THE CODE

OF THE CITY OF

CLARKESVILLE, GEORGIA

_____

Published by Order of the City Council

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M	MUNICIPAL CODE CORPORATION
CC	Tallahassee, Florida 2005

OFFICIALS

of the

CITY OF

CLARKESVILLE, GEORGIA

AT THE TIME OF THIS CODIFICATION

_____

Sam Tolbert

Mayor

_____

Mel Flesner

Terry Greene

Bobby Webb

Wallace Wenn

Joyce Wilbanks

City Council

_____

Richard Monroe

City Manager

_____

Janney Sanders

City Attorney

_____

Mary Wood

City Clerk

PREFACE

This Code constitutes a complete codification of the general and permanent ordinances of the City of Clarkesville, Georgia.

Source materials used in the preparation of the Code were the ordinances 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 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
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Indexes

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

Looseleaf Supplements

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

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immediately upon receipt to avoid misplacing them and, in addition, that all deleted pages be saved and filed for historical reference purposes.

Acknowledgments

This publication was under the direct supervision of Palmer Carr, Supervising Editor, and Robert MacNaughton, 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 Ms. Mary Wood, City Clerk, Mr. Winslow H. Verdery, Jr., City Attorney, and Mr. Richard Monroe, City Manager, 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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*Editor's note - Printed herein is the city's Charter as set forth in 1981 Ga. Laws, page 4562. Amendments to the act are indicated by parenthetical history notes following amended provisions. The absence of a history note indicates that the provision remains unchanged from the original act. Obvious misspellings have been corrected without notation. For stylistic purposes, a uniform system of headings, catch lines and citations to state statutes has been used. Additions made for clarity are indicated by brackets.

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CHARTER

ARTICLE I. INCORPORATION AND POWERS

Section 1.10. Incorporation.

This Act shall constitute the whole charter of the City of Clarkesville, in the County of Habersham, repealing and replacing the charter provided by an Act of the General Assembly, approved February 13, 1956 (Ga. Laws 1956, p. 2298), and amended on _____ all Acts amendatory thereto. The City of Clarkesville, Georgia, in the County of Habersham and the inhabitants thereof shall continue to be a body politic and corporate under the same name and style of the City of Clarkesville, Georgia. Under that name, said city shall continue to be vested with all of the property and rights of property which now belong to the corporation; shall have perpetual succession; may sue and be sued; may contract and be contracted with; may acquire and hold such property real and personal, as may be devised, bequeathed, sold or in any manner conveyed or dedicated to or otherwise acquired by it and from time to time may hold or invest, sell or dispose of the same; may have a common seal and alter and renew the same at will; and may exercise in conformity with this Charter all municipal powers, functions, rights, privileges, and immunities of every name and nature whatsoever.

Section 1.11. Corporate Boundaries.

(a) The corporate boundaries of the City of Clarkesville shall be described and set forth in Appendix A attached hereto;

(b) The city council may provide for changes in Appendix A by ordinance to reflect lawful changes in the corporate boundaries.

Section 1.12. Powers and Construction.

The corporate powers of the government of the City of Clarkesville to be exercised by the governing authority shall include the following:

(a) This city shall have all powers possible for a city to have under the present or future constitution and laws of this state as fully and completely as though they were specifically enumerated in this charter. This city shall have all the powers of self-government not otherwise prohibited by this charter or by general law.

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

Section 1.13. Examples of Powers

(a) Animal Regulations.

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

(b) Appropriations and Expenditures.

To make appropriations for the support of the government of the city; to authorize the expenditure of money for any purposes authorized by this charter and for any purpose for which a municipality is authorized by the laws of the State of Georgia; and to provide for the payment of expenses of the city;

(c) Building Regulation.

To regulate and to license the erection and construction of buildings and all other structures; to adopt building, housing, plumbing, fire safety, electrical, gas, and heating and air conditioning codes; and to regulate all housing, and building trades;

(d) Business Regulation and Taxation.

To levy and to provide for the collection of regulatory fees and taxes on privileges, occupations, trades and professions as authorized by Title 48 of the Official Code of Georgia Annotated, or other such applicable laws as are or may hereafter be enacted; to permit and regulate the same; to provide for the manner and method of payment of such regulatory fees and taxes; and to revoke such permits after due process for failure to pay any city taxes or fees;

(e) Condemnation.

To condemn property, inside or outside the corporate limits of the city, for present or future use and for any corporate purpose deemed necessary by the governing authority, utilizing procedures enumerated in Title 22 of the Official Code of Georgia Annotated, or such other applicable laws as are or may hereafter be enacted;

(f) Contracts.

To enter into contracts and agreements with other governmental entities and with private persons, firms and corporations;

(g) Emergencies.

To establish procedures for determining and proclaiming that an emergency situation exists within or without the city, and to make and carry out all reasonable provisions deemed necessary to deal with or meet such an emergency for the protection, safety, health or well-being of the citizens of the city;

(h) Environmental Protection.

To protect and preserve the natural resources, environment and vital areas of the city, the region, and the state through the preservation and improvement of air quality, the restoration and maintenance of water resources, the control of erosion and sedimentation, the management of stormwater and establishment of a stormwater utility, the management of solid and hazardous waste, and other necessary actions for the protection of the environment;

(i) Fire Regulations.

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

(j) Garbage Fees.

To levy, fix, assess, and collect a garbage, refuse and trash collection and disposal, and other sanitary service charge, tax, or fee for such services as may be necessary in the operation of the city from all individuals, firms, and corporations residing in or doing business therein benefiting from such services; to enforce the payment of such charges, taxes or fees; and to provide for the manner and method of collecting such service charges;

(k) General Health, Safety and Welfare.

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

(l) Gifts.

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

(m) Health and Sanitation.

To prescribe standards of health and sanitation and to provide for the enforcement of such standards;

(n) Jail Sentences.

To provide that persons given jail sentences in the city's court may work out such sentences in any public works or on the streets, roads, drains and other public property in the city, to provide for commitment of such persons to any jail, to provide for the use of pretrial diversion and any alternative sentencing allowed by law, or to provide for commitment of such persons to any county work camp or county jail by agreement with the appropriate county officials;

(o) Motor Vehicles.

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

(p) Municipal Agencies and Delegation of Power.

To create, alter or abolish departments, boards, offices, commissions and agencies of the city, and to confer upon such agencies the necessary and appropriate authority for carrying out all the powers conferred upon or delegated to the same;

(q) Municipal Debts.

To appropriate and borrow money for the payment of debts of the city and to issue bonds for the purpose of raising revenue to carry out any project, program or venture authorized by this charter or the laws of the State of Georgia;

(r) Municipal Property Ownership.

To acquire, dispose of, lease, and hold in trust or otherwise, any real, personal, or mixed property, in fee simple or lesser interest, inside or outside the property limits of the city;

(s) Municipal Property Protection.

To provide for the preservation and protection of property and equipment of the city, and the administration and use of same by the public; and to prescribe penalties and punishment for violations thereof;

(t) Municipal Utilities.

To acquire, lease, construct, operate, maintain, sell and dispose of public utilities, including but not limited to a system of waterworks, sewers and drains, sewage disposal, stormwater management, gas works, electric light plants, cable television and

other telecommunications, transportation facilities, public airports, and any other public utility; and to fix the taxes, charges, rates, fares, fees, assessments, regulations and penalties, and to provide for the withdrawal of service for refusal or failure to pay the same;

(u) Nuisance.

To define a nuisance and provide for its abatement whether on public or private property;

(v) Penalties.

To provide penalties for violation of any ordinances adopted pursuant to the authority of this charter and the laws of the State of Georgia;

(w) Planning and Zoning.

To provide comprehensive city planning for development by zoning; and to provide subdivision regulation and the like as the city council deems necessary and reasonable to insure a safe, healthy, and aesthetically pleasing community;

(x) Police and Fire Protection.

To exercise the power of arrest through duly appointed police officers, and to establish, operate, or contract for a police and a firefighting agency;

(y) Public Hazards: Removal.

To provide for the destruction and removal of any building or other structure which is or may become dangerous or detrimental to the public;

(z) Public Improvements.

To provide for the acquisition, construction, building, operation and maintenance of public ways, parks and playgrounds, recreational facilities, cemeteries, markets and market houses, public buildings, libraries, public housing, airports, hospitals, terminals, docks, parking facilities, or charitable, cultural, educational, recreational, conservation, sport, curative, corrective, detentional, penal and medical institutions, agencies and facilities; and to provide any other public improvements, inside or outside the corporate limits of the city; to regulate the use of public improvements; and for such purposes, property may be acquired by condemnation under Title 22 of the Official Code of Georgia Annotated, or such other applicable laws as are or may hereafter be enacted;

(aa) Public Peace.

To provide for the prevention and punishment of loitering, disorderly conduct, drunkenness, riots, and public disturbances;

(bb) Public Transportation.

To organize and operate such public transportation systems as are deemed beneficial;

(cc) Public Utilities and Services.

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

(dd) Regulation of Roadside Areas.

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

(ee) Retirement.

To provide and maintain a retirement plan and other employee benefit plans and programs for officers and employees of the city;

(ff) Roadways.

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

(gg) Sewer Fees.

To levy a fee, charge, or sewer tax as necessary to assure the acquiring, constructing, equipping, operating, maintaining, and extending of a sewage disposal plant and sewerage system, and to levy on those to whom sewers and sewerage systems are made available a sewer service fee, charge or sewer tax for the availability or use of the sewers; to provide for the manner and method of collecting such service charges and for enforcing payment of the same; and to charge, impose and collect a sewer connection fee or fees to those connected with the system;

(hh) Solid Waste Disposal.

To provide for the collection and disposal of garbage, rubbish and refuse, and to regulate the collection and disposal of garbage, rubbish and refuse by others; and to provide for the separate collection of glass, tin, aluminum, cardboard, paper, and other recyclable materials, and to provide for the sale of such items;

(ii) Special Areas of Public Regulation.

To regulate or prohibit junk dealers, the manufacture and sale of intoxicating liquors; to regulate the transportation, storage and use of combustible, explosive and inflammable materials, the use of lighting and heating equipment, and any other business or situation which may be dangerous to persons or property; to regulate and control the conduct of peddlers and itinerant traders, theatrical performances, exhibitions, and shows of any kind, by taxation or otherwise; to license and tax professional fortunetelling, palmistry, and massage parlors; and to restrict adult bookstores to certain areas;

(jj) Special Assessments.

To levy and provide for the collection of special assessments to cover the costs for any public improvements;

(kk) Taxes: Ad Valorem.

To levy and provide for the assessment, valuation, revaluation, and collection of taxes on all property subject to taxation;

(ll) Taxes: Other.

To levy and collect such other taxes as may be allowed now or in the future by law;

(mm) Taxicabs.

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

(nn) Urban Redevelopment.

To organize and operate an urban redevelopment program;

(oo) Other Powers.

To exercise and enjoy all other powers, functions, rights, privileges and immunities necessary or desirable to promote or protect the safety, health, peace, security, good

order, comfort, convenience, or general welfare of the city and its inhabitants; and to exercise all implied powers necessary or desirable to carry into execution all powers granted in this charter as fully and completely as if such powers were fully stated herein; and to exercise all powers now or in the future authorized to be exercised by other municipal governments under other laws of the State of Georgia; and no listing of particular powers in this charter shall be held to be exclusive of others, nor restrictive of general words and phrases granting powers, but shall be held to be in addition to such powers unless expressly prohibited to municipalities under the Constitution or applicable laws of the State of Georgia.

Section 1.14. Exercise of Powers.

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

ARTICLE II. GOVERNING BODY

Section 2.10. Form of Government.

The government of the City of Clarkesville shall be vested in a mayor and city council, said council to be composed of five councilmembers chosen as hereinafter provided.

Section 2.11. Terms and Qualifications of Office.

The Mayor and members of the city council shall serve for terms of 4 years and until their respective successors are elected and qualified. No person shall be eligible to serve as Mayor or councilmember unless that person shall have been a resident of the city for 12 months prior to the date of election of Mayor or members of the council; each shall continue to reside therein during that member's period of service and to be registered and qualified to vote in municipal elections of this city and meet the qualification standards required for members of the Georgia House of Representatives as are now or may in the future be prescribed by the Georgia Constitution.

Section 2.12. Vacancy; Forfeiture of Office; Filling of Vacancies.

(a) The office of mayor or councilmember shall become vacant upon the incumbent's death, resignation, forfeiture of office or removal from office in any manner authorized by this Charter or the laws of the State of Georgia.

(b) The mayor or any councilmember shall forfeit their office if he or she: (1) lacks at any time during the term of office any qualifications of the office as prescribed by this Charter or the laws of the State of Georgia; (2) willfully and knowingly violates any

express prohibition of this Charter; or (3) is convicted of a crime involving moral turpitude.

(c) A vacancy in the office of mayor or councilmember shall be filled for the remainder of the unexpired term, if any, by appointment by the city council or those members remaining if less than 12 months remains in the unexpired term. If such vacancy occurs 12 months or more prior to the expiration of the term of that office, it shall be filled for the remainder of the unexpired term by a special election, as provided for in Section 5.14 of this charter and in accordance with Titles 21 and 45 of the Official Code of Georgia Annotated, or other such laws as are or may hereafter be enacted.

(d) This provision shall also apply to a temporary vacancy created by the suspension from office of the mayor or any councilmember.

Section 2.13. Compensation and Expenses.

The mayor and councilmembers shall receive as compensation for their services an amount prescribed by ordinance passed by the council in conformity with the laws of the State of Georgia. The mayor and councilmembers shall be entitled to receive their actual and necessary expenses incurred in the performance of their duties of office.

Section 2.14. Prohibitions.

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

(b) Except as authorized by law, no member of the council shall hold any other elective municipal office or municipal employment in the City of Clarkesville during the term for which he or she was elected.

(c) Neither the mayor nor any councilmember shall vote upon, sign or veto any ordinance, resolution, contract or other matter in which he or she is personally interested.

Section 2.15. Inquiries and Investigations.

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

Section 2.16. General Power and Authority of the City Council.

(a) Except as otherwise provided by law or by this Charter, the city council shall be vested with all the powers of government of the City of Clarkesville provided in Article I.

(b) In addition to all other powers conferred on it by law, the city council shall have the authority to adopt and provide for the execution of such ordinances, resolutions, rules and regulations, not inconsistent with this Charter, the Constitution and the laws of the State of Georgia, which it shall deem necessary, expedient or helpful for the peace, good order, protection of life and property, health and welfare, sanitation, comfort, convenience, prosperity or well-being of the inhabitants of the City of Clarkesville and may enforce such ordinances, resolutions, rules and regulations by imposing penalties for violation thereof.

(c) The city council may, by ordinance create, change, alter, abolish, or consolidate offices, agencies and departments of the city and may assign additional functions to any of the offices, agencies and departments expressly provided for by this Charter.

Section 2.17. Eminent Domain.

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

Section 2.18. Organization meeting.

The city council shall meet for organization on the date and at the time of the first regular meeting in January following each regular election. The meeting shall be called to order by the incumbent mayor or the city clerk and the oath of office shall be administered to all newly elected officials of the city as follows:

"I, _____do solemnly swear that I will well and truly perform the duties of mayor (or member of the council, as the case may be) of the City of Clarkesville to The best of my skill and ability, without favor or affection; that I will adopt such measures, rules and regulations as in my judgment shall be best calculated to promote the welfare of the inhabitants of said city, so help me God."

Each newly elected official shall subscribe the oath and file it with the city clerk who shall record it in the minutes of the meeting.

Section 2.19. Regular and Special Meetings.

(a) The city council shall hold regular meetings at such times and places as shall be prescribed by ordinance.

(b) Special meetings of the city council may be held on call of the mayor or three members of the city council. Notice of such special meetings shall be served on all other members personally, or by telephone personally, at least 48 hours in advance of the meeting. Such notice to councilmembers shall not be required if the mayor and all councilmembers are present when the special meeting is called. Such notice of any special meeting may be waived by a councilmember in writing before or after such a meeting, and attendance at the meeting shall also constitute a waiver of notice on any business transacted in such councilmembers presence. Only the business stated in the call may be transacted at the special meeting.

(c) All meetings of the city council shall be public to the extent required by law and notice to the public of special meetings shall be made fully as is reasonably possible as provided by section 50-14-1 of the Official Code of Georgia Annotated, or other such applicable laws as are or may hereafter be enacted.

Section 2.20. Rules of Procedure.

(a) The city council shall adopt its rules of procedure and order of business consistent with the provisions of this Charter and shall provide for the keeping of a journal of its proceedings, which shall be a public record.

Section 2.21. Quorum; Voting.

(a) The Mayor or Mayor Pro Tem and three councilmembers shall constitute a quorum and shall be authorized to transact business of the city council. Voting on the adoption of ordinances shall be by voice vote and the vote shall be recorded in the journal, but any member of the city council shall have the right to request a roll call vote and such vote shall be recorded in the journal. Except as otherwise provided in this charter, the affirmative vote of three (3) councilmembers shall be required for the adoption of any ordinance, resolution, or motion.

(b) No member of the city council shall abstain from voting on any matter properly brought before the council for official action except when such councilmember has a conflict of interest which is disclosed in writing prior to or at the meeting and made a part of the minutes. Any member of the city council present and eligible to vote on a matter and refusing to do so for any reason other than a properly disclosed and recorded conflict of interest shall be deemed to have acquiesced or concurred with the members of the majority who did vote on the question involved.

Section 2.22. Enactment of Ordinances.

(a) Except as herein provided, every official action of the city council which is to become law shall be by ordinance. Each proposed ordinance shall be introduced in writing and in the form required for final adoption. No ordinance shall contain a subject which is not

expressed in its title. The enacting clause shall be: "Be it ordained by the city council of Clarkesville....." Any ordinance which repeals or amends an existing ordinance shall set forth the ordinance sections or subsections to be repealed or amended.

(b) An ordinance may be introduced by any city councilmember and read at a regular or special meeting of the city council. Ordinances shall be considered and adopted or rejected by the city council in accordance with the rules which it shall establish. Every ordinance which becomes law shall be signed by the mayor.

Section 2.23. Action Requiring An Ordinance.

Acts of the city council which have the force and effect of law shall be enacted by ordinance.

Section 2.24. Emergencies.

(a) To meet a public emergency affecting life, health, property or public peace, the city council may convene on call of the mayor or two councilmembers and promptly adopt an emergency ordinance, but such ordinance may not levy taxes; grant, renew or extend a franchise; regulate the rate charged by any public utility for its services; or authorize the borrowing of money except for loans to be repaid within 30 days. An emergency ordinance shall be introduced in the form prescribed for ordinances generally, except that it shall be plainly designated as an emergency ordinance and shall contain, after the enacting clause, a declaration stating that an emergency exists, and describing the emergency in clear and specific terms. An emergency ordinance may be adopted, with or without amendment, or rejected at the meeting at which it is introduced, but the affirmative vote of at least the majority of councilmembers shall be required for adoption. It shall become effective upon adoption or at such later time as it may specify. Every emergency ordinance shall automatically stand repealed 30 days following the date upon which it was adopted, but this shall not prevent reenactment of the ordinance in the manner specified in this section if the emergency still exists. An emergency ordinance may also be repealed by adoption of a repealing ordinance in the same manner specified in this section for adoption of emergency ordinances.

(b) Such meetings shall be open to the public to the extent required by law and notice to the public of emergency meetings shall be made as fully as is reasonably possible in accordance with section 50-14-1 of the Official Code of Georgia Annotated, or such other applicable laws as are or may hereafter be enacted.

Section 2.25. Codes of Technical Regulation.

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

each adopted code of technical regulations, as well as the adopting ordinance, shall be authenticated and recorded by the clerk pursuant to Section 2.22.

(b) Copies of any adopted code of technical regulations shall be made available by the clerk for distribution or for purchase at a reasonable price.

Section 2.26. Authentication, Recording and Codification of Ordinances.

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

(b) The city council may provide for the preparation of a general codification of all ordinances of the city having the force and effect of law. The general codification may be adopted by the council by ordinance, and if so adopted, shall be known as "The Code of the City of Clarkesville, Georgia." All ordinances enacted subsequent to the adoption of the code shall be incorporated therein.

Section 2.27. City Manager; Appointment; Qualifications; Compensation.

The city council shall appoint a city manager for an indefinite term and shall fix the manager's compensation. The manager shall be appointed solely on the basis of executive and administrative qualifications. He or she need not be a resident of the city or state at the time of his or her appointment, but shall reside within Habersham County while in office

Section 2.28. Removal of City Manager.

(a) The city council may remove the manager from office in accordance with the following procedures:

(1) The city council shall adopt by affirmative vote of a majority of all its members a preliminary resolution which must state the reasons for removal and may suspend the manager from duty for a period not to exceed 45 days. A copy of the resolution shall be delivered promptly to the manager.

(2) Within five (5) days after a copy of the resolution is delivered to the manager, the manager may file with the city council a written request for a public hearing. This hearing shall be held within 30 days after the request is filed. The manager may file with the council a written reply not later than five (5) days before the hearing. At the hearing, the manager shall have the right to be represented by counsel, to present evidence, and to cross-examine any witnesses against him or her.

(3) If the manager has not requested a public hearing within the time specified in paragraph (2) above, the city council may adopt a final resolution for removal, which may be made effective immediately, by an affirmative vote of a majority of all its members. If the manager has requested a public hearing, the city council may adopt a

final resolution for removal, which may be made effective immediately, by an affirmative vote of a majority of all its members at any time after the public hearing.

(b) The city manager may be removed from office with cause. If removed without cause, he or she shall be entitled to receive his or her regular salary for a period of 30 days from the effective date of the final resolution of removal.

(c) The city manager shall give 30 days written notice of resignation or forfeit accumulated vacation payout.

Section 2.29. Acting City Manager.

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

Section 2.30. Powers and Duties of the City Manager.

The city manager shall be the chief operating officer of the city. The manager shall be responsible to the city council for the administration of all city affairs placed in the manager's charge by or under this charter. As the chief executive and administrative officer, the manager shall:

(a) appoint and, when the manager deems it necessary for the good of the city, suspend or remove all city employees and administrative officers the manager appoints, except as otherwise provided by law or personnel ordinances adopted pursuant to this charter. The manager may authorize any administrative officer who is subject to the manager's direction and supervision to exercise these powers with respect to subordinates in that officer's department, office or agency;

(b) direct and supervise the administration of all departments, offices and agencies of the city, except as otherwise provided by this charter or by law;

(c) attend all city council meetings and shall have the right to take part in discussion but may not vote;

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

(e) prepare and submit the annual operating budget and capital budget to the city council;

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

(g) make such other reports as the city council may require concerning the operations of city departments, offices and agencies subject to the manager's direction and supervision;

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

(i) perform other such duties as are specified in this charter or as may be required by the city council.

Section 2.31. Council Interference with Administration.

Except for the purpose of inquiries and investigations under Section 2.15, the mayor and city council or its members shall deal with city officers and employees who are subject to the direction and supervision of the manager solely through the manager, and neither the mayor or city council nor its members shall give orders to any such officer or employee, either publicly or privately.

Section 2.32. Powers and Duties of Mayor.

The mayor shall be the chief executive officer of the City of Clarkesville. He or she shall possess all of the executive and administrative powers granted to the city under the Constitution and laws of the State of Georgia, and all the executive and administrative powers contained in this Charter. The mayor shall:

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

(b) Vote as a member of the council only at such times as are necessarily to break a tie or deadlock of the city council;

(c) Be the official head of the city for the service of process and for ceremonial purposes;

(d) Have power to administer oaths and to take affidavits;

(e) Sign all written contracts entered into by the council on behalf of the city and all other contracts and instruments executed by the city which by law are required to be in writing;

(f) See that all laws and ordinances of the city are faithfully executed;

(g) Perform other duties as may be required by law, this Charter or ordinance.

Section 2.33. Submission of Ordinance to the Mayor; Veto Power.

1) Every ordinance adopted by the city council shall be presented promptly by the clerk to the mayor.

2) The mayor, within four calendar days of receipt of an ordinance, shall return it to the clerk with or without his or her approval, or with his or her disapproval. If the ordinance has been approved by the mayor, it shall become law upon its return to the clerk; if the ordinance is neither approved nor disapproved, it shall become law at twelve o'clock noon on the tenth calendar day after its adoption; if the ordinance is disapproved, the mayor shall submit to the city council through the clerk a written statement of his or her reasons for his or her veto. The clerk shall record upon the ordinance the date of its delivery to and receipt from the mayor.

3) Ordinances vetoed by the mayor shall be presented by the clerk to the city council at its next meeting and should the city council then or at its next general meeting adopt the ordinance by an affirmative vote of three members, it shall become law.

Section 2.34. Position of Mayor Pro Tem.

During the absence or physical or mental disability of the mayor for any cause, the mayor pro tem, or in the mayor pro tem's absence or disability for any reason, any one of the councilmembers chosen by a majority vote of the city council, shall be clothed with all the rights and privileges of the mayor and shall perform the duties of the office of the mayor so long as such absence or disability shall continue. Any such absence or disability shall be declared by majority vote of all councilmembers. The mayor pro tem or selected councilmember shall sign all contracts and ordinances in which the mayor has a disqualifying financial interest as provided in Section 2.14. When acting as mayor, the mayor pro tem shall continue to have only one vote as a member of the council.

Section 2.35. Election of Mayor; Forfeiture; Compensation.

The mayor shall be elected and serve for a term of 4 years and until a successor is elected and qualified. The mayor shall be a qualified elector of this city and shall have been a resident of the city for 12 months prior to the election. The mayor shall continue to reside in this city during the period of service. The mayor shall forfeit the office on the same grounds and under the same procedure as for councilmembers. The compensation of the mayor shall be established in the same manner as for councilmembers.

ARTICLE III. ORGANIZATIONAL AND GENERAL PROVISIONS

Section 3.10. Administrative and Service Departments.

(a) Except as otherwise provided herein, the city council, by ordinance, may establish, abolish, merge, consolidate offices, or leave vacant positions of employment, departments and agencies of the city, as they shall deem necessary, for the proper administration of the affairs and government of the city; shall prescribe the functions and duties of existing departments offices, and agencies or of any departments, offices and agencies hereinafter created or established; may provide that the same person

shall fill any number of offices and positions of employment; and may transfer or change the function or duties of offices, positions of employment, departments and agencies of the city.

(b) The operations and responsibilities of each department now or hereafter established in the city shall be distributed among such divisions or bureaus as may be provided by ordinances of the city council. Each department shall consist of such officers, employees, and positions as may be provided by this Charter or by ordinance, and shall be subject to the general supervision and guidance of the city council.

(c) Except as otherwise provided by this Charter, the directors of departments and other appointed officers of the city shall serve at the pleasure of the appointing authority. Vacancies occurring in an appointive office shall be filled in the same manner as prescribed by this Charter for an original appointment.

(d) Except as otherwise provided by law, the directors of departments and other appointed officers of the city shall be appointed solely on the basis of their respective administrative and professional qualifications.

(e) All appointive officers and directors of departments shall receive such compensation as prescribed by ordinance of the city council.

Section 3.11. Boards, Commissions and Authorities.

(a) All members of boards, commissions and authorities of the city shall be appointed by the city council for such terms of office and such manner of appointment as provided by ordinance, except where other appointing authority, term of office or manner of appointment is prescribed by this Charter or by applicable State law. The city manager shall be an ex officio member of all such boards, commissions and authorities and shall act as liaison officer between them and the Mayor and the council.

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

(c) No member of any board, commission or authority shall assume office until he or she shall have executed and filed with the clerk of the city an oath obligating himself or herself to faithfully and impartially perform the duties of his or her office, such oath to be prescribed by ordinance of the council and administered by the mayor.

(d) Any member of any board, commission or authority may be removed from office, for cause by a two-thirds vote of the members of the council.

(e) Members of boards, commissions and authorities may receive such compensation and expenses in the performance of their official duties as prescribed by ordinance.

(f) The qualifications required of members of boards, commissions and authorities shall be as prescribed by ordinance.

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

Section 3.12. City Attorney.

The city council shall appoint a city attorney, together with such assistant city attorneys as may be authorized, and shall provide for the payment of such attorney or attorneys for services rendered to the city. The city attorney shall be responsible for providing for the representation and defense of the city in all litigation in which the city is a party; may be the prosecuting officer in the municipal court; shall attend the meetings of the council as directed; shall advise the city council, mayor, and other officers and employees of the city concerning legal aspects of the city's affairs; and shall perform such other duties as may be required by virtue of the person's position as city attorney. The city attorney is not a public official of the city and does not take an oath of office. The city attorney shall at all times be an independent contractor. A law firm, rather than an individual, may be designated as the city attorney.

Section 3.13. Personnel Administration.

The city council may adopt ordinances, rules and regulations consistent with this Charter dealing with: (1) the method of employment selection and probationary periods of employment; (2) adoption and administration of a position classification and pay plan including methods of promotion and application of service ratings thereto, and transfer of employees within the classification plan; (3) hours of work, vacation, sick leave, and other leaves of absence, overtime pay, and the order and manner in which layoff shall be effected; and (4) such other personnel policies and procedures as may be necessary to provide for adequate and systematic handling of the personnel affairs of the city.

Section 3.14. Personnel Policies.

All employees serve at-will and may be removed from office at any time unless otherwise provided by ordinance.

Section 3.15. City Clerk.

The city council shall appoint a city clerk who shall not be a councilmember. The city clerk shall keep a journal of the proceedings of the city council, maintain in a safe place all records and documents pertaining to the affairs of the city and perform such other duties as may be required by law or as the council or city manager may direct.

ARTICLE IV. JUDICIAL BRANCH

Section 4.10. Municipal Court.

There is hereby created a court to be known as the Municipal Court of the City of Clarkesville 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 and authority to enforce its judgments by the imposition of such penalties as may be provided by law.

Section 4.11. Chief Judge; Associate Judge.

(a) The municipal court shall be presided over by a chief judge and such part-time, full-time, or stand-by judges as shall be provided by ordinance.

(b) No person shall be qualified or eligible to serve as a judge on the municipal court unless that person shall have attained the age of 21 years, shall be a member of the State Bar of Georgia and shall possess all qualifications required by law. All judges shall be appointed by the city council and shall serve until a successor is appointed and qualified.

(c) Compensation of the judges shall be fixed by city council.

(d) Judges serve at-will and may be removed from office at any time by the city council unless otherwise provided by ordinance.

(e) Before assuming office, each judge shall take an oath, given by the mayor, that the judge will honestly and faithfully discharge the duties of the office to the best of that person's ability and without fear, favor or partiality. The oath shall be entered upon the minutes of the city council journal required in Section 2.18.

Section 4.12. Convening.

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.

Section 4.13. Jurisdiction; Powers.

(a) The municipal court is specifically vested with all of the jurisdiction and powers throughout the entire area of the City of Clarkesville granted by State laws generally to mayor's, recorder's and police courts, and particularly by such laws as authorize abatement of nuisances.

(b) The municipal court shall have authority to punish those in its presence for contempt, by a fine not to exceed two hundred dollars ($200.00) or imprisonment not to exceed ten (10) days. The municipal court may fix punishment for any offense within its jurisdiction not exceeding the maximum allowed by state law.

(c) The municipal court shall have authority to establish a schedule of fees to defray the cost of operation and shall be entitled reimbursement of the cost of meals, transportation and caretaking of prisoners bound over to superior courts for violation of State law.

(d) The municipal court shall have authority to establish bail and recognizances to ensure the presence of those charged with violations before said court, and shall have discretionary authority to accept cash or personal or real property as surety for appearance of persons charged with violations. Whenever any person shall give bail for their appearance and shall fail to appear at the time fixed for trial, their bond shall be forfeited by the judge presiding at such time, and an execution issued thereon by serving the defendant and their sureties with a rule nisi, at least two (2) days before a hearing on the rule nisi. In the event that cash or property is accepted in lieu of bond for security for the appearance of a defendant at trial and if such defendant fails to appear at the time and place fixed for trial the cash so deposited shall be on order of the judge declared forfeited to the City of Clarkesville, or the property so deposited shall have a lien against it for the value forfeited, which lien shall be enforceable in the same manner and to the same extent as a lien for city property taxes.

(e) The municipal court shall have the authority to bind prisoners over to the appropriate court when it appears by probable cause that a State law has been violated.

(f) The municipal court shall have the same authority as superior courts to compel the production of evidence in the possession of any party; to enforce obedience to its orders, judgments and sentences; and to administer such oaths as are necessary.

(g) The municipal court may compel the presence of all parties necessary to a proper disposal of each case by the issuance of summons, subpoena and warrants which may be served as executed by any officer as authorized by this Charter or by State law.

(h) Each judge of the municipal court shall be authorized to issue warrants for the arrest of persons charged with offenses against any ordinance of the city, and each judge of the municipal court shall have the same authority as a magistrate of the state to issue warrants for offenses against state laws committed within the city.

Section 4.14. Certiorari.

The right of certiorari from the decision and judgment of the municipal court shall exist in all criminal cases and ordinance violation cases, and such certiorari shall be obtained under the sanction of a judge of the Superior Court of Habersham County under the laws of the State of Georgia regulating the granting and issuance of writs of certiorari.

Section 4.15. Rules for Court.

With the approval of the city council, the judge shall have full power and authority to make reasonable rules and regulations necessary and proper to secure the efficient and successful administration of the municipal court; provided, however, that the city council may adopt in part or in total the rules and regulations applicable to municipal courts. The rules and regulations made or adopted shall be filed with the city clerk, shall be available for public inspection, and, upon request, a copy shall be furnished to all defendants in municipal court proceedings at least 48 hours prior to said proceedings.

Section 4.16. Appeal.

Any person convicted of an offense in the municipal court shall have the right to appeal to the Superior Court of Habersham County. The right of appeal and procedures pertaining to appeal bonds to the superior court from the municipal court shall be in the same manner and under the same procedure as generally prescribed for appeals and appeal bonds from the probate court.

ARTICLE V. ELECTIONS AND REMOVAL

Section 5.10. Regular Elections.

(a) An election shall be held on the first Tuesday in November of each year to elect councilmembers to fill the terms of those councilmembers whose terms expire at the end of that year and to fill the office of mayor in those years in which his or her term of office expires.

(b) Nothing contained herein shall affect the offices of those persons presently serving as mayor and councilmembers at the date of approval of this Act, but said officers shall serve out the remainder of their offices as hereinbefore may have been provided by law. (1985 Ga. Laws, page 4562)

Section 5.11. Applicability of General Laws.

The procedures and requirements for election of all elected officials of the City of Clarkesville as to primary, special and general elections shall be held and conducted in accordance with the Georgia Election Code (Title 21, Chapter 2 of the Official Code of Georgia Annotated) as now or hereafter amended.

Section 5.12. Special Elections; Vacancies.

In the event that the office of [mayor or] councilmember shall become vacant as provided in Section 2.12 of this charter, the city council or those remaining shall order a special election to fill the balance of the unexpired term of such official; provided, however, if such vacancy occurs within 12 months of the expiration of the term of that office, the city council or those remaining shall appoint a successor for the remainder of the term. In all other respects, the special election shall be held and conducted in

accordance with the Georgia Election Code, Chapter 2 of Title 21 of the Official Code of Georgia Annotated, as now or hereafter amended.

Section 5.13. Other Provisions.

