divulge information, processes or methods of production entitled to protection as trade secrets of the user. Information accepted by the city as confidential shall not be transmitted to any governmental agency or to the general public by the city until and unless a ten-day notification is given to the user. (Code 1982, § 23-35)

Sec. 36-74. Power and authority of inspectors.

Agents of the city bearing proper credentials and identification shall be permitted to enter upon all properties for the purposes of inspection, observation, measurement, sampling and testing, in accordance with the provisions of this article. (Code 1982, § 23-37)

Sec. 36-75. Penalties.

Any person found to be violating any provision of this article may be served by the city with written notice stating the nature of the violation and providing a reasonable time limit for the satisfactory correction thereof. The offender shall, within the period of time stated in such notice, permanently cease all violations. (Code 1982, § 23-38)

Secs. 36-76—36-96. Reserved.

ARTICLE IV. NATURAL GAS SYSTEM

Sec. 36-97. Rates.

Rates and charges to be paid to the city for natural gas shall be as established by the city. (Code 1982, § 23-50)

Sec. 36-98. Service policy.

(a) *Billing.* Gas bills to customers, in addition to customary information, shall include the following:

- (1) Present and previous meter readings.
- (2) A statement that "Rates are on file at City Hall."
- (3) A notation of the current amount of PGA (purchased gas adjustment).

(b) *Deposits.*

- (1) A customer with a deposit paid in excess of six months shall be paid simple interest on his deposit at six percent per annum, effective September 1, 1976.
- (2) A customer who has paid gas bills promptly and regularly for 24 consecutive months (with allowance for two delinquent payments), and is not delinquent at the end of the period shall have his deposit refunded together with accrued interest.
- (3) If a customer has had service discontinued for nonpayment of his bill, or has not paid his bills promptly and regularly (with the exception of two months' grace), the city will withhold the refund and thereafter review the customer's account every 12 billings and should the customer comply with subsection (b)(2) of this section, said subsection will then apply.
- (4) On discontinuance of service to a customer, the city will promptly refund the customer's deposit plus accrued interest, if any, on the balance in excess of the customer's unpaid bills.

(Code 1982, § 23-51)

CODE COMPARATIVE TABLE

1982 CODE

This table gives the location within this Code of those sections of the 1982 Code, as updated through October 28, 1997.

1982 Code Section	Section this Code	1982 Code Section	Section this Code
1-1	1-1	4-42	4-145
1-2	1-2	4-43	4-146
1-3	1-3	6-1	10-19
1-4	1-4	6-3	10-20
1-5	1-7	6-4	10-21
1-6	1-5	6-5	10-22
1-8	1-8	6-7	10-23
2-20	2-21	6-8	28-1
3-20	8-19	6-9	28-2
3-21	8-20	6-10	32-4
3-22	8-21	6-11	10-1
3-23	8-22	6-12	10-24
3-24	8-23	6-21	10-55
3-25	8-24	6-22	10-56
4-1	4-1	6-23	10-57
4-4	4-2	6-24	10-58
4-5	4-27	6-25	10-59
4-6	4-28	6-26	10-60
4-7	4-3	6-27	10-79
4-8	4-29	6-28	10-80
4-9	4-4	6-29	10-81
4-16	4-50	6-30	10-82
4-17	4-51	6-31	10-83
4-18	4-52	6-32	10-84
4-19	4-30	6-33	10-85
4-20	4-59	6-34	10-114
4-21	4-60	6-35	10-115
4-22	4-62	6-36	10-116
4-26	4-49	6-37	10-117
4-27	4-54	6-38	10-38
4-28	4-58	6-39	10-39
4-29	4-30	6-40	10-40
4-30	4-57	6-41	10-41
4-31	4-53	6-42	10-42
4-32	4-55	6-43	10-43
4-33	4-61	6-44	10-37
4-34	4-56	6-60	10-180
4-35	4-120	6-61	10-181
4-37	4-121	6-84	10-148
4-39	4-122	8-1	16-51
4-40	4-143	8-2	16-52
4-41	4-144	8-8	16-53

CLAXTON CODE

1982 Code Section	Section this Code	1982 Code Section	Section this Code
8-9	16-54	15-34	22-80
8-10	16-55	15-35	22-81
8-11	16-56	16-1	26-1
8-13	16-57	16-3	26-2
8-14	16-58	16-4	26-3
8-15	16-59	16-5	26-4
8-16	16-60	16-12	26-5
9-20	22-21	16-13	26-5
9-21	22-22	16-14	26-5
9-22	22-23	16-15	26-5
9-30	22-50	16-16	24-21
9-31	22-51	16-17	24-22
10-1	18-1	16-18	24-23
10-2	18-2	16-19	24-24
10-3	18-3	16-20	24-25
11-3	30-33	16-21	24-26
11-4.2	30-1	16-23	32-58
11-7	24-1	16-24	32-59
11-8	24-1	16-25	32-60
11-9	24-1	16-29	14-2
11-20	30-59	16-30	14-3
11-21	30-60	16-31	26-6
11-23	30-61	16-35	26-7
11-24	30-62	16-36	22-1
11-29	30-63	16-39	2-1
11-30	30-64	16-60	22-146
11-31	30-65	16-62	22-146
11-32	30-66	16-61	22-147
11-33	30-67	19-20	12-20
11-34	30-68	19-23	12-21
11-36	30-69	19-24	12-22
11-37	30-70	20-1	32-1
11-38	30-71	20-2	32-2
11-40	30-28	20-3	16-61
13-91	30-72	20-4	32-3
15-1	22-106	21-2	34-3
15-2	22-107	21-5	34-4
15-4	22-108	21-9	34-5
15-5	22-109	21-11	34-1
15-6	22-110	21-14A	34-6
15-7	22-111	21-26	34-35
15-8	22-112	21-28	34-36
15-9	22-113	21-29	34-37
15-10	22-114	21-31	34-38
15-12	22-115	21-32	34-39
15-13	22-116	21-33	34-40
15-30	22-76	23-1	36-1
15-31	22-77	23-2	36-2
15-32	22-78	23-4	36-3
15-33	22-79	23-20	36-25

CODE COMPARATIVE TABLE

1982 Code Section	Section this Code
23-21	36-26
—	36-27
23-22	36-28
23-23	36-29
23-25	36-30
23-30	36-68
23-31	36-69
23-32	36-70
23-33	36-71
23-34	36-72
23-35	36-73
23-37	36-74
23-38	36-75
23-50	36-97
23-51	36-98

CODE COMPARATIVE TABLE

LEGISLATION

This table gives the location within this Code of those ordinances which are included herein. Ordinances not listed herein have been omitted as repealed, superseded or not of a general and permanent nature.

Legislation	Date	Section	Section this Code
Ord. of 6-4-1894	6-4-1894	—	24-21
Ord. of 11-1-1897	11-1-1897	1	34-4
Ord. of 10-10-1924	10-10-1924	—	28-1, 28-2
Ord. of 12-1-1924	12-1-1924	1	22-22
		—	36-1
		2	22-23
		—	26-3
Mo. of 1-17-1927	1-17-1927	—	2-21
		¶ 16	22-21
Ord. of 10-2-1939	10-2-1939	—	26-1
Ord. of 6-5-1944	6-5-1944	1	24-21
		2	24-22
		3	24-23
		4	24-24
		5	24-25
		6	24-26
Ord. of 5-6-1946	5-6-1946	3	10-23
Mo. of 8-5-1946	8-5-1946	—	30-33
Ord. of 2-7-1949	2-7-1949	1	34-38
Ord. of 3-6-1950	3-6-1950	—	34-35
Mo. of 12-1-1952	12-1-1952	—	32-2
Mo. of 4-7-1958	4-7-1958	—	26-3
Mo. of 9-28-1960	9-28-1960	—	36-29
Ord. of 11-20-1961	11-20-1961	—	10-19
		2	10-20
		3	10-21
		4	10-22
Mo. of 1-7-1963	1-7-1963	—	36-27
Ord. of 8-19-1963	8-19-1963	—	34-37
Ord. of 7-7-1965	7-7-1965	—	36-28
Ord. of 9-7-1965	9-7-1965	—	34-36
Res. of 8-10-1967	8-10-1967	—	10-181
Ord. of 7-21-1969	7-21-1969	—	34-36
Res. of 4-6-1970	4-6-1970	1	8-19
		2	8-20
		3	8-21
		4	8-22
		5	8-23
		6	8-24
Ord. of 6-15-1970	6-15-1970	—	30-63—30-66
		2	30-59

CLAXTON CODE

Legislation	Date	Section	Section this Code
		4	30-60
		5	30-61
		6	30-62
		15	30-67
		16	30-68
		18	30-69
		19	30-71
		20	30-70
		21	30-72
Mo. of 3-5-1973	3-5-1973	—	36-26
Ord. of 3-5-1973	3-5-1973	—	10-1
Ord. of 6-4-1973	6-4-1973	—	26-7
Ord. of 6-18-1973	6-18-1973	—	36-26
Ord. of 7-1-1973	7-1-1973	—	36-26
Ord. of 11-5-1973	11-5-1973	—	32-4
Ord. of 2-4-1974	2-4-1974	—	30-1
Mo. of 9-16-1974	9-16-1974	—	30-1
Ord. of 9-3-1975	9-3-1975	—	10-24
Ord. of 11-3-1975	11-3-1975	1-4	34-36
Ord. of 3-15-1976	3-15-1976	—	36-26
Ord. of 5-17-1976	5-17-1976	—	34-36
Ord. of 7-19-1976	7-19-1976	—	36-26
Ord. of 8-30-1976	8-30-1976	—	36-26
Ord. of 8-1-1977	8-1-1977	2	10-20
Ord. of 3-19-1980	3-19-1980	—	22-51
Ord. of 5-5-1980	5-5-1980	—	22-50
Ord. of 5-19-1980	5-19-1980	—	34-1
Ord. of 9-15-1980	9-15-1980	—	36-26
Ord. of 12-1-1980	12-1-1980	—	22-1
Ord. of 1-5-1981	1-5-1981	—	36-30
Ord. of 7-6-1981	7-6-1981	—	36-68
Ord. of 6-21-1982	6-21-1982	—	36-25
Ord. of 8-2-1982	8-2-1982	—	12-20—12-22
Ord. of 9-20-1982	9-20-1982	—	16-61
Ord. of 10-7-1982	10-7-1982	—	16-61, 32-3
Ord. of 11-15-1982	11-15-1982	—	18-1
Mo. of 11-21-1983	11-21-1983	—	10-24
Mo. of 10-15-1984	10-15-1984	—	36-25
Ord. of 5-20-1985	5-20-1985	—	28-1
Ord. of 11-18-1985	11-18-1985	—	10-19
Ord. of 12-12-1985	12-12-1985	—	30-63, 30-64
Ord. of 7-20-1987	7-20-1987	—	34-39
Ord. of 4-5-1993	4-5-1993	—	36-2
Ord. of 10-18-1993	10-18-1993	—	22-76
Ord. of 1-18-1994	1-18-1994	—	4-146
Ord. of 10-3-1994	10-3-1994	—	34-40
Ord. of 1-17-1995	1-17-1995	—	22-106—22-116
Mo. of 4-17-1995	4-17-1995	—	22-51
Mo. of 6-19-1995	6-19-1995	—	2-1
Ord. of 12-2-1996	12-2-1996	—	22-106