Except as otherwise provided by this charter, the city council shall, by ordinance, prescribe such rules and regulations it deems appropriate to fulfill any options and duties under the Georgia Election Code.

Section 5.14. Grounds for Removal.

The mayor or any councilmember shall be subject to removal from office for any one or more of the following causes:

(a) Misfeasance or malfeasance in office;

(b) Conviction of a crime involving moral turpitude;

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

(d) Willful violation of any express prohibition of this Charter;

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

(f) Failure for any other cause to perform the duties of office as required by this Charter or by law.

Section 5.15. Procedures for Removal.

Removal of an elected officer from office may be accomplished by one of the following methods:

(a) By action of two-thirds vote of the entire membership of the city council. In the event an elected officer sought to be removed by the action of the city council, such officer shall be entitled to a written notice specifying the grounds for removal and to a public hearing which shall be held not less than ten (10) days from the service of such written notice. Any elected officer sought to be removed from office as herein provided shall have the right of appeal from the decision of the council to the Superior Court of Habersham County such appeal shall be governed by the same rules as govern appeals to the superior court from the probate court.

(b) By information filed in the Superior Court of Habersham County as provided by law.

(c) By recall as now or hereafter provided by Georgia law.

1) Following a hearing at which an impartial panel shall render a decision. In the event an elected officer is sought to be removed by the action of the city council, such officer shall be entitled to a written notice specifying the ground or grounds for removal and to

a public hearing which shall be held not less than ten (10) days after the service of such written notice. The city council shall provide by ordinance for the manner in which such hearings shall be held. Any elected officer sought to be removed from office as herein provided shall have the right of appeal from the decision of the city council to the Superior Court of Habersham County. Such appeal shall be governed by the same rules as govern appeals to the superior court from the probate court.

2) By an order of the Superior Court of Habersham County following a hearing on a complaint seeking such removal brought by any resident of the City of Clarkesville.

ARTICLE VI. FINANCIAL AND FISCAL MATTERS

Section 6.10. Property Taxes.

All property subject to taxation for State or county purposes, assessed as of January 1 in each year, shall be subject to the property tax levied by the City of Clarkesville.

Section 6.11. Tax Levy.

The city council may assess, levy and collect an ad valorem tax on all real and personal property within the corporate limits of the city that is subject to such taxation by the State and county. This tax is for the purpose of raising revenues to defray the costs of operating the city government; providing governmental services; for the repayment of principal and interest on general obligations; and for any other public purpose as determined by the city council in its discretion.

Section 6.12. Millage Rates; Due Dates; Payment Methods.

The city council by ordinance shall establish a millage rate not in excess of 10 mills for general operating funds, for the city property tax; a due date; and in what length of time those taxes must be paid. The city council, by ordinance, shall establish a millage rate for the city property tax, a due date, and the time period within which these taxes must be paid. The city council, by ordinance, may provide for the payment of these taxes by two installments or in one lump sum, as well as authorize the voluntary payment of taxes prior to the time when due.

Section 6.13. Collection of Delinquent Taxes.

The city council may provide by ordinance for the collection of delinquent taxes by fi.fa. issued by the city clerk and executed by any police officer of the city under the same procedure provided by the laws governing execution of such process from the superior court, or by the use of any other available legal processes and remedies. A lien shall exist against all property upon which city property taxes are levied, as of the assessment date of each year which lien shall be superior to all other liens, except that it shall have equal dignity with those of Federal, State or county taxes. In cases of hardship, the council

shall have discretionary authority to waive any and all penalties imposed by this Charter on delinquent taxes, fees, assessments or on other amounts due to the city.

Section 6.14. License Fees, Occupational Taxes, Excise Taxes.

The city council by ordinance shall have full power to levy such license fees and specific or occupation taxes upon the residents of the City of Clarkesville, both individual and corporate, and on all those who transact or offer to transact business therein, or who practice or offer to practice any profession or calling therein, as the city council may deem expedient for the public health, safety, benefit, convenience or advantage of the city; to classify businesses, occupations, professions or callings for the purpose of such taxation in any way which may be lawful; to require such persons to procure licenses; to compel the payment of such licenses by execution or any other lawful manner; and to make laws and regulations necessary or proper to carry out the powers herein conferred, and to prescribe penalties for the violation thereof. The city council shall have full power and authority to levy an excise tax not prohibited by general law.

Section 6.15. Franchises.

(a) The city council shall have the power to grant franchises for the use of this city's streets and alleys for the purposes of railroads, street railways, telephone companies, electric companies, electric membership corporations, cable television and other telecommunications companies, gas companies, transportation companies and other similar organizations. The city council shall determine the duration, terms, whether the same shall be exclusive or nonexclusive, and the consideration for such franchises; provided, however, no franchise shall be granted for a period in excess of 35 years and no franchise shall be granted unless the city receives just and adequate compensation therefor. The city council shall provide for the registration of all franchises with the city clerk in a registration book kept by the clerk. The city council may provide by ordinance for the registration within a reasonable time of all franchises previously granted.

(b) If no franchise agreement is in effect, the city council has the authority to impose a tax on gross receipts for the use of this city's streets and alleys for the purposes of railroads, street railways, telephone companies, electric companies, electric membership corporations, cable television and other telecommunications companies, gas companies, transportation companies and other similar organizations.

Section 6.16. Sewer Service Charges.

The city council by ordinance shall have the right, power and authority to assess and collect fees, charges, and tolls for sewer services rendered both within and without the corporate limits of the City of Clarkesville, to provide for the cost and expense of providing for the collection and disposal of sewage through the sewerage facilities of the city. If unpaid, said sewer service charge shall constitute a lien against any property of persons served, which lien shall be second in priority only to

liens for county and city property taxes and shall be enforceable in the same manner and under the same remedies as a lien for city property taxes.

Section 6.17. Sanitary and Health Service Charges.

The city council shall have authority by ordinance to provide for, to enforce, to levy and to collect the cost of sanitary and health services necessary in the operation of the city from all individuals, firms and corporations, residing in or doing business in the city benefiting from such service. Such authority shall include the power to assess, levy and collect annual or monthly sanitary taxes or fees in such amount or amounts, and based upon and in accordance with such classification of property and sanitary service or service provided, as may be fixed by ordinance. Said sanitary taxes and the assessment thereof shall be a charge and lien against the real estate in respect to which said taxes are so assessed, and the owner or owners thereof, superior to all other liens, except liens for county and city property taxes, and shall be enforceable in the same manner and under the same remedies as a lien for city property taxes.

Section 6.18. Special Assessments.

The city council shall have power and authority to assess all or part of the cost of constructing, reconstructing, widening, or improving any public way, street, sidewalk, curbing, gutters, sewers, or other utility mains and appurtenances against the abutting property owners, under such terms and conditions as may be prescribed by ordinance. Such special assessments shall become thirty days after their due dates, shall thereupon be subject, in addition to fi.fa. charges to a penalty of ten percent and shall thereafter be subject to interest at the rate of nine percent per annum from date due until paid. A lien shall exist against the abutting property superior to all other liens, except that it shall be of equal dignity with liens for county and city property taxes, and said lien shall be enforceable by the same procedures and under the same remedies as provided for in this article for city property taxes.

Section 6.19. Construction; Other Taxes and Fees.

The City of Clarkesville shall be empowered to levy any other tax or fee allowed now or thereafter by State law and the specific mention of any right, power or authority in this Article shall not be construed as limiting in any way the general powers of the city to govern its local affairs.

Section 6.20. Transfer of Executions.

The city clerk shall be authorized to assign or transfer any fi.fa. or execution issued for any tax or for any street, sewer, or other assessment in the same manner and to the same extent as provided by Georgia law regarding sales and transfers of fi.fas. Such transfer or assignment, when made, shall vest the purchaser or transferee with all right, title and interest as provided by Georgia law governing sales and transfer of fi.fas. Provided that, upon levy of execution and sale of property pursuant to such tax fi.fa. whether assigned, transferred or executed by the city, the owner of such property, in fee simple or lesser interest, shall not lose his or her right to redeem the property in accord with the requirements of

redemption of property sold under State or county ad valorem tax fi.fas., as said requirements now exist or as may be hereinafter provided by law.

Section 6.21. General Obligation Bonds.

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

Section 6.22. Revenue Bonds.

Revenue bonds may be issued by the city council as State law now or hereafter provides. Such bonds are to be paid out of any revenue produced by the project, program or venture for which they were issued.

Section 6.23. Short-Term Loans.

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

Section 6.24. Lease-Purchase Contracts.

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

Section 6.25. Fiscal Year; Preparation and Adoption of Operating Budget.

(a) The council shall set the fiscal year by ordinance. Said fiscal year shall constitute the budget year and the year for financial accounting and reporting unless otherwise provided by State or Federal law.

(b) On or before a date fixed by the council prior to the beginning of each fiscal year, the council shall adopt a budget for the ensuing fiscal year. The council shall provide by ordinance the procedures and requirements for the preparation and execution of said annual budget. The budget and all supporting documents shall be filed in the office of the city clerk and shall be open to public inspection.

Section 6.26. Action by City Council on Budget.

(a) The city council may amend the operating budget proposed by the city manager; except, that the budget as finally amended and adopted must provide for all expenditures

required by state law or by other provisions of this charter and for all debt service requirements for the ensuing fiscal year, and the total appropriations from any fund shall not exceed the estimated fund balance, reserves, and revenues.

(b) The city council by ordinance shall adopt the final operating budget for the ensuing fiscal year not later than the 31st day of October of each year. If the city council fails to adopt the budget by this date, the amounts appropriated for operation for the current fiscal year shall be deemed adopted for the ensuing fiscal year on a month-to-month basis, with all items prorated accordingly until such time as the city council adopts a budget for the ensuing fiscal year. Adoption of the budget shall take the form of an appropriations ordinance setting out the estimated revenues in detail by sources and making appropriations according to fund and by organizational unit, purpose, or activity as set out in the budget preparation ordinance adopted pursuant to Section 6.24.

(c) The amount set out in the adopted operating budget for each organizational unit shall constitute the annual appropriation for such, and no expenditure shall be made or encumbrance created in excess of the otherwise unencumbered balance of the appropriations or allotment thereof, to which it is chargeable.

Section 6.27. Tax Levies.

The city council shall levy by ordinance such taxes as are necessary. The taxes and tax rates set by such ordinances shall be such that reasonable estimates of revenues from such levy shall at least be sufficient, together with other anticipated revenues, fund balances and applicable reserves, to equal the total amount appropriated for each of the several funds set forth in the annual operating budget for defraying the expenses of the general government of this city.

Section 6.28. Changes in Appropriations.

The city council by ordinance may make changes in the appropriations contained in the current operating budget, at any regular meeting, special or emergency meeting called for such purpose, but any additional appropriations may be made only from an existing unexpended surplus.

Section 6.29. Capital Budget.

(a) On or before the date fixed by the city council but no later than the 31st day of October of each fiscal year, the city manager shall submit to the city council a proposed capital improvements plan with a recommended capital budget containing the means of financing the improvements proposed for the ensuing fiscal year. The city council shall have power to accept, with or without amendments, or reject the proposed plan and proposed budget. The city council shall not authorize an expenditure for the construction of any building, structure, work or improvement, unless the appropriations for such project are included in the capital budget, except to meet a public emergency as provided in Section 2.24.

(b) The city council shall adopt by ordinance the final capital budget for the ensuing fiscal year not later than the 31st day of October of each year. No appropriation provided for in a prior capital budget shall lapse until the purpose for which the appropriation was made shall have been accomplished or abandoned; provided, however, the [mayor][city manager] may submit amendments to the capital budget at any time during the fiscal year, accompanied by recommendations. Any such amendments to the capital budget shall become effective only upon adoption by ordinance.

Section 6.30. Independent Audit.

There shall be an annual independent audit of all city accounts, funds and financial transactions by a certified public accountant selected by the city council. The audit shall be conducted according to generally accepted auditing principles. Any audit of any funds by the state or federal governments may be accepted as satisfying the requirements of this charter. Copies of annual audit reports shall be available at printing costs to the public.

Section 6.31. Contracting Procedures.

No contract with the city shall be binding on the city unless: (a) it is in writing; (b) it is drawn by or submitted to and reviewed by the city attorney, and as a matter of course, is signed by the city attorney to indicate such drafting or review; and (c) it is made or authorized by the city council and such approval is entered in the city council journal of proceedings pursuant to Section 2.21.

Section 6.32. Centralized Purchasing.

The city council shall by ordinance prescribe procedures for a system of centralized purchasing for the city.

Section 6.33. Sale and Lease of City Property.

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

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

(c) Whenever in opening, extending or widening any street, avenue, alley or public place of the city, a small parcel or tract of land is cutoff or separated by such work from a larger tract or boundary of land owned by the city, the city council may authorize the city manager to sell and convey said cut-off or separated parcel or tract of land to an abutting or adjoining property owner or owners where such sale and conveyance facilitates the enjoyment of the highest and best use of the abutting owner's property.

Included in the sales contract shall be a provision for the rights-of-way of said street, avenue, alley or public place. Each abutting property owner shall be notified of the availability of the property and given the opportunity to purchase said property under such terms and conditions as set out by ordinance. All deeds and conveyances heretofore and hereafter so executed and delivered shall convey all title and interest the city has in such property, notwithstanding the fact that no public sale after advertisement was or is hereafter made.

ARTICLE VII. GENERAL PROVISIONS

Section 7.10. Bonds for Officials.

The officers and employees of the City of Clarkesville, both elective and appointive, shall execute such surety or fidelity bonds in such amounts and upon such terms and conditions as the city council may from time to time require by ordinance or as may be provided by law.

Section 7.11. Existing Ordinances and Regulations.

Existing ordinances and regulations of the City of Clarkesville not inconsistent with the provisions of this Charter shall continue in effect until they have been repealed, modified, or amended by the council. The existing rules and regulations of departments or agencies of the City of Clarkesville not inconsistent with the provisions of this Charter shall continue in effect until they have been repealed, modified, or amended.

Section 7.12. Section Captions.

The captions to the several sections of this Charter are informative only and are not to be considered as a part thereof.

Section 7.13. Penalties.

The violation of any provision of this Charter, for which penalty is not specifically provided for herein, is hereby declared to be a misdemeanor and shall be punishable by a fine of not more than One Thousand Dollars ($1,000.00) or by imprisonment not to exceed 12 months, or both such fine and imprisonment.

Section 7.14. Existing Personnel and Officers.

Except as specifically provided otherwise by this charter, all personnel and officers of the city and their rights, privileges and powers shall continue beyond the time this charter takes effect for a period of ___ days before or during which the existing city council shall pass a transition ordinance detailing the changes in personnel and appointive officers required or desired and arranging such titles, rights, privileges and powers as may be required or desired to allow a reasonable transition.

Section 7.15. Pending Matters.

Except as specifically provided otherwise by this charter, all rights, claims, actions, orders, contracts and legal or administrative proceedings shall continue and any such ongoing work or cases shall be completed by such city agencies, personnel or offices as may be provided by the city council.

Section 7.16. Construction.

(a) Section captions in this charter are informative only and are not to be considered as a part thereof.

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

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

Section 7.17. Severability.

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

Section 7.18. Repealer.

An Act incorporating the City of Clarkesville in the County of Habersham, approved _____, 20__ (Ga.L. ___, p. ___), is hereby repealed in its entirety and all amendatory acts thereto are likewise repealed in their entirety. All other laws and parts of laws in conflict with this charter are hereby repealed.

Section 7.19. Effective Date.

This charter shall become effective on _____.

Appendix A

Commencing at the southeast end of Soque River bridge next to said city; thence up said river to a point opposite the original northwest corner, between lots two and twenty-three to where the river intersects the original land lot line between lots one and twenty-four, in the 12th land district of said county; thence to said corner between lots two and twenty-three and along the line between said lots Nos. two and twenty-three and three and twenty-two in said district and continuing in the same direction along the original land lot line between land lots two and twenty-three, three and twenty-two and four and twenty-one of said district until it intersects the southeast side of the right-of-way of the Tallulah Falls Railway; thence along the southeast side of said right-of-way until the southeast side of said right-of-way intersects the original land lot line between lots forty and forty-one, in the 10th land district of said county; thence north 30 west along said original lot line by the northwest corner thereof and continuing in the same direction along the o1·iginal land lots lines twenty-one, and eighteen and nineteen in the l0th district of said county until the point is reached where the original land lot line between lots eighteen and nineteen in the l0th district as aforesaid intersects the eastern Soque River; thence up said river along the eastern bank thereof to the Southerly side of the right-of-way of Georgia Highway No. 115; thence along said right-of-way in a Northwesterly direction to the center of said river; thence North 82' 0' 41" West 623.4 feet along said right-of-way to concrete monument corner; thence South 00 21' East 199.9 feet to a concrete monument corner; thence South 37'18' East 323 feet to a concrete monument; thence continuing South 37'18' East 56.1feet to corner in the center of Soque River; thence North 39'56' East 190.4 feet up Soque River; thence North 67'15' East 151.3 feet up Soque River; thence North 30' East 251.2 feet up Soque River to the right-of-way of Georgia Highway No. 115; thence in a Southeasterly direction along said right-of-way to the Easterly bank of said river; thence up the Easterly bank of said river to the place of Beginning.

Appendix

A. Zoning (This Ordinance adopted 4/7/2008)

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B. Zoning Procedures. . . . ***(This ordinance adopted 4/7/2008)***

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CHARTER COMPARATIVE TABLE
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This table shows the location of the Georgia Laws cited in the Charter and any amendments thereto.

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1981	4562	1.10--7.13
1985	4562	5.10

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; history notes; editor's notes and references.
Sec. 1-4. Effect of repeal of ordinances.
Sec. 1-5. Severability of parts of Code.
Sec. 1-6. Amendments to Code; effect of new ordinances; amendatory language.
Sec. 1-7. Altering Code.
Sec. 1-8. Supplementation of Code.
Sec. 1-9. Liability for violations by corporations and other associations.
Sec. 1-10. Provisions considered continuations of existing ordinances.
Sec. 1-11. Certain ordinances not affected by Code.
Sec. 1-12. General penalty.

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

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

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

In the construction of this Code and of all ordinances and resolutions, the following rules shall govern, unless such construction would be inconsistent with the manifest intent of the city council:

Bond. When a bond is required by law, an undertaking in writing, without seal, is sufficient; and in all bonds where the names of the obligors do not appear in the bond, but are subscribed thereto, they shall be bound thereby.

Charter. "Charter" shall mean the Charter of the City of Clarkesville, Georgia.

City. "City" shall mean the City of Clarkesville, Georgia.

City council. "City council" shall mean the city council of the City of Clarkesville, Georgia.

Code. "Code" shall mean The Code of the City of Clarkesville, Georgia, as designated in section 1-1.

Computation of time. Except as otherwise provided by time period computations specifically applying to other laws, when a period of time measured in days, weeks, months, years or other measurements of time except hours is prescribed for the exercise of any privilege or the discharge of any duty, the first day shall not be counted, but the last day shall be counted; and, if the last day falls on Saturday or Sunday, the party having such privilege or duty shall have through the following Monday to exercise the privilege or to discharge the duty.

When the last day prescribed for such action falls on a public and legal holiday as set forth in O.C.G.A. § 1-4-1, the party having the privilege or duty shall have through the next business day to exercise the privilege or to discharge the duty. When the period of time prescribed is less than seven days, intermediate Saturdays, Sundays and legal holidays shall be excluded in the computation.

Corporate limits. "Corporate limits" shall mean the corporate limits of the City of Clarkesville.

County. Whenever the words "county," "the county" or "this county" are used they shall refer to Habersham County.

Court. "Court" shall mean the municipal court provided by law for the punishment of offenders against the laws or ordinances of the city, whether it shall be the court now constituted or a court hereafter established pursuant to law.

Delegation of authority. Whenever a provision requires the head of a department or an official of the city to do some act or perform some function, it shall be construed to authorize the head of such department or the official to designate, delegate and authorize subordinates to do the required act or perform the required function, unless the terms of the provisions designate otherwise.

Gender. The masculine gender shall include the feminine and neuter.

Interpretation. In the interpretation and application of any provision of this Code, it shall be held to be the minimum requirements adopted for the promotion of the public health, safety, comfort, convenience and general welfare. Where any provision of the Code imposes greater restrictions upon the subject matter than the general provision imposed by the Code, the provision imposing the greater restriction or regulation shall be deemed to be controlling.

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

Month, year. "Month" and "year" shall mean calendar month and calendar year unless otherwise provided.

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

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

Number. The singular or plural number shall each include the other, unless expressly excluded.

Oath. "Oath" includes affirmation.

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

Or, and. "Or" may be read as "and," and "and" may be read as "or," if the sense requires it.

Person. "Person" shall extend and be applied to firms, partnerships, associations, organizations, corporations and bodies politic, or any combination thereof, as well as to natural persons.

Preceding, following. "Preceding" and "following" mean generally next before and next after unless the context requires a different significance.

Property. "Property" includes real and personal property.

Schedule of fees and charges. "Schedule of fees and charges" means the official consolidated list compiled and published by the city which contains rates for utility and other public enterprises, fees, deposit amounts and various charges as determined from time to time by the city council, an official copy of which is maintained in the office of the city clerk where it is available for reference and review during normal business hours.

Shall, may. "Shall" is mandatory; "may" is permissive.

Signature or *subscription.* A "signature" or "subscription" includes the mark of all illiterate or infirm persons.

State. Whenever the words "state," "the state" or "this state" are used they shall refer to the State of Georgia.

Street. "Street" shall include streets, sidewalks, avenues, boulevards, roads, alleys, lanes and all other public highways in the city, unless otherwise provided.

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

Tense. The present or past tense shall include the future.

Writing. "Writing" includes printing and all numerals, and also pictures, illustrations and printed or written designs.

Cross References: Definitions generally, § 1-2.

State Law References: Computation of time, O.C.G.A. § 1-3-1; statutory definitions and rules of construction, O.C.G.A. § 1-3-1 et seq.; construction of definitions, O.C.G.A. § 1-3-2; meaning of certain words, O.C.G.A. § 1-3-3.

Sec. 1-3. Catchlines of sections; history notes; editor's notes and references.

(a) The catchlines of the several sections of this Code printed in boldface type 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 notes appearing in parentheses after each section and the references and editor's

notes scattered throughout the Code are for the benefit of the user of the Code and shall have no legal effect.

State Law References: Notes and catchlines of code sections not part of law, O.C.G.A. § 1-1-7.

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

(a) The repeal of an ordinance shall not revive any ordinance in force before or at the time the repealed ordinance 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 proceeding pending at the time of the repeal, for an offense committed or matter covered under the repealed ordinance.

Sec. 1-5. Severability of parts of Code.

It is hereby 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, invalid or unenforceable by the valid judgment or decree of a court of competent jurisdiction, such unconstitutionality, invalidity or unenforceability shall not affect any of the remaining phrases, clauses, sentences, paragraphs and sections of this Code.

State Law References: Severability, O.C.G.A. § 1-1-3.

Sec. 1-6. Amendments to Code; effect of new ordinances; amendatory language.

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

(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: "That section _____ of The Code of the City of Clarkesville, Georgia, is hereby amended to read as follows: . . . ." The new provisions shall then be set out in full as desired.

(c) If a new section not heretofore existing in the Code is to be added, the following language shall be used: "That The Code of the City of Clarkesville, Georgia, is hereby amended by adding a section (division, article or chapter) to be numbered _____, which section (division, article or chapter) reads as follows: . . . ." The new section, division, article or chapter shall then be set out in full as desired.

(d) All sections, divisions, articles, chapters or provisions desired to be repealed must be specifically repealed by section, division, article or chapter number, as the case may be.

Sec. 1-7. Altering Code.

It shall be unlawful for any person to change or amend, by additions or deletions, any part or portion of

this Code or to insert or delete pages or portions thereof, or to alter or tamper with such Code in any manner whatsoever which will cause the law of the city to be misrepresented thereby. Any person violating this section shall be punished as provided in section 1-12.

State Law References: Altering, falsifying or stealing public records unlawful, O.C.G.A. § 45-11-1.

Sec. 1-8. Supplementation of Code.

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

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

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

(1) Organize the ordinance material into appropriate subdivisions.

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

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

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

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

Sec. 1-9. Liability for violations by corporations and other associations.

(a) Any violation of this Code by any officer, agent or other person acting for or employed by any corporation or unincorporated association or organization, while acting within the scope of his office or employment, shall in every case also be deemed to be a violation by the corporation, association or organization.

(b) Any officer, agent or other person acting for or employed by any corporation or unincorporated association or organization shall be subject and liable to punishment as well as the corporation or unincorporated association or organization for the violation by it of any provisions of this Code, where the violation was the act or omission, or the result of the act, omission or order, of any such person.

Sec. 1-10. Provisions considered continuations of existing ordinances.

The provisions appearing in this Code, so far as they are the same as ordinances adopted prior to this Code and included in such Code, shall be considered as 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 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.

(2) Any ordinance or resolution promising or guaranteeing the payment of money for the city or authorizing the issuance of any bonds of the city or any evidence of the city's indebtedness.

(3) Any contract or obligation assumed by the city.

(4) Any ordinance fixing the salary of any city officer or employee.

(5) Any right or franchise granted by the city.

(6) Any ordinance dedicating, naming, establishing, locating, relocating, opening, widening, paving, etc., any street or public way in the city.

(7) Any appropriation ordinance.

(8) Any ordinance which, by its own terms, is effective for a stated or limited term.

(9) Any ordinance providing for local improvements and assessing taxes therefor.

(10) Any zoning ordinance.

(11) Any ordinance dedicating or accepting any subdivision plat.

(12) Any ordinance describing or altering the boundaries of the city.

(13) The administrative ordinances or resolutions of the city not in conflict or inconsistent with the provisions of this Code.

(14) Any ordinance levying or imposing taxes not included in this Code.

(15) Any ordinance establishing or prescribing street grades in the city.

No such ordinance shall be construed to revive any ordinance or part thereof that has been repealed by a subsequent ordinance which is repealed by this chapter; and all such ordinances are hereby recognized as continuing in full force and effect to the same extent as if set out at length in this Code.

Sec. 1-12. General penalty.

For any city ordinances which do not provide for penalties for violation thereof, any violator of any such ordinance shall be fined in an amount not to exceed $100.00 per violation. Each day continuing in violation shall constitute a new violation.

(Ord. No. 65, § 1, 1-3-1994)

State Law References: Imposition of additional penalty for certain drug offenses, O.C.G.A. § 15-21-100; imposition of additional penalty for offense of driving under the influence of alcohol or drugs, O.C.G.A. § 15-21-112; additional penalty to be imposed in criminal and traffic cases to provide training to law enforcement officers and prosecuting officials, O.C.G.A. § 15-21-73; additional penalty assessments for jail construction and staffing, O.C.G.A. § 15-21-93; punishment for misdemeanors generally, O.C.G.A. § 17-10-3; deposit of drivers license for violations of laws pertaining to traffic and motor vehicles, O.C.G.A. § 17-6-11; limitations on home rule powers of municipalities with respect to duplication of state criminal offenses, O.C.G.A. § 36-35-6(a)(2); confinement of violators of municipal ordinances, O.C.G.A. § 36-30-8; payments to peace officers annuity and benefit fund from revenues collected from fines and fees, O.C.G.A. § 47-17-60 et seq.; alternative punishments for violations involving a traffic offense, O.C.G.A. § 17-10-3(e); authorization of municipal courts to impose any punishment up to the maximum specified by general law, O.C.G.A. § 36-32-1(c); jurisdiction of municipal courts over misdemeanor traffic offenses, O.C.G.A. § 40-13-21(a); preemption of ordinances to general law, Ga. Const. art. III, § VI, ¶ IV.

Chapter 2

ADMINISTRATION*

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* **Editors Note:** Pursuant to ordinance number 48 adopted July 13, 1982, the city established a retirement plan for city employees. The subject ordinance set forth the joint trust agreement and the contract for the administration of such plan by the city and the Joint Municipal Employees Benefit System as provided by O.C.G.A. § 47-5-1 et seq. An official copy of the retirement plan and amendments is on file in the office of the city clerk.

The city's handbook of personnel policies is compiled and published separately by the city. An official copy of the handbook is on file in the office of the city clerk.

Cross References: Buildings and building regulations, ch. 14; businesses, ch. 18; taxation, ch. 50; zoning procedures, app. B.

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

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Sec. 2-139. Powers and duties.

ARTICLE I.

IN GENERAL

Sec. 2-1. Provisions incorporated by reference.

The county subdivision regulations prepared by the Georgia Mountains Planning and Development Commission are by this reference incorporated herein and made a part of this Code in as full and complete a manner and with like effect as though set out in full herein.
(Ord. of 7-21-1986)

Sec. 2-2. Polling place designated.

The city hall is designated as the polling place for all elections held for the city.

State Law References: Duty of municipal governing authority to fix location of polling places, O.C.G.A. § 21-2-265; Georgia Municipal Election Code, O.C.G.A. § 21-2-1 et seq.

Secs. 2-3--2-35. Reserved.

ARTICLE II.

CITY COUNCIL*

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* **State Law References:** Provisions applicable to counties and municipalities, O.C.G.A. § 36-60-1 et seq.; provisions applicable to counties and municipal corporations, O.C.G.A. § 36-80-1 et seq.; code of ethics for government service, O.C.G.A. § 45-10-1; offenses involving public records, documents and other items, O.C.G.A. § 45-11-1; inspection of public records, O.C.G.A. § 45-6-6; duty of incumbent to deliver office property to successor, O.C.G.A. § 45-6-7 et seq.; records as public property, O.C.G.A. § 50-18-102; records management plans for local governments, O.C.G.A. § 50-18-90; records management plan required, O.C.G.A. § 50-18-99(e); supplemental powers of municipalities and counties enumerated, Ga. Const. art. IX, § II, ¶ III.

Sec. 2-36. Open meetings.

All meetings of the city council shall be held in accordance with the provisions of O.C.G.A. § 50-14-1 et seq. The public shall at all times be afforded access to all meetings other than executive sessions.

State Law References: Meetings to be open to public, O.C.G.A. § 50-14-1.

Sec. 2-37. Regular meetings.

The regular meetings of the city council shall be held at 6:30 p.m., on the first Monday of each month. All regular meetings shall be held in the council chambers at city hall. A notice containing the information described in this section shall be posted and maintained in a conspicuous place available to the general public at city hall. No official action may be taken on any issue at a work session which may be called by the mayor or three councilmembers.

Charter References: Regular and special meetings, § 2.21.

State Law References: Due notice requirements for other than regular meetings, O.C.G.A. § 50-14-1(d); requirement to prescribe the time, place and dates of regular meetings of governing authority, O.C.G.A. § 50-14-1(d).

Sec. 2-38. Procedural rules.

Except as otherwise provided in this division, Robert's Rules of Order, Newly Revised, shall generally govern the conduct of city council meetings.

Charter References: Rules of procedure, § 2.22.

Sec. 2-39. Executive session.

Executive sessions of the council may be held for the purpose of conducting business excepted from public access requirements as authorized by O.C.G.A. §§ 50-14-2 and 50-14-3. Where a meeting of the council is devoted in part to matters within the authorized exceptions to public access requirements, any portion of the meeting not subject to any such exceptions shall be open to the public. No executive session shall be held except pursuant to a majority affirmative vote of the council taken in a public meeting. The minutes of the public meeting shall reflect the names of the councilmembers present, those voting for the executive session and the specific reasons for the executive session. Minutes of the executive session may be maintained by the city clerk at the direction of the mayor. Any such minutes shall be maintained in a confidential file and shall not be subject to disclosure, except that disclosures of such portions of minutes identifying real estate to be acquired by the council may only be delayed until such time as the acquisition of the real estate has been completed, terminated, or abandoned or court proceedings have been initiated. Voting on any issue shall not take place during a closed meeting but shall be done, if appropriate, in open session following the executive session.

State Law References: Exemptions from open meeting requirements, O.C.G.A. § 50-14-3.

Sec. 2-40. Quorum.

A quorum must be present for conducting meetings of the council. It is the duty of the mayor to enforce this rule. Any councilmember may raise a point of order directed to the mayor if he believes that a quorum is not present. If, during the course of a meeting, a councilmember leaves and a quorum no longer exists, the meeting cannot continue. If a quorum is not attained within 30 minutes, the meeting will be rescheduled by the mayor with the approval of the councilmembers present.

Charter References: Quorum, § 2.23.

Sec. 2-41. Agenda.

The city clerk shall prepare an agenda of subjects to be acted on for each meeting. An agenda shall be made available to the councilmembers at least one business day prior to the day of a regularly scheduled meeting. A copy of the agenda and a list of those members present shall be made available to the public for

inspection within two business days of the adjournment of any meeting.

Sec. 2-42. Minutes.

The city clerk shall promptly record the minutes for each council meeting. The minutes serve as the official written record of the council meeting and shall be open for public inspection once approved as official by the council but in no case later than immediately following the next regular meeting of the board. The minutes shall specify the names of councilmembers present at the meeting, a description of each motion or other proposal made at the meeting, the councilmember who proposed each motion, the councilmember who seconded each motion, and a record of all votes. In the case of a roll call vote, the name of each councilmember voting for or against a proposal shall be recorded. It shall be presumed that a councilmember has voted in the affirmative unless the minutes show otherwise. More detailed information may be included in the minutes at the request of the council. The council must approve the minutes before they can be considered as an official record of the board. A copy of the minutes from the previous meeting shall be distributed to the councilmember at least one business day before the following meeting. The minutes of the previous meetings shall be corrected and approved by the council at the beginning of each regular meeting. A majority vote is required for approval. Conflicts about the content of the minutes shall be decided by majority vote. Upon being approved, the minutes shall be attested to by the city clerk.

Sec. 2-43. Order of business.

All regular council meetings should follow an established order of business. The order is as follows:

(1) Call to order;

(2) Approval of minutes;

(3) Invited guests;

(4) Reports from committees and departments;

(5) Old business;

(6) New business;

(7) Public comments; and

(8) Adjournment.

Sec. 2-44. Decorum.

All councilmembers must conduct themselves in a professional and respectful manner. A councilmember is not allowed to speak at a meeting until he has been recognized by the mayor. All comments made by a councilmember shall address the motion being discussed. The mayor shall enforce these rules of decorum. If a councilmember believes that a rule has been broken, he can raise a point of order. A second is not required. The mayor can rule on the question or he can allow the council to debate the issues and decide the

issue by majority vote.

Sec. 2-45. Public participation.

Public participation in meetings of the council shall be permitted in accordance with the following provisions of this section:

(1) *Public comments.* The final agenda item of the meetings shall be reserved for comments from the public relating to matters that were either on the published agenda, added to the agenda or the subject of discussion by the mayor and city council at the meeting. Individuals from the public will be allotted five minutes to make their comments and their comments must be limited to their announced topic. Public comment on matters that were neither on the agenda nor discussed at the meeting will not be allowed without a majority vote of the council. These limits can be waived by a majority vote of the council.

(2) *Public participation on agenda items.* Public comment on an agenda item at the time the item is being considered by the council is allowed. These comments must be limited to the subject that is being debated. Members of the public may speak for five minutes and may only speak once. This privilege or these limits can be waived by a majority vote of the council. Anyone wishing to speak at any council meeting must be recognized by the mayor before addressing the council.

(3) *Decorum.* Members of the public shall not make inappropriate or offensive comments at a council meeting and are expected to comply with the rules of decorum that are established for the mayor and council. Individuals who violate any rules of the council may be ruled out of order by the mayor or on a point of order made by a councilmember. A majority vote of the council will rule on the point of order. Any individual who violates the rules of decorum may be removed from the meeting at the direction of the mayor.

(4) *Public hearings.* The council may schedule public hearings for the purpose of soliciting public comment on any subject of interest to the council. Hearings may be held immediately prior to, during, or following a meeting of the council or at such other places and times as the council may determine. No official action shall be taken at any such public hearing unless it is conducted during a regular or called meeting of the council.

Sec. 2-46. Committees.

The mayor may create committees of members of the council to study any issue before the council. Any such committees may make recommendations to the council, but no committee shall be empowered to make any final decisions on any matter before it for consideration. In addition to councilmembers, committees may include other city officials, staff or citizens at large. Whenever a committee is created, its duties, any limitation of the scope of its duties, and the times, places and periods of time for which the committee may operate shall be determined by the mayor.

Secs. 2-47--2-75. Reserved.

ARTICLE III.

BOARDS, COMMISSIONS AND AUTHORITIES*

* **Charter References:** Boards, commissions and authorities, § 3.11.
State Law References: Code of ethics for members of boards, commissions and authorities, O.C.G.A. § 45-10-3.

DIVISION 1.

GENERALLY

Secs. 2-76--2-95. Reserved.

DIVISION 2.

TREE BOARD

Sec. 2-96. Definitions.

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

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

Street trees means trees, shrubs, bushes, and all other woody vegetation on land lying between property lines on either side of all streets, avenues, or ways within the city.
(Ord. No. 46, § I, 4-4-1988)
Cross References: Definitions generally, § 1-2.

Sec. 2-97. Penalty for violation of division.

Any person violating any provision of this division shall be, upon conviction or a plea of guilty, subject to punishment as provided in section 1-12.
(Ord. No. 46, § XVII, 4-4-1988)

Sec. 2-98. Creation; composition.

There is hereby created and established a City Tree Board for the City of Clarkesville, Georgia, referred to throughout this division as the "tree board," which shall consist of five members, citizens and residents of this city, who shall be appointed by the mayor with the approval of the city council.
(Ord. No. 46, § II, 4-4-1988)

Sec. 2-99. Terms; vacancies.

The term of the five persons to be appointed by the mayor shall be three years except that the term of two of the members appointed to the first board shall be for only one year, and the term of two of the members

of the first board shall be for two years. If a vacancy shall occur during the term of any member, his successor shall be appointed for the unexpired portion of the term.
(Ord. No. 46, § III, 4-4-1988)

Sec. 2-100. Compensation.

Members of the tree board shall serve without compensation.
(Ord. No. 46, § IV, 4-4-1988)

Sec. 2-101. Administration of plan for care of trees and shrubs.

It shall be the responsibility of the tree board to study, investigate, council and develop and/or update annually, and administer a written plan for the care, preservation, pruning, planting, replanting, removal or disposition of trees and shrubs in parks, along streets and in other public areas. Such plan will be presented annually to the city council and upon their acceptance and approval shall constitute the official comprehensive city tree plan for the city. The tree board, when requested by the city council, shall consider, investigate, make finding, report and recommend upon any special matter of question coming within the scope of its work.
(Ord. No. 46, § V, 4-4-1988)

Sec. 2-102. Officers; rules; quorum.

The tree board shall choose its own officers, make its own rules and regulations and keep a journal of its proceedings. A majority of the members shall be a quorum for the transaction of business.
(Ord. No. 46, § VI, 4-4-1988)

Sec. 2-103. Spacing of street trees regulated.

The spacing of street trees will be in accordance with the following: Small trees, 30 feet; medium trees, 40 feet; and large trees, 50 feet; except in special plantings designed or approved by a landscape architect.
(Ord. No. 46, § VII, 4-4-1988)

Sec. 2-104. Distance of trees from--Curbs or curblines and sidewalks.

The distance trees may be planted from curbs or curblines and sidewalks will be in accordance with the following: Small trees, two feet; medium trees, three feet; and large trees, four feet.
(Ord. No. 46, § VIII, 4-4-1988)

Sec. 2-105. Same--Corners and fireplugs.

No street tree shall be planted closer than 35 feet of any street corner, measured from the point of nearest intersecting curbs or curblines. No street tree shall be planted closer than ten feet of any fireplug.
(Ord. No. 46, § IX, 4-4-1988)

Sec. 2-106. Same--Overhead utility wires or water, sewer or transmission lines.

No street trees may be planted under or within ten lateral feet of any overhead utility wire, or over or

within five lateral feet of any underground water line, sewer line, transmission line or other utility.
(Ord. No. 46, § X, 4-4-1988)

Sec. 2-107. Maintenance of public grounds.

(a) 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 preserve or enhance the symmetry and beauty of such public grounds.

(b) The city tree board 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 is affected with any injurious fungus, insect or other pest. This section does not prohibit the planting of street trees by adjacent property owners.
(Ord. No. 46, § XI, 4-4-1988)

Sec. 2-108. Pruning.

Every owner of any tree overhanging any street or right-of-way within the city shall prune the branches so that such branches shall not obstruct the light from any streetlamp or obstruct the view of any street intersection and so that there shall be a clear space of eight feet above the surface of the street or sidewalk. Such owners shall remove all dead, diseased or dangerous trees, or broken or decayed limbs which constitute a menace to the safety of the public. The city shall have the right to prune any tree or shrub on private property when it interferes with the proper spread of light along the street from a streetlight or interferes with visibility of any traffic control device or sign.
(Ord. No. 46, § XII, 4-4-1988)

Sec. 2-109. Removal of trees; notice.

The city shall have the right to cause the removal of any dead or diseased trees on private property within the city, when such trees constitute a hazard to life and property, or harbor insects or disease which constitute a potential threat to other trees within the city. The city tree board will notify in writing the owners of such trees. Removal shall be done by such owners at their own expense within 60 days after the date of service of the notice. In the event of the failure of the owners to comply with such provisions, the city shall have the authority to remove such trees and charge the cost of removal on the owners' property tax notices.
(Ord. No. 46, § XIII, 4-4-1988)

Sec. 2-110. 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.
(Ord. No. 46, § XIV, 4-4-1988)

Sec. 2-111. Interference with board or its agents.

It shall be unlawful for any person to prevent, delay or interfere with the city tree board, or any of its agents, while engaging in and about the planting, cultivating, mulching, pruning, spraying or removing of any

street trees, park trees or trees on private grounds, as authorized in this division.
(Ord. No. 46, § XV, 4-4-1988)

Sec. 2-112. Review of board's decisions.

The city council shall have the right to review the conduct, acts and decisions of the city tree board. Any person may appeal from any ruling or order of the city tree board to the city council who may hear the matter and make a final decision.
(Ord. No. 46, § XVI, 4-4-1988)

Secs. 2-113--2-135. Reserved.

DIVISION 3.

PLANNING COMMISSION*

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* **State Law References:** Conflicts of interest in zoning actions, O.C.G.A. § 36-67A-1 et seq.; City Business Improvement District Act, O.C.G.A. § 36-43-1 et seq.; redevelopment Powers Law, O.C.G.A. § 36-44-1 et seq.; the Zoning Procedures Law, O.C.G.A. § 36-66-1 et seq.; coordinated and comprehensive planning by counties and municipalities, O.C.G.A. § 36-70-1 et seq.; regional development centers, O.C.G.A. § 50-8-30 et seq.; automatic membership of counties and municipalities in regional development centers, O.C.G.A. § 50-8-33; area planning and development commissions succeeded by regional development centers, O.C.G.A. § 50-8-41; authority to adopt plans and exercise zoning powers, Ga. Const. art. IX, § II, ¶ IV.

Sec. 2-136. Created.

The Clarkesville Planning Commission, referred to in this division as the "planning commission," is hereby created and established as authorized by the General Planning and Zoning Enabling Act of 1957 (1957 Ga. Laws, page 420), and such planning commission shall be organized and empowered as set forth in this division.

Sec. 2-137. Membership. **Amended July 12, 2010**

The planning commission shall consist of five members, who shall be residents of the city, hold no other public office, and be appointed by the mayor. The terms of the members shall be for four years, except that in the appointment of the first planning commission under the terms of this division, the first member shall be appointed for a term of one year, the second member shall be appointed for a term of two years, and the third member shall be appointed for a term of three years. The remaining members shall be appointed for terms of four years each. Any vacancy in membership shall be filled for the unexpired term by the mayor. The mayor and council of the city shall have the authority to remove any member for cause, on written charges, after a public hearing. The mayor shall be an ex-officio member of the planning commission. ~~All members shall serve without compensation but may be reimbursed for actual expenses incurred in connection with their official duties.~~ Members of the Planning Commission will receive $35.00 per month compensation and may be reimbursed for actual expenses incurred in connection with their official duties.

(Ord. No. 7, § 1, 6-29-2004)

Sec. 2-138. Organization; rules; staff; finances.

(a) The planning commission shall elect its chairperson from among its members. The term of the chairperson shall be one year, and he shall be eligible for reelection. The planning commission shall appoint a secretary, who may be an officer or employee of the city. The planning commission shall make its own rules of procedure and determine the time of its meetings. All meetings of the planning commission at which official action is taken shall be open to the public, and all records of the planning commission shall be a public record.

(b) The planning commission may appoint such employees and staff as it may deem necessary for its work and may contract with the state planning commission and city planners and other consultants for such services as it may require. The expenditures of the planning commission, exclusive of gifts, shall not exceed the amounts appropriated for the purpose by the mayor and council.
(Ord. No. 7, § 2, 6-29-2004)

Sec. 2-139. Powers and duties.

From and after the time when the planning commission shall have organized and selected its officers and shall have adopted its rules of procedure, the planning commission shall have all the powers, duties and responsibilities set forth in the General Planning and Zoning Enabling Act of 1957 (1957 Ga. Laws, page 420).
(Ord. No. 7, § 3, 6-29-2004)

The Code of the City of Clarkesville is hereby amended by adding a Chapter to be numbered Chapter 3, which Chapter reads as follows:

CHAPTER 3. - DRUG AND ALCOHOL TESTING

Sec. 1-13-1. Drug and alcohol use prohibited.

Sec. 1-13-2. Employees subject to testing.

Sec. 1-13-3. Drug testing.

Sec. 1-13-4. Alcohol testing.

Sec. 1-13-5. Pre-employment drug and alcohol testing.

Sec. 1-13-6. Employees subject to random drug and alcohol testing.

Sec. 1-13-7. Drug and/or alcohol screening test based on reasonable suspicion.

Sec. 1-13-8. Testing after accidents or injury.

Sec. 1-13-9. Prescription drug use.

Sec. 1-13-10. List of medications.

Sec. 1-13-11. Acknowledgement; notification.

Sec. 1-13-12. Consent.

Sec. 1-13-13. Refusal to consent.

Sec. 1-13-14. Testing procedures.

Sec. 1-13-15. Confidentiality of test results.

Sec. 1-13-16. Disciplinary and termination policy.

Sec. 1-13-17. Employee assessment.

Sec. 1-13-18. Voluntary employee assistance program.

Sec. 1-13-19. Drug and alcohol convictions.

Sec. 1-13-1. - Drug and alcohol use prohibited.

Drug and alcohol use by City of Clarkesville employees during assigned working hours, in government buildings, on government grounds, or otherwise while on government business is prohibited. This shall include the use of illegal substances, the abuse of prescription medications and the use of alcohol.

Sec. 1-13-2. - Employees subject to testing.

For the purposes of this chapter, employees shall be divided into the following categories:

(a) *Category I—Safety-Sensitive Employees.* The following employees are considered to be in safety-sensitive positions:

1. Public Works: All employees whose job duties include maintenance responsibilities for water distribution or waste water collections, operation of any City owned machinery, equipment, or vehicles of any type.

2. Public safety:

a. City of Clarkesville Police Department: All sworn personnel;

b. City of Clarkesville Fire Department: All certified employees;

3. Water and Waste Water Plant: City of Clarkesville Water Plant and Waste Water Plant employees who are responsible for the operation and maintenance of water filtration or waste water control equipment.

(b) *Category II—Other Safety-Sensitive Employees.* For the purposes of this chapter, Category II employees are all other safety-sensitive employees not listed in Category I whose job duties require:

1. Maintenance or operation of a motor vehicle or motorized equipment specifically required to perform the duties of the job; or

2. Operation of a vehicle to transport oneself to do work assigned tasked, including, but not limited to, trips to the post office; or

3. Operation of an assigned vehicle; or

4. If employee receives a car allowance.

(c) *Category III.* For the purposes of this chapter Category III employees are all employees of City of Clarkesville who are not set forth in subsections (a) and (b) hereinabove. Employees in Category III shall be subject to alcohol and drug testing due to reasonable suspicion and after accidents and/or injury requiring medical treatment. Employees in Category III shall be subject to all provisions of this chapter except those set forth in sections 1-13-4(a)(1) through (3) and (c)(1) and (2) and section 1-13-6

Sec. 1-13-3. - Drug testing.

(a) The National Institute of Drug Abuse Test (NIDA) shall be conducted to determine the presence of the following illegal drugs:

Marijuana.

Cocaine.

Opiates (e.g., heroine, morphine, codeine).

Phencyclidine (PCP).

Amphetamines (e.g., racemic, amphetamine, dextroamphetamine, and methampheta-mine).

Any other unlawful or illegal non-prescribed drug

(b) Employees who test positive for drug use shall be subject to disciplinary action up to and including immediate termination.

Sec. 1-13-4. - Alcohol testing.

(a) Employees in Categories I and II are prohibited from:

(1) Reporting to duty or performing safety-sensitive functions with an alcohol concentration level of 0.02.

(2)Consuming alcohol up to eight hours following an accident or until the employee undergoes a post-accident test, whichever comes first.

(3) Consuming alcohol four hours prior to performing safety-sensitive duty.

(b) Employees in Category III are prohibited from:

(1) Reporting to duty or performing their duties with an alcohol concentration level of 0.04 or above. Employees testing 0.04 and above shall be immediately suspended for three days without pay and shall be subject to disciplinary action up to and including termination.

(2) Consuming alcohol up to eight hours following an accident or until the employee undergoes a post-accident test, whichever comes first.

(c) Employees in Categories I and II who have a 0.02 to 0.039 alcohol concentration level shall be immediately removed from performing safety-sensitive duty and assigned a nonsafety-sensitive duty, if available for a minimum of 24 hours and shall have an alcohol concentration level of below 0.02 before being allowed to return to safety-sensitive duty. If a nonsafety-sensitive duty is not available for assignment the employee will be suspended without pay for the remainder of their shift.

(1) Employees in Categories I and II who test 0.02 to 0.039 within one year of the first offense shall be suspended for three days with pay pending termination.

(2) Employees in Categories I and II who have a 0.04 and above alcohol concentration level shall be shall be subject to disciplinary action up to and including immediate termination.

Sec. 1-13-5. - Pre-employment drug and alcohol testing.

All job applicants being considered for employment shall be required to pass a drug and alcohol screening test prior to being hired. All job applicants shall be informed in advance that said testing shall be required.

Sec. 1-13-6. - Employees subject to scheduled and random drug and alcohol testing.

All employees shall be subject to scheduled and random testing for drugs and alcohol. Scheduled drug and alcohol testing as part of an employee fitness for duty examination may be done for all members of an employment category on an annual basis. A computer-based method may be used to select employees for random drug and alcohol testing.

(Ord. of 12-6-94, § 2; Ord. of 1-6-95, § 4)

Sec. 1-13-7. - Drug and/or alcohol screening test based on reasonable suspicion.

(a) *Reasonable suspicion.* Situations that may give rise to a conclusion that an employee is under the influence of drugs and/or alcohol include, but are not limited to the following:

(1) An employee is involved in a physical or verbal altercation on the job.

(2) An employee has an excessive number of incidents or accidents on the job.

(3) An employee exhibits unusual behavior such as slurred speech or unsteady walking or movement on the job.

(4) An employee has an odor of alcohol on their person on the job.

(5) An employee is in possession of alcohol or drugs on the job.

(6) An employee has been arrested for drug related or alcohol related crimes or offenses.

(b) An employee shall be required to submit to alcohol and/or drug testing within two hours when there is suspicion they are under the influence of alcohol and/or drugs during assigned working hours or while otherwise on government duty or in control of government property. If testing cannot be done by this time, the Department Head must document the reason. If testing cannot be done within eight hours of the observation, the test should not be done. Documentation of this decision is required and shall be submitted to the City Manager.

(c) Department Heads who suspect an employee is under the influence of drugs and/or alcohol shall immediately report the incident to the City Manager.

(d) The determination of whether reasonable suspicion exists shall be made by the City Manager or the highest ranking supervisory staff on duty at the time. The facts underlying the determination of reasonable suspicion shall be disclosed to the employee at the time the demand to submit to testing is made.

(e) Following the determination that reasonable suspicion exists, the employee shall be transported to and from the testing site by the employee's supervisor or a designee. If an employee is found to be in violation of these regulations, then following the testing procedure, the person transporting the

employee shall make appropriate arrangements to transport the employee home.

(f) Department Heads shall be required to document in writing, within the next working day, the specific facts, symptoms or observations that formed the basis for their determination that reasonable suspicion existed to warrant the testing of an employee. All documents created in connection with the determination of reasonable suspicion shall be forwarded to the City Manager.

(g) City of Clarkesville shall conduct a training program to assist supervisory personnel in identifying drug and alcohol use by employees. Such training shall be directed toward helping supervisors to recognize the conduct and behavior giving rise to a reasonable suspicion of drug or alcohol use.

Sec. 1-13-8. - Testing after accidents or injury.

Whenever any employee of City of Clarkesville has been involved in an accident, or receives an injury, alcohol and drug testing shall be conducted within eight (8) hours of the accident or incident when:

(a) There is vehicle/equipment damage or bodily injury occurring on public roadways; or

(b) There is a fatality; or

(c) Driver is cited with a traffic violation; or

(d) There is reasonable suspicion to believe that the employee's behavior or appearance may indicate alcohol or drug use; or

(e) When an employee sustains a work-related injury requiring medical treatment.

Sec. 1-13-9. - Prescription drug use.

(a) An employee using prescription medication while on the job shall do so in strict accordance with medical directions. It is the employee's responsibility to notify the prescribing physician of the duties required by the employee's position and to ensure that the physician approves the use of the prescription medication while the employee is performing their duties. The employee shall be responsible for notifying his or her supervisor of the use of any prescribed medications and any restrictions as a result of taking prescribed medication that may affect/prevent the safe performance of the required duties.

(b) The abuse of legally prescribed drugs shall be prohibited. Any employee whose job performance or attendance deficiencies result from abuse shall be shall be subject to disciplinary action up to and including immediate termination.

If an employee's behavior and/or job performance gives rise to a reasonable suspicion that the employee is abusing prescription drugs, the employee may be required to submit to drug testing and must not be permitted to return to duty in accordance with section 1-13-7

Sec. 1-13-10. - List of medications.

Employees and job applicants shall at the time of testing provide a list of those prescriptions and over-the-counter medications that he or she has recently used. The list of medications shall be kept confidential until there has been a test result. The list of medications shall be disclosed only to the medical review officials who will determine whether the positive result was due to the lawful use of any of the listed medications.

Sec. 1-13-11. - Acknowledgement; notification.

Every employee subject to alcohol and drug testing shall be required to sign a form issued by [their] supervisor acknowledging the date, time and location of their test.

Sec. 1-13-12. - Consent.

Before a drug and alcohol test is administered, employees and job applicants will be asked to sign a consent form authorizing the test and permitting release of test results to the employer and the medical officer. The consent form shall provide a space for employees and job applicants to acknowledge that they have been notified of the requirements of this chapter.

Sec. 1-13-13. - Refusal to consent.

(a) *Job applicants.* Any applicant for a job with the City of Clarkesville Government who refuses to consent to a drug and alcohol test shall be denied employment.

(b) *Employees.* Any employee who refuses to sign the consent form or to submit to a drug and alcohol test as required herein shall be subject to disciplinary action up to and including immediate termination.

(c) *No show.* Employees who fail to appear at the designated collection site to take the test when so directed without justification shall be considered a refusal and shall be subject to disciplinary action up to and including immediate termination.

Sec. 1-13-14. - Testing procedures.

(a) All testing procedures shall be administered and accounted for by an approved laboratory and/or medical facility that is operated in compliance with the National Institute of Drug Abuse (NIDA) Guidelines. These procedures and guidelines shall be available for inspection by contacting the City of Clarkesville City Manager.

All NIDA urine drug testing specimens must be collected as "split" specimens. The term "split" specimen means that one urine specimen will be divided into two (2) separately sealed specimen bottles for submission to the laboratory.

(b) Whenever an initial test is found to be positive, an automatic confirmation test will be performed. If result is positive, then that employee has 72 hours to request from the medical review officer that the split sample be sent to a second lab for testing. If the second portion of the sample also tests positive, then the employee shall be subject to disciplinary action up to and including immediate termination. If the second portion produces a negative result, or for any reason the second portion is not available, the test is considered negative and no sanctions shall be imposed.

(c) Evidential Breath Test (EBT). If results of EBT is 0.02 or greater, a confirmation test must be conducted at least 15 minutes, but not more than 20 minutes, after the completion of the initial test.

Sec. 1-13-15. - Confidentiality of test results.

All information from an employee's or job applicant's drug and alcohol test shall be confidential and only available to the Department Head, City Manager, City Clerk, City Attorney and City Council and insurance personnel with a need to know. Disclosure of test results to any other person, agency, or organization shall be prohibited unless written authorization is obtained from the employee, job applicant, court order, or a subpoena. The results of a positive drug or alcohol test shall not be released internally until the results are confirmed.

Sec. 1-13-16. - Disciplinary and termination policy.

(a) *Immediate termination.* The following reasons shall be grounds to recommend immediate termination of an employee:

(1) Distributing controlled substances while on the job.

(2) Operating a government vehicle or motorized equipment while under the influence of drugs and/or alcohol.

(3) Misdemeanor or Felony charges for violation of drug or alcohol laws.

(4) Testing positive for drugs or alcohol while on probation under the provisions of this chapter.

Sec. 1-13-17. - Employee assessment.

Employees who have been terminated under the provisions of this chapter shall be provided with the names, addresses and telephone numbers of substance abuse professionals, counseling and treatment programs that can determine what assistance, if any, the employee may need to help him or her resolve any problems associated with substance abuse. City of Clarkesville shall not be responsible to pay for such evaluation, treatment, rehabilitation, or counseling for said employee.

Sec. 1-13-19. - Drug and alcohol convictions.

(a) Any employee in Category I and II shall be required to report to his or her department director within five (5) working days any charges made under a criminal drug or alcohol law, and any charge made under a drug or alcohol law for which conviction could cause the loss of driving privileges.

(b) The Department Head shall then investigate and make appropriate recommendation to the City Manager.

Adopted and ordained by City Council of the City of Clarkesville this 1st Day of August, 2011.

_____

Terry Greene, Mayor

_____

Attest: Elizabeth Kemp, City Clerk

SEAL

Chapters 4--5

RESERVED

This ordinance adopted 5-3-2010. Repeals previous Ordinance in it's entirety.

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ORDINANCE 2010-1
Amendment 1

AN ORDINANCE TO AMEND AN ORDINANCE FOR THE LICENSING, CONTROL, TAXATION, AND REGULATION OF THE RETAIL PACKAGE SALE OF MALT BEVERAGES AND WINE AND FOR THE RETAIL BY THE DRINK SALE FOR CONSUMPTION ONLY ON THE PREMISES WHERE SOLD OF DISTILLED SPIRITS, MALT BEVERAGES, AND WINE IN CLARKESVILLE, GEORGIA

CHAPTER 6 OF THE CODE OF THE CITY OF CLARKESVILLE GEORGIA IS HEREBY AMENDED AND RESTATED IN ITS ENTIRETY TO READ AS FOLLOWS:

WHEREAS, the citizens of Clarkesville, Georgia approved a referendum for the purpose of determining whether Clarkesville should be authorized to issue licenses to sell distilled spirits for beverage purposes by the drink for consumption only on the premises where sold pursuant to an election held on November 3, 2009; and

WHEREAS, the City Council of Clarkesville, Georgia desires to combat the undesirable secondary effects of businesses where distilled spirits, malt beverages, and wine may be sold for beverage purposes by the drink for consumption only on the premises where sold; and

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

WHEREAS, The City Council of Clarkesville, Georgia has a substantial interest in preserving the quality of life for the citizens of Clarkesville; and

WHEREAS, The City Council of Clarkesville, Georgia desires to establish a comprehensive and consolidated ordinance for the licensing, control, taxation, and regulation of the retail package sale of malt beverages and wine and for the retail sale of distilled spirits, malt beverages, and wine for consumption purposes only on the premises where sold.

NOW, THEREFORE, it is hereby ordained by the City Council of Clarkesville, Georgia that the provisions contained herein shall apply regarding the retail package sale of malt beverages and wine and for the retail sale of distilled spirits, malt beverages, and wine for consumption purposes only on the premises where sold.

CHAPTER 6
ALCOHOLIC BEVERAGES

ARTICLE I. IN GENERAL

Sec. 6-1. License a privilege.

(a) Alcoholic beverages may be sold in the incorporated area of the city under a license granted by the City Council under the terms and conditions provided in this chapter.
(b) All licenses issued pursuant to this chapter shall be a mere grant of privilege to carry on the business during the term of the license, subject to all terms and conditions imposed by this chapter and state law.
(c) All licenses pursuant to this chapter shall have printed on the front these words:
"This license is a mere privilege subject to be revoked and annulled and is subject to any further ordinances that may be enacted."
(d) Any holder of a license issued in accordance with this chapter is required to apply for and obtain an alcoholic beverage license from the state before any sales commence. Additionally, city licensees are required to abide by all applicable state regulations and laws.

Sec. 6-2. Definitions.

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

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

Alcoholic beverage means and includes all alcohol, distilled spirits, beer, malt beverage, wine or fortified wine.

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

Brewpub means any eating establishment in which beer or malt beverages are manufactured or brewed, subject to the barrel production limitation prescribed in O.C.G.A. § 3-5-36 for retail consumption on the premises and dispenses solely in draft form.

City Council means the City Council of Clarkesville, Georgia.

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

Eating establishment means any public place, including a place available for rental by the public, selling prepared food for consumption by the public on the premises with a full service kitchen. A full service kitchen shall consist of a three-compartment pot sink, a stove or grill permanently installed, and a refrigerator, all of which must be approved by the health and fire departments. An eating establishment shall be prepared to serve food every hour the establishment is open, shall have a minimum seating capacity at tables of 25 persons, and shall derive at least 50 percent of the gross receipts annually from the sale of prepared meals or food.

Employee pouring permit means an authorization granted by the city to dispense, sell, serve, take orders for, or mix alcoholic beverages in an establishment licensed as a retail consumption dealer.

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

Indoor commercial recreational establishment means and is limited to an establishment:
(1) That regularly serves prepared food with a full service kitchen (a full service kitchen, as used in this definition, shall consist of a three-compartment pot sink, a stove or grill permanently installed, and a refrigerator, all of which must be approved by the health and fire departments) prepared to serve food every hour the establishment is open and deriving at least 50 percent of its total annual gross sales from the sale of prepared meals or food and recreation activities; and
(2) Wherein the sale of food and alcoholic beverages is incidental to its primary enterprise and activity on the premises. The primary activity on the premises of the indoor commercial recreational establishment shall be family-oriented in nature, generally meaning that such use attracts a range of individuals from all age groups. Uses may specifically include, but are not limited to, dinner theaters, bowling centers, and other similar uses. Outdoor commercial recreation is not included, nor shall concession sales of alcoholic beverages be permitted in an outdoor commercial recreational establishment. The term "indoor commercial recreational establishment" does not include bingo parlors, dance halls, nightclubs, taverns, billiard parlors, video arcades, adult entertainment and/or sexually related entertainment activities, and similar uses.

Licensee means the individual to whom a license for the sale or distribution of distilled spirits, malt beverages, or wine under this chapter is issued. If a licensee is a partnership or corporation, the term shall include all partners, officers, and directors of the partnership or corporation.

Nonresidential zone means the PRO, DB, CB, HB, and M-1 zoning districts, as defined under the city comprehensive zoning ordinance.

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

Wine means any alcoholic beverage containing not more than 21 percent alcohol by volume made from fruits, berries, or grapes, either by natural fermentation or by natural fermentation with brandy added. The term "wine" includes, but is not limited to, all sparkling wines, champagnes, combinations of such beverages, vermouths, special natural wines, rectified wines, and like products. The term "wine" does not include cooking wine mixed with salt or other ingredients so as to render it unfit for human consumption

as a beverage. A liquid shall first be deemed to be a wine at the point in the manufacturing process when it conforms to this definition.

Wine tasting means an instructional or educational promotion in an establishment licensed for the retail sale of wine in original packages and not for consumption on the premises.

Sec. 6-3. Notice.

For purposes of this chapter, notice shall be deemed served when personally served or when served by certified mail on the registered agent required under section 6-30(f) within three days after the date of deposit in the United States mail.

Sec. 6-4. Violation and penalties.

Any person who violates any provision of this chapter may, upon conviction, be punished by a fine of not less than $500.00 for each offense and/or 30 days in jail, unless a different penalty is set out in any ordinance from which the violation is derived.

Secs. 6-5--6-26. Reserved.

ARTICLE II. LICENSING AND APPLICATION

Sec. 6-27. Licenses--Generally.

A license issued under this article shall:

(1) Permit the licensee to sell or distribute the beverage for which the license is issued inside the city pursuant to the terms of this article and consistent with the laws of the State of Georgia and the United States.

(2) Expire on December 31 of each year. An application for renewal shall be made annually on or before November 15 of each year. Any licensee must annually meet the requirements set forth by the City Council in order to obtain a renewal of any license. Any licensee making proper application with supporting documents for a license to operate during the following calendar year and having filed such application before November 15 shall be permitted to continue to operate pending final approval of the licensee's application for the following year if final approval is not granted before January 1.

(3) Not be transferred from one person to another or from one location to another without prior approval from the City Council upon written application from the licensee in the manner described in section 6-36 of this ordinance.

(4) Depending on the license issued, permit the licensee to sell distilled spirits, malt beverages, wines, or any combination thereof, depending upon the license issued, for beverage purposes by the drink for consumption only on the premises where sold.

(5) Depending on the licenses issued, permit the licensee to sell at retail, packaged malt beverages and wines in their original and unopened consumer containers in certain retail establishments for consumption off the premises.

Sec. 6-28. Same--Types issued.

Only the following licenses shall be issued under this article:

(1) Retail sale of packaged malt beverages and/or wines for consumption off the premises.

(2) Retail sale of malt beverages by the drink for consumption on the premises.

(3) Retail sale of wine by the drink for consumption on the premises.

(4) Retail sale of distilled spirits by the drink for consumption on the premises.

Sec. 6-29. Separate license required for each location of sale.

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

Sec. 6-30. Qualifications for licensing; no license issued; registered agent.

(a) The term "applicant," for the purpose of this section and unless otherwise indicated, means the corporation, partnership, sole proprietorship, or other organization and the managing agent.

(b) Every managing agent applicant for a license under this article shall be at least 21 years of age, a U.S. citizen or an alien lawfully admitted for permanent residency, and a resident of the state. The applicant shall apply on forms furnished by the city clerk and in connection therewith shall, under oath, answer all questions, supply all information, and furnish all certificates, affidavits, bonds and other supporting data as required thereby.

(1) Where the application is made on behalf of a corporation, the license shall be issued jointly to the corporation and an officer or agent thereof who meets the requirements as set forth in this subsection (b). The officer or agent named as the applicant shall be an individual who does, in fact, have regular managerial authority over the business conducted on the licensed premises, including the sale of alcoholic beverages and who is employed fulltime by the corporation. Said individual shall be known as the managing agent.

(2) Where the application is made on behalf of a partnership, the license shall be issued jointly to the partnership and either the managing general partner thereof or an individual who meets the requirements set forth in this subsection (b), who does, in fact, have managerial authority over the business conducted on the licensed premises, including the sale of alcoholic beverages, and who is employed fulltime by the partnership. Such individual shall be known as the managing agent.

(3) Where the application is made on behalf of a sole proprietorship, the license shall be issued jointly to the sole proprietorship and an individual who meets the requirements set forth in this subsection (b), who does, in fact, have management authority over the business conducted on the licensed premises, including the sale of alcoholic beverages, and who is employed fulltime by the proprietor. Such individual shall be known as the managing agent. The managing agent may be the sole proprietor if he/she otherwise qualifies under this section.

(4) Where the application is made on behalf of any other type organization, the license shall be issued jointly to the organization and an individual who meets the requirements set forth in this subsection (b), who does, in fact, have management authority over the business conducted on the licensed premises, including the sale of alcoholic beverages, and who is employed fulltime by the organization. Such individual shall be known as the managing agent. If the applicant is a nonprofit private club, the managing agent may be an officer of the organization in lieu of a fulltime employee if the individual is otherwise qualified under this subsection (b).

(5) In the event the managing agent changes, the licensee shall notify the city clerk within five days of the change. A fee of $100.00 will be charged for the processing of the change of the managing agent, and such applicant must be approved by the City Council.

(c) When contrary to the public interest and welfare, no license to sell alcoholic beverages of any kind shall be issued by the City Council to or for:

(1) Any person, as determined by the City Council, by reason of such person's business experience, financial standing, trade associations, personal associations, arrest record, or reputation in any community in which he/she has resided, who is not likely to maintain the operation for which the license is sought in conformity with federal, state or local laws, rules and regulations.

(2) Any person who has been convicted under any federal, state or local law of any felony involving moral turpitude.

(3) Any person who has been convicted under any federal, state or local law of any felony not involving moral turpitude within ten years immediately preceding the filing of an application for such license.

(4) Any person convicted under any federal, state or local law of a misdemeanor, particularly, but not limited to, those involving alcoholic beverages, gambling or tax law violations, if such conviction tends to indicate that the applicant will not maintain the operation for which he is seeking a license in conformity with federal, state or local laws, rules and regulations.

(5) A location not suitable in the judgment and discretion of the City Council because of traffic congestion, general character of the neighborhood, or by reason of the effect which such an establishment would have on the adjacent and surrounding properties or on the neighborhood.

(6) A location within an area where, in the judgment of the City Council, the number of alcoholic beverage licenses already granted makes it contrary to the public interest or welfare.

(7) A location at which a previous alcoholic beverage license has been revoked or suspended, and where, in the judgment of the City Council, the problems which have arisen from the operation of an alcoholic beverage license at such location indicate that it is not in the best interest of the public health, safety, welfare, or morals that the sale of alcoholic beverages be permitted at such location.

(8) Any location which meets the definitions of Adult Entertainment Establishments as defined in Chapter 18 Article III.

(9) Which the granting of such license would constitute a violation of state law or regulations.