CODE COMPARATIVE TABLE

Legislation	Date	Section	Section this Code
Ord. of 5-4-1998	5-4-1998	1	16-114
		2	16-115
		3	16-116
		4	16-117
		5	16-118
		6	16-119
Ord. of 7-6-1998	7-6-1998	1	10-24
Ord. of 10-19-1998	10-19-1998	art. 1, § 1	30-27
		art. 1, § 2	30-29
		art. 1, § 3	30-30
		art. 1, § 4	30-31
		art. 3, § 1	30-32
		art. 3, § 2	30-34
		art. 3, § 3	30-2
		art. 3, § 4	30-3
Ord. of 11-2-1998	11-2-1998	—	4-54
Ord. No. 081799	10-4-1999	—	34-7
Ord. of 10-18-2000	10-18-2000	1	16-20
		2	16-21
		3	16-22
		4	16-23
		5	16-24
		6	16-25
		7	16-26
		8	16-27
		9	16-28
		10	16-29
		11	16-30
app. 1	16-31		
Ord. of 10-15-2001	10-15-2001	—	30-72
Ord. of 7-25-2004	7-25-2004	—	32-1
Ord. of 10-17-2005	10-17-2005	—	14-1
Ord. of 3-26-2006	3-26-2006	I	16-85
		II	16-86
		III	16-87
		IV	16-88
		V	16-89
		VI	16-90
		VII	16-91
		VIII	16-92
		IX	16-93
		X	16-93
Ord. No. 46	12-9-2007	2	26-4
Ord. of 6-21-2010	6-21-2010	art. 1, § A	20-2
		art. 1, § B	20-3
		art. 1, § C	20-4
		art. 1, § D	20-5
		art. 2, § A	20-6
		art. 2, § B	20-7

CLAXTON CODE

Legislation	Date	Section	Section this Code
		art. 2, § C	20-8
		art. 2, § D	20-9
		art. 2, § E	20-10
		art. 2, § F	20-11
		art. 2, § G	20-12
		art. 2, § H	20-13
		art. 3, § A	20-34
		art. 3, § B	20-35
		art. 3, § C	20-36
		art. 4, § A	20-68
		art. 4, § B	20-69
		art. 4, § C	20-70
		art. 4, § D	20-71
		art. 4, § E	20-72
		art. 4, § F	20-73
		art. 4, § G	20-74
		art. 5	20-37
		art. 6	20-1
Ord. of 8-8-2010	8-8-2010	1	34-5
Ord. of 2-3-2014	2-3-2014	—	10-180, 10-181
Ord. of 6-2-2014	6-2-2014	5-2	6-1
		5-20	6-21
		5-21	6-22
		5-22	6-23
		5-23	6-24
		5-24	6-25
		5-25	6-26
		5-26	6-27
		5-27	6-28
		5-28	6-29
		5-29	6-30
		5-30	6-31
Ord. of 9-21-2015	9-21-2015	1	30-73
		2	30-73
		3	30-73
		4	30-73
		5	30-73
		6	30-73
Ord. of 7-18-2016	7-18-2016	I	4-85
		II	4-86
		III	4-87
		IV	4-88
Ord. of 9-18-2017	9-18-2017	1	4-205
		2	4-178
		3	4-176
		4	4-177
		5	4-205
		6	4-206
		7	4-207
		8	4-208

CODE COMPARATIVE TABLE

Legislation	Date	Section	Section this Code
		9	4-209
		10	4-210
		11	4-211
		12	4-212
		13	4-213
		14	4-214
		16	4-215
		17	4-216
		18	4-217
		19	4-218
		22	4-179
		23	4-180
		24	4-181
		25	4-182
		26	4-183

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 this Code	O.C.G.A. Section	Section this Code
1-3-3	16-87	8-2-25(a)	10-19
2-1-6	6-1	—	18-1
2-10-105	22-111	8-2-25(b)	Ch. 10, Art. II,
3-1-2	4-1		Div. 4
3-3-2 et seq.	Ch. 4 (note)	8-2-26.1	10-20
3-3-21	4-29	12-2-8	16-27
3-3-23	4-180	—	16-88
3-4-1 et seq.	Ch. 4, Art. III	12-4-72	16-87
3-4-60	Ch. 4, Art. II,	12-5-20 et seq.	16-86—16-88
	Div. 2	—	16-93
—	Ch. 4, Art. II,	12-5-23(a)(5)	16-89
	Div. 3	12-5-30(f)	16-86
3-5-1 et seq.	Ch. 4, Art. II	—	16-88
3-5-80	4-120	12-5-440 et seq.	16-86
3-5-80 et seq.	Ch. 4, Art. II,	—	16-88
	Div. 4	12-7-1 et seq.	Ch. 16, Art. IV
3-5-81	4-121	—	16-27
3-6-1 et seq.	Ch. 4, Art. II	—	16-88, 16-89
3-6-60	Ch. 4, Art. II,	—	16-93
	Div. 5	12-7-3	16-86
3-50-40 et seq.	Ch. 4, Art. II,	12-7-4	Ch. 16, Art. IV
	Div. 2	12-7-6	16-87, 16-88
—	Ch. 4, Art. II,	12-7-6(b)	16-86
	Div. 3	—	16-88
tit. 4	Ch. 6 (note)	12-7-7 et seq.	16-89
4-8-1 et seq.	Ch. 6, Art. II	12-7-7.1	16-87
—	6-21	12-7-8(a)	16-86
4-8-20 et seq.	Ch. 6, Art. II	—	16-89
4-11-9.6	6-31	12-7-15	16-91
5-3-29	24-63	12-7-17	16-87
5-4-1	20-37	12-7-17(9)	16-89
6-3-1 et seq.	Ch. 8 (note)	12-7-17(10)	16-89
8-2-1 et seq.	Ch. 10 (note)	12-7-19	16-86
8-2-3(e)	10-148	—	16-92
8-2-20 et seq.	Ch. 10, Art. II	12-7-20	16-89
—	24-56	—	16-92
8-2-20(9)(B)(i)	10-19	12-8-20 et seq.	Ch. 30 (note)
—	10-180	12-8-40.1(g)	30-29
8-2-20(9)(B)(i)(VIII)	18-1	12-8-622 et seq.	30-27
8-2-20(9)(B)(i)(X)	Ch. 10, Art. II,	16-3-4	26-2
	Div. 4	16-7-42 et seq.	Ch. 30 (note)

CLAXTON CODE

O.C.G.A. Section	Section this Code	O.C.G.A. Section	Section this Code
—	Ch. 30, Art. III	41-2-8	24-56
16-7-51 et seq.	Ch. 30 (note)	41-2-9(a)(1)	24-57
—	Ch. 30, Art. III	41-2-9(a)(2)	24-58
16-10-24.1	Ch. 18 (note)	41-2-9(a)(3)—(7)	24-61
16-11-39	26-2	41-2-9(b)	24-62
16-12-4	Ch. 6 (note)	41-2-9(c)	24-62
16-13-20 et seq.	24-56	41-2-9(d)	24-63
16-20-27	Ch. 18 (note)	41-2-9(e)	24-64
21-2-210 et seq.	Char. § 12	41-2-9(f)	24-64
—	Char. § 13	41-2-10	24-60
22-1-1 et seq.	Char. § 19	41-2-11	24-59
tit. 25	Ch. 18 (note)	41-2-12	24-65
25-2-1 et seq.	24-56	41-2-13	24-61
25-3-1 et seq.	Ch. 18 (note)	tit. 43	22-112
25-4-1 et seq.	Ch. 18 (note)	43-39A-1 et seq.	24-61
33-3-5	22-76	46-3-1 et seq.	22-111
33-3-5(1)	22-80	48-2-40	22-116
33-8-4	22-79	48-3-9	24-56
33-8-8 et seq.	Ch. 22, Art. IV	48-4-1 et seq.	24-62
33-8-8	22-76—22-78	48-4-78	24-62
33-8-8.1	22-79	48-4-80	24-62
33-8-8.2	22-80	48-4-81	24-62
33-8-8.2(a)	22-80	48-5-355	22-111
36-1-20(a)	20-2	48-5-356	22-111
36-18-1	16-87	48-5-359 et seq.	Char. § 16
36-32-1	Char. (note)	48-5-359.1	24-62
36-32-6—36-32-10	Char. § 8	48-6-93	22-111
36-32-10.1	Char. § 8	48-8-86	22-50
36-35-6(a)(2)	1-8	48-13-5 et seq.	Ch. 22, Art. V
—	4-177	48-13-5	22-106
36-42-1 et seq.	Ch. 12, Art. II	48-13-6	22-108
—	12-20	48-13-9(c)(1)—(18)	22-106
36-71-2(8)	22-106	48-13-10	22-108
36-80-19	1-1	48-13-10(e)	22-107
38-3-1 et seq.	Ch. 14 (note)	48-13-10(g)	22-110
38-3-57	14-1	48-13-16	22-111
40-1-1	34-1	48-13-17	22-108
40-1-116	22-111	48-13-20, 48-13-21	22-115, 22-116
40-2-8	Char. § 8	48-13-25	22-116
40-6-1 et seq.	Char. § 8		
—	Ch. 34 (note)		
—	34-1		
40-6-253	4-182		
40-6-371	Ch. 34 (note)		
40-6-372—40-6-376	34-1		
40-6-395	Char. § 8		
40-13-21	Char. § 8		
40-13-22	Char. § 8		
41-1-1	24-22		
41-2-5	Char. § 8		

CHARTER INDEX

	Section
A	
AFFIRMATION. See: OATH, AFFIRMATION, SWEAR OR SWORN	
AGENCIES. See: DEPARTMENTS AND OTHER AGENCIES OF CITY	
APPEALS	
Permanent registration system	12(e)
Tax assessors.....	15(a)
ASSESSMENTS	
Tax assessors.....	15
ATTORNEYS	
City attorney.....	10
B	
BONDS, SURETY OR PERFORMANCE	
Cash basis.....	18(a)
BOUNDARIES	
Corporate limits	2
BUSINESS REGULATIONS. See: LICENSES, TAXATION AND MISCELLANEOUS BUSINESS REGULATIONS	
C	
CHARTER	
Additional powers.....	24
Authority to furnish.....	21
Business licenses.....	17
Cash basis.....	18
Bond	18(a)
City attorney.....	10
Clerk and treasurer.....	9
Condemnation.....	19
Corporate limits	2
Due, execution, contest, taxes.....	16
Elections.....	13
Existing ordinances	3
Incorporated, powers, corporate name.....	1

CLAXTON CODE

	Section
CHARTER (Cont'd.)	
Mayor and councilmen	5
City council.....	5(b)
Council meetings.....	5(d)
Mayor.....	5(a)
Oath.....	5(c)
Ordinances	5(e)
Veto	5(f)
Municipal court	8
Court costs	8(f)
Creation.....	8(a)
Jurisdiction	8(c)
Kolker.....	8(c)
Municipal judge.....	8(b)
Right of certiorari	8(d)
Rules for courts	8(g)
Vacancy in office.....	8(e)
Payment and collection of charges	22
Permanent registration system	12
Appeals	12(e)
Books, registration.....	12(b)
Illegal voting	12(h)
Oath	12(c)
Permanent, registration	12(d)
Procedure where voter challenged.....	12(g)
Registrars, voters list	12(f)
Registration	12(a)
Prior debts	4
Qualifications of mayor and councilmen	6
Returns, tax	14
Streets	20
Tax assessors.....	15
Appeals	15(a)
Collection.....	15(b)
Terms and election of mayor and council	7
Voters, qualified	11
Zoning.....	23

CITATIONS. See: WRITS, WARRANTS AND OTHER LEGAL PROCESSES

CHARTER INDEX

	Section
CITY	
Incorporated, powers, corporate name.....	1
CITY ATTORNEY	
Provisions re	10
CITY CLERK. See: CLERK	
CITY COUNCIL	
Mayor and councilmen	5
Qualifications of mayor and councilmen	6
Terms and election of mayor and council	7
CITY TREASURER. See: TREASURER	
CLAXTON, CITY OF. See: CITY	
CLERK	
Clerk and treasurer.....	9
CONDEMNATION	
Provisions re	19
COUNCIL. See: CITY COUNCIL	
COURTS	
Municipal court	8
D	
DEPARTMENTS AND OTHER AGENCIES OF CITY	
Municipal court	8
E	
ELECTIONS	
Permanent registration system	
Illegal voting	12(h)
Procedure where voter challenged.....	12(g)
Registrars, voters list	12(f)
Provisions re	13
Terms and election of mayor and council	7
Voters, qualified	11
EMPLOYEES. See: OFFICERS AND EMPLOYEES	