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

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

(f) All licensees shall have and continuously maintain in the county a registered agent upon whom any process, notice or demand required or permitted by law or under this chapter to be served upon the licensee or owner may be served. This person must be over the age of 18 and a resident of Habersham County at all times that the license and any renewal thereof is in effect. The licensee shall file the full name, date of birth, physical address, mailing address, and telephone number of such agent, along with the written, notarized consent of such agent with the city clerk, in such form as the city may prescribe. Such registered agent shall be of good moral character and shall be a representative of the licensee and must be approved by the city manager. The city manager shall refuse to approve any registered agent who is not a bona fide resident of the county or who has been convicted, including pleas of nolo contendere,

within the five years preceding his/her nomination, of any felony of any kind. If any registered agent shall cease to be a representative of the licensee, to be a resident of the county, or in any manner to meet the requirements of this section, the licensee shall notify the city clerk in writing of such event and shall nominate a new registered agent within five days after such event occurs. Such new registered agent shall meet the requirements of this section and must be approved by the city manager. The city shall charge a fee of $100.00 for a change of the licensee's registered agent; provided, however, that if the licensee fails to notify the city and nominate a new registered agent within such five-day period, then the city shall charge a fee of $300.00 for a change of the licensee's registered agent and/or revoke the licensee's license.

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

Sec. 6-31. Application contents and terms.

(a) An application for a license to sell alcoholic beverages of any kind shall be made in person by the applicant to the city clerk in writing on forms furnished by the clerk, signed by the applicant in compliance with section 6-30, and shall contain, but not be restricted to, the following statements and information:

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

(2) The name of the corporation, partnership, sole proprietorship, or other organization applying for the license. Such name shall include the legal name as well as the trade name of the business.

(3) A statement of whether the applicant or any person with an interest in the application has made application at any previous time for any alcoholic beverage license and the disposition of such application.

(4) Whether the applicant or any person with an interest in the application has ever been convicted of a crime, other than for traffic violations.

(5) Whether a previous license issued to the applicant or any person with interest in the application has been revoked by any state or subdivision thereof or by the federal government and the reason therefore.

(6) Whether any other person is to be interested directly or indirectly in the profits or losses or both of the proposed business.

(7) Evidence of ownership of the building in which the business will be located or a copy of the lease, if the applicant is leasing the building. Detailed plans of such building and outside premises shall also be attached to the application, and an occupancy permit for the premises to be licensed shall have been issued by the city. No alcoholic beverage license shall be issued to any person unless the building in which the business will be located is complete. The completed building shall comply with laws and regulations of the State of Georgia and the city. Each building in which the business is to be located shall contain sufficient lighting so that the building itself and the premises on all sides of the building are readily visible at all times from the front of the street on which the building is located so as to reveal the inside retail area of the building and so as to reveal all of the outside premises of such building.

(8) A drawing, to scale, showing the nearest church, funeral chapel, school or college or by the affidavit of a registered surveyor that the proposed location of the business complies with section 6-138.

(9) A complete statement of his/her financial condition. The financial responsibility of every applicant for an alcoholic beverage license must be shown to the satisfaction of the City Council.

(10) Applicant shall furnish a complete set of fingerprints as required by O.C.G.A. §3-3-2 and a signed release to permit a full criminal background check by the City police department.

(b) All new applications for alcoholic beverage licenses shall be accompanied either by lawful money of the U.S., or by a certified check or cashier's check, payable to the city, for the proper amount of the license fee. In the event the license is refused, any sums deposited as license fees will be refunded to the applicant. No refunds will be made under any circumstances for administrative and investigative fees required in this chapter.

(c) All applications for renewal of alcoholic beverage licenses shall be filed with the city clerk. All applications for renewal of licenses for the ensuing year shall be treated as applications for new licenses, except that they need not be advertised.

(d) No application shall be acted upon by the City Council except at a regular meeting of the Council and after the applicant shall have published a notice of such application in the legal organ of the county once per week for two weeks prior to the regular meeting at which such application is to be presented and considered. Such notice shall contain the name of the corporation, partnership, sole proprietorship, or organization, the name of the managing agent applying for the license, and the location of the proposed business. This notice shall not be required from an existing alcoholic beverage license holder making application for the renewal of an existing license at the same location.

(e) The making of any untrue or misleading statement in the application for an alcoholic beverage license shall be sufficient cause for the refusal, suspension, revocation or cancellation of such license, as the City Council shall deem proper.

(f) The license fees for which provision is made within this article are due and payable immediately.

(g) In the case of the revocation or surrender of an alcoholic beverage license before expiration, the holder thereof shall not be entitled to receive any refund.

(h) Notwithstanding anything in this article to the contrary, the issuance of a license under this chapter shall not create any property rights in the license holder.

(i) A violation of this article shall, upon conviction, be punishable as provided herein, and shall also subject the holder of such license to suspension or revocation of such license as the City Council deems proper.

Sec. 6-32. License fee scale.

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

Sec. 6-33. Fee schedule. **(Amended April 2012)**

License and application fees applicable to this chapter are set out as follows:

(1) Retail sale of packaged malt beverages and wines for consumption off the premises - $750.00
(2) Retail sale of malt beverages by the drink for consumption on the premises - $500.00
(3) Retail sale of wine by the drink for consumption on the premises - $500.00
(4) Retail sale of distilled spirits by the drink for consumption on the premises - $2,000.00

(5) Administrative/Investigative fees per location - $250.00

a) License fees for first time applicants shall be prorated as follows. There shall be no proration of the Administrative/Investigative fees.
(1) First time applications received during the first quarter, dates being defined as January 1 through March 31, shall pay 100% of the License fees.
(2) First time applications received during the second quarter, dates being defined as April 1 through June 30, shall pay 75% of the License fees.
(3) First time applications received during the third quarter, dates being defined as July 1 through September 30, shall pay 50% of the License fees.
(4) First time applications received during the fourth quarter, dates being defined as October 1 through December 31, shall pay 25% of the License fees.

Sec. 6-34. Withdrawal of application.

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

Sec. 6-35. Collection of fee or tax sums due.

If any person shall fail to pay the sum due under this chapter, then the City Council or the City Council's designee shall issue an execution against delinquent person and such person's property for the amount of the fee or tax, and any license shall be subject to immediate suspension until such fees and taxes are paid in full.

Sec. 6-36. Transferability of license; change of ownership.

(a) No license for the sale of alcoholic beverages shall be transferable, except as otherwise provided herein.
(b) In case of the death of a licensee, the establishment shall be allowed to continue to sell alcoholic beverages for a period of forty-five (45) days from the date of death, or until expiration of the license, or until approval of a new licensee, whichever shall first occur; provided, that no sale of alcoholic beverages shall be allowed until such time as a personal representative of the estate, appointed by a probate court of competent jurisdiction, shall make application for authorization with the city clerk.
(c) In the event that a license is surrendered, or a licensee severs such person's association with a licensed establishment, the establishment may continue to sell alcoholic beverages for a period of forty-five (45) days from the date of surrender, or from the date determined to be the date of severance; provided, that no such sale shall be authorized until such time as a new application for a license is made, such application indicating that no change of ownership has occurred, except as excepted herein. Upon issuance of a new license, the authorization to sell under the previous license shall be revoked by operation of law. No additional license fees shall be required during the period for which the original license was issued.
(d) Nothing in this section, however, shall prohibit one (1) or more of the partners in a partnership holding a license to withdraw from the partnership in favor of one (1) or more of the partners who were

partners at the time of the issuance of the license. This section shall not prohibit transfer of stock between persons who held stock in the corporate owner at the time of issuance of the license, nor shall it prohibit transfers of stock which do not result in any person increasing such person's stock holdings to a total of ten (10) percent or more of any class of stock.

(e) Should a transfer of location be approved, with no change of ownership of the business, the license fee paid for the old location shall be applied to the new location.

(f) Except as provided above, any change in the ownership of any entity owning a licensed establishment shall cancel and revoke any license issued hereunder automatically, without the necessity of any hearing.

(g) Violation of this section shall result in revocation of the license being used and a fine as provided in section 6-4. No license will be issued to the old or the new owner in the city for one (1) year from the date of the violation.

Sec. 6-37. Display of license at place of business.

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

Sec. 6-38. Expiration; renewal of license.

(a) All licenses granted under this article shall expire on December 31 of each year. A licensee desiring to renew his/her license shall file an application, with the requisite fee enumerated in section 6-33, with the city clerk on the form provided for renewal of the license for the ensuing year. Applications for renewal must be filed on or before November 15, of each year. Any renewal applications received after November 15 shall pay in addition to the annual fee, a late charge of 20 percent. If a license application is received after January 1, such application shall be treated as an initial application and the applicant shall be required to comply with all rules and regulations for the granting of licenses as if no previous license had been held. If a license application is received after January 1, investigative and administrative costs will be assessed.

(b) All licenses granted under this article shall be for the calendar year except for temporary special event licenses as allowed pursuant to section 6-40.

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

Sec. 6-39 - Reserved

Sec. 6-40. Eligibility for issuance of a temporary special event license.

a) A temporary license may be issued to any person, firm or corporation, for a period of time not to exceed the maximum number of days available pursuant to State of Georgia regulations in any one year for an approved special event, but not to exceed three consecutive days at any one time regardless of State regulations. The person, firm or corporation must make application and pay the fee that may be required by the ordinances and shall be required to comply with all the general ordinances and the licensing regulations for a consumption on the premises establishment with the exception of the full service kitchen requirement.

(b) The special event must meet the following criteria before the issuance of a temporary license to sell alcoholic beverages:

(1) The special event must be associated with and benefit the cause of a charitable, local trade, or civic organization.
(2) The special event must receive approval from the city police department on crowd control and security measures.
(3) The special event must receive approval from the city manager or his/her designee on traffic control measures.
(4) The location at which the special event is to take place must be zoned for such use and the event approved for such use by the city planning department and the city fire department.
(c) Any employee or volunteer of the special event licensee working the special event in any position dispensing, selling, serving, taking orders or mixing alcoholic beverages shall not be required to obtain an employee permit for the special event.
(d) The chief of police or his/her designee may immediately revoke any temporary license for a special event if continued alcohol sales may endanger the health, welfare or safety of the public.
(e) As a condition on the issuance of a temporary special event license, the licensee shall indemnify and hold the city harmless from claims, demands or causes of action that may arise from activities associated with the special event.

Secs. 6-41--6-68. Reserved.

ARTICLE III. AUDITS, REVOCATION, SUSPENSION AND HEARINGS

Sec. 6-69. Revocation or nonrenewal of license.

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

(1) Is convicted of a felony or any crime involving moral turpitude;

(2) Makes any false statement of a material fact on the application for a license or renewal thereof, or on any document required to be filed with the City Council or city clerk;

(3) Fails to give written notice in a timely manner of any change of ownership interest as required in section 6-36;

(4) Violates any federal or state law, rule or regulation promulgated by the City Council under this chapter; or

(5) Becomes disqualified under this chapter to hold a license.

(b) The City Council shall revoke a license under this chapter for any of the following reasons:

(1) The license has been suspended three or more times in any consecutive 12-month period;

(2) Alcoholic beverages have been sold or distributed at the licensed premises during a period of suspension of such license; or

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

Sec. 6-70. Suspension of license.

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

(1) Violation by the licensee of any state or federal law or regulation, or any provision of this chapter or the regulations promulgated under its authority;

(2) Failure of the licensee and employees or agents of the licensee to promptly report to the police department any violation of law, breach of peace, disturbance, or altercation occurring on or near the licensee's premises;

(3) Violation of any law, regulation or ordinance pertaining to alcoholic beverages, distilled spirits, malt beverages and wines, by any employee or agent of the licensee in connection with the operation of the business of the licensee;

(4) Operation of the business of the licensee in such a manner as to create a public nuisance or in a manner contrary to public welfare, safety, health or morals;

(5) Failure to furnish to the City Council, upon request, any information or records that would be necessary or needed for use in determining the licensee's compliance and qualifications under this chapter; or

(6) Knowingly selling malt beverages, wines or distilled spirits to any person while such person is in an intoxicated condition.

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

(1) No suspension shall be for a period of time longer than the time remaining on such license.

(2) The following factors shall be considered on any suspension as set out in this subsection:

a. Consistency of penalties mandated by this chapter and those set by the City Council.

b. Likelihood of deterring future wrongdoing.

c. Impact of the offense on the community.

d. Any mitigating circumstances or remedial or corrective steps taken by licensee.

e. Any aggravating circumstances or failure by the licensee to take remedial or corrective steps.

Sec. 6-71. Hearings.

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

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

(1) Advise of the time and place specified for the hearing, which shall be held not less than 20 days (if the notice is mailed) or 15 days (if the notice is hand delivered) from the date of service of the notice. For the purpose of this ordinance, notice shall be deemed delivered when personally served or when served by certified mail, within three days after the date of deposit in the United States mail.

(2) Set forth, in reasonable detail, the grounds for such action and the factual basis supporting those grounds; and

(3) Advise the applicant or licensee of the right to present evidence, witnesses or arguments and to be represented by counsel at the hearing.

Sec. 6-72. Audits of licensees.

(a) If the City Council or its designee deems it necessary to conduct an audit of the records and books of the licensee, it shall notify the licensee of the date, time and place of the audit. The licensee shall cooperate with the audit or forfeit any license issued under this chapter.
(b) All licensed establishments must maintain the following records for a three-year period and make them available for audit at the licensed premises.

(1) Monthly income or operating statements.
(2) Daily sales receipts showing liquor, beer, wine and food sales separately (this requirement does not apply to package beer and wine licensees).
(3) Daily cash register receipts such as Z-tapes or guest tickets.
(4) Monthly state sales and use tax reports.
(5) Federal income tax return with all Form 1099's.
(6) All invoices or other statements reflecting a record of alcohol purchases by the Licensee.

Secs. 6-73--6-102. Reserved.

ARTICLE IV. LICENSEE DUTIES AND RESPONSIBILITIES

Sec. 6-103. Retail consumption dealers to store inventory only on premises.

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

Sec. 6-104. Poured alcohol to be transported by employees.

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

Sec. 6-105. Licensees to maintain copy of chapter; employees to be familiar with terms; licensee responsible for violations.

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

Sec. 6-106. Employment of underage persons prohibited; exceptions.

(a) No person shall allow or require a person in his/her employment under 18 years of age to dispense, serve, sell, or take orders for any alcoholic beverage.
(b) It is unlawful for any person under the age of 18 years of age to work in any establishment licensed under this article without written consent from his/her parents or guardian.

Sec. 6-107. Failure to require and properly check identification.

It shall be a violation of this article not to require and properly check identification for such persons as reasonably necessary to ensure that an underage person is not sold, served, or does not have in his/her possession alcoholic beverages while in a licensed establishment. The term "identification," for the

purpose of this section, means any document issued by a governmental agency containing a description of the person, such person's photograph and giving such person's date of birth and shall include, without being limited to, a passport, military ID card, driver's license or state department of public safety ID card. Nothing herein shall require mandatory checking of all customers' identifications.

Sec. 6-108. Sales to underage person prohibited.

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

(1) Sell or offer to sell any distilled spirits, wine, malt beverage, or any other alcoholic beverage to any person under the age of 21 years.

(2) Sell or offer to sell wine, malt beverage, or any other alcoholic beverage to any person unless such person has furnished proper identification showing that the person to whom the distilled spirits are being sold is 21 years of age or older. For the purposes of this subsection, the term "proper identification" means any document issued by a government agency containing a description of the person, such person's photograph, or both, and giving such person's date of birth, including, but not limited to, a passport, a military identification card, driver's license, or identification card authorized under an act to require the department of public safety to issue identification cards to persons who do not have a motor vehicle driver's license. Proper identification shall not include a birth certificate.

(3) Sell or offer to sell any alcoholic beverages to any person who is noticeably intoxicated, who is of unsound mind, or who is a habitual drunkard whose intemperate habits are known to the licensee or his/her employees.

(4) Sell alcoholic beverages upon the licensed premises or permit alcoholic beverages to be consumed thereon on any day or at any time when the sale or consumption is prohibited by law.

(b) The penalty for violation of this section by an individual shall be as follows:

(1) For the first offense, a minimum fine of $500.00.

(2) For the second offense and subsequent violations within one year, a minimum fine of $750.00.

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

(1) For the third offense within any 36-month period, suspension of license for a period not to exceed 90 days and a fine of $1,000.00.

(2) For the fourth and any subsequent violation within any 36-month period, suspension of license for a period not to exceed one year and a fine of $1,000.00.

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

Sec. 6-109. Purchase or possession of alcoholic beverages by underage persons.

(a) Except as may be otherwise allowed by state law, no person under the age of 21 years of age shall purchase or possess any alcoholic beverage.

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

Sec. 6-110. Employee and manager regulations; employee pouring permits.

The following regulations shall apply to all establishments holding a license for consumption of alcoholic beverages on the premises:

(a) No person shall be employed to dispense, sell, serve, take orders, mix alcoholic beverages, or serve in any managerial position by an establishment holding a license under this chapter until such person has been fingerprinted and cleared by the chief of police or his/her designee indicating that the person is eligible for such employment.

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

(c) No employee pouring permit shall be issued until such time as a signed application has been filed with the city clerk or such department's designee and upon payment of a fee established by the city and a search of the criminal record of the applicant completed. The application shall include, but shall not be limited to, the name, date of birth, and prior arrest record of the person, though the fact of an arrest record shall be used for investigative purposes only, and shall give rise to no presumption or inference of guilt. Due to the inclusion of arrest information, these applications shall be regarded as confidential and shall not be produced for public inspection without a court order.

(d) The chief of police or his/her designee shall have a complete and exhaustive search made relative to any criminal record of the person fingerprinted or cleared. If there is no record of a violation of this chapter, the chief or his/her designee shall issue an employee pouring permit to the person stating that the person is eligible for employment. If it is found that the person is not eligible for employment, the chief of police or his/her designee shall notify such person at the address contained in the application, in writing, that such person is not eligible for employment, the cause of such denial, and right of such person to appeal.

(e) No person shall be granted an employee pouring permit unless it appears to the satisfaction of the chief of police or his/her designee that such person has not been convicted of, pled guilty to, or entered a plea of nolo contendere to any crime involving moral turpitude, illegal gambling, illegal possession or sale of controlled substances, illegal sale or possession of alcoholic beverages, including the sale or transfer of alcoholic beverages to minors in a manner contrary to law, keeping a place of prostitution, solicitation of sodomy, or the commission of any sexually related crime within a period of five years of the date of conviction and been released from parole or probation. A person's first conviction for illegal possession of alcohol as a misdemeanor or violation of a city ordinance shall not, by itself, make a person ineligible for an employee pouring permit. No person shall be granted an employee pouring permit who has been convicted of, pled guilty to or entered a plea of nolo contendere to any federal, state, or local law for any felony within five years of the date of conviction and has not been released on parole or probation prior to the filing of an application for such permit. For purposes of this subsection, a conviction or plea of guilty or nolo contendere shall be ignored as to any offense for which a person whose sentence was entered under the Georgia First Offender Act, as amended; provided, however, that any such offense shall not be ignored if the person violated any term of probation imposed by the court granting first offender treatment or committed another crime and the sentencing court therefore entered an adjudication of guilt as to the crime for which the person had previously been sentenced as a first offender.

(f) An employee pouring permit shall be issued for a period of three calendar years from the date of the original application. As noted in subsection (k) of this section, the employee pouring permit must be in the possession of the employee while the employee is working at the licensed establishment. This permit must be in the possession of the employee while the employee permit holder is working and must be available for inspection by members of the police department or the city's staff.

(g) No person shall be issued a permit if it is determined that the person falsified, concealed or covered up any material fact by any device, trick or scheme while making an application to the city clerk for an

employee pouring permit under this section. If it is determined that a person is in violation of this subsection and a permit is denied for this reason, then 30 calendar days must elapse from the date of notification by certified mailing before a new application and fee may be resubmitted.

(h) All permits issued through administrative error can be terminated and seized by the chief of police or his/her designee or the city manager or his/her designee.

(i) Replacement permits will be issued within 30 days of the original date, upon paying one-half of the fee charged for employee pouring permits. A new application and fee must be submitted after 30 days from the original application date.

(j) All permits issued under this section remain the property of the city and shall be produced for inspection upon the demand of any officer or designee of the chief of police. All permits are subject to revocation upon violation of any federal, state, or local law.

(k) No licensee shall allow any employee or manager required to hold a permit to work on the premises unless the employee or manager has in his/her possession a current valid city employee pouring permit. For new employees, a receipt issued by the city may be used for a maximum of 30 days from the date of its issue. Licensees are required to inspect and verify that each employee required to do so has in his/her possession a valid current employee pouring permit.

(l) A license fee of $40.00 shall be charged

(m) It shall be the duty of all persons holding any license to sell alcoholic beverages to file with the city clerk or his/her designee the name of the establishment, the license number and a list of employees, including home addresses and home telephone numbers, twice annually, during the month of June and again in the month of December.

Sec. 6-111 Reserved.

Sec. 6-112. Promotions and sales.

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

(1) Offer or deliver any free alcoholic beverage to any person or group of persons;

(2) Deliver more than one alcoholic beverage to one person at a time;

(3) Sell, offer to sell, or deliver to any person or group of persons any alcoholic beverage at a price less than the price regularly charged for such alcoholic beverage during the same calendar week, except at private functions not opened to the public;

(4) Sell, offer to sell, or deliver to any person or group of persons an unlimited number of alcoholic beverages during any set period of time for a fixed price, except at private functions not open to the public;

(5) Sell, offer to sell, or deliver alcoholic beverages to any person or group of persons on any one day at prices less than those charged the general public on that day, except at private functions not opened to the public;

(6) Sell, offer to sell, or deliver alcoholic beverages, including malt beverages, in any container which holds more than 32 fluid ounces (0.947 liters), except to two or more persons at any one time;

(7) Increase the volume of alcohol contained in a drink without increasing proportionately the price regularly charged for such alcoholic beverage during the same calendar week; or

(8) Encourage or permit on the licensed premises any game or contest which involves the drinking of alcoholic beverages or the awarding of alcoholic beverages as a prize.

(b) Each licensee shall maintain a schedule of the prices charged for all alcoholic beverages to be served and consumed on the licensed premises or in any room or part thereof. The licensee shall not vary the schedule of prices from day to day or from hour to hour within a single day. The schedule of prices shall be effective for not less than one calendar week.
(c) No licensee shall advertise or promote in any way, whether within or without the licensed premises, any of the practices prohibited under subsection (a) of this section.
(d) No provision of this section shall be construed to prohibit licensees from offering free food or entertainment at any time, to prohibit licensees from including an alcoholic beverage as part of a meal package, or to prohibit the sale or delivery of wine by the bottle or carafe when sold with meals or to more than one person.
(e) It is the intent of this section to prohibit activities typically associated with promotions referred to as happy hour or similarly designated promotions.
(f) The police department shall have responsibility for the enforcement of this section.
(g) No licensee may require the purchase of any alcoholic beverage as a part of or prerequisite to the purchase of any other product or service. If alcoholic beverages are included as part of a package of other goods and/or services, the alcoholic beverages must be priced separately and all customers must be allowed to purchase the remaining **goods and services without the alcoholic beverages at a price from which the full price** of the alcoholic beverages has been deducted.

Secs. 6-113--6-137. Reserved.

ARTICLE V. REGULATION OF PREMISES

Sec. 6-138. Location of licensed operation; distance requirements from schools and church buildings.

(a) Licenses shall be issued only for locations in nonresidential zones, as defined in section 6-2.
b) No person outside of the area zoned Downtown Business District may sell or offer to sell any alcoholic beverage in or within 100 yards of any church building or alcohol treatment facility or in or within 200 yards of any school building, educational grounds or college campus, or day care facility. No person in the area zoned Downtown Business District may sell or offer to sell any alcoholic beverage for consumption on the premises in or within 100 feet of any church building, alcohol treatment facility or school building, education grounds or college campus, or day care facility.
(c) 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:

Alcohol treatment facility means any alcohol treatment facility operated by the State of Georgia, or any county or city government located therein.

Church building means the main structure being used by any religious organization for purposes of worship.

School building means and shall include only those structures in which instruction is offered. The term "school building" shall apply only to state, county, city or church school buildings and to such buildings at such other schools in which are taught subjects commonly taught in the common schools and colleges of this state and which are public schools or private schools as defined in O.C.G.A. § 20-2-690(b).

(d) For the purposes of this section, distance shall be measured according to the most direct route of travel on the ground as described and defined in publications and rules of the Georgia Department of Revenue.
(e) As to any location licensed in the future, if the distance requirements in this section are met at the time of issuance of any license, the subsequent opening and operation of a church or school or day care or alcohol treatment facility within the distance prohibited in this section shall not prevent the continuance of an existing license or the renewal thereof or the issuance of a new license to any subsequent owner of such property.

Sec. 6-139. Sale without license or beyond boundaries of licensed premises prohibited; penalties.

It shall be unlawful for any person to sell or possess for the purpose of sale any alcoholic beverage if the person does not have a license granted by the city to sell or possess for sale the alcoholic beverages or to sell or make deliveries beyond the boundaries of the premises covered by the license. Violation of this section shall result in a fine of not less than $500.00.

Sec. 6-140. Open area and patio sales.

(a) Alcoholic beverage sales can be made by a licensed consumption on-premises establishment in a patio or open area type environment if the establishment has been approved to do so by the City Council.
(b) The requirement for approval is that the patio or open area be enclosed by some structure providing for public ingress and egress only through the main licensed premises. The purpose of this requirement is to prevent a customer from leaving the outside sales area with an open drink without the licensee's knowledge.
(c) The height of the structure required by subsection (b) of this section shall be a minimum of 3 1/2 feet above the patio floor, but the structure does not have to be solid or restrict visibility into or out of the patio or open sales area. Such structure must be permitted and approved by the city's building inspection department and the city's fire department as required by governing regulations or codes.
(d) The only exit from the area enclosed by the structure is to be through the licensed establishment's main premises and through an approved fire exit not for general public use unless an emergency exists. The fire exit should be of the type that sounds an alarm so that the establishment will be alerted in the event of unauthorized use when no emergency exists.
(e) If a licensee desires a patio or open sales area inside an existing structure, plans will be reviewed and approved on an individual basis by the City Council. Interior type patio or open sales areas must also meet the requirements of the city's development and fire codes.
(f) Nothing contained in this section shall prohibit a hotel or motel with a consumption on-premises license from making sales and allowing consumption of alcoholic beverages in ballrooms, meeting rooms, reception rooms, or patio areas of such hotel or motel, provided such functions are catered in connection with a meeting, conference, convention or similar type gathering at such hotel or motel. Patio areas, for the purposes of this subsection, do not have to conform to the standards of this section.

Sec. 6-141. No consumption outside premises.

(a) It is prohibited for customers to leave the premises with open alcoholic beverages, and it is the licensee's responsibility to ensure that no open beverages are sold and carried out.
(b) It is prohibited for customers to gather outside a licensed alcoholic beverage establishment and consume alcoholic beverages.
(c) It is prohibited for the manager or any employee to allow persons to gather outside a licensed alcoholic beverage establishment and consume alcoholic beverages.

(d) Notwithstanding any other contrary provisions of law, any Licensee licensed to sell alcoholic beverages for consumption on the premises may permit a patron to remove one unsealed bottle of wine per patron for consumption off the premises, if the patron has purchased a meal and consumed a portion of the bottle of wine which has been purchased on the premises with such meal on the restaurant's premises. A partially consumed bottle of wine that is to be removed from the premises must be securely resealed by the licensee or its employees before removal from the premises. The partially consumed bottle of wine shall be placed in a bag or other container that is secured in such a manner that is visibly apparent if the container has been subsequently opened or tampered with, and a dated receipt for the bottle of wine and meal shall be provided by the licensee and attached to the container.

Sec. 6-142. Specification of premises.

No alcoholic beverage license shall be issued to any person unless the building in which the business will be located is complete and detailed plans of the building and outside premises are attached to the application or unless proposed plans and specifications and a building permit of a proposed building to be built are attached to the application. The completed building or the proposed building shall comply with ordinances of the city, county, regulations of the state revenue commissioner, and regulations of the state. The proposed building shall also be subject to final inspection and approval when completed by the building inspector. Each building in which the business will be located shall contain sufficient lighting so that the building itself and the premises on all sides of the building are readily visible at all times from the front of the street on which the building is located so as to reveal all of the outside premises of such building. Each applicant for an alcoholic beverage license shall attach to the application evidence of ownership of the building or proposed building or a copy of the lease, if the applicant is leasing the building. If the applicant is a franchisee, then such applicant shall attach a copy of the franchise agreement or contract with the application. All premises for which an alcoholic beverage license shall be issued shall afford therein adequate sanitary toilet facilities and shall be adequately illuminated so that all hallways, passageways and open areas may be clearly seen by the customers therein.

Sec. 6-143. Solicitation prohibited.

No retail consumption dealer licensed under this chapter shall require, permit, suffer, encourage, or induce any employee or person to solicit in the licensed premises, for himself/herself, or for any person other than the patron and guest of the patron, the purchase by the patron of any drink, whether alcoholic beverage or nonalcoholic beverage, or money with which to purchase the beverage, and no licensee shall pay a commission or any other compensation to any employee or person frequenting the establishment or to an agent or manager to solicit for herself/himself or for others, the purchases by the patron of any drink, whether alcoholic beverage or nonalcoholic beverage, or money with which to purchase the beverage.

Sec. 6-144. Prohibited noise from establishments.

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

Sec. 6-145. Inspection of licensed establishments by Clarkesville Police Department.

Sworn officers of the Clarkesville Police Department shall have the authority to inspect establishments licensed under this chapter during the hours in which such premises are open for business. These inspections shall be made for the purpose of verifying compliance with the requirements of this chapter and state law. This section is not intended to limit the authority of any other city officer to conduct inspections authorized by other provisions of this Code.

Sec. 6-146. Emergency closure.

The chief of police or his/her designee may immediately close an establishment licensed under this article in case of emergency for the safety of the public or to investigate a crime for a period of time not to exceed 24 hours.

Sec. 6-147. Sale on election days.

Pursuant to O.C.G.A. § 3-3-20(b) (2) (B), the sale at wholesale and retail of alcoholic beverages, to wit: distilled spirits (by the drink), and wine and malt beverages, shall be lawful during the polling hours of any election; provided, however, nothing herein shall authorize the sale of alcoholic beverages within 250 feet of a polling place during such time as the polls are open.

Sec. 6-148. "Bring-your-own-bottle" (brown bagging) prohibited.

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

Secs. 6-149--6-179. Reserved.

ARTICLE VI. MALT BEVERAGES AND WINE PACKAGED SALES FOR CONSUMPTION OFF PREMISES

Sec. 6-180. Type of retail establishment; where permitted.

(a) No malt beverages or wine shall be sold for consumption off the premises except in sites located in nonresidential zones and that meet the following criteria:

(1) Such an establishment is in the business of retail sale of items of tangible personal property (merchandise); and

(2) The monthly receipts for such business from the sale of merchandise other than malt beverages and wines will exceed 75 percent of the total monthly receipts of such business from the sale of all merchandise including alcoholic beverages.

(b) Notwithstanding the fact that a retail malt beverages and wine packaged sales license has been issued to a licensee, such licensee shall not be authorized to sell packaged malt beverages or wines at any time when the sales receipts of the business of such licensee derived from the sale of merchandise other than packaged malt beverages and wines are less than 75 percent of the total gross receipts of such business from the sale of all merchandise, including alcoholic beverages, for the preceding calendar month.

Sec. 6-181. Hours and days of sale.

(a) Malt beverages and/or wine shall not be sold or distributed for consumption off the premises where sold except between the hours of 6:00 a.m. and 11:00 p.m., Monday through Saturday.
(b) No malt beverages and/or wine shall be sold for consumption off premises at any time in violation of any federal, state, or local ordinance or regulation or of any special order of the City Council.
(c) The sale or distribution of malt beverages and/or wine for consumption off the premises on Sundays is prohibited.

Sec. 6-182. Advertising in official paper of county.

A notice of each application to sell malt beverages and/or wine for consumption off the premises shall be advertised in the official legal organ of the county once a week for two weeks immediately preceding consideration of the application. An affidavit of publication verifying the required notice shall be executed by the applicant on a form provided by the city.

Secs. 6-183--6-202. Reserved.

ARTICLE VII. RETAIL SALE OF MALT BEVERAGES AND/OR WINE BY THE DRINK FOR CONSUMPTION ON THE PREMISES

Sec. 6-203. Type of retail establishment; where permitted.

No malt beverages or wine shall be sold for consumption on the premises where sold except in the following, when located in nonresidential zones:
(1) Eating establishments regularly serving prepared food with a full service kitchen. A full service kitchen will consist of a three-compartment pot sink, a stove or grill permanently installed, and a refrigerator, all of which must be approved by the health and fire departments. Such an eating establishment will regularly serve food every hour the eating establishment is open, shall have a minimum seating capacity at tables of 25 persons, and shall derive at least 50 percent of sales from food.
(2) Indoor commercial recreation establishments regularly serving prepared food with a full service kitchen. A full service kitchen will consist of a three-compartment pot sink, a stove or grill permanently installed, and a refrigerator, all of which must be approved by the health and fire departments. Such an establishment will regularly serve food every hour the eating establishment is open and shall derive at least 50 percent of its total annual gross revenue from the sale of prepared meals or food and recreation activities.
Such eating establishments must be located in a zoning district which permits restaurants as conforming uses or where these eating establishments are incidental to a hotel or motel.

Sec. 6-204. Hours and days of sale.
(a) Malt beverages and/or wine shall not be sold or distributed for consumption on the premises except between the hours of 10:00 a.m. and 12:00 midnight, Monday through Saturday.
(b) No malt beverages and/or wine shall be sold for consumption at any time in violation of any federal, state, or local ordinance or regulation or of any special order of the City Council.
(c) The sale or distribution of malt beverages and/or wine for consumption on the premises on Sundays is prohibited.

Sec. 6-205 Advertising in official paper of county.

A notice of each application to sell malt beverages and/or wine for consumption on the premises shall be advertised in the official legal organ of the county once a week for two weeks immediately preceding consideration of the application. An affidavit of publication verifying the required notice shall be executed by the applicant on a form provided by the city.

Sec. 6-206 Consumption sales only.

Persons holding a license to sell malt beverages and/or wine for consumption on the premises shall not be permitted to sell or distribute any alcoholic beverage by the package or bottle.

Secs. 6-207--6-233. Reserved.

ARTICLE VIII. RETAIL SALE OF DISTILLED SPIRITS BY THE DRINK FOR CONSUMPTION ON PREMISES

Sec. 6-234. Type of retail establishment; where permitted.

No distilled spirits may be sold by the drink for consumption on the premises where sold except in the following, when located in nonresidential zones:

(1) Eating establishments regularly serving prepared food with a full service kitchen. A full service kitchen will consist of a three-compartment pot sink, a stove or grill permanently installed, and a refrigerator, all of which must be approved by the health and fire departments. Such an eating establishment will regularly serve food every hour the eating establishment is open, shall have a minimum seating capacity at tables of 25 persons, and shall derive at least 50 percent of sales from food.

(2) Indoor commercial recreation establishments regularly serving prepared food with a full service kitchen. A full service kitchen will consist of a three-compartment pot sink, a stove or grill permanently installed, and a refrigerator, all of which must be approved by the health and fire departments. Such an establishment will regularly serve food every hour the eating establishment is open and shall derive at least 50 percent of its total annual gross revenue from the sale of prepared meals or food and recreation activities.

Sec. 6-235. Advertising in official paper of county.

A notice of each application to sell distilled spirits for consumption on the premises shall be advertised in the official legal organ of the county once a week for two weeks immediately preceding consideration of the application. An affidavit of publication verifying the required notice shall be executed by the applicant on a form provided by the city.

Sec. 6-236. Hours and days of sale.

(a) Distilled spirits shall not be sold for consumption on the premises except between the hours of 10:00 a.m. 12:00 midnight Monday through Saturday.

(b) Distilled spirits shall not be sold for consumption on the premises at any time in violation of any local ordinance or regulation or of any special order of the City Council.

(c) The sale of distilled spirits for consumption on the premises is prohibited on Sunday.

Sec. 6-237. Consumption sales only.

Persons holding a license to sell distilled spirits for consumption on the premises shall not be permitted to sell or distribute any alcoholic beverage by the package or bottle.

Secs. 6-238--6-269. Reserved.

ARTICLE IX. PRIVATE CLUBS

Sec. 6-270. 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:

Bona fide private club means any nonprofit association organized under the laws of this state which:

(1) Has been in existence at least one year prior to the filing of its application for a license to be issued pursuant to this article;

(2) Has at least 75 regular dues-paying members;

(3) Owns, hires or leases a building or space within a building for the reasonable use of its members with:

a. Suitable kitchen and dining room space and equipment;

b. A sufficient number of employees for cooking, preparing and serving meals for its members and guests; and

c. No member, officer, agent or employee directly or indirectly receiving, in the form of salary or other compensation, any profits from the sale of alcoholic beverages beyond a fixed salary.

Fixed salary means the amount of compensation paid any member, officer, agent, or employee of a bona fide private club as may be fixed for him by its members at a prior annual meeting or by the governing body of the club out of the general revenue of the club and shall not include a commission on any profits from the sale of alcoholic beverages. For the purpose of this definition, tips or gratuities which are added to the bills under club regulation shall not be considered as profits from the sale of alcoholic beverages or a commission.

Sec. 6-271. Regulation of sale of alcoholic beverages.

Private clubs may sell and dispense alcoholic beverages upon compliance with all applicable ordinances and regulations of the city governing the sale of such beverages and upon payment of such license fees and taxes as may be required by the existing ordinances, rules and regulations of the city.

Sec. 6-272. Certain organizations exempt from food establishment requirements.

Veterans' organizations, fraternal organizations, and other nonprofit organizations currently having tax exempt status under either the United States Internal Revenue Code or the Georgia Income Tax Law shall not be required to operate a food establishment serving prepared food. However, any such organization selling or dispensing alcoholic beverages shall be subject to all ordinance regulations dealing with general licensing and consumption on-premises establishments.

Sec. 6-273. Hours and days of sale.

(a) No alcoholic beverages shall be sold for consumption on the premises except between the hours of 10:00 a.m. and 12:00 midnight, Monday through Saturday.

(b) Alcoholic beverages shall not be sold for consumption at any time in violation of any local ordinance or regulation or of any special order of the City Council.

(c) The sale or distribution of alcoholic beverages for consumption on the premises is prohibited on Sundays.

ARTICLE X. BREW PUBS

Sec. 6-274. Exception for brew pubs.

(a) For all purposes of this section, a "brew pub" is defined as an eating establishment in which beer or malt beverages are manufactured or brewed for retail consumption on the premises and solely in draft form.

(b) Notwithstanding any other provision of this chapter to the contrary, a limited exception shall exist for owners and operators of brew pubs provided that:

(1) No individual shall be permitted to own or operate a brew pub without first obtaining a proper brew pub license from the City Council pursuant to the same procedures as are set forth in Article II, and each brew pub license holder shall comply with all other applicable state and local license requirements; and

(2) A brew pub license authorizes the holder of such license to (i) manufacture on the licensed premises not more than five thousand (5,000) barrels of beer in a calendar year solely for retail on the premises and solely in draft form; and (ii) operate an eating establishment that shall be the sole retail outlet for such beer and may offer for sale any other alcoholic beverages produced by other manufacturers which are authorized for retail sale under this chapter, provided that such alcoholic beverages are purchased from a licensed wholesaler for consumption on the premises only; and, provided, further, that in addition to draft beer manufactured on the premises, each brew pub licensee shall offer for sale commercially available canned or bottled malt beverages from licensed wholesalers.

(c) Possession of a brew pub license shall not prevent the holder of such license from obtaining any other license available under this chapter for the same premises.

(d) A brew pub license does not authorize the holder of such license to sell alcoholic beverages by package for consumption off the premises.

(e) A brew pub licensee shall pay all state and local license fees and excise taxes applicable to individuals licensed under this chapter as manufacturers, retailers, and, where applicable, wholesalers.

(f) Except as set forth above in this section, a brew pub license holder shall be subject to all provisions of this chapter.

Sec. 6-275 Reserved.

ARTICLE XI. LICENSED CATERERS

Sec. 6-276. Exception for licensed caterers.

(a) *License Requirements--Resident Caterers.*

(1) Any food caterer who is also an alcoholic beverage caterer possessing a valid license from the City of Clarkesville to sell malt beverages, wine or distilled spirits by the drink at a fixed location within the city may apply for an off-premises license that authorizes sales at authorized catered event(s) or function(s). Event(s) or function(s) may not exceed five (5) days.

(2) Each off-premises catering license as authorized herein shall be valid only for the calendar month in which the license is issued. The fee for each such license shall be $50.00.

(3) It shall be unlawful for any person to engage in, carry on or conduct the sale or distribution of alcoholic beverages off-premises and in connection with a catered event or function without first having obtained a license as provided herein.

(b) *Permit Requirements--Nonresident Caterers.* Entities within the City that wish to host an event using an alcoholic beverage caterer from another jurisdiction shall obtain an event application from the city clerk. The application for the event permit shall include:

(1) The name of the nonresident alcoholic beverage caterer desired;

(2) A copy of the alcoholic beverage license and catering license issued by the jurisdiction in which the business is located;

(3) The quantity of alcoholic beverages to be transported from the licensee's primary location to the location of the authorized catered event(s) or functions(s).

(4) The original event permit shall be kept in the vehicle transporting the alcoholic beverages to the catered event(s) or function(s).

(5) It shall be unlawful for a licensed alcoholic beverage caterer to distribute or sell alcoholic beverages off-premises except as authorized by the event permit.

(6) Each event permit as authorized herein shall be valid only for the event for which the permit is issued. The fee for such permit shall be $50.00.

(c) *Limitation of License.* A licensed alcoholic beverage caterer may sell only that which is authorized by his alcoholic beverage license. For example, if the alcoholic beverage caterer possesses a valid license to sell malt beverages, he may sell only malt beverages at the authorized catered event or function.

Secs. 6-277 – 6-296 Reserved.

ARTICLE XII. EXCISE TAXES

Sec. 6-297. Levy and computation.

(a) In addition to all other taxes or license fees imposed upon retailers selling malt beverages, wine or distilled spirits at retail or for consumption on the premises in the city, there is levied and imposed upon each such retailer the following excise taxes:

(1) Upon the sale of any malt beverages, there is imposed an excise tax of $0.22 per liter and $6.00 for each container of tap or draft beer of containing not more than 15 1/2 gallons.

(2) Upon the sale of wine, there is imposed an excise tax of $0.22 per liter.

(3) Upon the sale of any distilled spirits or spirituous liquors, there is imposed an excise tax of $0.22 per liter.

(b) The taxes established in subsection (a) of this section shall be collected by the wholesaler at the time of sale to the retailer.

Sec. 6-298. Retailers dealing with wholesalers; registration of wholesalers.

(a) No retailer of alcoholic beverages in the city shall purchase or otherwise receive alcoholic beverages from any wholesaler not registered under this section. Any retailer failing to comply with this requirement shall be subject to revocation of any and all city business licenses held by the retailer and any other penalty which may be imposed for violation of this Code.
(b) Unless licensed by the city, no wholesaler in alcoholic beverages shall take orders from or make deliveries to any retailer in alcoholic beverages within the city unless and until the wholesaler registers with the city clerk on a form provided by the city and otherwise satisfies the requirements of this article placed on such wholesalers.

Sec. 6-299. Wholesaler's reports; tax collection; payment; records.
(a) Each wholesaler registered under this article or licensed by the city shall file a report with the City Council by the tenth day of each month, itemizing for the preceding calendar month the exact quantities of all alcoholic beverages, by size and type of container, sold within the city. The report shall show the name and address of each retailer with which such wholesaler did business in the city and any other information as may be required by the City Council.
(b) Each wholesaler reporting under this section shall collect from each retailer with whom the wholesaler did business the amount of tax due the city under this article and shall hold the same in trust for the city.
(c) Each wholesaler's monthly report shall be accompanied by remittance to the city of all taxes due the city under this article for the preceding month from each retailer.
(d) Each wholesaler hereunder shall keep true and correct records, including invoices of all sales, shipments or deliveries of beverages to retailers in this city. These records shall be preserved for at least one year and shall be made available on request for inspection by any authorized representative of the city.

Sec. 6-300. Wholesaler's deposit.
Each new wholesaler licensed by the city or registered with the city, whether located outside or within the city limits, shall be required to place three months of the tax required by this article on deposit with the city. This deposit shall be an amount equal to the amount of tax paid by the wholesaler during the first month of operation in the city, and shall be deposited at the same time as the first payment of taxes. This deposit shall be retained by the city to be applied to make up for any default on the part of the wholesaler and shall be refunded to the wholesaler upon its ceasing to do business in the city, provided that the wholesaler is current in its remission of taxes. This deposit shall be adjusted each year to be an average of one-twelfth of the previous year's tax collections. A surety bond payable to the city may be posted in lieu of this deposit if such bond is in an amount equal to twice the deposit required. The deposit or bond required by this section shall be waived by the City Council upon a showing by the wholesaler that it has paid the tax levied by section 6-297 in a timely manner for a period of two consecutive years; provided, however, that if such deposit or bond is so waived, the City Council shall have the right to reinstitute the requirement of making such deposit or posting such bond if the wholesaler thereafter fails to make timely payment of the tax levied by section 6-297 with respect to any month.

Sec. 6-301. Unlawful retail sales.
It is unlawful for any retailer within the city to sell any alcoholic beverages on which the taxes under this article have not been paid by the retailer.

Sec. 6-302. Penalty; revocation of license.

(a) The failure to make a timely report or remittance shall render a wholesaler, under this article, liable for a penalty equal to ten percent of the total amount due and a further penalty of ten percent of the amount of the remittance for each successive month or any portion thereof during which the report and remittance are not filed. The filing of a false or fraudulent report shall render the wholesaler making the report liable for a penalty equal to ten percent of the amount of the remittance which would be required under an accurate and truthful report.

(b) Any failure to make a timely report or remittance or the filing of a false or fraudulent report shall also constitute grounds for the revocation of the business license or registration issued by the city to the wholesaler.

(c) The penalties in this section shall be in addition to any other penalty which may be imposed for violation of this Code.

Sec. 6-303. Sale of distilled spirits by the drink.

(a) Pursuant to the authority contained in O.C.G.A. § 3-4-130, there is imposed and levied a tax on the sale of distilled spirits by the drink, which shall be equal to three percent of the charge to the public for such drink.

(b) The tax imposed by this section shall be paid monthly, with payment due to the city clerk on the 20th day of the month following the month for which such tax is to be paid.

(c) Any taxes imposed by this section which are not paid in a timely manner shall incur a penalty of ten percent of the amount of such taxes and bear interest at the rate of one percent per month, or any fraction thereof.

(d) Retailers and retail dealers collecting the tax for the sale of distilled spirits by the drink shall be reimbursed in the form of a deduction in submitting, reporting and payment of the amount due, if such amount is not delinquent at the time of payment. The rate of deduction shall be three percent of the gross tax or $25.00, whichever is less.

(e) The City Council shall annually designate this tax, as budgeted, for one or more specific department uses for that budget year.

Secs. 6-304-- 6-315 reserved

ARTICLE XIII – SEVERABILITY

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

ARTICLE XIV – REPEALER

The provisions of any ordinances or resolutions or parts of ordinances or resolutions in conflict herewith are repealed.

Adopted and ordained this __3RD _____ day of __MAY___, 2010.

__TERRY GREENE_____
Mayor

___ELIZABETH KEMP_____
Attest: City Clerk
Seal

This Ordinance was repealed and a new ordinance adopted on 5-3-2010. See new Chapter 6 Ordinance following this.

Chapter 6

*ALCOHOLIC BEVERAGES**

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* ***Cross References:*** *Businesses, ch. 18; health and sanitation, ch. 38; offenses and miscellaneous provisions, ch. 46; taxation, ch. 50; zoning, app. A.*

State Law References: *Georgia Alcoholic Beverage Code, O.C.G.A. § 3-1-1 et seq.*

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Sec. 6-1. Licenses, permits, tags or certificates.
Secs. 6-2--6-30. Reserved.

Article II. Beer and Wine Licenses

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Secs. 6-31--6-50. Reserved.

Division 2. Retail Sale in Establishments

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Sec. 6-52. Definitions.
Sec. 6-53. Criteria for issuance.
Sec. 6-54. Conflicts of interest.
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Sec. 6-77. Enforcement.
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Sec. 6-87. Fine.
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Secs. 6-90--6-110. Reserved.

Division 3. Retail Sale by the Drink

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Sec. 6-112. Definitions.
Sec. 6-113. Compliance.
Sec. 6-114. License required; application.
Sec. 6-115. Separate license required for each place of business.
Sec. 6-116. Criteria for license.
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Sec. 6-120. Inventory and storage.
Sec. 6-121. Packaging and quantity.
Sec. 6-122. License fee.
Sec. 6-123. Familiarity with laws and regulations.
Sec. 6-124. Premises open to inspection.
Sec. 6-125. False statements.
Sec. 6-126. Persons under 18 years of age prohibited to sell or dispense.
Sec. 6-127. Gambling, vending machines, lotteries prohibited; exceptions.
Sec. 6-128. Display of license.
Sec. 6-129. Licensee must meet restaurant requirements.
Sec. 6-130. Violation.
Sec. 6-131. Affidavit, tax report; certificate of compliance.
Sec. 6-132. Limited amounts of beer and wine served without charge.

ARTICLE I.

IN GENERAL

Sec. 6-1. Licenses, permits, tags or certificates.

No licenses, permits, tags or certificates required by this chapter shall be issued unless the applicant provides a statement by the city clerk certifying that all ad valorem taxes levied against the property and due and owing have been paid.
(Res. of 6-29-2004, § 1(a))

Secs. 6-2--6-30. Reserved.

ARTICLE II.

BEER AND WINE LICENSES

DIVISION 1.

GENERALLY

Secs. 6-31--6-50. Reserved.

DIVISION 2.

RETAIL SALE IN ESTABLISHMENTS

Sec. 6-51. Granting of license.

From and after the effective date of the ordinance from which this division is derived, the retail sale of beer and wine in sealed containers, through retail establishments shall be authorized, subject to the granting of a license and compliance with the conditions, rules and regulations hereinafter set forth. (Ord. No. 35, § 1, 4-5-1976)

Sec. 6-52. Definitions.

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

Alcoholic beverage refers to malt beverages and wine as set out in O.C.G.A. §§ 58-7--58-9.

Beer shall be synonymous with the term "malt beverages" and they shall mean fermented beverages containing not more than six percent of alcohol volume and made whole or in part, from malt, or any similar fermented beverage.

Container shall mean any icebox, dispenser, showcase or other fixture where beer or wine is stored or exhibited for the purpose of sale to the public; but shall not include any place where the same is stored in lots of unbroken cases.

Fortified wines shall mean wines which contain more than 21 percent alcohol by volume.

License shall mean a license issued by the city for the sale of beer or wine within the corporate limits of the city.

Officer shall mean the president, vice president, secretary or treasurer, or any other person possessing general authority to bind a corporation or association.

Person shall mean any person, corporation, partnership or association.

Wine shall mean wines other than fortified wines.
(Ord. No. 35, § 2, 4-5-1976)

Cross References: *Definitions generally, § 1-2.*

Sec. 6-53. Criteria for issuance.

No beer and wine license shall be issued to any person for a business establishment where wine and beer is to be sold, unless said establishment is one that deals in retail sales of tangible personal products not for consumption on said premises, and excluding those business establishments dealing primarily in the sale of gasoline, oil, other petroleum products, automobile repairs and automotive service
(Ord. No. 35, § 3, 4-5-1976)

Sec. 6-54. Conflicts of interest.

(a) No license shall be issued to any councilman or the mayor of the city, or any dependant member of their household during such person's term of office. Nor shall any license be issued to any person for a business establishment in which any of the above said persons have any ownership or financial interest, or any degree of control over. Nor shall any such person make application for a license, and if the holder of a license is elected to any such office he shall surrender said license prior to taking office.

(b) It shall be unlawful for any holder of a retail beer and wine license, or any member of a partnership, or stockholder in a corporation holding such license, or any employee of a retail dealer, to have any financial interest in any wholesale malt beverage or wine business. It shall be unlawful for a retail dealer to accept or receive financial aid from the holder of any license issued to a manufacturer or wholesale dealer selling malt beverages or wines.
(Ord. No. 35, §§ 4, 5, 4-5-1976)

Sec. 6-55. Consumption on premises prohibited.

It shall be unlawful for any person who is the holder of a license for the retail sale of malt beverages or wine, or for any person who is an employee of such license holder, to permit the consumption of the same on any premises subject to control of such license holder.
(Ord. No. 35, § 6, 4-5-1976)

Sec. 6-56. Holder of suspended or revoked license; violation.

(a) It shall be unlawful for any person who is the holder of a license for the retail sale of wine or malt beverages which has been suspended to be employed during such period of suspension in the place of business for which the suspended license was issued by any other person procuring a license for the retail sale of wine or malt beverages at such place of business. It shall also be unlawful for any person who was the holder of a license for the retail sale of wine or malt beverages which has been revoked to be employed during a period of six months following such revocation in the place of business for which the revoked license was issued by any other person procuring a license for the retail sale of wine or malt beverages at such place of business.

(b) Any employment of any person in disregard to the provisions of this section shall constitute a violation of this section by both the employer and the employee.
(Ord. No. 35, § 7, 4-5-1976)

Sec. 6-57. Regulation of location and lighting for sales.

(a) It shall be unlawful for the person in charge of any place of business which is the holder of a license for the retail sale of wine or malt beverages to permit any wine or malt beverages or alcoholic beverages to be sold at retail in the building for which the license for the retail sale of wine or malt beverages was issued on any floor other than on the floor closest to the street level at the main entrance to such building.

(b) It shall be unlawful for the person in charge of any place of business which is the holder of a license for the retail sale of wine or malt beverages to permit any wine or malt beverages or alcoholic beverages to be sold at retail in the building for which the license for the retail sale of wine or malt beverages was issued in any room not brightly lighted by natural or artificial means.
(Ord. No. 35, §§ 8, 9, 4-5-1976)

Sec. 6-58. Advertising the sale of wine and/or malt beverages.

It shall be unlawful for the person in charge of any place of business which is the holder of a license for the retail sale of wine or malt beverages to advertise the sale or availability of wine and/or malt beverages upon the premises subject to said license other than by a single plain orange dot displayed on the exterior wall of said premises.
(Ord. No. 35, § 10, 4-5-1976)

Sec. 6-59. Games prohibited on premises.

No holder of a license under this division shall suffer, allow or permit pool, billiards or any game of a similar nature to be played or engaged in on the premises where such business is conducted.
(Ord. No. 35, § 11, 4-5-1976)

Sec. 6-60. Hours of sale.

It shall be unlawful for any person to sell beer or wine within the limits of the city between the hours of 12:00 midnight Saturday night and 6:00 a.m. Monday morning, and between the hours of 12:00 midnight Monday night, Tuesday night, Wednesday night, Thursday night, and Friday night, and 6:00 a.m. the following morning. Sales of beer and wine on election days shall be allowed between the hours of 6:00 a.m. and 12:00 midnight so long as such sales are not otherwise unlawful as previously set forth in this section.
(Ord. No. 35, § 12, 4-5-1976; Ord. of 12-2-1985(1))

Sec. 6-61. Application.

(a) Each applicant for a retail license for the sale of malt beverages (beer) or wine shall make a written application to the city council for the privilege of carrying on the sale of malt beverages or wine at retail, upon forms approved by the city clerk. Such application shall be filed with the city clerk and shall state the name and home address of the applicant if an individual, or home office address if a corporation or partnership; the place where the proposed business is to be located; the kind of business to be carried on; if a partnership, the names and addresses of the partners and their home addresses, if a corporation, the names of its officers, directors, and stockholders and their home addresses; the complete record of all arrests and convictions against the applicant and every partner, officer, director or stockholder of the applicant for violations of any and all laws and ordinances, city, state or federal; provided that the city council may waive the requirement that a corporation furnish a list of stockholders and a police report thereon where such corporation is publicly owned and the securities of which are entirely traded over the counter of any major stock exchange; and such additional information as might be required by the city clerk or council with reference thereto; the owner or the name of the landlord or

lessor of the proposed location; whether rent for the premises is to be paid to the landlord or lessor on a percentage of the receipts of the business or contingent upon the amount of business done, if applicable, and the trade name of the proposed business.

(b) Such application shall be sworn to by the applicant if an individual, or by a partner if a partnership, or by an officer if a corporation.

(c) Such application shall be a public record and open to inspection by any citizen of the city at any reasonable time and place.

(d) Such application shall have attached to it a complete set of fingerprints of the applicant, as required by O.C.G.A. § 3-3-2(c).

(e) Any present licensee, before renewal of his license, shall be required to furnish a sworn statement containing the above information as required for an initial application.
(Ord. No. 35, § 13, 4-5-1976)

Sec. 6-62. Offenses.

Any person making a false statement in any application for a license or statement in connection with renewal thereof shall be guilty of an offense and punished as provided by state law relating to false swearing and further a license, if granted or renewed, may be revoked for a violation. It shall also be an offense for any person to give other than the true and correct legal name of the intended licensee or other person whose name is required to be stated in such application or statement required in connection with renewal thereof, and on conviction any such person shall be punished as provided by section 6-86, and in its discretion, council may revoke a license, if granted, for such violation.
(Ord. No. 35, § 14, 4-5-1976)

Sec. 6-63. Applicant to make notice in the newspaper.

Each applicant must place an advertisement in the local newspaper once a week for four weeks stating the purpose of the application, the location of the business and the owner of the business, and must supply affidavits to the clerk, together with a copy of the advertisements, to the effect that such have appeared once a week for four weeks in the local newspaper.
(Ord. No. 35, § 15, 4-5-1976)

Sec. 6-64. Recommendation and hearing.

The city clerk, within seven days from the time such proof of advertisement is presented to him, shall refer the application to the city manager, together with all objections filed, and the city manager shall investigate and make recommendations to the mayor and council at its next regular meeting. On written request of the applicant, the city manager shall afford such applicant a hearing prior to making a recommendation. In making his recommendations, he shall be guided by the same factors applicable to full council as nearly as practicable. Such recommendation of the city manager shall be read at a council meeting at least one time prior to taking final action on the same by the full council, and at such reading there shall also be conducted a public hearing on such application. The applicant shall be notified by the

clerk and permitted to present any evidence on behalf of his application as he shall see fit, and objectors to such application being granted shall likewise be accorded the same privilege. At the council meeting at which the public hearing is held, the full council may grant or deny such application.
(Ord. No. 35, § 16, 4-5-1976)

Sec. 6-65. Posting of notice.

The applicant shall post, within three days from the time of filing of his application with the city clerk, a printed notice not less than the size of 18 inches by 18 inches, letters to be at least two inches in size, on the front door or entrance of the building of the proposed location, or on a billboard on a prominent place on the lot, approved by the chief of police, where the building is proposed to be constructed, stating that a license for sale of beer or wine at retail has been applied for, as the case may be, together with the name of the owner. Such notice shall be plainly legible, and the form thereof shall be approved by the city clerk. The cost or printing shall be borne by the applicant. Such poster shall remain at the location until final action by council upon the application.
(Ord. No. 35, § 17, 4-5-1976)

Sec. 6-66. Character investigation; proof of printed notice.

(a) The chief of police shall make a character investigation concerning the applicant and make a written report of such investigation to the city manager prior to his consideration of such application and such further investigation as the city manager might require. This provision is cumulative of any other provisions relating to investigations by the chief relating to sale and consumption of beer and wine.

(b) The chief shall also file with the city manager a written verification that the printed notice required in this article has been posted.
(Ord. No. 35, § 18, 4-5-1976)

Sec. 6-67. Grant or denial of application.

The full council, in passing upon an initial application for a beer and wine license at the final meeting thereon, shall be guided by the following factors as to whether to deny or grant such application for a beer and wine license:

(1) The proximity of other establishments selling beer or wine to the proposed location.

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

(3) The proximity of churches, schools and playgrounds for children to the proposed location.

(4) Whether the proposed location has adequate off-street parking facilities or other parking available for its patrons.

(5) Whether the location would tend to increase and promote traffic congestion and resulting

hazards therefrom.

(6) The criminal record of the applicant and his financial responsibility. His general good character and reputation if an individual, or that of the officers if a corporation, or that of the partners if a partnership.

(7) The approval or objection to the proposed location by citizens residing in the area adjacent thereto.

(8) Reports of city manager and chief of police.

(9) The information required in the application or statement and whether all requirements as to notice and advertisement have been complied with.

(10) Evidence presented at the public hearing before council for or against the application.

(11) The need for additional business facilities selling beer or wine in the city.

(12) Whether or not the granting of the application would tend to promote the general welfare, safety, health and morals of the citizens of the city.

(13) Whether any beer or wine license previously issued for such location has been revoked for cause by the city council.

(14) Whether the applicant holds or possesses any other beer or wine license issued by the city.

(15) Whether the applicant has been illegally selling intoxicating liquor, beer or wine, or whether his employee or agent has been selling such, and whether the applicant has been illegally operating a dive or other undesirable place of business.

(Ord. No. 35, § 19, 4-5-1976)

Sec. 6-68. Renewal and review of license.

(a) All licenses are issued only on a calendar year basis and shall come up for renewal and review in December of each year following issuance by the city council, except where a license is issued to be effective the following year, in which case the renewal shall come up on the date specified in this section of the year for which issued. Each licensee shall make a written application for renewal on or before November 15 of each calendar year, which shall contain substantially the same information as the initial application. A license may be applied for and issued the year following that in which application is made, provided:

(1) Such licensee shall comply with all regulations of this chapter and such other requirements as may hereafter be provided by law or ordinance; and

(2) Any licensee shall be liable to pay any increase in license fees for such year as may be subsequently fixed by the city council.

(b) An applicant for renewal of a license shall be entitled to a refund of fees tendered where council permits him to withdraw his application for renewal prior to final action on the same by the city council. Any person applying for a license for a location with a license already outstanding shall have the burden of securing proper authority for all notices required to be placed upon the premises or for any inspection required thereunder. Upon the failure of such person to do so, the council shall take no further action with reference to such license until such permission has been obtained.

(c) The form for application for renewal of a license shall be approved by the city clerk. All fees shall be tendered with such application. No advertising or posting of notice on the premises shall be necessary in case of renewal. The chief of police shall make a character report on the licensees to the city manager, who shall make a recommendation to the full council for renewal if he is in favor thereof. If the city manager should determine there is probable cause for not renewing the license, he shall take no further action on the matter, but shall refer the same to full council for its consideration. The full council shall afford the licensee a public hearing on whether his license should be renewed and shall permit him to introduce evidence in his behalf. In passing upon such renewal, the full council shall be guided as nearly as practicable by those factors applicable to an initial application, and in addition council may consider the record of the licensee for the previous year as to whether the same shows any infractions or violations of the laws or ordinances of the city relating to the use, sale, taxability or possession of beer and wine, or violations of laws of the state and federal government pertaining to the manufacture, possession, transportation or sale of beer, wine or intoxicating liquors, or taxability thereof. Wherever used in this article, the term, "conviction" shall be held to include a plea of nolo contendere, and such plea shall be treated as equivalent to a conviction. The council may also consider the record of the licensee for convictions during the previous year under local, state or federal laws of crimes involving moral turpitude and may also consider the manner in which the business has been conducted the previous year, and in that connection may consider whether there have been fights, disturbances or matters involving a breach of the peace occurring on the premises of such business, and whether the same has been operated in such a manner as to be a public or private nuisance to the citizens of the city.

(d) Whenever a reference is made to the record of licensee, the same shall include the record of an individual if a licensee, or officer or manager if a corporation, or partners if a partnership holds the license.

(e) After said public hearing, council may renew or deny renewal of any beer or wine license. (Ord. No. 35, § 20, 4-5-1976)

Sec. 6-69. Expiration.

All retail dealer licenses shall expire at 12:00 midnight on December 31 of the year for which issued. All applications for renewal of retail dealer licenses for the ensuing year shall be treated as applications for new licenses.
(Ord. No. 35, § 21, 4-5-1976)

Sec. 6-70. Compliance, revocation.

Each licensee shall be subject to and comply with all ordinances, laws and regulations of the city,

state or unit thereof, or federal government, and upon a violation thereof by a licensee, his license under this article may be revoked by a council in its discretion. This provision shall be cumulative of all other provisions relating hereto.
(Ord. No. 35, § 22, 4-5-1976)

Sec. 6-71. Prorating or transfer.

No license shall be prorated or transferred. Each license shall be issued for a specific location only and when issued may not be transferred to another location without making a new application to council No license shall be transferred from the licensee to any other person without the intended complying with all provisions of this division as any other applicant.
(Ord. No. 35, § 23, 4-5-1976)

Sec. 6-72. Illegal sale, undesirable premises.

No license shall be issued to any person who is illegally selling intoxicating liquors or operating a dive or undesirable place of business, or whose employee is illegally selling intoxicating liquors. No business or person as herein described shall begin operations until the license shall have been approved and actually issued, and pendency of an application for license shall not be considered as a defense or matter of mitigation of the violation of this division.
(Ord. No. 35, § 24, 4-5-1976)

Sec. 6-73. County permit honored by the city.

Any beer or wine permit issued by the governing authority of the county to any person located within an area annexed into the corporate limits of the city shall be honored by the city for the balance of the calendar year, but the holder thereof shall apply for a renewal thereof each year the same as any other licensee of beer or wine, and further such licensee shall abide by all of the laws and ordinances of the city and state law applicable to such licensee. Any such license may be revoked or suspended for cause on the same terms as any other license for beer or wine issued by the city.
(Ord. No. 35, § 25, 4-5-1976)

Sec. 6-74. Excise tax.

(a) Imposed and levied. There is hereby imposed and levied a specific excise tax upon all retail dealers in malt beverages or wine within the city limits, as follows:

(1) Upon all malt beverages. Five cents per bottle or container of 12 ounces and in similar proportion for bottles, cans and containers of various sizes.

(2) Upon all wine. Eighty cents per wine gallon and in similar proportion for bottles and containers of various sizes.

(b) In addition to other taxes or license fees. Such taxes shall be in addition to all other taxes or license fees imposed upon such retail dealers.

(c) Confiscation of malt beverages/wine if tax is delinquent. In addition to all penalties otherwise provided, any malt beverages or wine found on the premises of any retail dealer shall be confiscated if it appears that the city tax has not been paid.
(Ord. No. 35, § 26, 4-5-1976)

Sec. 6-75. Against whom tax levied.

The tax shall be paid by each licensed wholesale dealer delivering alcoholic beverages in the city.
(Ord. No. 35, § 27, 4-5-1976)

Sec. 6-76. Due date and required report.

The alcoholic beverage excise tax shall be paid on or before the tenth day of the month following the calendar month in which the beverages are sold or disposed of, and payment shall be accompanied by a report itemizing the exact quantities of alcoholic beverages sold for the preceding calendar month by size of container. Any tax remaining unpaid at the expiration of 15 days from the due date shall be delinquent.
(Ord. No. 35, § 28, 4-5-1976)

Sec. 6-77. Enforcement.

The tax levied by this division may be enforced by execution in the same manner as other taxes of the city, and in addition, any failure of payment of such tax shall be grounds for revocation or refusal of the business license of the delinquent taxpayer.
(Ord. No. 35, § 29, 4-5-1976)

Sec. 6-78. License required.

Each retail dealer in malt beverages, and wines as such terms are defined in O.C.G.A. § 3-1-2 who does business within this municipality shall be required to obtain a license from the city clerk in the manner specified in this division.
(Ord. No. 35, § 30, 4-5-1976)

Sec. 6-79. Fee established.

The annual business license fee for malt beverage and wine retail dealers, whose place of business is located within this municipality, shall be as set by the schedule of fees and charges in the office of the city clerk.
(Ord. No. 35, § 31, 4-5-1976)

Sec. 6-80. Dealer to pay excise tax.

No wholesale or retail dealer in malt beverages or wine in the city shall offer for sale or for gift any malt beverages or wine unless the excise tax levied in this division has been paid on the item sold, given away or otherwise transferred.
(Ord. No. 35, § 32, 4-5-1976)

Sec. 6-81. Recordkeeping.

All retail dealers shall keep a correct record of all purchases of all malt beverages or wine and require all wholesale dealers to furnish an invoice of each purchase, which shall be kept and preserved by such retail dealer at his place of business for a period of six months from the date of such purchase and shall be open and subject to inspection by the authorized representative of the mayor and council of the city at all reasonable times, and shall, on or before the close of business on Monday of each week, make a report to the clerk and treasurer of the city, which report shall show the number of cases of beer or wine purchased for resale during the previous week up to the close of business on Saturday of such week, and shall accompany such report with a copy of the delivery invoice.
(Ord. No. 35, § 33, 4-5-1976)

Sec. 6-82. Wholesale and retail sales at separate locations.

No beer and wine dealer shall be allowed to sell beer or wine wholesale at the same location where beer and wine is sold at retail.
(Ord. No. 35, § 35, 4-5-1976)

Sec. 6-83. Authority to enter premises.

The city marshal or his authorized agents and employees shall be authorized to enter upon the premises of any retail beer or wine dealer at reasonable hours to make any inspection he may deem necessary to ensure compliance with this division.
(Ord. No. 35, § 36, 4-5-1976)

Sec. 6-84. Delivery and transference.

(a) No malt beverages or wines shall be delivered to any licensee licensed under the terms of this division except by a duly licensed wholesale dealer licensed under the laws of the state.

(b) No malt beverages or wines shall be transferred from one business establishment licensed hereunder to another business establishment licensed hereunder without the written permission of the mayor and city council, which written permission shall be filed with the city clerk at the earliest opportunity after the office of the city clerk is opened immediately thereafter.

(c) No malt beverages or wines shall be sold, offered for sale or located on the premises used by any licensee for the purpose of operating under a beer and wine license, except malt beverages and wines which have been delivered to such licensee at such premises by a duly licensed wholesale dealer licensed under the laws of the state.
(Ord. No. 35, § 37, 4-5-1976)

Sec. 6-85. Twelve-month revocation of license.