CLAXTON CODE

	Section
F	
FINANCE	
Cash basis	18
Clerk and treasurer.....	9
Due, execution, contest, taxes.....	16
Municipal court	
Court costs	8(f)
Payment and collection of charges	22
Prior debts	4
Tax assessors	
Collection.....	15(b)
L	
LEGAL PROCESSES. See: WRITS, WARRANTS AND OTHER LEGAL PROCESSES	
LICENSES, TAXATION AND MISCELLANEOUS BUSI- NESS REGULATIONS	
Business licenses.....	17
Due, execution, contest, taxes.....	16
Returns, tax	14
Tax assessors.....	15
M	
MAYOR	
Mayor and councilmen	5
Qualifications of mayor and councilmen	6
Terms and election of mayor and council	7
MEETINGS	
Mayor and councilmen	
Council meetings.....	5(d)
MUNICIPAL COURT	
Provisions re	8
MUNICIPAL JUDGE	
Municipal court	8(b)
O	
OATH, AFFIRMATION, SWEAR OR SWORN	
Mayor and councilmen	5(c)

CHARTER INDEX

	Section
OATH, AFFIRMATION, SWEAR OR SWORN (Cont'd.)	
Permanent registration system	12(c)
OFFICERS AND EMPLOYEES	
City attorney	10
Clerk and treasurer	9
Mayor and councilmen	5
Municipal court	
Municipal judge	8(b)
Vacancy in office	8(e)
Qualifications of mayor and councilmen	6
Tax assessors	15
Terms and election of mayor and council	7
ORDERS. See: WRITS, WARRANTS AND OTHER LEGAL PROCESSES	
ORDINANCES, RESOLUTIONS, ETC.	
Existing ordinances	3
Mayor and councilmen	5(e)
P	
POLICIES AND PROCEDURES	
Permanent registration system	
Procedure where voter challenged	12(g)
POWERS, DUTIES AND RESPONSIBILITIES	
Additional powers	24
Incorporated, powers, corporate name	1
PUBLIC PLACES. See: STREETS, SIDEWALKS AND OTHER PUBLIC PLACES	
R	
RECORDS AND REPORTS	
Permanent registration system	
Books, registration	12(b)
Returns, tax	14
REGISTER, REGISTRATION	
Permanent registration system	12
REPORTS. See: RECORDS AND REPORTS	

CLAXTON CODE

	Section
RESOLUTIONS. See: ORDINANCES, RESOLUTIONS, ETC.	
RIGHTS	
Municipal court	
Right of certiorari	8(d)
RULES AND REGULATIONS	
Municipal court	
Rules for courts	8(g)
S	
SIDEWALKS. See: STREETS, SIDEWALKS AND OTHER PUBLIC PLACES	
STREETS, SIDEWALKS AND OTHER PUBLIC PLACES	
Streets	20
SUBPOENAS. See: WRITS, WARRANTS AND OTHER LEGAL PROCESSES	
SUMMONS. See: WRITS, WARRANTS AND OTHER LE- GAL PROCESSES	
SWEAR OR SWORN. See: OATH, AFFIRMATION, SWEAR OR SWORN	
T	
TAX ASSESSOR	
Provisions re	15
TAXATION. See: LICENSES, TAXATION AND MISCEL- LANEOUS BUSINESS REGULATIONS	
TREASURER	
Clerk and treasurer.....	9
V	
VACANT, VACANCY	
Municipal court	
Vacancy in office.....	8(e)

CHARTER INDEX

Section

W

WARRANTS. See: WRITS, WARRANTS AND OTHER LEGAL PROCESSES

WRITS, WARRANTS AND OTHER LEGAL PROCESSES

Municipal court

Right of certiorari

8(d)

Z

ZONING

Provisions re

23

CODE INDEX

	Section
A	
ABATEMENT	
Animals and fowl	
Dogs	
Removal of dog excrement required; exceptions	6-24
Buildings and building regulations	
Electrical codes	
Removal of obsolete wiring	10-40
Nuisances	24-21 et seq.
See: NUISANCES	
Trees	
Removal of stumps	16-58
ACCESS	
Alcoholic beverages	
Malt beverages and wine	
Separation of stock and locking of the same when sale prohibited	4-28
Animals and fowl	
Dogs	
Impounding; required; right of entry	6-30
Building official	
Right of entry	10-22
Electrical inspectors	
Right of entry	10-56
Emergency management and emergency services	
Riots and civil disobedience	
Closing streets	14-3
Solid waste	
Collection and disposal	
Containers	
To be kept closed; accessibility	30-33
ADMINISTRATION	
City council	2-21 et seq.
See: CITY COUNCIL	
Criminal history check.....	2-1
Finance.....	2-66 et seq.
See: FINANCE	
Officers and employees. See also that title	
Criminal history check	2-1

CLAXTON CODE

	Section
ADMINISTRATOR	
Flood damage prevention	
Administration	
Designation of chapter administrator.....	20-34
Duties and responsibilities of the administrator	20-36
ADVERTISING	
Handbills.....	30-63 et seq.
See: HANDBILLS	
AFFIRMATION. See: OATH, AFFIRMATION, SWEAR OR SWORN	
AGENCIES. See: DEPARTMENTS AND OTHER AGEN- CIES OF CITY	
AGENT OR OPERATOR	
Licenses, taxation and miscellaneous business regulations	
Insurance license taxes	
Life insurance agency license fee; independent life insur- ance agencies, brokers, etc., not otherwise licensed .	22-78
AGREEMENTS. See: CONTRACTS AND AGREEMENTS	
AIRPORTS AND AIRCRAFT. See: AVIATION	
ALCOHOLIC BEVERAGES	
Business restricted.....	4-4
Consume, harbor or possess	
Consumption upon public ways or public property.....	4-2
Distilled spirits for off-premises consumption. See herein that subject	
Malt beverages and wine. See herein that subject	
Consumption upon public ways or public property	4-2
Definitions	4-1
Distilled spirits for off-premises consumption	
Breaking package or drinking on premises.....	4-181
Definitions.....	4-176
Hours of sales.....	4-179
Intoxicated persons; gambling; disorderly conduct	4-180
License	
Application procedures	4-208
Automatic revocation	4-214
Change in business ownership	4-211

CODE INDEX

	Section
ALCOHOLIC BEVERAGES (Cont'd.)	
Display of license.....	4-216
Knowledge of chapter provisions.....	4-218
Procedure for issuance.....	4-206
Qualifications.....	4-207
Renewal.....	4-209
Required; classifications, etc.....	4-205
Responsibility of named licensee.....	4-215
Retention of records.....	4-217
Suspension/revocation.....	4-213
Temporary license.....	4-212
Transfer.....	4-210
Purpose.....	4-178
Removal of open containers.....	4-182
Restriction on size of packaging/containers.....	4-183
Violations; penalties.....	4-177
Licenses, taxation and miscellaneous business regulations	
Business restricted.....	4-4
Distilled spirits for off-premises consumption. See herein that subject	
Malt beverages and wine. See herein that subject	
Malt beverages and wine	
Charges, fees and rates	
Excise tax, malt beverages	
Tax additional to other fees, taxes or charges.....	4-122
Off-premises consumption licenses.....	4-57
On-premises consumption	
License fee.....	4-87
Wine excise tax	
Levied; rate.....	4-143
Display.....	4-30
Excise tax, malt beverages	
Levied.....	4-120
Report of sales and payment of tax; delinquency; false or fraudulent reports.....	4-121
Tax additional to other fees, taxes or charges.....	4-122
Licenses, taxation and miscellaneous business regulations.	
See also within this subheading specific subjects	
On-premises consumption	
License fee.....	4-87

CLAXTON CODE

	Section
ALCOHOLIC BEVERAGES (Cont'd.)	
Prerequisites, license	4-86
Location restrictions.....	4-29
Off-premises consumption licenses	
Applicant information	4-53
Consideration by council	4-56
False information.....	4-61
Fees	4-57
Granted by council, application	4-54
One license per place of business	4-52
Per class, separate license	4-51
Required.....	4-49
Restrictions of licenses.....	4-55
Revocation; grounds	4-60
Same procedure.....	4-62
Separate place of business.....	4-50
Suspension	4-59
Term	4-58
On-premises consumption	
Definition	4-85
House of sale	4-88
License fee	4-87
Prerequisites, license	4-86
Sale of wine and malt beverages during certain hours and on certain days prohibited	4-27
Sales	
Excise tax, malt beverages	
Report of sales and payment of tax; delinquency; false or fraudulent reports	4-121
On-premises consumption	
House of sale.....	4-88
Sale of wine and malt beverages during certain hours and on certain days prohibited.....	4-27
Separation of stock and locking of the same when sale prohibited	4-28
Wine excise tax	
Sale, delivery, etc. of wine on which tax is not paid ...	4-146
Separation of stock and locking of the same when sale prohibited.....	4-28

CODE INDEX

	Section
ALCOHOLIC BEVERAGES (Cont'd.)	
Wine excise tax	
Collection and remittance by wholesaler	4-144
Compensation of wholesaler for collection.....	4-145
Levied; rate.....	4-143
Sale, delivery, etc. of wine on which tax is not paid.....	4-146
Policies and procedures	
Distilled spirits for off-premises consumption	
License	
Application procedures.....	4-208
Procedure for issuance.....	4-206
Malt beverages and wine	
Off-premises consumption licenses	
Same procedure	4-62
Sales	
Distilled spirits for off-premises consumption	
Hours of sales	4-179
Malt beverages and wine. See herein that subject	
Sanitary conditions	4-3
ALLEYS	
Definitions and rules of construction	1-2
AMENDMENTS	
Amendments to Code; effect of new ordinances; amendatory language	1-5
Certain ordinances not affected by Code	1-11
AMUSEMENTS AND ENTERTAINMENTS	
Licenses, taxation and miscellaneous business regulations	
Fair or carnival; permit required	22-1
ANIMALS AND FOWL	
Dogs	
Collar and identification tag required	6-28
Confine or restrain	
Confinement or leashing required	6-23
Fees, impounding.....	6-31
Impounding; required; right of entry	6-30
Tethering	6-26
Confinement or leashing required.....	6-23
Definitions.....	6-22

CLAXTON CODE

	Section
ANIMALS AND FOWL (Cont'd.)	
Destructive dogs	6-27
Fees, impounding	6-31
General provisions	6-21
Impounding; required; right of entry	6-30
Nuisances	6-25
Rabies vaccination	6-29
Removal of dog excrement required; exceptions	6-24
Tethering	6-26
Keeping of livestock prohibited	6-1
ANNEX, DEANNEX	
Certain ordinances not affected by Code	1-11
APPEALS	
Buildings and building regulations	
Technical codes	
Appeals from permit denial	10-23
Property maintenance code	
Appeals, property maintenance code	10-181
Nuisances	
Alternative abatement procedure	24-63
Soil erosion and sedimentation control	
Administrative appeal judicial review; liability	16-93
APPOINTMENTS AND REMOVALS	
Building official	
Office created; appointment; acting official	10-20
APPROPRIATIONS	
Certain ordinances not affected by Code	1-11
AREA	
Downtown development authority	
Area, downtown development	12-21
Environment	
Environmental conservation, on-site sewage management and permits	
Groundwater recharge areas protection regulations	16-26
Flood damage prevention	20-7 et seq.
See: FLOOD DAMAGE PREVENTION	

CODE INDEX

	Section
AREA (Cont'd.)	
Traffic and vehicles	
Stopping, standing and parking	
Parallel parking areas	34-35
AS SOON AS POSSIBLE	
Definitions and rules of construction	1-2
ASSEMBLIES	
Emergency management and emergency services	
Riots and civil disobedience	
Closing streets	14-3
Mayor's authority	14-2
Offenses and miscellaneous provisions	
Failure to disperse	26-6
ASSESSMENTS	
Certain ordinances not affected by Code	1-11
Licenses, taxation and miscellaneous business regulations	
Ad valorem tax.....	22-23
ASSIGN OR TRANSFER	
Alcoholic beverages	
Distilled spirits for off-premises consumption	
License	
Change in business ownership.....	4-211
Transfer	4-210
AVIATION	
City/county airport authority.....	8-19 et seq.
See: CITY/COUNTY AIRPORT AUTHORITY	
Litter	
Dropping litter from aircraft	30-68

B

BEER. See: ALCOHOLIC BEVERAGES

BICYCLES

Traffic and vehicles	
Bicycle riding on sidewalk	34-4

BINS, CONTAINERS AND OTHER RECEPTACLES

 Alcoholic beverages

CLAXTON CODE

	Section
BINS, CONTAINERS AND OTHER RECEPTACLES	
(Cont'd.)	
Distilled spirits for off-premises consumption	
Removal of open containers	4-182
Restriction on size of packaging/containers.....	4-183
Litter	
Placement in receptacles so as to prevent scattering.....	30-60
Solid waste	
Collection and disposal	
Containers	
Generally	30-32
To be kept closed; accessibility	30-33
BIRDS. See: ANIMALS AND FOWL	
BLOCKS, LOTS AND PARCELS	
Environment	
Environmental conservation, on-site sewage management and permits	
Minimum lot sizing for on-site sewage management	16-31
Litter	
Private premises, littering	
Vacant lot	30-70
BOARDS, COMMISSIONS AND COMMITTEES	
Definitions and rules of construction	1-2
BOUNDARIES	
Certain ordinances not affected by Code	1-11
BRIDGES AND CULVERTS	
Definitions and rules of construction	1-2
BROKERS OR DEALERS	
Licenses, taxation and miscellaneous business regulations	
Insurance license taxes	
Life insurance agency license fee; independent life insur- ance agencies, brokers, etc., not otherwise licensed .	22-78
BRUSH, GRASS AND WEEDS	
Nuisances	
Weeds and other tall growths	24-1
BUDGET	
Certain ordinances not affected by Code	1-11

CODE INDEX

	Section
BUILDING OFFICIAL	
Duties.....	10-21
Office created; appointment; acting official	10-20
Right of entry	10-22
BUILDINGS AND BUILDING REGULATIONS	
Electrical codes	
Approval of work by electrical inspector; turning on of current	10-43
Concealing unsoldered joints.....	10-42
Conditions to resuming service to buildings damaged by fire.....	10-39
Covering wiring.....	10-41
Cure of defects upon notice	10-38
Electrical inspectors	10-55 et seq.
Permit	
Application	10-80
For additional work.....	10-82
Information required; payment of fees.....	10-81
Inspection or permit fees	10-83
Layout or blueprint; required generally.....	10-84
May be waived, requirement	10-85
Required.....	10-79
Poles and wires	
Covering wiring.....	10-41
Removal of obsolete wiring.....	10-40
Temporary wiring. See within this subheading that subject	
Removal of obsolete wiring.....	10-40
Temporary wiring	
Approval if installation safe.....	10-115
Portions of building.....	10-116
Purposes.....	10-114
Time for which issued; application for temporary service	10-117
Work exempt from provisions of this division	10-37
Electrical inspectors. See also that title	
Electrical codes	
Approval of work by electrical inspector; turning on of current.....	10-43

CLAXTON CODE

	Section
BUILDINGS AND BUILDING REGULATIONS (Cont'd.)	
Fire prevention and protection	
Chief of the fire department's authority at fires	
Destroying buildings	18-3
Flood damage prevention	
Flood hazard reduction	
Building standards for streams without established base flood elevations and/or floodway (A zones)	20-70
Nuisances	
Alternative abatement procedure	
Standards for determining unfitness for habitation.....	24-60
Permits	
Electrical codes. See herein that subject	
Prefabricated housing; permit required.....	10-1
Technical codes	
Appeals from permit denial	10-23
Permit, building	10-24
Prefabricated housing; permit required	10-1
Streets, sidewalks and other public places	
Streets signs; building numbers; penalty.....	32-4
Technical codes. See also herein specific codes	
Adopted; penalty for violation; technical codes	10-19
Appeals from permit denial.....	10-23
Building official	10-20 et seq.
Permit, building.....	10-24
Property maintenance code	
Appeals, property maintenance code.....	10-181
Code adopted; penalty for violation.....	10-180
Water-conserving plumbing fixtures	
Exemption from state requirements	10-148
Utilities	
Sewer use	
Building sewers and connections	36-71
Water and sewers, generally	
Taps	
Prerequisite to issuance of building permit	36-27
BURNING. See: OPEN BURNING	
BUSINESS REGULATIONS. See: LICENSES, TAXATION AND MISCELLANEOUS BUSINESS REGULATIONS	

CODE INDEX

	Section
C	
CARNIVALS AND CIRCUSES	
Licenses, taxation and miscellaneous business regulations	
Fair or carnival; permit required	22-1
CATS. See: ANIMALS AND FOWL	
CEMETERIES	
Definitions and rules of construction	1-2
CERTIFICATES, CERTIFICATION	
Licenses, taxation and miscellaneous business regulations	
Occupation tax	
Certificate, occupation tax	22-109
Soil erosion and sedimentation control	
Education and certification	16-92
CHARGES, FEES AND RATES	
Alcoholic beverages	4-57 et seq.
See: ALCOHOLIC BEVERAGES	
Animals and fowl	
Dogs	
Fees, impounding	6-31
Buildings and building regulations	
Electrical codes	
Permit	
Information required; payment of fees	10-81
Inspection or permit fees	10-83
Licenses, taxation and miscellaneous business regulations...	22-76 et seq.
See: LICENSES, TAXATION AND MISCELLANEOUS BUSINESS REGULATIONS	
Solid waste	
Collection and disposal	
Sanitation fee	30-28
Utilities	
Natural gas system	36-97
Water and sewers, generally	
Taps	
Fees; monthly sewer charge	36-26
CHARTER	
Certain ordinances not affected by Code	1-11
Definitions and rules of construction	1-2

CLAXTON CODE

	Section
CITATIONS. See: WRITS, WARRANTS AND OTHER LEGAL PROCESSES	
CITY	
Definitions and rules of construction	1-2
CITY ADMINISTRATOR. See: ADMINISTRATOR	
CITY CLERK. See: CLERK	
CITY COUNCIL	
Alcoholic beverages	
Malt beverages and wine	
Off-premises consumption licenses	
Consideration by council.....	4-56
Granted by council, application.....	4-54
Definitions and rules of construction	1-2
Rules of council	2-21
Trees	
Review by mayor and city council.....	16-60
CITY/COUNTY AIRPORT AUTHORITY	
Creation; membership	8-19
Dissolution authorized	8-24
Finances.....	8-23
Organization	8-21
Powers	8-22
Quorum; required vote for action	8-20
CLASSES, CLASSIFICATION	
Alcoholic beverages	
Distilled spirits for off-premises consumption	
License	
Required; classifications, etc.	4-205
Malt beverages and wine	
Off-premises consumption licenses	
Per class, separate license	4-51
CLAXTON, CITY OF. See: CITY	
CLERK	
Licenses, taxation and miscellaneous business regulations	
Ad valorem tax	
Duties of clerk as tax collector.....	22-21

CODE INDEX

	Section
CODE OF ORDINANCES*	
Amendments to Code; effect of new ordinances; amendatory language	1-5
Catchlines of sections; effect of notes; references in Code ...	1-3
Certain ordinances not affected by Code	1-11
Definitions and rules of construction	1-2
Designation and citation of Code	1-1
Effect of repeal of ordinances	1-4
Penalties for violation of Code	1-8
Prior offenses, penalties, contracts or rights not affected by adoption of Code	1-9
Provisions considered as continuation of existing ordinances	1-10
Severability of parts of Code	1-7
Supplementation of Code	1-6
 CODES	
Amendments to Code; effect of new ordinances; amendatory language	1-5
Buildings and building regulations	10-19 et seq.
See: BUILDINGS AND BUILDING REGULATIONS	
Catchlines of sections; effect of notes; references in Code ...	1-3
Certain ordinances not affected by Code	1-11
Definitions and rules of construction	1-2
Designation and citation of Code	1-1
Fire prevention and protection	
Adoption, penalty for violation; fire prevention code.....	18-1
Penalties for violation of Code	1-8
Prior offenses, penalties, contracts or rights not affected by adoption of Code	1-9
Severability of parts of Code	1-7
Supplementation of Code	1-6
 COMMISSIONS. See: BOARDS, COMMISSIONS AND COMMITTEES	
 COMMITTEES. See: BOARDS, COMMISSIONS AND COMMITTEES	

***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.

CLAXTON CODE

	Section
COMMUNITY DEVELOPMENT	
Downtown development authority	12-20 et seq.
See: DOWNTOWN DEVELOPMENT AUTHORITY	
COMPENSATION, SALARIES, ETC.	
Alcoholic beverages	
Malt beverages and wine	
Wine excise tax	
Compensation of wholesaler for collection	4-145
Certain ordinances not affected by Code	1-11
COMPLAINTS	
Nuisances	
Alternative abatement procedure	
Service of complaints and orders	24-65
COMPUTATION OF TIME	
Definitions and rules of construction	1-2
CONDEMNATION	
Electrical inspectors	
Condemnation; discontinuing current after notice	10-59
CONDUCT	
Alcoholic beverages	
Distilled spirits for off-premises consumption	
Intoxicated persons; gambling; disorderly conduct	4-180
Emergency management and emergency services	
Riots and civil disobedience	
Closing streets	14-3
Mayor's authority	14-2
Offenses and miscellaneous provisions	
Disorderly conduct	26-2
CONFINE OR RESTRAIN	
Animals and fowl	6-23 et seq.
See: ANIMALS AND FOWL	
CONJUNCTIONS	
Definitions and rules of construction	1-2
CONSERVATION AND PRESERVATION	
Buildings and building regulations	
Technical codes	

CODE INDEX

	Section
CONSERVATION AND PRESERVATION (Cont'd.)	
Water-conserving plumbing fixtures	
Exemption from state requirements.....	10-148
Environment	16-20 et seq.
See: ENVIRONMENT	
CONSUME, HARBOR OR POSSESS	
Alcoholic beverages	4-2 et seq.
See: ALCOHOLIC BEVERAGES	
Animals and fowl	
Keeping of livestock prohibited.....	6-1
CONTRACTS AND AGREEMENTS	
Certain ordinances not affected by Code	1-11
Prior offenses, penalties, contracts or rights not affected by adoption of Code	1-9
CONTRIBUTIONS OR DONATIONS	
Offenses and miscellaneous provisions	
Obstructing traffic to solicit contributions prohibited	26-7
COUNCIL. See: CITY COUNCIL	
COUNTY	
Definitions and rules of construction.....	1-2
COURTS	
Environment	
Environmental conservation, on-site sewage management and permits	
Court of jurisdiction	16-30
Soil erosion and sedimentation control	
Administrative appeal judicial review; liability	16-93
CULVERTS. See: BRIDGES AND CULVERTS	

D

DAMAGE, DEFACEMENT, DESTRUCTION OR INJURY	
Animals and fowl	
Dogs	
Destructive dogs.....	6-27

CLAXTON CODE

	Section
DAMAGE, DEFACEMENT, DESTRUCTION OR INJURY	
(Cont'd.)	
Buildings and building regulations	
Electrical codes	
Conditions to resuming service to buildings damaged by fire	10-39
Fire prevention and protection	
Chief of the fire department's authority at fires	
Destroying buildings	18-3
Flood damage prevention	20-1 et seq.
See: FLOOD DAMAGE PREVENTION	
DECISIONS, FINDINGS AND REVIEWS	
Flood damage prevention	
Findings of fact	20-3
Soil erosion and sedimentation control	
Administrative appeal judicial review; liability	16-93
Trees	
Review by mayor and city council.....	16-60
DEDICATE, DEDICATION	
Certain ordinances not affected by Code	1-11
DEFACEMENT. See: DAMAGE, DEFACEMENT, DESTRUCTION OR INJURY	
DELEGATION OF AUTHORITY	
Definitions and rules of construction	1-2
DEPARTMENTS AND OTHER AGENCIES OF CITY	
City/county airport authority	8-19 et seq.
See: CITY/COUNTY AIRPORT AUTHORITY	
Definitions and rules of construction	1-2
Downtown development authority	12-20 et seq.
See: DOWNTOWN DEVELOPMENT AUTHORITY	
Fire prevention and protection	
Chief of the fire department's authority at fires	
Absolute control.....	18-2
Destroying buildings	18-3
DESIGNATE, DESIGNATION	
Designation and citation of Code	1-1