Whenever the holder of any license from the city for the retail sale of wine or beer, or any employee of any such license holder, shall be found guilty in the recorder's court of the city of the

violation of any provisions of this division or other ordinance of the city regulating the taxation, sale or storage of wine or beer, it shall be the duty of the recorder to revoke such wine or beer license for a period of 12 months. The revocation of such wine or beer license as herein provided for shall be in addition to the imposition of fine and imprisonment as may be now provided for by other ordinances.
(Ord. No. 35, § 38, 4-5-1976)

Sec. 6-86. Revocation of license in entirety.

The city council, after affording the licensee notice of the charges and opportunity to be heard with respect to any revocation proceedings on any beer or wine license issued by the city council, may, if it finds this division to have been violated by the licensee, his agent or employee, revoke such license in its entirety, suspend the same for a specified period of time, place the licensee on probation or place other conditions thereon as the council may deem necessary to require the licensee to comply with this Code and other ordinances of the city council and the laws of the state. This provision shall be cumulative of all other provisions relating hereto.
(Ord. No. 35, § 39, 4-5-1976)

Sec. 6-87. Fine.

If any wholesale or retail dealer subject to this division shall fail or refuse to comply with any of the provisions, he shall be cited to appear before the recorder of the city, as in other cases of violation of city laws or ordinances, and shall, upon conviction, be fined not less than $100.00 nor more than $200.00 for the first offense, nor less than $150.00 nor more than $300.00 for the second offense. Upon conviction, the recorder may suspend or revoke his license for any violation of this division in lieu or in addition to any fines levied for said violation. Any person who has his license suspended or revoked by the recorder has the right to have said action reviewed by the mayor and council as provided in the Charter of the city.
(Ord. No. 35, § 40, 4-5-1976)

Sec. 6-88. No refund; license a privilege.

(a) In case of the revocation or suspension of such retail dealer license before the expiration of such calendar year, the holder thereof shall not be entitled to receive any refund. No licensee shall be entitled to a refund in the event such licensee is unable to obtain a state or federal license, notwithstanding the fact that such licensee has paid the city for a license for the period of time for which he is unable to obtain a state or federal license.

(b) Notwithstanding anything in this division to the contrary the sale of malt beverages and wines, other than fortified wines, in the city is a privilege and not a right and the issuance of a license hereunder shall not create any property rights in the license holder or any other person, firm or corporation.
(Ord. No. 35, § 41, 4-5-1976)

Sec. 6-89. Sale of drinks on premises.

This division shall in no way supersede, affect, alter, amend, or replace the ordinance previously

passed by the city governing the issuance of licenses for the sale of wine by the drink on the premises only.
(Ord. No. 35, § 42, 4-5-1976)

Secs. 6-90--6-110. Reserved.

DIVISION 3.

RETAIL SALE BY THE DRINK

Sec. 6-111. Authorized.

From and after the effective date of the ordinance from which this section is derived, the retail sale of beer and wine by the drink and for consumption only on the premises by retail restaurant establishments shall be authorized, subject to the granting of a license and compliance with the conditions, rules and regulations hereinafter set forth.
(Ord. No. 34, § 1, 4-6-1981)

Sec. 6-112. Definitions.

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

Bar means any raised surface above a height of 36 inches from the floor which has a size of 288 square inches or greater, which is utilized in a restaurant or other establishment as an area for the serving of food or beverages.

Beer shall be synonymous with the term "malt beverages" and they shall mean fermented beverages containing not more than six percent of alcohol volume and made whole or in part, from malt, or any similar fermented beverage.

Licensee for the sale of wine and beer by the drink on the premises means any person, firm, or corporation duly licensed to sell by the drink and for consumption only on the premises.

License means the authorization by the city council to engage in the sale of consumption on the premises of wine and beer by the drink.

Person means and includes any individual, partnership, corporation, or association.

Premises : (Replaced)means the definite closed or partitioned-in locality whether a room, shop or building, wherein wine and beer shall be sold and consumed therein.)

(As amended 08/13/2007) Premises shall mean any enclosed or fully partitioned, (meaning floor to ceiling), wall or enclosures, building, or any such space, room, shop or portion of a building in which wine and beer shall be sold and consumed pursuant to an authorized license issued in compliance with this Code. Beer and wine may be sold and consumed pursuant to a valid license in an outdoor eating area which is attached to and contiguous to a licensed premises provided that such

outdoor eating area is accessible only through the interior of the restaurant building (except for provision of any emergency exit from such outdoor eating area that may be provided to meet fire safety codes or provisions), has constructed around the entire exterior of such outdoor eating area a physical barrier constructed of impervious, solid materials such as wood, brick, concrete, metal or other such materials as may be approved by the city issuing authority having a height of not less than 36 inches from the ground and further having such additional screening, landscaping or vegetation buffer, or set back provisions in order to reduce visibility from adjoining properties or from the city streets or sidewalks and in order to prevent and prohibit the transfer of alcoholic beverages from the premises, including any outdoor eating area, to any person or persons located outside the premises, including the outdoor eating area. Every premises for the sale and consumption of beer and wine on the premises shall be approved by the city's issuing authority prior to issuance of any license for the sale or consumption on the premises of beer and wine by the drink.

Restaurant means any public place kept, used, maintained, advertised and held out to the public as a place where meals are served and where meals are actually and regularly served, such place being provided with adequate and sanitary kitchen and dining room equipment and seating capacity of at least 25 people, having employed therein a sufficient number and kind of employees to prepare, cook and serve suitable food for its guests. At least one meal per day shall be served at least six days a week, with the exception of holidays, vacations and periods of redecorating, and the serving of such meals shall be the principal business conducted, with the serving of wine and beer to be consumed on the premises as only incidental thereto. In addition to the foregoing, the restaurant must derive at least 50 percent of its total annual gross food-and-beverage sales from the sale of prepared meals or food.

Wholesaler and wholesale distributor mean any person, firm, or corporation engaged in distribution or selling to licensees for the sale of wine and beer by the drink on the premises.

Wine means any fermented liquid, having an alcoholic content of not more than 19 percent, by volume, produced from grapes, fruits or berries.
(Ord. No. 34, § 4, 4-6-1981; Ord. of 6-7-1982; Ord. of 12-9-1991, § 1; Ord. of 9-27-1993, § 1; Ord. of 1-3-1994(2), § 1; Ord. No. 2004-1, § 1, 4-5-2004)
Cross References: *Definitions generally, § 1-2.*

Sec. 6-113. Compliance.

It shall be unlawful for any person to sell or offer to sell any wine or beer for consumption on the premises without first complying with the rules and regulations set out in this division.
(Ord. No. 34, § 5, 4-6-1981)

Sec. 6-114. License required; application.

No wine or beer shall be sold by the drink for consumption on the premises except under a license granted by the city council. Application for a consumption on the premises license shall be made on the same forms provided by the city council and subject to the same regulations as set forth in a previous ordinance passed by the mayor and city council for the control, regulation, and licensing of package beer and wine sales as referred to and incorporated herein under division 2 of this article.
(Ord. No. 34, § 6, 4-6-1981)

Sec. 6-115. Separate license required for each place of business.

A separate consumption on the premises license shall be required for each place of business. (Ord. No. 34, § 7, 4-6-1981)

Sec. 6-116. Criteria for license.

(a) No consumption on the premises license shall be issued to any person unless the building in which the business will be located is complete and detailed plans of said building and outside premises are attached to the application, or unless proposed plans and specifications and a building permit for a proposed building to be built are attached to the application. The completed building or the proposed building shall comply with ordinances of the city, regulation of the state revenue commissioner, and the laws of the state. The proposed building shall also be subject to final inspection and approval when completed by the building inspector. Each building in which the business will be located shall contain sufficient lighting that the building itself and the premises on all sides of the building are readily visible at all times from the front of the street on which the building is located so as to reveal all of the outside premises of said building. Each applicant for a consumption on the premises license shall attach to his application evidence of ownership of the building or proposed building or a copy of the lease if the applicant is leasing the building. All premises for which a consumption on the premises license shall be issued shall afford therein adequate sanitary toilet facilities and shall be adequately illuminated so that all hall passage ways and open areas may be clearly seen by customers therein.

(b) There shall be no retail sale, serving, or consumption of beer or wine over, upon, or across a bar as defined in section 6-112.
(Ord. No. 34, § 8, 4-6-1981; Ord. of 9-27-1993, § 2; Ord. No. 2004-1, § 2, 4-5-2004)

Sec. 6-117. Sale or delivery of liquor prohibited.

No licensee shall sell or deliver any liquor to any person in said licensee's place of business. (Ord. No. 34, § 9, 4-6-1981)

Sec. 6-118. Hours of sale.

(a) No licensee shall deliver, sell or offer for sale any beer or wine at any of the following times:

(1) For the 30 hours between the hours of 12:00 midnight Saturday and 6:00 a.m. Monday morning.

(2) Between the hours of 12:00 midnight Monday, Tuesday night, Wednesday night, Thursday night and Friday night, and 6:00 a.m. of the following morning.

(b) Sale of beer and wine by the drink shall be allowed on election days between the hours of 6:00 a.m. and 12:00midnight so long as such sales would not otherwise be unlawful under the provisions of subsections (a)(1) and (2) of this section.

(Ord. No. 34, § 10, 4-6-1981; Ord. of 12-2-1985(2))

Sec. 6-119. Purchase of food with beer or wine required.

No licensee shall give, sell or offer for sale any wine or beer to any person unless an order for food for a meal is placed in a restaurant as defined in section 6-112 with the order for any such wine or beer and for which a check or bill is given for same. The check or bill issued for such an order shall separately show all the charges for food items and the charges for beer and wine items for any such order.
(Ord. of 12-9-1991, § 2)

Sec. 6-120. Inventory and storage.

No licensee shall keep any wine or beer stored in any bonded or other type warehouse in the city nor shall he enter into any type of arrangement whereby wine and/or beer ordered by him is stored for him by any licensed wholesaler. A licensee shall keep no inventory or stock of wine and/or beer at any place except his licensed place of business and within his licensed place of business his storage space for wine and/or beer shall be immediately adjacent to the room in which he is licensed to do business.
(Ord. No. 34, § 12, 4-6-1981)

Sec. 6-121. Packaging and quantity.

No consumption on the premises licensee may purchase wine in containers smaller than one-fifth-gallon or beer in containers smaller than seven ounces. The sale of wine or beer for any consumption on premises of any licensee in unbroken packages or in any quantity for other than consumption on the premises is expressly prohibited.
(Ord. No. 34, § 13, 4-6-1981)

Sec. 6-122. License fee.

The annual fee for a consumption on the premises license shall be as set forth in the schedule of fees and charges on file in the office of the city clerk, and shall be paid prior to the issuance of any license, said fee to accompany the application and shall be either in cash or a bank certified check.
(Ord. No. 34, § 14, 4-6-1981)

Sec. 6-123. Familiarity with laws and regulations.

All holders of a consumption on the premises license shall keep a copy of this division in his premises and shall instruct any person working there with respect to the terms hereof and each licensee or his agents selling wine shall at all times be familiar with the terms hereof. The licensee shall be held responsible for any acts of his employees in any violation of this division or of the laws of the state or the rules and regulations of the state revenue commissioner.
(Ord. No. 34, § 15, 4-6-1981)

Sec. 6-124. Premises open to inspection.

The business premises of the holder of a consumption on the premises license for the sale of wine shall be open to inspection at any and all times by officers or officials authorized to conduct such inspections.
(Ord. No. 34, § 16, 4-6-1981)

Sec. 6-125. False statements.

The making of any statement on an application for a license to sell wine and/or beer for consumption on the premises which shall be later found to be false shall constitute grounds for revocation of said license.
(Ord. No. 34, § 17, 4-6-1981)

Sec. 6-126. Persons under 18 years of age prohibited to sell or dispense.

No licensee shall allow or require a person in his employment who is under 18 years of age to dispense, serve, sell or take orders for any alcoholic beverage; provided, however, that the provisions of this section shall not prohibit persons under 18 years of age who are employed in supermarkets or convenience stores from selling or handling alcoholic beverages which are sold for consumption off the premises.
(Ord. No. 34, § 18, 4-6-1981)

Sec. 6-127. Gambling, vending machines, lotteries prohibited; exceptions.

There shall be no gambling, betting, games of chance, punch boards, vending machines, slot machines, pinball machines, lotteries or tickets or chances therein or the operation of any schemes for hazarding money or any other thing of value in any licensee's place of business or in any room adjoining the same, owned, leased or controlled by the licensee and any violation of this section shall be cause for suspension or revocation of license. The above prohibition against lotteries or tickets or chances therein shall not include such lottery operations or sales as may be approved by the state.
(Ord. No. 34, § 19, 4-6-1981; Ord. of 12-13-1993, § 1)

Sec. 6-128. Display of license.

Licenses under this division shall be displayed prominently at all times on the premises for which the same was issued.
(Ord. No. 34, § 20, 4-6-1981)

Sec. 6-129. Licensee must meet restaurant requirements.

In addition to all other requirements, no license for consumption on the premises shall be issued to any applicant who does not meet the requirements of a restaurant as defined in section 6-112.
(Ord. No. 34, § 21, 4-6-1981)

Sec. 6-130. Violation.

Any person violating the rules and regulations set out in this division shall be subject to

revocation of his license and punishment as prescribed by the ordinances of the city. In addition to the rules and regulations hereinabove set out, each licensee doing business in the city under this division 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 wine and/or beer in the state, and any violation of same shall subject said licensee to immediate suspension or revocation of his retail wine and beer license and also shall subject said licensee to criminal prosecution by the proper authority as provided by law and the ordinances of the city.
(Ord. No. 34, § 22, 4-6-1981)

Sec. 6-131. Affidavit, tax report; certificate of compliance.

(a) Each licensee shall deliver monthly beginning August 20, 1993, and continuing on the 20th day of each month thereafter an affidavit clearly showing separately for the prior month: (i) the gross receipts from the sale of prepared meals or food; and (ii) the gross receipts from the sale of beer and wine beverages. Such affidavit shall also clearly show the total receipts from prepared meals or foods and the sale of beer and wine beverages. Such affidavit shall be in the form as provided by the city. The licensee must attach to the affidavit a copy of its state sales and use tax report for each such period.

(b) Upon request, each licensee shall provide at its own expense from a certified public accountant monthly, quarterly, or annual statements of compliance required of this section.
(Ord. of 7-12-1993, § 1)

Sec. 6-132. Limited amounts of beer and wine served without charge.

Notwithstanding the provisions of this division, which otherwise requires a license and limits the sale of beer and wine by the drink for consumption on the premises to restaurants, limited amounts of beer and wine by the drink for consumption on premises may be served without charge to patrons, only upon the circumstances provided for in this section and subject to the rules and regulations set out in this section, or as may be established by the mayor and council or city manager, upon appropriate establishment of rules and regulations by the mayor and council of the city as herein provided.

(1) Upon proper application being made on forms provided by the city council and payment of any applicable fees, non-profit organizations, as may be determined and certified by the city manager, may be permitted to serve beer and wine by the drink for consumption on the premises to patrons by invitation only, not more than four times per year, at events sponsored and controlled by such organizations; provided however, that the number of drinks shall be limited to two drinks per patron, not to exceed 12 ounces for each drink. The consumption and activities pursuant to this section shall otherwise be subject to all other rules and regulations set out in this division, except for the license requirement and the requirement that such consumption shall only take place at restaurants.

(2) Upon proper application being made on forms provided by the city council and payment of any applicable fees, individuals or entities doing business in the city, as evidenced by a duly issued business or occupation license by the city, may be permitted to serve beer and wine by the drink for consumption on the premises of the business, as evidenced by the business or occupational license, to patrons by invitation only not more than two times per

year, at events sponsored and controlled by such organizations, to take place only after normal business hours; provided however, that the number of drinks shall be limited to two drinks per patron, not to exceed 12 ounces for each drink. The consumption and activities pursuant to this section shall otherwise be subject to all other rules and regulations set out in this division, except for the license requirement and the requirement that such consumption shall only take place at restaurants.

(Ord. No. 2004-1, § 3, 4-5-2004)

This ordinance adopted 5-3-2010. Repeals previous Ordinance in it's entirety.

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ORDINANCE 2010-1
Amendment 1

AN ORDINANCE TO AMEND AN ORDINANCE FOR THE LICENSING, CONTROL, TAXATION, AND REGULATION OF THE RETAIL PACKAGE SALE OF MALT BEVERAGES AND WINE AND FOR THE RETAIL BY THE DRINK SALE FOR CONSUMPTION ONLY ON THE PREMISES WHERE SOLD OF DISTILLED SPIRITS, MALT BEVERAGES, AND WINE IN CLARKESVILLE, GEORGIA

CHAPTER 6 OF THE CODE OF THE CITY OF CLARKESVILLE GEORGIA IS HEREBY AMENDED AND RESTATED IN ITS ENTIRETY TO READ AS FOLLOWS:

WHEREAS, the citizens of Clarkesville, Georgia approved a referendum for the purpose of determining whether Clarkesville should be authorized to issue licenses to sell distilled spirits for beverage purposes by the drink for consumption only on the premises where sold pursuant to an election held on November 3, 2009; and

WHEREAS, the City Council of Clarkesville, Georgia desires to combat the undesirable secondary effects of businesses where distilled spirits, malt beverages, and wine may be sold for beverage purposes by the drink for consumption only on the premises where sold; and

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

WHEREAS, The City Council of Clarkesville, Georgia has a substantial interest in preserving the quality of life for the citizens of Clarkesville; and

WHEREAS, The City Council of Clarkesville, Georgia desires to establish a comprehensive and consolidated ordinance for the licensing, control, taxation, and regulation of the retail package sale of malt beverages and wine and for the retail sale of distilled spirits, malt beverages, and wine for consumption purposes only on the premises where sold.

NOW, THEREFORE, it is hereby ordained by the City Council of Clarkesville, Georgia that the provisions contained herein shall apply regarding the retail package sale of malt beverages and wine and for the retail sale of distilled spirits, malt beverages, and wine for consumption purposes only on the premises where sold.

CHAPTER 6
ALCOHOLIC BEVERAGES

ARTICLE I. IN GENERAL

Sec. 6-1. License a privilege.

(a) Alcoholic beverages may be sold in the incorporated area of the city under a license granted by the City Council under the terms and conditions provided in this chapter.
(b) All licenses issued pursuant to this chapter shall be a mere grant of privilege to carry on the business during the term of the license, subject to all terms and conditions imposed by this chapter and state law.
(c) All licenses pursuant to this chapter shall have printed on the front these words:
"This license is a mere privilege subject to be revoked and annulled and is subject to any further ordinances that may be enacted."
(d) Any holder of a license issued in accordance with this chapter is required to apply for and obtain an alcoholic beverage license from the state before any sales commence. Additionally, city licensees are required to abide by all applicable state regulations and laws.

Sec. 6-2. Definitions.

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

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

Alcoholic beverage means and includes all alcohol, distilled spirits, beer, malt beverage, wine or fortified wine.

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

Brewpub means any eating establishment in which beer or malt beverages are manufactured or brewed, subject to the barrel production limitation prescribed in O.C.G.A. § 3-5-36 for retail consumption on the premises and dispenses solely in draft form.

City Council means the City Council of Clarkesville, Georgia.

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

Eating establishment means any public place, including a place available for rental by the public, selling prepared food for consumption by the public on the premises with a full service kitchen. A full service kitchen shall consist of a three-compartment pot sink, a stove or grill permanently installed, and a refrigerator, all of which must be approved by the health and fire departments. An eating establishment shall be prepared to serve food every hour the establishment is open, shall have a minimum seating capacity at tables of 25 persons, and shall derive at least 50 percent of the gross receipts annually from the sale of prepared meals or food.

Employee pouring permit means an authorization granted by the city to dispense, sell, serve, take orders for, or mix alcoholic beverages in an establishment licensed as a retail consumption dealer.

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

Indoor commercial recreational establishment means and is limited to an establishment:
(1) That regularly serves prepared food with a full service kitchen (a full service kitchen, as used in this definition, shall consist of a three-compartment pot sink, a stove or grill permanently installed, and a refrigerator, all of which must be approved by the health and fire departments) prepared to serve food every hour the establishment is open and deriving at least 50 percent of its total annual gross sales from the sale of prepared meals or food and recreation activities; and
(2) Wherein the sale of food and alcoholic beverages is incidental to its primary enterprise and activity on the premises. The primary activity on the premises of the indoor commercial recreational establishment shall be family-oriented in nature, generally meaning that such use attracts a range of individuals from all age groups. Uses may specifically include, but are not limited to, dinner theaters, bowling centers, and other similar uses. Outdoor commercial recreation is not included, nor shall concession sales of alcoholic beverages be permitted in an outdoor commercial recreational establishment. The term "indoor commercial recreational establishment" does not include bingo parlors, dance halls, nightclubs, taverns, billiard parlors, video arcades, adult entertainment and/or sexually related entertainment activities, and similar uses.

Licensee means the individual to whom a license for the sale or distribution of distilled spirits, malt beverages, or wine under this chapter is issued. If a licensee is a partnership or corporation, the term shall include all partners, officers, and directors of the partnership or corporation.

Nonresidential zone means the PRO, DB, CB, HB, and M-1 zoning districts, as defined under the city comprehensive zoning ordinance.

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

Wine means any alcoholic beverage containing not more than 21 percent alcohol by volume made from fruits, berries, or grapes, either by natural fermentation or by natural fermentation with brandy added. The term "wine" includes, but is not limited to, all sparkling wines, champagnes, combinations of such beverages, vermouths, special natural wines, rectified wines, and like products. The term "wine" does not include cooking wine mixed with salt or other ingredients so as to render it unfit for human consumption

as a beverage. A liquid shall first be deemed to be a wine at the point in the manufacturing process when it conforms to this definition.

Wine tasting means an instructional or educational promotion in an establishment licensed for the retail sale of wine in original packages and not for consumption on the premises.

Sec. 6-3. Notice.

For purposes of this chapter, notice shall be deemed served when personally served or when served by certified mail on the registered agent required under section 6-30(f) within three days after the date of deposit in the United States mail.

Sec. 6-4. Violation and penalties.

Any person who violates any provision of this chapter may, upon conviction, be punished by a fine of not less than $500.00 for each offense and/or 30 days in jail, unless a different penalty is set out in any ordinance from which the violation is derived.

Secs. 6-5--6-26. Reserved.

ARTICLE II. LICENSING AND APPLICATION

Sec. 6-27. Licenses--Generally.

A license issued under this article shall:

(1) Permit the licensee to sell or distribute the beverage for which the license is issued inside the city pursuant to the terms of this article and consistent with the laws of the State of Georgia and the United States.

(2) Expire on December 31 of each year. An application for renewal shall be made annually on or before November 15 of each year. Any licensee must annually meet the requirements set forth by the City Council in order to obtain a renewal of any license. Any licensee making proper application with supporting documents for a license to operate during the following calendar year and having filed such application before November 15 shall be permitted to continue to operate pending final approval of the licensee's application for the following year if final approval is not granted before January 1.

(3) Not be transferred from one person to another or from one location to another without prior approval from the City Council upon written application from the licensee in the manner described in section 6-36 of this ordinance.

(4) Depending on the license issued, permit the licensee to sell distilled spirits, malt beverages, wines, or any combination thereof, depending upon the license issued, for beverage purposes by the drink for consumption only on the premises where sold.

(5) Depending on the licenses issued, permit the licensee to sell at retail, packaged malt beverages and wines in their original and unopened consumer containers in certain retail establishments for consumption off the premises.

Sec. 6-28. Same--Types issued.

Only the following licenses shall be issued under this article:

(1) Retail sale of packaged malt beverages and/or wines for consumption off the premises.

(2) Retail sale of malt beverages by the drink for consumption on the premises.

(3) Retail sale of wine by the drink for consumption on the premises.

(4) Retail sale of distilled spirits by the drink for consumption on the premises.

Sec. 6-29. Separate license required for each location of sale.

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

Sec. 6-30. Qualifications for licensing; no license issued; registered agent.

(a) The term "applicant," for the purpose of this section and unless otherwise indicated, means the corporation, partnership, sole proprietorship, or other organization and the managing agent.

(b) Every managing agent applicant for a license under this article shall be at least 21 years of age, a U.S. citizen or an alien lawfully admitted for permanent residency, and a resident of the state. The applicant shall apply on forms furnished by the city clerk and in connection therewith shall, under oath, answer all questions, supply all information, and furnish all certificates, affidavits, bonds and other supporting data as required thereby.

(1) Where the application is made on behalf of a corporation, the license shall be issued jointly to the corporation and an officer or agent thereof who meets the requirements as set forth in this subsection (b). The officer or agent named as the applicant shall be an individual who does, in fact, have regular managerial authority over the business conducted on the licensed premises, including the sale of alcoholic beverages and who is employed fulltime by the corporation. Said individual shall be known as the managing agent.

(2) Where the application is made on behalf of a partnership, the license shall be issued jointly to the partnership and either the managing general partner thereof or an individual who meets the requirements set forth in this subsection (b), who does, in fact, have managerial authority over the business conducted on the licensed premises, including the sale of alcoholic beverages, and who is employed fulltime by the partnership. Such individual shall be known as the managing agent.

(3) Where the application is made on behalf of a sole proprietorship, the license shall be issued jointly to the sole proprietorship and an individual who meets the requirements set forth in this subsection (b), who does, in fact, have management authority over the business conducted on the licensed premises, including the sale of alcoholic beverages, and who is employed fulltime by the proprietor. Such individual shall be known as the managing agent. The managing agent may be the sole proprietor if he/she otherwise qualifies under this section.

(4) Where the application is made on behalf of any other type organization, the license shall be issued jointly to the organization and an individual who meets the requirements set forth in this subsection (b), who does, in fact, have management authority over the business conducted on the licensed premises, including the sale of alcoholic beverages, and who is employed fulltime by the organization. Such individual shall be known as the managing agent. If the applicant is a nonprofit private club, the managing agent may be an officer of the organization in lieu of a fulltime employee if the individual is otherwise qualified under this subsection (b).

(5) In the event the managing agent changes, the licensee shall notify the city clerk within five days of the change. A fee of $100.00 will be charged for the processing of the change of the managing agent, and such applicant must be approved by the City Council.

(c) When contrary to the public interest and welfare, no license to sell alcoholic beverages of any kind shall be issued by the City Council to or for:

(1) Any person, as determined by the City Council, by reason of such person's business experience, financial standing, trade associations, personal associations, arrest record, or reputation in any community in which he/she has resided, who is not likely to maintain the operation for which the license is sought in conformity with federal, state or local laws, rules and regulations.

(2) Any person who has been convicted under any federal, state or local law of any felony involving moral turpitude.

(3) Any person who has been convicted under any federal, state or local law of any felony not involving moral turpitude within ten years immediately preceding the filing of an application for such license.

(4) Any person convicted under any federal, state or local law of a misdemeanor, particularly, but not limited to, those involving alcoholic beverages, gambling or tax law violations, if such conviction tends to indicate that the applicant will not maintain the operation for which he is seeking a license in conformity with federal, state or local laws, rules and regulations.

(5) A location not suitable in the judgment and discretion of the City Council because of traffic congestion, general character of the neighborhood, or by reason of the effect which such an establishment would have on the adjacent and surrounding properties or on the neighborhood.

(6) A location within an area where, in the judgment of the City Council, the number of alcoholic beverage licenses already granted makes it contrary to the public interest or welfare.

(7) A location at which a previous alcoholic beverage license has been revoked or suspended, and where, in the judgment of the City Council, the problems which have arisen from the operation of an alcoholic beverage license at such location indicate that it is not in the best interest of the public health, safety, welfare, or morals that the sale of alcoholic beverages be permitted at such location.

(8) Any location which meets the definitions of Adult Entertainment Establishments as defined in Chapter 18 Article III.

(9) Which the granting of such license would constitute a violation of state law or regulations.

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

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

(f) All licensees shall have and continuously maintain in the county a registered agent upon whom any process, notice or demand required or permitted by law or under this chapter to be served upon the licensee or owner may be served. This person must be over the age of 18 and a resident of Habersham County at all times that the license and any renewal thereof is in effect. The licensee shall file the full name, date of birth, physical address, mailing address, and telephone number of such agent, along with the written, notarized consent of such agent with the city clerk, in such form as the city may prescribe. Such registered agent shall be of good moral character and shall be a representative of the licensee and must be approved by the city manager. The city manager shall refuse to approve any registered agent who is not a bona fide resident of the county or who has been convicted, including pleas of nolo contendere,

within the five years preceding his/her nomination, of any felony of any kind. If any registered agent shall cease to be a representative of the licensee, to be a resident of the county, or in any manner to meet the requirements of this section, the licensee shall notify the city clerk in writing of such event and shall nominate a new registered agent within five days after such event occurs. Such new registered agent shall meet the requirements of this section and must be approved by the city manager. The city shall charge a fee of $100.00 for a change of the licensee's registered agent; provided, however, that if the licensee fails to notify the city and nominate a new registered agent within such five-day period, then the city shall charge a fee of $300.00 for a change of the licensee's registered agent and/or revoke the licensee's license.

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

Sec. 6-31. Application contents and terms.

(a) An application for a license to sell alcoholic beverages of any kind shall be made in person by the applicant to the city clerk in writing on forms furnished by the clerk, signed by the applicant in compliance with section 6-30, and shall contain, but not be restricted to, the following statements and information:

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

(2) The name of the corporation, partnership, sole proprietorship, or other organization applying for the license. Such name shall include the legal name as well as the trade name of the business.

(3) A statement of whether the applicant or any person with an interest in the application has made application at any previous time for any alcoholic beverage license and the disposition of such application.

(4) Whether the applicant or any person with an interest in the application has ever been convicted of a crime, other than for traffic violations.

(5) Whether a previous license issued to the applicant or any person with interest in the application has been revoked by any state or subdivision thereof or by the federal government and the reason therefore.

(6) Whether any other person is to be interested directly or indirectly in the profits or losses or both of the proposed business.

(7) Evidence of ownership of the building in which the business will be located or a copy of the lease, if the applicant is leasing the building. Detailed plans of such building and outside premises shall also be attached to the application, and an occupancy permit for the premises to be licensed shall have been issued by the city. No alcoholic beverage license shall be issued to any person unless the building in which the business will be located is complete. The completed building shall comply with laws and regulations of the State of Georgia and the city. Each building in which the business is to be located shall contain sufficient lighting so that the building itself and the premises on all sides of the building are readily visible at all times from the front of the street on which the building is located so as to reveal the inside retail area of the building and so as to reveal all of the outside premises of such building.

(8) A drawing, to scale, showing the nearest church, funeral chapel, school or college or by the affidavit of a registered surveyor that the proposed location of the business complies with section 6-138.

(9) A complete statement of his/her financial condition. The financial responsibility of every applicant for an alcoholic beverage license must be shown to the satisfaction of the City Council.

(10) Applicant shall furnish a complete set of fingerprints as required by O.C.G.A. §3-3-2 and a signed release to permit a full criminal background check by the City police department.

(b) All new applications for alcoholic beverage licenses shall be accompanied either by lawful money of the U.S., or by a certified check or cashier's check, payable to the city, for the proper amount of the license fee. In the event the license is refused, any sums deposited as license fees will be refunded to the applicant. No refunds will be made under any circumstances for administrative and investigative fees required in this chapter.

(c) All applications for renewal of alcoholic beverage licenses shall be filed with the city clerk. All applications for renewal of licenses for the ensuing year shall be treated as applications for new licenses, except that they need not be advertised.

(d) No application shall be acted upon by the City Council except at a regular meeting of the Council and after the applicant shall have published a notice of such application in the legal organ of the county once per week for two weeks prior to the regular meeting at which such application is to be presented and considered. Such notice shall contain the name of the corporation, partnership, sole proprietorship, or organization, the name of the managing agent applying for the license, and the location of the proposed business. This notice shall not be required from an existing alcoholic beverage license holder making application for the renewal of an existing license at the same location.

(e) The making of any untrue or misleading statement in the application for an alcoholic beverage license shall be sufficient cause for the refusal, suspension, revocation or cancellation of such license, as the City Council shall deem proper.

(f) The license fees for which provision is made within this article are due and payable immediately.

(g) In the case of the revocation or surrender of an alcoholic beverage license before expiration, the holder thereof shall not be entitled to receive any refund.

(h) Notwithstanding anything in this article to the contrary, the issuance of a license under this chapter shall not create any property rights in the license holder.

(i) A violation of this article shall, upon conviction, be punishable as provided herein, and shall also subject the holder of such license to suspension or revocation of such license as the City Council deems proper.

Sec. 6-32. License fee scale.

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

Sec. 6-33. Fee schedule.

License and application fees applicable to this chapter are set out as follows:

(1) Retail sale of packaged malt beverages and wines for consumption off the premises - $750.00
(2) Retail sale of malt beverages by the drink for consumption on the premises - $500.00
(3) Retail sale of wine by the drink for consumption on the premises - $500.00
(4) Retail sale of distilled spirits by the drink for consumption on the premises - $2,000.00

(5) Administrative/Investigative fees per location - $250.00

Sec. 6-34. Withdrawal of application.

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

Sec. 6-35. Collection of fee or tax sums due.

If any person shall fail to pay the sum due under this chapter, then the City Council or the City Council's designee shall issue an execution against delinquent person and such person's property for the amount of the fee or tax, and any license shall be subject to immediate suspension until such fees and taxes are paid in full.

Sec. 6-36. Transferability of license; change of ownership.

(a) No license for the sale of alcoholic beverages shall be transferable, except as otherwise provided herein.
(b) In case of the death of a licensee, the establishment shall be allowed to continue to sell alcoholic beverages for a period of forty-five (45) days from the date of death, or until expiration of the license, or until approval of a new licensee, whichever shall first occur; provided, that no sale of alcoholic beverages shall be allowed until such time as a personal representative of the estate, appointed by a probate court of competent jurisdiction, shall make application for authorization with the city clerk.
(c) In the event that a license is surrendered, or a licensee severs such person's association with a licensed establishment, the establishment may continue to sell alcoholic beverages for a period of forty-five (45) days from the date of surrender, or from the date determined to be the date of severance; provided, that no such sale shall be authorized until such time as a new application for a license is made, such application indicating that no change of ownership has occurred, except as excepted herein. Upon issuance of a new license, the authorization to sell under the previous license shall be revoked by operation of law. No additional license fees shall be required during the period for which the original license was issued.
(d) Nothing in this section, however, shall prohibit one (1) or more of the partners in a partnership holding a license to withdraw from the partnership in favor of one (1) or more of the partners who were partners at the time of the issuance of the license. This section shall not prohibit transfer of stock between persons who held stock in the corporate owner at the time of issuance of the license, nor shall it prohibit transfers of stock which do not result in any person increasing such person's stock holdings to a total of ten (10) percent or more of any class of stock.
(e) Should a transfer of location be approved, with no change of ownership of the business, the license fee paid for the old location shall be applied to the new location.
(f) Except as provided above, any change in the ownership of any entity owning a licensed establishment shall cancel and revoke any license issued hereunder automatically, without the necessity of any hearing.
(g) Violation of this section shall result in revocation of the license being used and a fine as provided in section 6-4. No license will be issued to the old or the new owner in the city for one (1) year from the date of the violation.

Sec. 6-37. Display of license at place of business.

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

Sec. 6-38. Expiration; renewal of license.