CODE INDEX

	Section
DESIGNATE, DESIGNATION (Cont'd.)	
Flood damage prevention	
Administration	
Designation of chapter administrator.....	20-34
Flood hazard reduction	
Standards for areas or special flood hazard (Zones AE) with established base flood elevations without des- ignated floodways	20-71
Nuisances	
Alternative abatement procedure	
Public officer designated.....	24-58
DESTRUCTION. See: DAMAGE, DEFACEMENT, DE- STRUCTION OR INJURY	
DEVELOPMENT. See: PLANNING AND DEVELOP- MENT	
DISABLED OR HANDICAPPED PERSONS	
Certain ordinances not affected by Code	1-11
DISASTERS	
Emergency management and emergency services	
Adoption of NIMS and the unified command system.....	14-1
DISORDERLY PERSONS, DISORDERLY CONDUCT	
Alcoholic beverages	
Distilled spirits for off-premises consumption	
Intoxicated persons; gambling; disorderly conduct	4-180
Emergency management and emergency services	
Riots and civil disobedience	
Closing streets	14-3
Mayor's authority	14-2
Offenses and miscellaneous provisions.....	26-2
DISPLAYS, DISPLAYED	
Alcoholic beverages	
Distilled spirits for off-premises consumption	
License	
Display of license	4-216
Malt beverages and wine.....	4-30

CLAXTON CODE

	Section
DISTRICTS	
Environment	
Environmental conservation, on-site sewage management and permits	
Major river corridor protection district regulations	16-27
DOGS. See: ANIMALS AND FOWL	
DOWNTOWN DEVELOPMENT AUTHORITY	
Area, downtown development	12-21
Authority; creation	12-20
No limitation intended by this action	12-22
DRAINAGE, DRAINS	
Utilities	
Sewer use	
Ordinance, sewer and drain; adopted	36-68
E	
EDUCATION AND TRAINING	
Soil erosion and sedimentation control	
Education and certification	16-92
ELECTIONS	
City/county airport authority	
Quorum; required vote for action	8-20
ELECTRIC, ELECTRICITY	
Buildings and building regulations	10-38 et seq.
See: BUILDINGS AND BUILDING REGULATIONS	
Electrical inspectors	10-55 et seq.
See: ELECTRICAL INSPECTORS	
ELECTRICAL INSPECTORS	
Condemnation; discontinuing current after notice	10-59
Discontinuing current generally	10-58
Location of wires and appliances	10-57
Making and promulgating rulings, regulations	10-60
Powers and duties in general	10-55
Right of entry	10-56
EMERGENCIES	
Emergency management and emergency services	14-1 et seq.
See: EMERGENCY MANAGEMENT AND EMER- GENCY SERVICES	

CODE INDEX

	Section
EMERGENCY MANAGEMENT AND EMERGENCY SERVICES	
Adoption of NIMS and the unified command system	14-1
Riots and civil disobedience	
Closing streets	14-3
Mayor's authority	14-2
EMPLOYEES. See: OFFICERS AND EMPLOYEES	
ENTERTAINMENTS. See: AMUSEMENTS AND ENTERTAINMENTS	
ENVIRONMENT	
Environmental conservation, on-site sewage management and permits	
Court of jurisdiction	16-30
Definitions	16-22
Delegation of article administration	16-24
General provisions	16-23
Groundwater recharge areas protection regulations	16-26
Major river corridor protection district regulations	16-27
Minimum lot sizing for on-site sewage management	16-31
Purpose	16-21
Rules and regulations	
Groundwater recharge areas protection regulations	16-26
Major river corridor protection district regulations	16-27
Wetlands protection regulations	16-25
Short title	16-20
Variances	16-28
Violations and penalties	16-29
Wetlands protection regulations	16-25
Soil erosion and sedimentation control	16-85 et seq.
See: SOIL EROSION AND SEDIMENTATION CONTROL	
Trees	16-51 et seq.
See: TREES	
Wellhead protection	
Administration	16-119
Definitions	16-115
Establishment of wellhead protection zone	16-116
Permitted uses	16-117
Prohibited uses	16-118

CLAXTON CODE

	Section
ENVIRONMENT (Cont'd.)	
Short title and purpose	16-114
EVANS, COUNTY OF. See: COUNTY	
EVIDENCE, TESTIMONY AND WITNESSES	
Licenses, taxation and miscellaneous business regulations	
Occupation tax	
Evidence of state registration when required	22-112
Qualification, evidence of required if applicable.....	22-113
EXCAVATIONS	
Utilities	
Permit to dig; city property	36-3
EXPLOSIVES	
Offenses and miscellaneous provisions	26-4
F	
FALSE STATEMENTS	
Alcoholic beverages	
Malt beverages and wine	
Excise tax, malt beverages	
Report of sales and payment of tax; delinquency; false or fraudulent reports	4-121
Off-premises consumption licenses	
False information	4-61
FINANCE	
Alcoholic beverages	4-120 et seq.
See: ALCOHOLIC BEVERAGES	
Certain ordinances not affected by Code	1-11
City/county airport authority	8-23
Licenses, taxation and miscellaneous business regulations...	22-1 et seq.
See: LICENSES, TAXATION AND MISCELLANEOUS BUSINESS REGULATIONS	
Purchasing policy	2-66
Utilities	
Utility bills, when due and payable; delinquencies; cutoffs; restoration of services	36-2
FINES, FORFEITURES AND OTHER PENALTIES	
Alcoholic beverages	

CODE INDEX

	Section
FINES, FORFEITURES AND OTHER PENALTIES	
(Cont'd.)	
Distilled spirits for off-premises consumption	
Violations; penalties.....	4-177
Buildings and building regulations	
Technical codes	
Adopted; penalty for violation; technical codes.....	10-19
Property maintenance code	
Code adopted; penalty for violation	10-180
Effect of repeal of ordinances	1-4
Environment	
Environmental conservation, on-site sewage management and permits	
Violations and penalties	16-29
Fire prevention and protection	
Adoption, penalty for violation; fire prevention code.....	18-1
Flood damage prevention	
Penalties for violation	20-13
Licenses, taxation and miscellaneous business regulations	
Occupation tax	
Date due; penalty.....	22-115
Penalties for violation of Code	1-8
Prior offenses, penalties, contracts or rights not affected by adoption of Code	1-9
Soil erosion and sedimentation control	
Penalties and incentives	16-91
Streets, sidewalks and other public places	
Streets signs; building numbers; penalty.....	32-4
Utilities	
Sewer use	36-75
FIRE CHIEF	
Fire prevention and protection	
Chief of the fire department's authority at fires	
Absolute control.....	18-2
Destroying buildings	18-3
FIRE DEPARTMENT	
Fire prevention and protection	
Chief of the fire department's authority at fires	
Absolute control.....	18-2

CLAXTON CODE

	Section
FIRE DEPARTMENT (Cont'd.)	
Destroying buildings	18-3
FIRE PREVENTION AND PROTECTION	
Adoption, penalty for violation; fire prevention code	18-1
Buildings and building regulations	
Electrical codes	
Conditions to resuming service to buildings damaged by fire	10-39
Chief of the fire department's authority at fires	
Absolute control	18-2
Destroying buildings.....	18-3
Trees	
Distance from street corners and fire hydrants	16-54
FIREARMS AND WEAPONS	
Offenses and miscellaneous provisions	
Firearms, air guns; carrying, discharging.....	26-3
FLOOD DAMAGE PREVENTION	
Abrogation and greater restrictions	20-10
Administration	
Designation of chapter administrator	20-34
Duties and responsibilities of the administrator.....	20-36
Permit procedures	20-35
Variance procedures	20-37
Area	
Basis for area of special flood hazard	20-7
Flood hazard reduction	
Areas of shallow flooding (AO zones), standards for ...	20-72
Standards for areas or special flood hazard (Zones AE) with established base flood elevations without des- ignated floodways	20-71
Authorization.....	20-2
Basis for area of special flood hazard.....	20-7
Compliance	20-9
Definitions	20-1
Establishment of development permit	20-8
Findings of fact	20-3
Flood hazard reduction	
Areas of shallow flooding (AO zones), standards for.....	20-72

CODE INDEX

	Section
FLOOD DAMAGE PREVENTION (Cont'd.)	
Building standards for streams without established base flood elevations and/or floodway (A zones).....	20-70
Critical facilities, standards for	20-74
General standards	20-68
Specific standards.....	20-69
Standards and specifications	
Areas of shallow flooding (AO zones), standards for ...	20-72
Building standards for streams without established base flood elevations and/or floodway (A zones)	20-70
Critical facilities, standards for	20-74
General standards	20-68
Specific standards	20-69
Standards for areas or special flood hazard (Zones AE) with established base flood elevations without des- ignated floodways	20-71
Subdivisions, standards for.....	20-73
Standards for areas or special flood hazard (Zones AE) with established base flood elevations without desig- nated floodways.....	20-71
Subdivisions, standards for	20-73
Zones	
Areas of shallow flooding (AO zones), standards for ...	20-72
Building standards for streams without established base flood elevations and/or floodway (A zones)	20-70
Standards for areas or special flood hazard (Zones AE) with established base flood elevations without desig- nated floodways	20-71
Hazards, hazardous	
Basis for area of special flood hazard	20-7
Flood hazard reduction. See herein that subject	
Interpretation.....	20-11
Lands to which this chapter applies	20-6
Objectives	20-5
Penalties for violation.....	20-13
Statement of purpose	20-4
Warning and disclaimer of liability.....	20-12
FLOODS, FLOODING	
Flood damage prevention	20-1 et seq.
See: FLOOD DAMAGE PREVENTION	

CLAXTON CODE

	Section
FOLLOWING	
Definitions and rules of construction	1-2
FORFEITURES. See: FINES, FORFEITURES AND OTHER PENALTIES	
FOWL. See: ANIMALS AND FOWL	
FRANCHISES	
Certain ordinances not affected by Code	1-11
FRAUD	
Alcoholic beverages	
Malt beverages and wine	
Excise tax, malt beverages	
Report of sales and payment of tax; delinquency; false or fraudulent reports	4-121
G	
GAMBLING	
Alcoholic beverages	
Distilled spirits for off-premises consumption	
Intoxicated persons; gambling; disorderly conduct	4-180
GARBAGE AND TRASH	
Litter.....	30-59 et seq.
See: LITTER	
Solid waste	30-1 et seq.
See: SOLID WASTE	
GENDER	
Definitions and rules of construction	1-2
GENERALLY	
Definitions and rules of construction	1-2
GEORGIA, STATE OF. See: STATE	
GOODS OR SERVICES	
Buildings and building regulations	
Electrical codes	
Conditions to resuming service to buildings damaged by fire	10-39

CODE INDEX

	Section
GOODS OR SERVICES (Cont'd.)	
Temporary wiring	
Time for which issued; application for temporary service	10-117
Emergency management and emergency services	14-1 et seq.
See: EMERGENCY MANAGEMENT AND EMERGENCY SERVICES	
Finance	
Purchasing policy	2-66
Nuisances	
Alternative abatement procedure	
Service of complaints and orders	24-65
Utilities	
Natural gas system	
Service policy	36-98
Utility bills, when due and payable; delinquencies; cutoffs; restoration of services	36-2
GOVERNING BODY. See: CITY COUNCIL	
GRADING, GRADES	
Certain ordinances not affected by Code	1-11
GRASS. See: BRUSH, GRASS AND WEEDS	
H	
HANDBILLS	
Depositing on uninhabited premises	30-65
Distributing consent of occupant of private premises	30-66
In or on vehicles	30-64
Method of leaving at private premises	30-67
Throwing or handing out in public places	30-63
HANDICAPPED PERSONS. See: DISABLED OR HANDICAPPED PERSONS	
HAZARDS, HAZARDOUS	
Flood damage prevention	20-7 et seq.
See: FLOOD DAMAGE PREVENTION	
HEALTH AND SANITATION	
Alcoholic beverages	
Sanitary conditions	4-3