(a) All licenses granted under this article shall expire on December 31 of each year. A licensee desiring to renew his/her license shall file an application, with the requisite fee enumerated in section 6-33, with the city clerk on the form provided for renewal of the license for the ensuing year. Applications for renewal must be filed on or before November 15, of each year. Any renewal applications received after November 15 shall pay in addition to the annual fee, a late charge of 20 percent. If a license application is received after January 1, such application shall be treated as an initial application and the applicant shall be required to comply with all rules and regulations for the granting of licenses as if no previous license had been held. If a license application is received after January 1, investigative and administrative costs will be assessed.

(b) All licenses granted under this article shall be for the calendar year except for temporary special event licenses as allowed pursuant to section 6-40.

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

Sec. 6-39 - Reserved

Sec. 6-40. Eligibility for issuance of a temporary special event license.

a) A temporary license may be issued to any person, firm or corporation, for a period of time not to exceed the maximum number of days available pursuant to State of Georgia regulations in any one year for an approved special event, but not to exceed three consecutive days at any one time regardless of State regulations. The person, firm or corporation must make application and pay the fee that may be required by the ordinances and shall be required to comply with all the general ordinances and the licensing regulations for a consumption on the premises establishment with the exception of the full service kitchen requirement.

(b) The special event must meet the following criteria before the issuance of a temporary license to sell alcoholic beverages:

(1) The special event must be associated with and the benefit the cause of a charitable, local trade, or civic organization.

(2) The special event must receive approval from the city police department on crowd control and security measures.

(3) The special event must receive approval from the city manager or his/her designee on traffic control measures.

(4) The location at which the special event is to take place must be zoned for such use and the event approved for such use by the city planning department and the city fire department.

(c) Any employee or volunteer of the special event licensee working the special event in any position dispensing, selling, serving, taking orders or mixing alcoholic beverages shall not be required to obtain an employee permit for the special event.

(d) The chief of police or his/her designee may immediately revoke any temporary license for a special event if continued alcohol sales may endanger the health, welfare or safety of the public.
(e) As a condition on the issuance of a temporary special event license, the licensee shall indemnify and hold the city harmless from claims, demands or causes of action that may arise from activities associated with the special event.

Secs. 6-41--6-68. Reserved.

ARTICLE III. AUDITS, REVOCATION, SUSPENSION AND HEARINGS

Sec. 6-69. Revocation or nonrenewal of license.

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

(1) Is convicted of a felony or any crime involving moral turpitude;

(2) Makes any false statement of a material fact on the application for a license or renewal thereof, or on any document required to be filed with the City Council or city clerk;

(3) Fails to give written notice in a timely manner of any change of ownership interest as required in section 6-36;

(4) Violates any federal or state law, rule or regulation promulgated by the City Council under this chapter; or

(5) Becomes disqualified under this chapter to hold a license.

(b) The City Council shall revoke a license under this chapter for any of the following reasons:

(1) The license has been suspended three or more times in any consecutive 12-month period;

(2) Alcoholic beverages have been sold or distributed at the licensed premises during a period of suspension of such license; or

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

Sec. 6-70. Suspension of license.

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

(1) Violation by the licensee of any state or federal law or regulation, or any provision of this chapter or the regulations promulgated under its authority;

(2) Failure of the licensee and employees or agents of the licensee to promptly report to the police department any violation of law, breach of peace, disturbance, or altercation occurring on or near the licensee's premises;

(3) Violation of any law, regulation or ordinance pertaining to alcoholic beverages, distilled spirits, malt beverages and wines, by any employee or agent of the licensee in connection with the operation of the business of the licensee;

(4) Operation of the business of the licensee in such a manner as to create a public nuisance or in a manner contrary to public welfare, safety, health or morals;

(5) Failure to furnish to the City Council, upon request, any information or records that would be necessary or needed for use in determining the licensee's compliance and qualifications under this chapter; or

(6) Knowingly selling malt beverages, wines or distilled spirits to any person while such person is in an intoxicated condition.

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

(1) No suspension shall be for a period of time longer than the time remaining on such license.

(2) The following factors shall be considered on any suspension as set out in this subsection:

a. Consistency of penalties mandated by this chapter and those set by the City Council.

b. Likelihood of deterring future wrongdoing.

c. Impact of the offense on the community.

d. Any mitigating circumstances or remedial or corrective steps taken by licensee.

e. Any aggravating circumstances or failure by the licensee to take remedial or corrective steps.

Sec. 6-71. Hearings.

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

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

(1) Advise of the time and place specified for the hearing, which shall be held not less than 20 days (if the notice is mailed) or 15 days (if the notice is hand delivered) from the date of service of the notice. For the purpose of this ordinance, notice shall be deemed delivered when personally served or when served by certified mail, within three days after the date of deposit in the United States mail.

(2) Set forth, in reasonable detail, the grounds for such action and the factual basis supporting those grounds; and

(3) Advise the applicant or licensee of the right to present evidence, witnesses or arguments and to be represented by counsel at the hearing.

Sec. 6-72. Audits of licensees.

(a) If the City Council or its designee deems it necessary to conduct an audit of the records and books of the licensee, it shall notify the licensee of the date, time and place of the audit. The licensee shall cooperate with the audit or forfeit any license issued under this chapter.

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

(1) Monthly income or operating statements.

(2) Daily sales receipts showing liquor, beer, wine and food sales separately (this requirement does not apply to package beer and wine licensees).

(3) Daily cash register receipts such as Z-tapes or guest tickets.

(4) Monthly state sales and use tax reports.

(5) Federal income tax return with all Form 1099's.
(6) All invoices or other statements reflecting a record of alcohol purchases by the Licensee.

Secs. 6-73--6-102. Reserved.

ARTICLE IV. LICENSEE DUTIES AND RESPONSIBILITIES

Sec. 6-103. Retail consumption dealers to store inventory only on premises.

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

Sec. 6-104. Poured alcohol to be transported by employees.

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

Sec. 6-105. Licensees to maintain copy of chapter; employees to be familiar with terms; licensee responsible for violations.

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

Sec. 6-106. Employment of underage persons prohibited; exceptions.

(a) No person shall allow or require a person in his/her employment under 18 years of age to dispense, serve, sell, or take orders for any alcoholic beverage.
(b) It is unlawful for any person under the age of 18 years of age to work in any establishment licensed under this article without written consent from his/her parents or guardian.

Sec. 6-107. Failure to require and properly check identification.

It shall be a violation of this article not to require and properly check identification for such persons as reasonably necessary to ensure that an underage person is not sold, served, or does not have in his/her possession alcoholic beverages while in a licensed establishment. The term "identification," for the purpose of this section, means any document issued by a governmental agency containing a description of the person, such person's photograph and giving such person's date of birth and shall include, without being limited to, a passport, military ID card, driver's license or state department of public safety ID card. Nothing herein shall require mandatory checking of all customers' identifications.

Sec. 6-108. Sales to underage person prohibited.

(a) No holder or employee of the holder of a license authorizing the sale of alcoholic beverages shall do any of the following upon the licensed premises:
(1) Sell or offer to sell any distilled spirits, wine, malt beverage, or any other alcoholic beverage to any person under the age of 21 years.

(2) Sell or offer to sell wine, malt beverage, or any other alcoholic beverage to any person unless such person has furnished proper identification showing that the person to whom the distilled spirits are being sold is 21 years of age or older. For the purposes of this subsection, the term "proper identification" means any document issued by a government agency containing a description of the person, such person's photograph, or both, and giving such person's date of birth, including, but not limited to, a passport, a military identification card, driver's license, or identification card authorized under an act to require the department of public safety to issue identification cards to persons who do not have a motor vehicle driver's license. Proper identification shall not include a birth certificate.

(3) Sell or offer to sell any alcoholic beverages to any person who is noticeably intoxicated, who is of unsound mind, or who is a habitual drunkard whose intemperate habits are known to the licensee or his/her employees.

(4) Sell alcoholic beverages upon the licensed premises or permit alcoholic beverages to be consumed thereon on any day or at any time when the sale or consumption is prohibited by law.

(b) The penalty for violation of this section by an individual shall be as follows:

(1) For the first offense, a minimum fine of $500.00.

(2) For the second offense and subsequent violations within one year, a minimum fine of $750.00.

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

(1) For the third offense within any 36-month period, suspension of license for a period not to exceed 90 days and a fine of $1,000.00.

(2) For the fourth and any subsequent violation within any 36-month period, suspension of license for a period not to exceed one year and a fine of $1,000.00.

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

Sec. 6-109. Purchase or possession of alcoholic beverages by underage persons.

(a) Except as may be otherwise allowed by state law, no person under the age of 21 years of age shall purchase or possess any alcoholic beverage.

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

Sec. 6-110. Employee and manager regulations; employee pouring permits.

The following regulations shall apply to all establishments holding a license for consumption of alcoholic beverages on the premises:

(a) No person shall be employed to dispense, sell, serve, take orders, mix alcoholic beverages, or serve in any managerial position by an establishment holding a license under this chapter until such person has been fingerprinted and cleared by the chief of police or his/her designee indicating that the person is eligible for such employment.

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

(c) No employee pouring permit shall be issued until such time as a signed application has been filed with the city clerk or such department's designee and upon payment of a fee established by the city and a

search of the criminal record of the applicant completed. The application shall include, but shall not be limited to, the name, date of birth, and prior arrest record of the person, though the fact of an arrest record shall be used for investigative purposes only, and shall give rise to no presumption or inference of guilt. Due to the inclusion of arrest information, these applications shall be regarded as confidential and shall not be produced for public inspection without a court order.

(d) The chief of police or his/her designee shall have a complete and exhaustive search made relative to any criminal record of the person fingerprinted or cleared. If there is no record of a violation of this chapter, the chief or his/her designee shall issue an employee pouring permit to the person stating that the person is eligible for employment. If it is found that the person is not eligible for employment, the chief of police or his/her designee shall notify such person at the address contained in the application, in writing, that such person is not eligible for employment, the cause of such denial, and right of such person to appeal.

(e) No person shall be granted an employee pouring permit unless it appears to the satisfaction of the chief of police or his/her designee that such person has not been convicted of, pled guilty to, or entered a plea of nolo contendere to any crime involving moral turpitude, illegal gambling, illegal possession or sale of controlled substances, illegal sale or possession of alcoholic beverages, including the sale or transfer of alcoholic beverages to minors in a manner contrary to law, keeping a place of prostitution, solicitation of sodomy, or the commission of any sexually related crime within a period of five years of the date of conviction and been released from parole or probation. A person's first conviction for illegal possession of alcohol as a misdemeanor or violation of a city ordinance shall not, by itself, make a person ineligible for an employee pouring permit. No person shall be granted an employee pouring permit who has been convicted of, pled guilty to or entered a plea of nolo contendere to any federal, state, or local law for any felony within five years of the date of conviction and has not been released on parole or probation prior to the filing of an application for such permit. For purposes of this subsection, a conviction or plea of guilty or nolo contendere shall be ignored as to any offense for which a person whose sentence was entered under the Georgia First Offender Act, as amended; provided, however, that any such offense shall not be ignored if the person violated any term of probation imposed by the court granting first offender treatment or committed another crime and the sentencing court therefore entered an adjudication of guilt as to the crime for which the person had previously been sentenced as a first offender.

(f) An employee pouring permit shall be issued for a period of three calendar years from the date of the original application. As noted in subsection (k) of this section, the employee pouring permit must be in the possession of the employee while the employee is working at the licensed establishment. This permit must be in the possession of the employee while the employee permit holder is working and must be available for inspection by members of the police department or the city's staff.

(g) No person shall be issued a permit if it is determined that the person falsified, concealed or covered up any material fact by any device, trick or scheme while making an application to the city clerk for an employee pouring permit under this section. If it is determined that a person is in violation of this subsection and a permit is denied for this reason, then 30 calendar days must elapse from the date of notification by certified mailing before a new application and fee may be resubmitted.

(h) All permits issued through administrative error can be terminated and seized by the chief of police or his/her designee or the city manager or his/her designee.

(i) Replacement permits will be issued within 30 days of the original date, upon paying one-half of the fee charged for employee pouring permits. A new application and fee must be submitted after 30 days from the original application date.

(j) All permits issued under this section remain the property of the city and shall be produced for inspection upon the demand of any officer or designee of the chief of police. All permits are subject to revocation upon violation of any federal, state, or local law.
(k) No licensee shall allow any employee or manager required to hold a permit to work on the premises unless the employee or manager has in his/her possession a current valid city employee pouring permit. For new employees, a receipt issued by the city may be used for a maximum of 30 days from the date of its issue. Licensees are required to inspect and verify that each employee required to do so has in his/her possession a valid current employee pouring permit.
(l) A license fee of $40.00 shall be charged
(m) It shall be the duty of all persons holding any license to sell alcoholic beverages to file with the city clerk or his/her designee the name of the establishment, the license number and a list of employees, including home addresses and home telephone numbers, twice annually, during the month of June and again in the month of December.

Sec. 6-111 Reserved.

Sec. 6-112. Promotions and sales.
(a) No licensee or employee or agent of a licensee, in connection with the sale or other disposition of alcoholic beverages for consumption on the premises, shall:

(1) Offer or deliver any free alcoholic beverage to any person or group of persons;
(2) Deliver more than one alcoholic beverage to one person at a time;
(3) Sell, offer to sell, or deliver to any person or group of persons any alcoholic beverage at a price less than the price regularly charged for such alcoholic beverage during the same calendar week, except at private functions not opened to the public;
(4) Sell, offer to sell, or deliver to any person or group of persons an unlimited number of alcoholic beverages during any set period of time for a fixed price, except at private functions not open to the public;
(5) Sell, offer to sell, or deliver alcoholic beverages to any person or group of persons on any one day at prices less than those charged the general public on that day, except at private functions not opened to the public;
(6) Sell, offer to sell, or deliver alcoholic beverages, including malt beverages, in any container which holds more than 32 fluid ounces (0.947 liters), except to two or more persons at any one time;
(7) Increase the volume of alcohol contained in a drink without increasing proportionately the price regularly charged for such alcoholic beverage during the same calendar week; or
(8) Encourage or permit on the licensed premises any game or contest which involves the drinking of alcoholic beverages or the awarding of alcoholic beverages as a prize.

(b) Each licensee shall maintain a schedule of the prices charged for all alcoholic beverages to be served and consumed on the licensed premises or in any room or part thereof. The licensee shall not vary the schedule of prices from day to day or from hour to hour within a single day. The schedule of prices shall be effective for not less than one calendar week.
(c) No licensee shall advertise or promote in any way, whether within or without the licensed premises, any of the practices prohibited under subsection (a) of this section.
(d) No provision of this section shall be construed to prohibit licensees from offering free food or entertainment at any time, to prohibit licensees from including an alcoholic beverage as part of a meal

package, or to prohibit the sale or delivery of wine by the bottle or carafe when sold with meals or to more than one person.
(e) It is the intent of this section to prohibit activities typically associated with promotions referred to as happy hour or similarly designated promotions.
(f) The police department shall have responsibility for the enforcement of this section.
(g) No licensee may require the purchase of any alcoholic beverage as a part of or prerequisite to the purchase of any other product or service. If alcoholic beverages are included as part of a package of other goods and/or services, the alcoholic beverages must be priced separately and all customers must be allowed to purchase the remaining **goods and services without the alcoholic beverages at a price from which the full price** of the alcoholic beverages has been deducted.

Secs. 6-113--6-137. Reserved.

ARTICLE V. REGULATION OF PREMISES

Sec. 6-138. Location of licensed operation; distance requirements from schools and church buildings.

(a) Licenses shall be issued only for locations in nonresidential zones, as defined in section 6-2.
b) No person outside of the area zoned Downtown Business District may sell or offer to sell any alcoholic beverage in or within 100 yards of any church building or alcohol treatment facility or in or within 200 yards of any school building, educational grounds or college campus, or day care facility. No person in the area zoned Downtown Business District may sell or offer to sell any alcoholic beverage for consumption on the premises in or within 100 feet of any church building, alcohol treatment facility or school building, education grounds or college campus, or day care facility.
(c) 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:

Alcohol treatment facility means any alcohol treatment facility operated by the State of Georgia, or any county or city government located therein.

Church building means the main structure being used by any religious organization for purposes of worship.

School building means and shall include only those structures in which instruction is offered. The term "school building" shall apply only to state, county, city or church school buildings and to such buildings at such other schools in which are taught subjects commonly taught in the common schools and colleges of this state and which are public schools or private schools as defined in O.C.G.A. § 20-2-690(b).
(d) For the purposes of this section, distance shall be measured according to the most direct route of travel on the ground as described and defined in publications and rules of the Georgia Department of Revenue.
(e) As to any location licensed in the future, if the distance requirements in this section are met at the time of issuance of any license, the subsequent opening and operation of a church or school or day care or alcohol treatment facility within the distance prohibited in this section shall not prevent the continuance of an existing license or the renewal thereof or the issuance of a new license to any subsequent owner of such property.

Sec. 6-139. Sale without license or beyond boundaries of licensed premises prohibited; penalties.

It shall be unlawful for any person to sell or possess for the purpose of sale any alcoholic beverage if the person does not have a license granted by the city to sell or possess for sale the alcoholic beverages or to sell or make deliveries beyond the boundaries of the premises covered by the license. Violation of this section shall result in a fine of not less than $500.00.

Sec. 6-140. Open area and patio sales.

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

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

(c) The height of the structure required by subsection (b) of this section shall be a minimum of 3 1/2 feet above the patio floor, but the structure does not have to be solid or restrict visibility into or out of the patio or open sales area. Such structure must be permitted and approved by the city's building inspection department and the city's fire department as required by governing regulations or codes.

(d) The only exit from the area enclosed by the structure is to be through the licensed establishment's main premises and through an approved fire exit not for general public use unless an emergency exists. The fire exit should be of the type that sounds an alarm so that the establishment will be alerted in the event of unauthorized use when no emergency exists.

(e) If a licensee desires a patio or open sales area inside an existing structure, plans will be reviewed and approved on an individual basis by the City Council. Interior type patio or open sales areas must also meet the requirements of the city's development and fire codes.

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

Sec. 6-141. No consumption outside premises.

(a) It is prohibited for customers to leave the premises with open alcoholic beverages, and it is the licensee's responsibility to ensure that no open beverages are sold and carried out.

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

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

(d) Notwithstanding any other contrary provisions of law, any Licensee licensed to sell alcoholic beverages for consumption on the premises may permit a patron to remove one unsealed bottle of wine per patron for consumption off the premises, if the patron has purchased a meal and consumed a portion of the bottle of wine which has been purchased on the premises with such meal on the restaurant’s premises. A partially consumed bottle of wine that is to be removed from the premises must be securely resealed by the licensee or its employees before removal from the premises. The partially consumed bottle of wine shall be placed in a bag or other container that is secured in such a manner that is visibly apparent if the container has been subsequently opened or tampered with, and a dated receipt for the bottle of wine and meal shall be provided by the licensee and attached to the container.

Sec. 6-142. Specification of premises.

No alcoholic beverage license shall be issued to any person unless the building in which the business will be located is complete and detailed plans of the building and outside premises are attached to the application or unless proposed plans and specifications and a building permit of a proposed building to be built are attached to the application. The completed building or the proposed building shall comply with ordinances of the city, county, regulations of the state revenue commissioner, and regulations of the state. The proposed building shall also be subject to final inspection and approval when completed by the building inspector. Each building in which the business will be located shall contain sufficient lighting so that the building itself and the premises on all sides of the building are readily visible at all times from the front of the street on which the building is located so as to reveal all of the outside premises of such building. Each applicant for an alcoholic beverage license shall attach to the application evidence of ownership of the building or proposed building or a copy of the lease, if the applicant is leasing the building. If the applicant is a franchisee, then such applicant shall attach a copy of the franchise agreement or contract with the application. All premises for which an alcoholic beverage license shall be issued shall afford therein adequate sanitary toilet facilities and shall be adequately illuminated so that all hallways, passageways and open areas may be clearly seen by the customers therein.

Sec. 6-143. Solicitation prohibited.

No retail consumption dealer licensed under this chapter shall require, permit, suffer, encourage, or induce any employee or person to solicit in the licensed premises, for himself/herself, or for any person other than the patron and guest of the patron, the purchase by the patron of any drink, whether alcoholic beverage or nonalcoholic beverage, or money with which to purchase the beverage, and no licensee shall pay a commission or any other compensation to any employee or person frequenting the establishment or to an agent or manager to solicit for herself/himself or for others, the purchases by the patron of any drink, whether alcoholic beverage or nonalcoholic beverage, or money with which to purchase the beverage.

Sec. 6-144. Prohibited noise from establishments.

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

Sec. 6-145. Inspection of licensed establishments by Clarkesville Police Department.

Sworn officers of the Clarkesville Police Department shall have the authority to inspect establishments licensed under this chapter during the hours in which such premises are open for business. These inspections shall be made for the purpose of verifying compliance with the requirements of this chapter and state law. This section is not intended to limit the authority of any other city officer to conduct inspections authorized by other provisions of this Code.

Sec. 6-146. Emergency closure.

The chief of police or his/her designee may immediately close an establishment licensed under this article in case of emergency for the safety of the public or to investigate a crime for a period of time not to exceed 24 hours.

Sec. 6-147. Sale on election days.

Pursuant to O.C.G.A. § 3-3-20(b) (2) (B), the sale at wholesale and retail of alcoholic beverages, to wit: distilled spirits (by the drink), and wine and malt beverages, shall be lawful during the polling hours of any election; provided, however, nothing herein shall authorize the sale of alcoholic beverages within 250 feet of a polling place during such time as the polls are open.

Sec. 6-148. "Bring-your-own-bottle" (brown bagging) prohibited.

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

Secs. 6-149--6-179. Reserved.

ARTICLE VI. MALT BEVERAGES AND WINE PACKAGED SALES FOR CONSUMPTION OFF PREMISES

Sec. 6-180. Type of retail establishment; where permitted.

(a) No malt beverages or wine shall be sold for consumption off the premises except in sites located in nonresidential zones and that meet the following criteria:

(1) Such an establishment is in the business of retail sale of items of tangible personal property (merchandise); and

(2) The monthly receipts for such business from the sale of merchandise other than malt beverages and wines will exceed 75 percent of the total monthly receipts of such business from the sale of all merchandise including alcoholic beverages.

(b) Notwithstanding the fact that a retail malt beverages and wine packaged sales license has been issued to a licensee, such licensee shall not be authorized to sell packaged malt beverages or wines at any time when the sales receipts of the business of such licensee derived from the sale of merchandise other than packaged malt beverages and wines are less than 75 percent of the total gross receipts of such business from the sale of all merchandise, including alcoholic beverages, for the proceeding calendar month.

Sec. 6-181. Hours and days of sale.

(a) Malt beverages and/or wine shall not be sold or distributed for consumption off the premises where sold except between the hours of 6:00 a.m. and 11:00 p.m., Monday through Saturday.

(b) No malt beverages and/or wine shall be sold for consumption off premises at any time in violation of any federal, state, or local ordinance or regulation or of any special order of the City Council.

(c) The sale or distribution of malt beverages and/or wine for consumption off the premises on Sundays is prohibited.

Sec. 6-182. Advertising in official paper of county.

A notice of each application to sell malt beverages and/or wine for consumption off the premises shall be advertised in the official legal organ of the county once a week for two weeks immediately

preceding consideration of the application. An affidavit of publication verifying the required notice shall be executed by the applicant on a form provided by the city.

Secs. 6-183--6-202. Reserved.

ARTICLE VII. RETAIL SALE OF MALT BEVERAGES AND/OR WINE BY THE DRINK FOR CONSUMPTION ON THE PREMISES

Sec. 6-203. Type of retail establishment; where permitted.

No malt beverages or wine shall be sold for consumption on the premises where sold except in the following, when located in nonresidential zones:

(1) Eating establishments regularly serving prepared food with a full service kitchen. A full service kitchen will consist of a three-compartment pot sink, a stove or grill permanently installed, and a refrigerator, all of which must be approved by the health and fire departments. Such an eating establishment will regularly serve food every hour the eating establishment is open, shall have a minimum seating capacity at tables of 25 persons, and shall derive at least 50 percent of sales from food.

(2) Indoor commercial recreation establishments regularly serving prepared food with a full service kitchen. A full service kitchen will consist of a three-compartment pot sink, a stove or grill permanently installed, and a refrigerator, all of which must be approved by the health and fire departments. Such an establishment will regularly serve food every hour the eating establishment is open and shall derive at least 50 percent of its total annual gross revenue from the sale of prepared meals or food and recreation activities.

Such eating establishments must be located in a zoning district which permits restaurants as conforming uses or where these eating establishments are incidental to a hotel or motel.

Sec. 6-204. Hours and days of sale.

(a) Malt beverages and/or wine shall not be sold or distributed for consumption on the premises except between the hours of 10:00 a.m. and 12:00 midnight, Monday through Saturday.

(b) No malt beverages and/or wine shall be sold for consumption at any time in violation of any federal, state, or local ordinance or regulation or of any special order of the City Council.

(c) The sale or distribution of malt beverages and/or wine for consumption on the premises on Sundays is prohibited.

Sec. 6-205 Advertising in official paper of county.

A notice of each application to sell malt beverages and/or wine for consumption on the premises shall be advertised in the official legal organ of the county once a week for two weeks immediately preceding consideration of the application. An affidavit of publication verifying the required notice shall be executed by the applicant on a form provided by the city.

Sec. 6-206 Consumption sales only.

Persons holding a license to sell malt beverages and/or wine for consumption on the premises shall not be permitted to sell or distribute any alcoholic beverage by the package or bottle.

Secs. 6-207--6-233. Reserved.

ARTICLE VIII. RETAIL SALE OF DISTILLED SPIRITS BY THE DRINK FOR CONSUMPTION ON PREMISES

Sec. 6-234. Type of retail establishment; where permitted.

No distilled spirits may be sold by the drink for consumption on the premises where sold except in the following, when located in nonresidential zones:

(1) Eating establishments regularly serving prepared food with a full service kitchen. A full service kitchen will consist of a three-compartment pot sink, a stove or grill permanently installed, and a refrigerator, all of which must be approved by the health and fire departments. Such an eating establishment will regularly serve food every hour the eating establishment is open, shall have a minimum seating capacity at tables of 25 persons, and shall derive at least 50 percent of sales from food.

(2) Indoor commercial recreation establishments regularly serving prepared food with a full service kitchen. A full service kitchen will consist of a three-compartment pot sink, a stove or grill permanently installed, and a refrigerator, all of which must be approved by the health and fire departments. Such an establishment will regularly serve food every hour the eating establishment is open and shall derive at least 50 percent of its total annual gross revenue from the sale of prepared meals or food and recreation activities.

Sec. 6-235. Advertising in official paper of county.

A notice of each application to sell distilled spirits for consumption on the premises shall be advertised in the official legal organ of the county once a week for two weeks immediately preceding consideration of the application. An affidavit of publication verifying the required notice shall be executed by the applicant on a form provided by the city.

Sec. 6-236. Hours and days of sale.

(a) Distilled spirits shall not be sold for consumption on the premises except between the hours of 10:00 a.m. 12:00 midnight Monday through Saturday.

(b) Distilled spirits shall not be sold for consumption on the premises at any time in violation of any local ordinance or regulation or of any special order of the City Council.

(c) The sale of distilled spirits for consumption on the premises is prohibited on Sunday.

Sec. 6-237. Consumption sales only.

Persons holding a license to sell distilled spirits for consumption on the premises shall not be permitted to sell or distribute any alcoholic beverage by the package or bottle.

Secs. 6-238--6-269. Reserved.

ARTICLE IX. PRIVATE CLUBS

Sec. 6-270. 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:

Bona fide private club means any nonprofit association organized under the laws of this state which:

(1) Has been in existence at least one year prior to the filing of its application for a license to be issued pursuant to this article;

(2) Has at least 75 regular dues-paying members;

(3) Owns, hires or leases a building or space within a building for the reasonable use of its members with:

a. Suitable kitchen and dining room space and equipment;

b. A sufficient number of employees for cooking, preparing and serving meals for its members and guests; and

c. No member, officer, agent or employee directly or indirectly receiving, in the form of salary or other compensation, any profits from the sale of alcoholic beverages beyond a fixed salary.

Fixed salary means the amount of compensation paid any member, officer, agent, or employee of a bona fide private club as may be fixed for him by its members at a prior annual meeting or by the governing body of the club out of the general revenue of the club and shall not include a commission on any profits from the sale of alcoholic beverages. For the purpose of this definition, tips or gratuities which are added to the bills under club regulation shall not be considered as profits from the sale of alcoholic beverages or a commission.

Sec. 6-271. Regulation of sale of alcoholic beverages.

Private clubs may sell and dispense alcoholic beverages upon compliance with all applicable ordinances and regulations of the city governing the sale of such beverages and upon payment of such license fees and taxes as may be required by the existing ordinances, rules and regulations of the city.

Sec. 6-272. Certain organizations exempt from food establishment requirements.

Veterans' organizations, fraternal organizations, and other nonprofit organizations currently having tax exempt status under either the United States Internal Revenue Code or the Georgia Income Tax Law shall not be required to operate a food establishment serving prepared food. However, any such organization selling or dispensing alcoholic beverages shall be subject to all ordinance regulations dealing with general licensing and consumption on-premises establishments.

Sec. 6-273. Hours and days of sale.

(a) No alcoholic beverages shall be sold for consumption on the premises except between the hours of 10:00 a.m. and 12:00 midnight, Monday through Saturday.

(b) Alcoholic beverages shall not be sold for consumption at any time in violation of any local ordinance or regulation or of any special order of the City Council.

(c) The sale or distribution of alcoholic beverages for consumption on the premises is prohibited on Sundays.

ARTICLE X. BREW PUBS

Sec. 6-274. Exception for brew pubs.

(a) For all purposes of this section, a "brew pub" is defined as an eating establishment in which beer or malt beverages are manufactured or brewed for retail consumption on the premises and solely in draft form.

(b) Notwithstanding any other provision of this chapter to the contrary, a limited exception shall exist for owners and operators of brew pubs provided that:

(1) No individual shall be permitted to own or operate a brew pub without first obtaining a proper brew pub license from the City Council pursuant to the same procedures as are set forth in Article II, and each brew pub license holder shall comply with all other applicable state and local license requirements; and

(2) A brew pub license authorizes the holder of such license to (i) manufacture on the licensed premises not more than five thousand (5,000) barrels of beer in a calendar year solely for retail on the premises and solely in draft form; and (ii) operate an eating establishment that shall be the sole retail outlet for such beer and may offer for sale any other alcoholic beverages produced by other manufacturers which are authorized for retail sale under this chapter, provided that such alcoholic beverages are purchased from a licensed wholesaler for consumption on the premises only; and, provided, further, that in addition to draft beer manufactured on the premises, each brew pub licensee shall offer for sale commercially available canned or bottled malt beverages from licensed wholesalers.

(c) Possession of a brew pub license shall not prevent the holder of such license from obtaining any other license available under this chapter for the same premises.

(d) A brew pub license does not authorize the holder of such license to sell alcoholic beverages by package for consumption off the premises.

(e) A brew pub licensee shall pay all state and local license fees and excise taxes applicable to individuals licensed under this chapter as manufacturers, retailers, and, where applicable, wholesalers.

(f) Except as set forth above in this section, a brew pub license holder shall be subject to all provisions of this chapter.

Sec. 6-275 Reserved.

ARTICLE XI. LICENSED CATERERS

Sec. 6-276. Exception for licensed caterers.

(a) *License Requirements--Resident Caterers.*

(1) Any food caterer who is also an alcoholic beverage caterer possessing a valid license from the City of Clarkesville to sell malt beverages, wine or distilled spirits by the drink at a fixed location within the city may apply for an off-premises license that authorizes sales at authorized catered event(s) or function(s). Event(s) or function(s) may not exceed five (5) days.

(2) Each off-premises catering license as authorized herein shall be valid only for the calendar month in which the license is issued. The fee for each such license shall be $50.00.

(3) It shall be unlawful for any person to engage in, carry on or conduct the sale or distribution of alcoholic beverages off-premises and in connection with a catered event or function without first having obtained a license as provided herein.

(b) *Permit Requirements--Nonresident Caterers.* Entities within the City that wish to host an event using an alcoholic beverage caterer from another jurisdiction shall obtain an event application from the city clerk. The application for the event permit shall include:

(1) The name of the nonresident alcoholic beverage caterer desired;

(2) A copy of the alcoholic beverage license and catering license issued by the jurisdiction in which the business is located;

(3) The quantity of alcoholic beverages to be transported from the licensee's primary location to the location of the authorized catered event(s) or functions(s).

(4) The original event permit shall be kept in the vehicle transporting the alcoholic beverages to the catered event(s) or function(s).

(5) It shall be unlawful for a licensed alcoholic beverage caterer to distribute or sell alcoholic beverages off-premises except as authorized by the event permit.

(6) Each event permit as authorized herein shall be valid only for the event for which the permit is issued. The fee for such permit shall be $50.00.

(c) *Limitation of License.* A licensed alcoholic beverage caterer may sell only that which is authorized by his alcoholic beverage license. For example, if the alcoholic beverage caterer possesses a valid license to sell malt beverages, he may sell only malt beverages at the authorized catered event or function.

Secs. 6-277 – 6-296 Reserved.

ARTICLE XII. EXCISE TAXES

Sec. 6-297. Levy and computation.

(a) In addition to all other taxes or license fees imposed upon retailers selling malt beverages, wine or distilled spirits at retail or for consumption on the premises in the city, there is levied and imposed upon each such retailer the following excise taxes:

(1) Upon the sale of any malt beverages, there is imposed an excise tax of $0.22 per liter and $6.00 for each container of tap or draft beer of containing not more than 15 1/2 gallons.

(2) Upon the sale of wine, there is imposed an excise tax of $0.22 per liter.

(3) Upon the sale of any distilled spirits or spirituous liquors, there is imposed an excise tax of $0.22 per liter.

(b) The taxes established in subsection (a) of this section shall be collected by the wholesaler at the time of sale to the retailer.

Sec. 6-298. Retailers dealing with wholesalers; registration of wholesalers.

(a) No retailer of alcoholic beverages in the city shall purchase or otherwise receive alcoholic beverages from any wholesaler not registered under this section. Any retailer failing to comply with this requirement shall be subject to revocation of any and all city business licenses held by the retailer and any other penalty which may be imposed for violation of this Code.

(b) Unless licensed by the city, no wholesaler in alcoholic beverages shall take orders from or make deliveries to any retailer in alcoholic beverages within the city unless and until the wholesaler registers with the city clerk on a form provided by the city and otherwise satisfies the requirements of this article placed on such wholesalers.

Sec. 6-299. Wholesaler's reports; tax collection; payment; records.

(a) Each wholesaler registered under this article or licensed by the city shall file a report with the City Council by the tenth day of each month, itemizing for the preceding calendar month the exact quantities of all alcoholic beverages, by size and type of container, sold within the city. The report shall show the name and address of each retailer with which such wholesaler did business in the city and any other information as may be required by the City Council.

(b) Each wholesaler reporting under this section shall collect from each retailer with whom the wholesaler did business the amount of tax due the city under this article and shall hold the same in trust for the city.

(c) Each wholesaler's monthly report shall be accompanied by remittance to the city of all taxes due the city under this article for the preceding month from each retailer.