CLAXTON CODE

	Section
HEALTH AND SANITATION (Cont'd.)	
Animals and fowl	
Dogs	
Removal of dog excrement required; exceptions	6-24
Litter	
Cleanliness of sidewalk—Duty of owner or occupant.....	30-61
Solid waste	
Collection and disposal	
Sanitation fee	30-28
HEARINGS	
Nuisances	
General abatement procedure	
Notice of hearing.....	24-23
HIGHWAYS	
Definitions and rules of construction	1-2
Traffic and vehicles	
Speed limits; on- and off-highway systems	34-7
HOURS	
Alcoholic beverages	
Distilled spirits for off-premises consumption	
Hours of sales	4-179
Malt beverages and wine	
Sale of wine and malt beverages during certain hours and on certain days prohibited.....	4-27
HOUSING	
Alcoholic beverages	
Malt beverages and wine	
On-premises consumption	
House of sale.....	4-88
Buildings and building regulations	
Prefabricated housing; permit required.....	10-1
Utilities	
Water and sewers, generally	
Taps	
House trailers	36-28

I

IDENTIFICATION

CODE INDEX

	Section
IDENTIFICATION (Cont'd.)	
Animals and fowl	
Dogs	
Collar and identification tag required.....	6-28
Streets, sidewalks and other public places	
Streets signs; building numbers; penalty.....	32-4
ILLNESS OR DISEASE	
Animals and fowl	
Dogs	
Rabies vaccination	6-29
IMPOUNDMENT	
Animals and fowl	
Dogs	
Fees, impounding.....	6-31
Impounding; required; right of entry	6-30
IMPROVEMENTS. See: PUBLIC WORKS AND IMPROVEMENTS	
INDUSTRY, INDUSTRIAL	
Utilities	
Sewer use	
Industrial discharges	36-73
INJURY. See: DAMAGE, DEFACEMENT, DESTRUCTION OR INJURY	
INSPECTIONS	
Buildings and building regulations	
Electrical codes	
Approval of work by electrical inspector; turning on of current.....	10-43
Permit	
Inspection or permit fees.....	10-83
Electrical inspectors.....	10-55 et seq.
See: ELECTRICAL INSPECTORS	
Soil erosion and sedimentation control	
Inspection and enforcement	16-90
Utilities	
Sewer use	
Power and authority of inspectors	36-74

CLAXTON CODE

	Section
INSURANCE	
Certain ordinances not affected by Code	1-11
Licenses, taxation and miscellaneous business regulations...	22-76 et seq.
See: LICENSES, TAXATION AND MISCELLANEOUS BUSINESS REGULATIONS	
INTERFERENCE	
Traffic and vehicles	
Interfering with vehicle.....	34-5
Trees	
Interference with city employees	16-59
INTOXICATING BEVERAGES. See: ALCOHOLIC BEV- ERAGES	
INVESTIGATIONS	
Administration	
Criminal history check	2-1
ISSUANCE OF BONDS	
Certain ordinances not affected by Code	1-11
J	
JOINT AUTHORITY	
Definitions and rules of construction	1-2
K	
KEEPER AND PROPRIETOR	
Definitions and rules of construction	1-2
L	
LABELS AND TAGS	
Animals and fowl	
Dogs	
Collar and identification tag required.....	6-28
LANDS, LAND USE	
Flood damage prevention	
Lands to which this chapter applies.....	20-6
Solid waste	
Private landfills and dumps prohibited	30-2

CODE INDEX

	Section
LEGAL PROCESSES. See: WRITS, WARRANTS AND OTHER LEGAL PROCESSES	
LEVY, LEVYING	
Alcoholic beverages	
Malt beverages and wine	
Excise tax, malt beverages	4-120
Wine excise tax	
Levied; rate	4-143
Certain ordinances not affected by Code	1-11
Licenses, taxation and miscellaneous business regulations	
Occupation tax	
Tax levied; limitations.....	22-108
LIABILITY	
Flood damage prevention	
Warning and disclaimer of liability	20-12
Soil erosion and sedimentation control	
Administrative appeal judicial review; liability	16-93
LICENSES, TAXATION AND MISCELLANEOUS BUSI- NESS REGULATIONS	
Ad valorem tax	
Assessment	22-23
Duties of clerk as tax collector	22-21
Returns.....	22-22
Alcoholic beverages	4-1 et seq.
See: ALCOHOLIC BEVERAGES	
Certain ordinances not affected by Code	1-11
Charges, fees and rates	
Insurance license taxes. See herein that subject	
Occupation tax	
Administrative fee	22-107
Yard sales	
Fee, permit	22-147
Definitions and rules of construction	1-2
Downtown development authority	12-20 et seq.
See: DOWNTOWN DEVELOPMENT AUTHORITY	
Fair or carnival; permit required.....	22-1
Insurance license taxes	
Charges, fees and rates	
Due date for license fees	22-81

CLAXTON CODE

	Section
LICENSES, TAXATION AND MISCELLANEOUS BUSINESS REGULATIONS (Cont'd.)	
Fees, insurer license	22-76
License fee for life insurers insuring certain risks at additional business locations.....	22-77
Life insurance agency license fee; independent life insurance agencies, brokers, etc., not otherwise licensed .	22-78
Due date for license fees.....	22-81
Fees, insurer license.....	22-76
Gross premiums tax, all other insurers	22-80
Imposed on life insurers, gross premiums tax.....	22-79
License fee for life insurers insuring certain risks at additional business locations	22-77
Life insurance agency license fee; independent life insurance agencies, brokers, etc., not otherwise licensed....	22-78
Litter	
Merchant's duty to keep sidewalks free of litter—Business premises.....	30-62
Occupation tax	
Administrative fee	22-107
Certificate, occupation tax.....	22-109
Date due; penalty	22-115
Definitions.....	22-106
Enforcement; violations.....	22-116
Evidence of state registration when required	22-112
Exemptions.....	22-111
Filing returns; other information required or requested ...	22-114
Practitioners of professions and occupations.....	22-110
Qualification, evidence of required if applicable	22-113
Tax levied; limitations	22-108
Permits	
Fair or carnival; permit required	22-1
Yard sales	
Fee, permit	22-147
Permit	22-146
Sales	
Sales and use tax	
Formula for distribution.....	22-51
Imposed	22-50

CODE INDEX

	Section
LICENSES, TAXATION AND MISCELLANEOUS BUSINESS REGULATIONS (Cont'd.)	
Yard sales	
Fee, permit	22-147
Permit	22-146
Sales and use tax	
Formula for distribution	22-51
Imposed.....	22-50
Solid waste	
Permission required for haulers outside of city.....	30-4
Utilities	
Permit to dig; city property	36-3
Yard sales	
Fee, permit.....	22-147
Permit.....	22-146
LIENS	
Nuisances	
Alternative abatement procedure.....	24-62
LIQUOR. See: ALCOHOLIC BEVERAGES	
LITTER	
Cleanliness of sidewalk—Duty of owner or occupant	30-61
Definitions	30-59
Dropping litter from aircraft.....	30-68
Handbills.....	30-63 et seq.
See: HANDBILLS	
Merchant's duty to keep sidewalks free of litter—Business premises	30-62
Placement in receptacles so as to prevent scattering	30-60
Powers, duties and responsibilities	
Cleanliness of sidewalk—Duty of owner or occupant.....	30-61
Merchant's duty to keep sidewalks free of litter—Business premises.....	30-62
Private premises, littering	
Occupant's responsibility as to his property	30-71
Private premises, littering	
Clearing by city	30-72
Generally	30-69
Occupant's responsibility as to his property	30-71
Vacant lot.....	30-70

CLAXTON CODE

	Section
LITTER (Cont'd.)	
Unlawful accumulations	30-73
LIVESTOCK	
Animals and fowl	
Keeping of livestock prohibited	6-1
LOADING, UNLOADING	
Traffic and vehicles	34-6 et seq.
See: TRAFFIC AND VEHICLES	
LOCATIONS	
Alcoholic beverages	
Malt beverages and wine	
Location restrictions	4-29
Certain ordinances not affected by Code	1-11
Electrical inspectors	
Location of wires and appliances	10-57
Licenses, taxation and miscellaneous business regulations	
Insurance license taxes	
License fee for life insurers insuring certain risks at additional business locations	22-77
LOITERING	
Offenses and miscellaneous provisions	
Failure to disperse	26-6
LOTS. See: BLOCKS, LOTS AND PARCELS	

M

MAINTENANCE	
Buildings and building regulations	
Technical codes	
Property maintenance code	
Appeals, property maintenance code	10-181
Code adopted; penalty for violation	10-180
Nuisances	
Alternative abatement procedure	
Duty to maintain property	24-57
Trees	
Topping, tree	16-56

CODE INDEX

	Section
MANUFACTURED AND MOBILE HOMES	
Utilities	
Water and sewers, generally	
Taps	
House trailers	36-28
MAPS. See: SURVEYS, MAPS AND PLATS	
MARKERS AND MONUMENTS	
Traffic and vehicles	
Traffic signs, signals, devices and marking ratified	34-2
MAY	
Definitions and rules of construction	1-2
MAYOR	
Emergency management and emergency services	
Riots and civil disobedience	
Mayor's authority	14-2
Trees	
Review by mayor and city council.....	16-60
MEASURES. See: WEIGHTS AND MEASURES	
MEMBERS, MEMBERSHIP	
City/county airport authority	
Creation; membership.....	8-19
MERCHANTS OR VENDORS	
Litter	
Merchant's duty to keep sidewalks free of litter—Business premises.....	30-62
MOBILE HOMES. See: MANUFACTURED AND MOBILE HOMES	
MONTH	
Definitions and rules of construction	1-2
MOTOR VEHICLES. See: TRAFFIC AND VEHICLES	
MOVING OR RELOCATING	
Certain ordinances not affected by Code	1-11
MUST	
Definitions and rules of construction	1-2

CLAXTON CODE

	Section
N	
NAMING, NAMES	
Certain ordinances not affected by Code	1-11
NATURAL GAS	
Utilities	
Natural gas system	
Rates	36-97
Service policy	36-98
NOISE	
Offenses and miscellaneous provisions	26-5
NOTICE, NOTIFICATION	
Buildings and building regulations	
Electrical codes	
Cure of defects upon notice	10-38
Electrical inspectors	
Condemnation; discontinuing current after notice	10-59
Nuisances	
General abatement procedure	
Notice of hearing	24-23
Parades	
Permit	
Notice of denial	32-61
NUISANCES	
Alternative abatement procedure	
Abatement procedures	24-61
Additional powers of public officer	24-59
Appeals	24-63
Definitions	24-56
Duty to maintain property	24-57
Lien	24-62
Public officer designated	24-58
Remedies, alternative	24-64
Service of complaints and orders	24-65
Standards for determining unfitness for habitation	24-60
Animals and fowl	
Dogs	6-25
General abatement procedure	
Abatement by city	24-26

CODE INDEX

	Section
NUISANCES (Cont'd.)	
By owner, abatement	24-25
Definitions.....	24-22
Entering abatement order.....	24-24
Notice of hearing	24-23
Nuisances prohibited.....	24-21
Weeds and other tall growths	24-1
NUMBER, NUMBERING	
Definitions and rules of construction.....	1-2
O	
OATH, AFFIRMATION, SWEAR OR SWORN	
Definitions and rules of construction.....	1-2
OBSTRUCTIONS	
Offenses and miscellaneous provisions	
Obstructing traffic to solicit contributions prohibited	26-7
Signs	
Sign permit	
Obstructions prohibited	28-2
Streets, sidewalks and other public places	32-1
Trees	
Obstruction, tree and shrubbery; right-of-way or street; beautification.....	16-61
O.C.G.A., STATE ACTS	
Definitions and rules of construction.....	1-2
OFFENSES AND MISCELLANEOUS PROVISIONS	
Begging and soliciting alms	26-1
Disorderly conduct.....	26-2
Explosives.....	26-4
Failure to disperse.....	26-6
Firearms, air guns; carrying, discharging	26-3
Noise	26-5
Obstructing traffic to solicit contributions prohibited.....	26-7
Prior offenses, penalties, contracts or rights not affected by adoption of Code	1-9
OFFICERS AND EMPLOYEES	
Building official	10-20 et seq.
See: BUILDING OFFICIAL	

CLAXTON CODE

	Section
OFFICERS AND EMPLOYEES (Cont'd.)	
Buildings and building regulations	
Electrical codes	
Approval of work by electrical inspector; turning on of current.....	10-43
Certain ordinances not affected by Code	1-11
City council	2-21 et seq.
See: CITY COUNCIL	
Definitions and rules of construction	1-2
Electrical inspectors.....	10-55 et seq.
See: ELECTRICAL INSPECTORS	
Emergency management and emergency services	
Riots and civil disobedience	
Mayor's authority	14-2
Fire prevention and protection	
Chief of the fire department's authority at fires	
Absolute control.....	18-2
Destroying buildings	18-3
Flood damage prevention	
Administration	
Designation of chapter administrator.....	20-34
Duties and responsibilities of the administrator	20-36
Licenses, taxation and miscellaneous business regulations	
Ad valorem tax	
Duties of clerk as tax collector.....	22-21
Nuisances	
Alternative abatement procedure	
Additional powers of public officer	24-59
Public officer designated.....	24-58
Personnel rules and benefits.....	2-46
Trees	
Interference with city employees	16-59
Review by mayor and city council.....	16-60
Utilities	
Sewer use	
Power and authority of inspectors	36-74
OFFICIALS. See: OFFICERS AND EMPLOYEES	
OPEN BURNING	
Solid waste	30-3

CODE INDEX

	Section
OPEN SPACES. See: YARDS AND OPEN SPACES	
ORDERS. See: WRITS, WARRANTS AND OTHER LEGAL PROCESSES	
ORDINANCES, RESOLUTIONS, ETC.	
Amendments to Code; effect of new ordinances; amendatory language	1-5
Certain ordinances not affected by Code	1-11
Effect of repeal of ordinances	1-4
Provisions considered as continuation of existing ordinances	1-10
Utilities	
Sewer use	
Ordinance, sewer and drain; adopted	36-68
OWNER	
Definitions and rules of construction	1-2
P	
PANHANDLING	
Offenses and miscellaneous provisions	
Begging and soliciting alms	26-1
PARADES	
Definitions	32-26
Exemptions	32-27
Permit	
Alternative permit	32-62
Application	32-59
Compliance with laws and regulations	32-65
Contents	32-63
Issuance standards	32-60
Notice of denial	32-61
Required	32-58
Revocation	32-64
PARKING, PARKING LOTS	
Traffic and vehicles	34-35 et seq.
See: TRAFFIC AND VEHICLES	
PARKS AND RECREATION	
Definitions and rules of construction	1-2

CLAXTON CODE

	Section
PAVING OR SURFACING	
Certain ordinances not affected by Code	1-11
Streets, sidewalks and other public places	
Permit to cut pavement.....	32-2
Policy, street paving.....	32-3
PENALTIES. See: FINES, FORFEITURES AND OTHER PENALTIES	
PENSIONS AND RETIREMENT	
Certain ordinances not affected by Code	1-11
PERMITS	
Buildings and building regulations	10-1 et seq.
See: BUILDINGS AND BUILDING REGULATIONS	
Environment	16-20 et seq.
See: ENVIRONMENT	
Flood damage prevention	
Administration	
Permit procedures	20-35
Establishment of development permit.....	20-8
Licenses, taxation and miscellaneous business regulations...	22-1 et seq.
See: LICENSES, TAXATION AND MISCELLANEOUS BUSINESS REGULATIONS	
Parades	32-58 et seq.
See: PARADES	
Signs	
Sign permit	
Obstructions prohibited	28-2
Required.....	28-1
Soil erosion and sedimentation control	
Application/permit process	16-89
Streets, sidewalks and other public places	
Permit to cut pavement.....	32-2
Utilities	
Additions, etc., to systems; permit required.....	36-1
Water and sewers, generally	
Taps	
Prerequisite to issuance of building permit	36-27
PERMITTED USES	
Environment	
Wellhead protection	16-117

CODE INDEX

	Section
PERSON	
Definitions and rules of construction	1-2
PERSONAL PROPERTY	
Definitions and rules of construction	1-2
PERSONNEL	
Certain ordinances not affected by Code	1-11
Officers and employees	
Personnel rules and benefits	2-46
PLANNING AND DEVELOPMENT	
Community development.....	12-1 et seq.
See: COMMUNITY DEVELOPMENT	
Downtown development authority	12-20 et seq.
See: DOWNTOWN DEVELOPMENT AUTHORITY	
Flood damage prevention	
Establishment of development permit.....	20-8
PLATS. See: SURVEYS, MAPS AND PLATS	
PLUMBING	
Buildings and building regulations	
Technical codes	
Water-conserving plumbing fixtures	
Exemption from state requirements.....	10-148
POLES AND WIRES	
Buildings and building regulations	10-40 et seq.
See: BUILDINGS AND BUILDING REGULATIONS	
Electrical inspectors	
Location of wires and appliances	10-57
POLICIES AND PROCEDURES	
Alcoholic beverages	4-62 et seq.
See: ALCOHOLIC BEVERAGES	
Certain ordinances not affected by Code	1-11
Finance	
Purchasing policy	2-66
Flood damage prevention	
Administration	
Permit procedures	20-35
Variance procedures.....	20-37

CLAXTON CODE

	Section
POLICIES AND PROCEDURES (Cont'd.)	
Nuisances	24-21 et seq.
See: NUISANCES	
Streets, sidewalks and other public places	
Policy, street paving.....	32-3
Utilities	
Natural gas system	
Service policy	36-98
POWERS, DUTIES AND RESPONSIBILITIES	
Alcoholic beverages	
Distilled spirits for off-premises consumption	
License	
Responsibility of named licensee.....	4-215
Building official	10-21
City/county airport authority.....	8-22
Electrical inspectors.....	10-55
Flood damage prevention	
Administration	
Duties and responsibilities of the administrator	20-36
Licenses, taxation and miscellaneous business regulations	
Ad valorem tax	
Duties of clerk as tax collector.....	22-21
Litter.....	30-61 et seq.
See: LITTER	
Nuisances	
Alternative abatement procedure	
Additional powers of public officer	24-59
Duty to maintain property	24-57
PRECEDING	
Definitions and rules of construction	1-2
PRIVATE PROPERTY	
Handbills	
Distributing consent of occupant of private premises	30-66
Method of leaving at private premises.....	30-67
Litter.....	30-69 et seq.
See: LITTER	
Solid waste	
Private landfills and dumps prohibited	30-2
Trees	16-57

CODE INDEX

	Section
PROPERTY	
Alcoholic beverages	
Consumption upon public ways or public property	4-2
Buildings and building regulations	
Technical codes	
Property maintenance code	
Appeals, property maintenance code	10-181
Code adopted; penalty for violation	10-180
Certain ordinances not affected by Code	1-11
Definitions and rules of construction	1-2
Licenses, taxation and miscellaneous business regulations...	22-21 et seq.
See: LICENSES, TAXATION AND MISCELLANEOUS BUSINESS REGULATIONS	
Litter	
Private premises, littering	
Occupant's responsibility as to his property	30-71
Nuisances	
Alternative abatement procedure	
Duty to maintain property	24-57
Trees	
Private property	16-57
Utilities	
Permit to dig; city property	36-3
PUBLIC PEACE AND ORDER	
Offenses and miscellaneous provisions	
Noise	26-5
PUBLIC PLACES. See: STREETS, SIDEWALKS AND OTHER PUBLIC PLACES	
PUBLIC PROPERTY	
Alcoholic beverages	
Consumption upon public ways or public property	4-2
Handbills	
Throwing or handing out in public places.....	30-63
Streets, sidewalks and other public places	32-1 et seq.
See: STREETS, SIDEWALKS AND OTHER PUBLIC PLACES	
Trees	
Public tree care	16-55

CLAXTON CODE

	Section
PUBLIC WORKS AND IMPROVEMENTS	
Certain ordinances not affected by Code	1-11
PURCHASES, PURCHASING	
Finance	
Purchasing policy	2-66
R	
RABIES CONTROL	
Animals and fowl	
Dogs	
Rabies vaccination	6-29
REAL PROPERTY, REAL ESTATE	
Definitions and rules of construction	1-2
RECORDS AND REPORTS	
Alcoholic beverages	
Distilled spirits for off-premises consumption	
License	
Retention of records.....	4-217
Malt beverages and wine	
Excise tax, malt beverages	
Report of sales and payment of tax; delinquency; false	
or fraudulent reports	4-121
Buildings and building regulations	
Electrical codes	
Permit	
Layout or blueprint; required generally	10-84
Licenses, taxation and miscellaneous business regulations	
Ad valorem tax	
Returns	22-22
Occupation tax	
Filing returns; other information required or requested	22-114
RECREATION. See: PARKS AND RECREATION	
REGISTER, REGISTRATION	
Licenses, taxation and miscellaneous business regulations	
Occupation tax	
Evidence of state registration when required	22-112

CODE INDEX

	Section
RENOVATIONS, REPAIRS OR RESTORATIONS	
Utilities	
Utility bills, when due and payable; delinquencies; cutoffs; restoration of services	36-2
REPORTS. See: RECORDS AND REPORTS	
RESIDENCE, RESIDENTIAL	
Nuisances	
Alternative abatement procedure	
Standards for determining unfitness for habitation.....	24-60
RESOLUTIONS. See: ORDINANCES, RESOLUTIONS, ETC.	
REZONING	
Certain ordinances not affected by Code	1-11
RIGHT-OF-WAY	
Definitions and rules of construction	1-2
Trees	
Obstruction, tree and shrubbery; right-of-way or street; beautification.....	16-61
RIGHTS	
Animals and fowl	
Dogs	
Impounding; required; right of entry	6-30
Building official	
Right of entry	10-22
Certain ordinances not affected by Code	1-11
Electrical inspectors	
Right of entry	10-56
Prior offenses, penalties, contracts or rights not affected by adoption of Code	1-9
ROAD	
Definitions and rules of construction	1-2
RUBBISH. See: SOLID WASTE	
RULES AND REGULATIONS	
Buildings and building regulations	10-1 et seq.
See: BUILDINGS AND BUILDING REGULATIONS	
Certain ordinances not affected by Code	1-11

CLAXTON CODE

	Section
RULES AND REGULATIONS (Cont'd.)	
City council	
Rules of council.....	2-21
Definitions and rules of construction.....	1-2
Electrical inspectors	
Making and promulgating rulings, regulations	10-60
Environment	16-25 et seq.
See: ENVIRONMENT	
Licenses, taxation and miscellaneous business regulations...	22-1 et seq.
See: LICENSES, TAXATION AND MISCELLANEOUS BUSINESS REGULATIONS	
Officers and employees	
Personnel rules and benefits	2-46
Parades	
Permit	
Compliance with laws and regulations	32-65
Solid waste	
Collection and disposal	30-34
Traffic and vehicles	
Uniform rules of the road	34-1

S

SAFETY AND WELFARE

Buildings and building regulations	
Electrical codes	
Temporary wiring	
Approval if installation safe	10-115

SALES

Alcoholic beverages	4-27 et seq.
See: ALCOHOLIC BEVERAGES	
Licenses, taxation and miscellaneous business regulations...	22-50 et seq.
See: LICENSES, TAXATION AND MISCELLANEOUS BUSINESS REGULATIONS	

SANITATION. See: HEALTH AND SANITATION

SCHOOLS

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

SEDIMENTATION CONTROL. See: SOIL EROSION AND
SEDIMENTATION CONTROL

CODE INDEX

	Section
SEWERS AND SEWAGE DISPOSAL	
Environment	16-20 et seq.
See: ENVIRONMENT	
Utilities	36-2 et seq.
See: UTILITIES	
SHALL	
Definitions and rules of construction	1-2
SHRUBS AND PLANTS	
Trees	
Obstruction, tree and shrubbery; right-of-way or street; beautification.....	16-61
SIDEWALKS. See: STREETS, SIDEWALKS AND OTHER PUBLIC PLACES	
SIGNALING DEVICES	
Traffic and vehicles	
Traffic signs, signals, devices and marking ratified	34-2
SIGNATURE AND SUBSCRIPTION	
Definitions and rules of construction	1-2
SIGNS	
Sign permit	
Obstructions prohibited.....	28-2
Required	28-1
Streets, sidewalks and other public places	
Streets signs; building numbers; penalty.....	32-4
Traffic and vehicles	
Traffic signs, signals, devices and marking ratified	34-2
SITES, SITE PLANS	
Environment	16-20 et seq.
See: ENVIRONMENT	
Utilities	
Water and sewers, generally	
Sewage treatment; spray irrigation site.....	36-30
SOIL EROSION AND SEDIMENTATION CONTROL	
Administrative appeal judicial review; liability	16-93
Application/permit process.....	16-89
Definitions	16-86
Education and certification	16-92

CLAXTON CODE

	Section
SOIL EROSION AND SEDIMENTATION CONTROL	
(Cont'd.)	
Exemptions	16-87
Inspection and enforcement	16-90
Minimum requirements for erosion and sedimentation control using best management practices	16-88
Penalties and incentives.....	16-91
Title	16-85
 SOLICITATION	
Offenses and miscellaneous provisions	
Begging and soliciting alms.....	26-1
Obstructing traffic to solicit contributions prohibited	26-7
 SOLID WASTE	
Collection and disposal	
Containers	
Generally	30-32
To be kept closed; accessibility.....	30-33
Definitions.....	30-27
Enforcement.....	30-31
Exemptions.....	30-30
Prohibited acts	30-29
Rules and regulations.....	30-34
Sanitation fee.....	30-28
Disposal of garbage and refuse; promiscuous dumping prohibited	30-1
Litter. See also that title	
Disposal of garbage and refuse; promiscuous dumping prohibited.....	30-1
Open burning	30-3
Permission required for haulers outside of city	30-4
Private landfills and dumps prohibited.....	30-2
 SPECIAL EVENTS	
Licenses, taxation and miscellaneous business regulations	
Fair or carnival; permit required	22-1
 SPEED, SPEED LIMITS	
Traffic and vehicles	
Speed limits; on- and off-highway systems	34-7

CODE INDEX

	Section
STANDARDS AND SPECIFICATIONS	
Flood damage prevention	20-68 et seq.
See: FLOOD DAMAGE PREVENTION	
Nuisances	
Alternative abatement procedure	
Standards for determining unfitness for habitation.....	24-60
Parades	
Permit	
Issuance standards	32-60
STATE	
Definitions and rules of construction	1-2
STREETS, SIDEWALKS AND OTHER PUBLIC PLACES	
Alcoholic beverages	
Consumption upon public ways or public property.....	4-2
Certain ordinances not affected by Code	1-11
Definitions and rules of construction	1-2
Handbills	
Throwing or handing out in public places.....	30-63
Litter	
Cleanliness of sidewalk—Duty of owner or occupant.....	30-61
Merchant's duty to keep sidewalks free of litter—Business premises.....	30-62
Obstructing	32-1
Parades	32-26 et seq.
See: PARADES	
Permit to cut pavement	32-2
Policy, street paving	32-3
Streets signs; building numbers; penalty	32-4
Traffic and vehicles	
Bicycle riding on sidewalk	34-4
Trees	16-54 et seq.
See: TREES	
SUBDIVISIONS	
Certain ordinances not affected by Code	1-11
Flood damage prevention	
Flood hazard reduction	
Subdivisions, standards for.....	20-73

CLAXTON CODE

	Section
SUBPOENAS. See: WRITS, WARRANTS AND OTHER LEGAL PROCESSES	
SUMMONS. See: WRITS, WARRANTS AND OTHER LEGAL PROCESSES	
SUPPLIES AND MATERIALS	
Finance	
Purchasing policy	2-66
SURVEYS, MAPS AND PLATS	
Certain ordinances not affected by Code	1-11
SWEAR OR SWORN. See: OATH, AFFIRMATION, SWEAR OR SWORN	
T	
TAX COLLECTOR. See: CLERK	
TAXATION. See: LICENSES, TAXATION AND MISCELLANEOUS BUSINESS REGULATIONS	
TEMPORARY BUILDINGS, STRUCTURES OR USES	
Alcoholic beverages	
Distilled spirits for off-premises consumption	
License	
Temporary license	4-212
Buildings and building regulations	10-114 et seq.
See: BUILDINGS AND BUILDING REGULATIONS	
Certain ordinances not affected by Code	1-11
TENANT, OCCUPANT	
Definitions and rules of construction	1-2
TENSE	
Definitions and rules of construction	1-2
THROWING OBJECTS	
Handbills	
Throwing or handing out in public places.....	30-63
TRAFFIC AND VEHICLES	
Bicycle riding on sidewalk	34-4
Certain ordinances not affected by Code	1-11
Enforcement of load limitations	34-6

CODE INDEX

	Section
TRAFFIC AND VEHICLES (Cont'd.)	
Handbills	
In or on vehicles	30-64
Interfering with vehicle	34-5
Loading, unloading	
Enforcement of load limitations	34-6
Stopping, standing and parking	
Provisions re	
General prohibition	34-37
Use of zones required	34-38
Offenses and miscellaneous provisions	
Obstructing traffic to solicit contributions prohibited	26-7
Speed limits; on- and off-highway systems	34-7
Stopping, standing and parking	
Loading and unloading	
General prohibition	34-37
Use of zones required.....	34-38
No parking zones	34-36
Parallel parking areas	34-35
Requirements for parked vehicles	34-40
Trespass by a motor vehicle.....	34-39
Traffic signs, signals, devices and marking ratified.....	34-2
"U" turns	34-3
Uniform rules of the road	34-1
 TRAILERS AND TRAILER PARKS. See: MANUFACTURED AND MOBILE HOMES	
 TRASH. See: GARBAGE AND TRASH	
 TREES	
Definitions	16-52
Distance from street corners and fire hydrants.....	16-54
Interference with city employees.....	16-59
Obstruction, tree and shrubbery; right-of-way or street; beautification.....	16-61
Private property	16-57
Public tree care	16-55
Purpose and intent	16-51
Removal of stumps.....	16-58
Review by mayor and city council	16-60
Spacing	16-53

CLAXTON CODE

	Section
TREES (Cont'd.)	
Streets, sidewalks and other public places	
Distance from street corners and fire hydrants	16-54
Obstruction, tree and shrubbery; right-of-way or street; beautification.....	16-61
Public tree care	16-55
Topping, tree.....	16-56
TRESPASSING	
Traffic and vehicles	
Stopping, standing and parking	
Trespass by a motor vehicle	34-39
 U 	
UNLOADING. See: LOADING, UNLOADING	
UTILITIES	
Additions, etc., to systems; permit required	36-1
Natural gas system	
Rates	36-97
Service policy.....	36-98
Permit to dig; city property.....	36-3
Sewer use	
Building sewers and connections.....	36-71
Definitions.....	36-69
Industrial discharges.....	36-73
Ordinance, sewer and drain; adopted.....	36-68
Penalties	36-75
Power and authority of inspectors	36-74
Use of public sewers required	36-70
Wastewater discharge.....	36-72
Sewers and sewage disposal	
Sewer use. See herein that subject	
Utility bills, when due and payable; delinquencies; cutoffs; restoration of services	36-2
Water and sewers, generally. See herein that subject	
Utility bills, when due and payable; delinquencies; cutoffs; restoration of services.....	36-2
Water and sewers, generally	
Connection, water	36-25
Sewage treatment; spray irrigation site	36-30

CODE INDEX

	Section
UTILITIES (Cont'd.)	
Taps	
Fees; monthly sewer charge	36-26
House trailers	36-28
Performed by city.....	36-29
Prerequisite to issuance of building permit.....	36-27
Water supply and distribution	
Utility bills, when due and payable; delinquencies; cutoffs; restoration of services	36-2
Water and sewers, generally. See herein that subject	

V

VACANT, VACANCY

Handbills	
Depositing on uninhabited premises.....	30-65
Litter	
Private premises, littering	
Vacant lot	30-70

VACATE, VACATION

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

VACCINES, VACCINATIONS

Animals and fowl	
Dogs	
Rabies vaccination	6-29

VARIANCES

Environment	
Environmental conservation, on-site sewage management and permits.....	16-28
Flood damage prevention	
Administration	
Variance procedures.....	20-37

VEHICLES. See: TRAFFIC AND VEHICLES

W

WAIVERS

Buildings and building regulations	
Electrical codes	

CLAXTON CODE

	Section
WAIVERS (Cont'd.)	
Permit	
May be waived, requirement.....	10-85
WARRANTS. See: WRITS, WARRANTS AND OTHER LEGAL PROCESSES	
WATER SUPPLY AND DISTRIBUTION	
Buildings and building regulations	
Technical codes	
Water-conserving plumbing fixtures	
Exemption from state requirements.....	10-148
Environment	16-114 et seq.
See: ENVIRONMENT	
Trees	
Distance from street corners and fire hydrants	16-54
Utilities	36-2 et seq.
See: UTILITIES	
WATERCOURSES AND WATERWAYS	
Environment	
Environmental conservation, on-site sewage management and permits	
Major river corridor protection district regulations	16-27
Wetlands protection regulations	16-25
Flood damage prevention	
Flood hazard reduction	
Building standards for streams without established base flood elevations and/or floodway (A zones)	20-70
Standards for areas or special flood hazard (Zones AE) with established base flood elevations without designated floodways	20-71
WATERWAYS. See: WATERCOURSES AND WATERWAYS	
WEAPONS. See: FIREARMS AND WEAPONS	
WEEDS. See: BRUSH, GRASS AND WEEDS	
WEEK	
Definitions and rules of construction	1-2
WEIGHTS AND MEASURES	
Alcoholic beverages	

CODE INDEX

	Section
WEIGHTS AND MEASURES (Cont'd.)	
Distilled spirits for off-premises consumption	
Restriction on size of packaging/containers.....	4-183
Environment	
Environmental conservation, on-site sewage management and permits	
Minimum lot sizing for on-site sewage management	16-31
Nuisances	
Weeds and other tall growths.....	24-1
Traffic and vehicles	
Enforcement of load limitations	34-6
Speed limits; on- and off-highway systems	34-7
Trees	
Distance from street corners and fire hydrants	16-54
Spacing.....	16-53
WHITE GOODS (Refrigerators, freezers, iceboxes, etc.)	
Electrical inspectors	
Location of wires and appliances	10-57
WHOLESALE, WHOLESALER	
Alcoholic beverages	
Malt beverages and wine	
Wine excise tax	
Collection and remittance by wholesaler	4-144
Compensation of wholesaler for collection	4-145
WILL	
Definitions and rules of construction	1-2
WINE. See: ALCOHOLIC BEVERAGES	
WIRES. See: POLES AND WIRES	
WRITS, WARRANTS AND OTHER LEGAL PROCESSES	
Nuisances	
Alternative abatement procedure	
Service of complaints and orders.....	24-65
General abatement procedure	
Entering abatement order	24-24
WRITTEN AND IN WRITING	
Definitions and rules of construction	1-2

CLAXTON CODE

	Section
Y	
YARDS AND OPEN SPACES	
Definitions and rules of construction	1-2
Licenses, taxation and miscellaneous business regulations	
Yard sales	
Fee, permit	22-147
Permit	22-146
YEAR	
Definitions and rules of construction	1-2
Z	
ZONES	
Environment	
Wellhead protection	
Establishment of wellhead protection zone.....	16-116
Flood damage prevention	20-70 et seq.
See: FLOOD DAMAGE PREVENTION	
Traffic and vehicles	
Stopping, standing and parking	
Loading and unloading	
Use of zones required	34-38
No parking zones.....	34-36
ZONING	
Certain ordinances not affected by Code	1-11