(d) Each wholesaler hereunder shall keep true and correct records, including invoices of all sales, shipments or deliveries of beverages to retailers in this city. These records shall be preserved for at least one year and shall be made available on request for inspection by any authorized representative of the city.

Sec. 6-300. Wholesaler's deposit.

Each new wholesaler licensed by the city or registered with the city, whether located outside or within the city limits, shall be required to place three months of the tax required by this article on deposit with the city. This deposit shall be an amount equal to the amount of tax paid by the wholesaler during the first month of operation in the city, and shall be deposited at the same time as the first payment of taxes. This deposit shall be retained by the city to be applied to make up for any default on the part of the wholesaler and shall be refunded to the wholesaler upon its ceasing to do business in the city, provided that the wholesaler is current in its remission of taxes. This deposit shall be adjusted each year to be an average of one-twelfth of the previous year's tax collections. A surety bond payable to the city may be posted in lieu of this deposit if such bond is in an amount equal to twice the deposit required. The deposit or bond required by this section shall be waived by the City Council upon a showing by the wholesaler that it has paid the tax levied by section 6-297 in a timely manner for a period of two consecutive years; provided, however, that if such deposit or bond is so waived, the City Council shall have the right to reinstitute the requirement of making such deposit or posting such bond if the wholesaler thereafter fails to make timely payment of the tax levied by section 6-297 with respect to any month.

Sec. 6-301. Unlawful retail sales.

It is unlawful for any retailer within the city to sell any alcoholic beverages on which the taxes under this article have not been paid by the retailer.

Sec. 6-302. Penalty; revocation of license.

(a) The failure to make a timely report or remittance shall render a wholesaler, under this article, liable for a penalty equal to ten percent of the total amount due and a further penalty of ten percent of the amount of the remittance for each successive month or any portion thereof during which the report and remittance are not filed. The filing of a false or fraudulent report shall render the wholesaler making the report liable for a penalty equal to ten percent of the amount of the remittance which would be required under an accurate and truthful report.

(b) Any failure to make a timely report or remittance or the filing of a false or fraudulent report shall also constitute grounds for the revocation of the business license or registration issued by the city to the wholesaler.

(c) The penalties in this section shall be in addition to any other penalty which may be imposed for violation of this Code.

Sec. 6-303. Sale of distilled spirits by the drink.

(a) Pursuant to the authority contained in O.C.G.A. § 3-4-130, there is imposed and levied a tax on the sale of distilled spirits by the drink, which shall be equal to three percent of the charge to the public for such drink.

(b) The tax imposed by this section shall be paid monthly, with payment due to the city clerk on the 20th day of the month following the month for which such tax is to be paid.

(c) Any taxes imposed by this section which are not paid in a timely manner shall incur a penalty of ten percent of the amount of such taxes and bear interest at the rate of one percent per month, or any fraction thereof.

(d) Retailers and retail dealers collecting the tax for the sale of distilled spirits by the drink shall be reimbursed in the form of a deduction in submitting, reporting and payment of the amount due, if such amount is not delinquent at the time of payment. The rate of deduction shall be three percent of the gross tax or $25.00, whichever is less.

(e) The City Council shall annually designate this tax, as budgeted, for one or more specific department uses for that budget year.

Secs. 6-304-- 6-315 reserved

ARTICLE XIII – SEVERABILITY

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

ARTICLE XIV – REPEALER

The provisions of any ordinances or resolutions or parts of ordinances or resolutions in conflict herewith are repealed.

Adopted and ordained this __3RD _____ day of __MAY___, 2010.

__TERRY GREENE_____
Mayor

___ELIZABETH KEMP_____
Attest: City Clerk
Seal

Chapters 7--9

RESERVED

Chapter 10

ANIMALS*

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* **Cross References:** Environment, ch. 26; offenses and miscellaneous provisions, ch. 46.

State Law References: Dogfighting, O.C.G.A. § 16-12-37; cruelty to animals, O.C.G.A. § 16-12-4; sale of dog meat for human consumption prohibited, O.C.G.A. § 26-2-160; fish, O.C.G.A. § 27-4-30 et seq.; wild animals, O.C.G.A. § 27-5-4 et seq.; authority to exercise animal control, Ga. Const. art. IX, § II, ¶ III(a)(3); control of rabies, O.C.G.A. § 31-19-1 et seq.; animal bites, O.C.G.A. § 31-19-4; inoculation of dogs and cats against rabies, O.C.G.A. § 31-19-6; rabies inoculation tags, O.C.G.A. § 31-19-6; Georgia Animal Protection Act, O.C.G.A. § 4-11-1 et seq.; livestock running at large, O.C.G.A. § 4-3-1 et seq.; Dead Animal Disposal Act, O.C.G.A. § 4-5-1 et seq.; Dangerous Dog Control Law, O.C.G.A. § 4-8-2020 et seq.; permitting dogs in heat to run at large, O.C.G.A. § 4-8-6; liability of owner or keeper of vicious or dangerous animal for injuries caused by animal, O.C.G.A. § 51-2-7.

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ARTICLE I.

IN GENERAL

Sec. 10-1. Definitions.

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

Animal means all mammals, fowl and reptiles, but shall not include human beings.

Animal shelter means any facility operated by the city or any other political subdivision of this state, or operated under contract for the city or any other political subdivision of this state, for the purpose of impounding or harboring seized, stray, homeless, abandoned or unwanted dogs, cats and other animals; any veterinary hospital or clinic operated by a veterinarian which operates for such purpose in addition to its customary purposes; and any facility operated, owned or maintained by a duly incorporated humane society, animal welfare society or other nonprofit organization for the purpose of providing for and promoting the welfare, protection and humane treatment of animals.

At large means any animal that shall not be confined within the dwelling or accessory buildings of the owner, or within a fenced enclosure sufficient to confine the animal, but shall not include those animals being in the immediate control of their owners by means of a leash or lead. Specifically excluded from this definition are domesticated cats.

Domesticated animals means those species of animals that generally live in or about the habitation of humans including, but not limited to, dogs, cats, cows, horses, fowl, sheep, goats and pigs.

Impound means to confine an animal within the city animal shelter.

Kennel means any establishment, other than an animal shelter, where dogs or cats are maintained for boarding, holding, training or similar purposes for a fee or compensation.

Owner means the person owning, keeping, having charge of, sheltering, feeding, harboring or taking care of a dog or other animal.

Premises means a parcel of land and the structures thereon.

Senior animal control officer means any person whose primary duty is to enforce the provisions of this chapter.

Vaccination means protection against rabies by inoculation with antirabies vaccine, given in an amount sufficient to provide immunity from rabies for a minimum of one year.

Vicious animal or *dangerous animal* means any dog, cat, gamecock or other domesticated animal or fowl which has been bred to fight, or has been trained to fight or to attack other animals or human beings, or the

behavior of which constitutes a reasonable risk of injury to other animals or human beings, or of damage to personal or real property. Such behavior includes, but is not limited to, the displaying or showing of a propensity to attack or bite other animals or human beings without provocation, and the attacking or attempting to attack, or the biting or attempting to bite, any other animal or any human being. Such terms shall also mean any wild animal or reptile capable of causing injury or death to any animal or human being.
(Ord. No. 50, 8-18-1988; Ord. of 8-12-1991, § 1; Ord. of 9-7-1991, § 1)

Cross References: Definitions generally, § 1-2.

Sec. 10-2. Penalty for violation of chapter.

The violation of any provision of this chapter by any person shall be unlawful. Any person found guilty of violating any provision of this chapter shall, upon conviction, be punished as provided in section 1-12.

Sec. 10-3. Senior animal control officer; position created; duties and their assignment.

(a) There is hereby created within the police department the position of senior animal control officer who shall be a police officer, but who shall also be trained in animal control and shall be the person who is primarily responsible for the enforcement of the provisions of this chapter. Other employees of the city may also be trained in animal control, have the title of deputy animal control officer; and perform animal control duties under the direction and supervision of the senior animal control officer. The duties performed by the animal control officers shall be in addition to such duties as are assigned to them by their respective department heads.

(b) The city may contract for the duties of senior animal control officer to be performed by governmental body, and, in such event, the person performing these duties shall be considered an employee and police officer of the city.
(Ord. No. 50, 8-18-1988)

Sec. 10-4. Interference with or obstruction or hindrance of animal control officer.

It shall be unlawful for any person to interfere with, obstruct or hinder an animal control officer in the performance of his duties.
(Ord. No. 50, 8-18-1988)

Sec. 10-5. Animal shelter.

An animal shelter shall be provided by the city for maintaining and caring for all animals impounded under the provisions of this chapter. Such animal shelter shall be either one operated by the city or one for the services and use of which the city contracts on such terms and conditions as are agreed upon by the city manager, from time to time, on behalf of the city.
(Ord. No. 50, 8-18-1988)

Sec. 10-6. Poisoning of domesticated animals.

It shall be unlawful for any person to intentionally poison a domesticated animal.
(Ord. No. 50, 8-18-1988)

Sec. 10-7. Confinement of domestic animals.

It shall be unlawful for any person to allow an animal, except domesticated cats, to be at large within the corporate limits of the city.
(Ord. of 8-12-1991, § 2; Ord. of 9-7-1991, § 2)

Sec. 10-8. City designated as a bird sanctuary; prohibited acts.

The entire area embraced within the corporate limits of the city is hereby designated as a bird sanctuary, and it shall be unlawful for any person to kill, shoot, trap, snare, poison or otherwise maim or injure any bird within the city, or to attempt to do any of these things, or otherwise do any act which would destroy or diminish bird life in the city, including the destruction of nests, feeding places, housing or other places of habitation for birds.

Secs. 10-9--10-40. Reserved.

ARTICLE II.

DOGS AND CATS

DIVISION 1.

GENERALLY

Sec. 10-41. Possession of dogs.

It shall be unlawful for any person to use, entice, decoy or in any manner carry away the dog of another in the city, or have a dog of another in his possession in the city without the consent of the owner of the dog, except such dog as may be lost or strayed and is held by the finder for delivery to the senior animal control officer or owner after immediately reporting its possession to such officer or the owner.
(Ord. No. 50, 8-18-1988)

Sec. 10-42. Possession of dogs trained to fight.

It shall be unlawful for any person to possess, harbor, maintain or keep a dog which has been trained to fight or to attack other animals or human beings at any place within the corporate limits of the city.
(Ord. No. 50, 8-18-1988)

Sec. 10-43. Female dog in heat.

Every female dog in heat shall be confined in a building or secure enclosure in such manner that the female dog cannot come in contact with another dog, except for controlled breeding purposes.
(Ord. No. 50, 8-18-1988)

Sec. 10-44. Creation of annoyance or nuisance by dogs.

(a) No person shall maintain, harbor or keep within the corporate limits of the city a dog which, by loud and frequent barking, howling, yelping or any other noise, or by habitually or repeatedly chasing, snapping at, attacking or barking at bicycles or vehicles, causes serious annoyance to citizens of the city or interference with the use and enjoyment of neighboring premises. Upon the written complaint of one citizen living within 500 feet of any property upon which such dog is usually maintained, harbored or kept, or upon a written complaint filed by any police officer based on his personal knowledge, a determination shall be made by the municipal court judge after a public hearing as to whether or not such dog has been creating a serious annoyance or interference with the use and enjoyment of neighboring premises as alleged in the written complaint. If it is determined by the municipal court judge that such dog has not been creating a serious annoyance or interference with the use and enjoyment of neighboring premises, the persons making such written complaint shall be liable for and pay all expenses incurred by the city in the proceeding and court costs. If it is determined by the municipal court judge that such dog has been creating a serious annoyance to citizens of the city or interference with the use and enjoyment of neighboring premises, the owner of such dog shall be liable for and pay all expenses incurred by the city in the proceeding and the court costs therein, and shall immediately deliver the dog to the senior animal control officer for impoundment unless such owner immediately pays the expenses and court costs and moves the dog to a permanent location outside the corporate limits of the city so it shall never again be kept, harbored or maintained in the city by the owner or any other person.

(b) Should the owner of such dog fail to immediately move such dog to a location outside the corporate limits of the city or deliver such dog to the senior animal control officer for impoundment, the senior animal control officer shall take such measures as are necessary to take possession of such dog and impound it for destruction unless the owner pays the aforesaid expenses and court costs, and the dog is redeemed by the owner as provided in this section for the purpose of moving it permanently to a location outside the corporate limits of the city or such dog is adopted under the condition that it be kept outside the corporate limits of the city.
(Ord. No. 50, 8-18-1988)

Sec. 10-45. Cats creating annoyance and nuisance.

No person shall maintain, harbor or keep within the corporate limits of the city a domesticated cat which, while straying from the property of its owner, damages the property of another. Upon the written complaint of at least one person whose property has been damaged by such domesticated cat, or upon the written complaint by any law enforcement officer based upon his personal knowledge, filed with the municipal court judge, such municipal court judge shall conduct a hearing as to the validity of the allegations of such complaint. Upon a finding in favor of the allegations contained in the complaint, the owner of the domesticated cat shall remove the domesticated cat from the corporate limits of the city, and shall be punished as provided in the Charter of the city.
(Ord. of 9-7-1991, § 3)

Secs. 10-46--10-65. Reserved.

DIVISION 2.

RABIES CONTROL AND LICENSURE OF DOGS

Sec. 10-66. Rabies inoculation; evidence.

Every owner of a dog over 90 days of age kept, harbored or maintained in the city shall have such dog inoculated annually against rabies, unless such dog has been inoculated with a vaccine good against rabies for a longer period of time. Evidence of such inoculation shall consist of a certificate for animal rabies vaccination signed by a licensed graduate veterinarian. This certificate shall be in a form prepared and issued by the state department of human resources, and no other certificate shall be used.
(Ord. No. 50, 8-18-1988)

Sec. 10-67. Licensing and registration required.

Every owner of a dog over 90 days of age kept, harbored or maintained in the city shall register such dog with the city and obtain a license for such dog from the city. After a dog has first been registered and licensed, its owner shall thereafter annually so register the dog and obtain such license for it as long as it is kept, harbored and maintained within the corporate limits of the city, with such annual license fee to be applied for and obtained by the owner of such dog on or before April 1 of each calendar year. Dog licenses shall be issued by the secretary of the city council upon payment of a license fee in an amount found in the schedule of fees and charges for each neutered male or spayed female and in an amount found in the schedule of fees and charges for all other dogs. No refund of any such fee shall be made for any reason. The provisions of this section shall not be intended to apply to dogs whose owners are nonresidents temporarily within the city, nor to dogs brought into the city for the purposes of participating in any dog show, nor to Seeing Eye dogs properly trained to assist blind persons when such dogs are actually being used by blind persons for the purpose of aiding them in going from place to place.
(Ord. No. 50, 8-18-1988)

Sec. 10-68. Applications for licenses.

An application for a dog license shall be made in writing by the owner of the dog on forms provided by the city. In making such application, the owner shall state his name, address and telephone number; the name, breed, color and sex of the dog being registered; whether or not such dog has been neutered or spayed, as the case may be; and the date upon which the dog was last vaccinated against rabies. Such written application must be accompanied by the current certificate for animal rabies vaccination for such dog, and shall constitute the registration of the dog for which a license is applied.
(Ord. No. 50, 8-18-1988)

Sec. 10-69. Dog tags and rabies vaccination tags.

Upon payment of the license fee, the clerk of the city shall issue to the owner a license certificate and a metallic tag, sometimes referred to in this chapter as a "dog tag," for the dog so licensed, which tag shall have stamped thereon the year for which it was issued and a number corresponding with the number on the license certificate. Every dog over 90 days of age shall also have a current rabies vaccination tag showing that such dog has been vaccinated. Every owner shall provide each of his dogs with a collar or harness to which the city license tag and rabies vaccination tag must be affixed, and shall give each dog the necessary supervision to ensure that such collar or harness and tags are constantly worn. In case a city dog tag is lost or destroyed, a duplicate will be issued by the clerk of the city upon presentation of the receipt showing the payment of a license fee for the current year and the payment of a fee for such duplicate listed in the schedule of fees and

charges. Dog tags shall not be transferable from one dog to another.
(Ord. No. 50, 8-18-1988)

Sec. 10-70. Unlawful use of dog tags.

(a) It shall be unlawful for any person to use on his dog a city dog tag which is not current, or knowingly allow such use.

(b) It shall also be unlawful for any owner of a dog to attach to the collar or harness of his dog a city dog tag which was not issued for such dog, or permit his dog to be at large bearing a city dog tag which was not issued for it.

(c) It shall also be unlawful for an owner to permit another person to use a city dog tag which was issued for the owner's dog rather than for the dog on which such other person uses it.
(Ord. No. 50, 8-18-1988)

Sec. 10-71. Keeping of unregistered or unvaccinated dogs.

It shall be unlawful for any person to possess, harbor, maintain or keep any dog which has not been registered or vaccinated against rabies as required by this article at any place within the corporate limits of the city.
(Ord. No. 50, 8-18-1988)

Sec. 10-72. Untagged dogs.

Whenever any animal control officer of the city sees or learns of a dog which has not been registered with the city, or which is not wearing a collar or harness to which a current city license tag and a current rabies vaccination tag are affixed, such officer shall demand of the owner of such dog, or any other person who may be harboring or keeping such dog, that the owner or such other person, as the case may be, deliver such dog safely to the animal control officer, and it shall be unlawful for the owner or such other person to fail or refuse to so deliver the dog to such officer for impoundment.
(Ord. No. 50, 8-18-1988)

Secs. 10-73--10-105. Reserved.

ARTICLE III.

IMPOUNDMENT

Sec. 10-106. At large animals to be captured.

All animals which are found to be running at large within the city in violation of any provision of this chapter shall be taken into custody and impounded by the animal control officers, and by police officers and other employees of the city when directed to do so by the city manager.
(Ord. No. 50, 8-18-1988)

Sec. 10-107. Recordkeeping.

The senior animal control officer shall keep a record of each animal impounded. These records shall include the date of the receipt of the animal and the date and manner of its disposition. If the animal is redeemed or adopted, the name and address of the person who redeemed or adopted the animal along with the amount of fees and charges collected shall be recorded. If the animal is a dog, the numbers of its city license tag and rabies vaccination tag, if any, shall also be recorded.
(Ord. No. 50, 8-18-1988)

Sec. 10-108. Notice to owner.

When any animal is impounded, the senior animal control officer shall immediately notify the owner of such animal, if known, or if such owner can be reasonably ascertained, that such animal has been impounded, and that unless the animal is claimed within a period of three days after such notification, it will be disposed of as provided by this article.
(Ord. No. 50, 8-18-1988)

Sec. 10-109. Redemption; adoption; destruction; confinement; capture.

(a) *Dogs.* The owner of a dog impounded under the provisions of this article may, within three days after notification, reclaim such dog upon payment of the city license fee for such dog, if unpaid; the cost of a rabies vaccination, if such is needed; and such fees and charges as may be charged for the impoundment and maintenance of the dog.

(b) *Other animals.* The owner of any other animal impounded under the provisions of this article may redeem such animal within three days after notification, upon payment of such fees and charges as may be charged for the impoundment and maintenance of the animal.

(c) *Adoption or destruction.* If an impounded dog is not claimed and redeemed by its owner within the time provided in subsection (a) of this section, the city may offer such dog for adoption by any person upon payment of the fees and charges as provided in this section, including the license fee and cost of rabies vaccination, if applicable. If any impounded dog or other impounded animal is not claimed by the owner within the time provided in this section, the city shall also be authorized to destroy such dog or other animal in a humane manner.

(d) *Destruction due to infectious or dangerous disease.* Any dog or other animal impounded as provided in this section and which appears to be suffering from rabies or affected by hydrophobia, mange or any other infectious or dangerous disease shall not be released but shall be forthwith destroyed.

(e) *Confinement upon suspicion of rabies.* Any animal which has bitten a human being or shows symptoms of rabies, or any animal which has been bitten by an animal suspected of having rabies, shall be immediately confined by its owner and the senior animal control officer shall be notified immediately. The animal shall be confined for not less than ten days in a place approved by such officer, which confinement shall be at the expense of the owner at a licensed veterinarian hospital or the city animal shelter, or at the owner's premises if it can be kept so as not to come in contact with other animals and so the animal cannot escape from confinement. The senior animal control officer shall make the final decision as to the place of confinement of

the animal.

(f) *Right of animal control officer to capture animals.* If it is reported to an animal control officer that an animal has symptoms of rabies or hydrophobia or has bitten a person and the owner of the animal is unknown or cannot immediately be found, the animal control officer shall impound the animal as quickly as possible and notify the owner of his action as soon thereafter as possible. The animal control officer, a police officer or any other city employee authorized by the city manager, may enter upon private property, if necessary, in order to catch the animal for such impoundment.
(Ord. No. 50, 8-18-1988)

Secs. 10-110--10-140. Reserved.

ARTICLE IV.

VICIOUS OR DANGEROUS ANIMALS

Sec. 10-141. Determination of status.

If, from evidence available to him, the senior animal control officer determines that an animal is vicious or dangerous, he shall immediately notify the owner in writing, if the owner is known, or can be determined by reasonable effort, stating the reasons for such determination, whereupon the owner shall immediately deliver the animal to the senior animal control officer for impoundment unless the owner immediately confines such animal and agrees to thereafter keep such animal confined as provided by this article. Any person who owns an animal which has been declared vicious or dangerous by the senior animal control officer shall have the right to appeal such decision to the municipal court judge by filing a written appeal within a period of three days after receiving notification of such decision. In the event of such an appeal, the animal shall remain confined at the animal shelter at the expense of the owner, or confined at all times by the owner in the manner provided by this article until such appeal is terminated. If the animal is judged not to be vicious or dangerous by the municipal court judge, it shall be immediately returned to the owner. If the animal is judged to be vicious or dangerous by the municipal court judge, it shall thereafter be confined by the owner as provided by this article. If it is at that time impounded at the animal shelter, it shall remain so impounded and destroyed after three days have elapsed from and after the date of such judgment of the municipal court judge unless redeemed by the owner as provided in section 10-109.
(Ord. No. 50, 8-18-1988)

Sec. 10-142. Confinement.

(a) It shall be unlawful for any person to harbor, maintain or keep a vicious or dangerous animal on his premises unless the animal is fully enclosed by a steel chainlink fence of such strength, height and construction that the animal cannot escape therefrom, or unless the animal is confined in a cage of such strength and construction that it cannot escape therefrom when fencing in such animal will not fully protect the public from the danger of injury by such animal.

(b) It shall also be unlawful for any person to cause or permit any vicious animal or dangerous animal, except a dog, to be outside the place of confinement of such animal, whether on or off the owner's premises, at any time.

(c) It shall also be unlawful for any person to cause, permit, accompany or be responsible for the presence of any dog which is a vicious animal or dangerous animal at any place outside his home or the place of confinement of such dog, whether on or off the owner's premises, at any time, unless such dog shall be under the restraint of a leash and securely muzzled to prevent it from biting any other animal or any human being. (Ord. No. 50, 8-18-1988)

Chapters 11--13

RESERVED

Chapter 14

BUILDINGS AND BUILDING REGULATIONS*

* **Cross References:** Administration, ch. 2; environment, ch. 26; fire prevention and protection, ch. 30; floods, ch. 34; health and sanitation, ch. 38; manufactured homes and trailers, ch. 42; utilities, ch. 58; zoning, app. A; zoning procedures, app. B.

State Law References: Construction standards generally, O.C.G.A. § 8-2-1 et seq.

Article I. In General

Sec. 14-1. Licenses, permits, tags or certificates.
Secs. 14-2--14-30. Reserved.

Article II. Construction Codes

Sec. 14-31. Adoption of technical codes.
Secs. 14-32--14-60. Reserved.

Article III. Flow-Rate Restrictions on Plumbing Fixtures

Sec. 14-61. Definitions.
Sec. 14-62. Construction standards.
Sec. 14-63. Exemptions.

ARTICLE I.

IN GENERAL

Sec. 14-1. Licenses, permits, tags or certificates.

No licenses, permits, tags or certificates required by this chapter shall be issued unless the applicant provides a statement by the city clerk certifying that all ad valorem taxes levied against the property and due and owing have been paid.
(Res. of 6-29-2004, § 1(a))

Secs. 14-2--14-30. Reserved.

ARTICLE II.

CONSTRUCTION CODES

Adopted 01/04/2010:
Article II, Construction Codes is amended by deleting Sec.14-31 and substituting the following:

Sec. 14-31. Adoption of construction codes.

The following state minimum standard codes as identified in the O.C.G.A. Section 8-2-20(9)(B) are hereby adopted as the minimum construction codes for the City of Clarkesville, Georgia:

Georgia State Minimum Standard Building Code

Georgia State Minimum Standard One and Two Family Dwelling Code
Georgia State Minimum Standard Fire Code
Georgia State Minimum Standard Mechanical Code
Georgia State Minimum Standard Plumbing Code
Georgia State Minimum Standard Gas Code
Georgia State Minimum Standard Electrical Code
Georgia State Minimum Standard Energy Code

The following section was deleted by adoption of State minimum codes on 01/04/2010

~~***Sec. 14-31. Adoption of technical codes.***~~

~~*The following technical building and construction codes, as set forth in O.C.G.A. § 8-2-20, are adopted by reference as the official codes of the county and may be amended for later editions as required by O.C.G.A. § 8-2-25:*~~

~~*(1) Standard Building Code (SBCCI);*~~

~~*(2) National Electrical Code as published by the National Fire Protection Association;*~~

~~*(3) Standard Gas Code (SBCCI);*~~

~~*(4) Standard Mechanical Code (SBCCI);*~~

~~*(5) Georgia State Plumbing Code or the Standard Plumbing Code (SBCCI);*~~

~~*(6) Council of American Building Officials One and Two Family Dwelling Code, with the exception of part V, plumbing (chapters 20--25) of such code;*~~

~~*(7) Georgia State Energy Code for Buildings as adopted by the State Building Administrative Board pursuant to 1978 Ga. Laws, page 2212, as such code exists on September 30, 1991;*~~

~~*(8) Standard Fire Prevention Code (SBCCI);*~~

~~*(9) Standard Housing Code (SBCCI);*~~

~~*(10) Standard Amusement Device Code (SBCCI);*~~

~~*(11) Excavation and Grading Code (SBCCI);*~~

~~*(12) Standard Existing Buildings Code (SBCCI);*~~

~~*(13) Standard Swimming Pool Code (SBCCI); and*~~

~~*(14) Standard Unsafe Building Abatement Code (SBCCI).*~~

~~***State Law References:** Authority to adopt technical codes, Ga. Const. art. IX, § II, ¶ III(a)(12); minimum state construction codes, O.C.G.A. § 8-2-25; enforcement of minimum state construction codes, O.C.G.A. § 8-2-26.*~~

Secs. 14-32--14-60. Reserved.

ARTICLE III.

FLOW-RATE RESTRICTIONS ON PLUMBING FIXTURES*

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* **State Law References:** Flow-rate restrictions on plumbing fixtures, O.C.G.A. § 8-2-3.

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Sec. 14-61. Definitions.

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

Commercial means any type of building other than residential.

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

Residential means any building or unit of a building intended for occupancy as a dwelling unit, but shall not include a hotel or motel.

Cross References: Definitions generally, § 1-2.

Sec. 14-62. Construction standards.

Construction initiated within the county for any residential or commercial building of any type must comply with the following standards:

(1) *Water closet.* Water closets shall be either flush tank or flushometer operated, and shall be designed, manufactured and installed to be operated and adequately flushed with no more than 1 3/5 gallons of water per flushing cycle when tested in accordance with applicable standards.

(2) *Urinals.* Urinals shall be designed, manufactured and installed to be operable and adequately flushed with no more than 1 1/2 gallons per flush.

(3) *Lavatory facilities, public.* Faucets for public lavatories shall be equipped with outlet devices which limit the flow of water to a minimum of one-half gallon per minute or to be equipped with self-closing valves that limit the delivery to a maximum of one-quarter gallon of hot water for recirculating systems and to a maximum of one-quarter gallon for a nonrecirculating systems.

Exception: Separate lavatories for physically handicapped persons shall not be equipped with self-closing valves.

(4) *Lavatory facilities, private.* Faucets for private lavatories shall be designed, manufactured and

installed to deliver water at a flow rate not to exceed three gallons per minute when tested in accordance with applicable standards.

(5) *Showerheads; sink faucets.* Showerheads and sink faucets shall be designed, manufactured and installed to deliver water at a rate not to exceed three gallons per minute when tested in accordance with applicable standards.

Sec. 14-63. Exemptions.

(a) New construction and the repair or renovation of an existing building shall be exempt from the requirements of this article when:

(1) The repair or renovation of the existing building does not include the replacement of the plumbing or sewer system servicing toilets, faucets or showerheads within such existing building.

(2) Such plumbing or sewer system within such existing building, because of its capacity, design or installation, would not function properly if the toilets, faucets or showerheads required by this article were installed.

(3) Such system is a well or gravity flow from a spring and is owned privately by an individual for use in such individual's personal residence.

(4) Units to be installed are:

a. Specifically designed for use by the handicapped;

b. Specifically designed to withstand unusual abuse or installation in a penal institution; or

c. Toilets for juveniles.

(5) Commercial construction for which the contract was entered into prior to July 1, 1992.

(b) The owner, or his agent, of a building undergoing new construction or repair or renovation who is entitled to an exemption as specified by this section shall obtain the exemption by applying to the code enforcement officer or the building inspector.

Chapters 15--17

RESERVED

Chapter 18

BUSINESSES*

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* **Cross References:** Administration, ch. 2; alcoholic beverages, ch. 6; health and sanitation, ch. 38; taxation, ch. 50; zoning, app. A.

State Law References: Fair Business Practices Act of 1975, O.C.G.A. § 10-1-390 et seq.; limitation on expanding the power of municipal regulation over any business activity regulated by the Public Service Commission, O.C.G.A. § 36-35-6(5); evidence of state license as prerequisite to local business license, O.C.G.A. § 36-60-6; local taxes and fees, Ga. Const. art. IX, § IV, ¶ I.

Article I. In General

Secs. 18-1--18-30. Reserved.

Article II. Occupation Taxes and Regulatory Fees

Sec. 18-31. Definitions.
Sec. 18-32. Administration of article.
Sec. 18-33. Occupation tax levied; limitations.
Sec. 18-34. Occupation tax certificate.
Sec. 18-35. Regulatory fee.
Sec. 18-36. Regulatory fee certificate.
Sec. 18-37. Practitioners of professions and occupations.
Sec. 18-38. Exemptions.
Sec. 18-39. Evidence of state registration required.
Sec. 18-40. Evidence of qualification required, if applicable.
Sec. 18-41. Filing returns; other information required or requested.
Sec. 18-42. Confidentiality.
Sec. 18-43. Date due; penalty.
Sec. 18-44. Enforcement of article; violations.
Sec. 18-45. Public hearing.
Sec. 18-46. Appendix A.
Sec. 18-47. Appendix B.
Secs. 18-48--18-80. Reserved.

Article III. Adult Entertainment Establishments

Sec. 18-81. Title; purpose.
Sec. 18-82. Definitions.
Sec. 18-83. Regulations.
Sec. 18-84. Certain activities prohibited.
Sec. 18-85. Permit required.
Sec. 18-86. Operation of unlicensed premises unlawful.
Sec. 18-87. Admission of minors unlawful.
Sec. 18-88. Sales to minors unlawful.
Sec. 18-89. Location.
Sec. 18-90. Employees.
Sec. 18-91. Application for permit.
Sec. 18-92. Application contents.
Sec. 18-93. Applicant to appear.
Sec. 18-94. Application; investigation.
Sec. 18-95. Persons prohibited as licensees.
Sec. 18-96. Permit renewal.
Sec. 18-97. Permits nontransferable.
Sec. 18-98. Change of location or name.
Sec. 18-99. Permit, refusal, appeal.
Sec. 18-100. Appeal procedure.
Sec. 18-101. Appeal; council determines procedures.

Sec. 18-102. City council hearing.
Sec. 18-103. Powers of hearing officer.
Sec. 18-104. Rules of evidence inapplicable.
Sec. 18-105. Hearing officer; report.
Sec. 18-106. Hearing officer report; action by city council.
Sec. 18-107. Penalty for violation.
Sec. 18-108. Unlawful operation declared nuisance.
Sec. 18-109. Revocation and appeal.
Sec. 18-110. License and annual renewal fees.
Sec. 18-111. Advertising and posting.
Sec. 18-112. Premises open for inspection.
Sec. 18-113. Compliance.

ARTICLE I.

IN GENERAL

Secs. 18-1--18-30. Reserved.

ARTICLE II.

OCCUPATION TAXES AND REGULATORY FEES*

* **State Law References:** Business and occupation taxes, O.C.G.A. § 48-13-5 et seq.

Sec. 18-31. Definitions.

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

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.

Location or *office* means any structure or vehicle where a business, profession or occupation is conducted, but shall not include a temporary or construction work site which serves a single customer or project, or a vehicle used for sales or delivery by a business or practitioner of a profession.

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.

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

Practitioners of professions and occupations are 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 means a fee which approximates the cost of regulatory activity by the city.

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

(Ord. No. 14, § II, 11-6-1995)

Cross References: Definitions generally, § 1-2.

Sec. 18-32. Administration of article.

The city manager or city clerk shall administer and enforce this article for the levy, assessment and collection of occupation taxes and penalties imposed in this article.

(Ord. No. 14, § III, 11-6-1995)

Sec. 18-33. Occupation tax levied; limitations.

(a) Pursuant to O.C.G.A. § 48-13-7, an occupation tax based upon the 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 shown in appendix A of this article (section 18-46).

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

(c) The city shall not require the payment of occupation tax to be more than the maximum tax shown in appendix A of this article (section 18-46) for each location of a business or practitioner.

(d) 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) If a business or practitioner with no location or office in the state provides to the city proof of payment of a local business or occupation tax in another state which purports to tax the business's practitioner's sales or services in this state, then the business or practitioner shall be exempt from this occupation tax.

(2) A business or practitioner with no location or office in the state shall only be required to pay occupation tax to the local government in the state where the largest dollar volume of business is done or service is performed by such business or practitioner. This limitation shall only apply when the business or practitioner has provided to the city satisfactory proof of as to the applicability of this subsection.

(3) 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 governments.

(4) 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.

(e) If a business or practitioner commences business in the city on or after July 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 regulatory fee shall not be reduced.

(f) 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.

(g) 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.
(Ord. No. 14, § IV, 11-6-1995)

Sec. 18-34. Occupation tax certificate.

(a) *Display.* Every business, practitioner and location subject to payment of this 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, the city manager or the city clerk upon request.

(b) *Payment prior to issuance.* No certificate shall be issued unless the applicant provides a statement by the city clerk certifying that all ad valorem taxes levied against the property and due and owing have been paid.
(Ord. No. 14, § V, 11-6-1995; Res. of 6-29-2004, § 1(a))

Sec. 18-35. Regulatory fee.

(a) Businesses and individuals engaging in the occupations or businesses set forth in appendix B of this article (section 18-47) must pay a nonrefundable regulatory fee in accordance with the rate set forth in appendix B of this article (section 18-47).

(b) If a business or individual initially engages in an activity regulated by the city on or after July 1 in any year, the regulatory fee for the remaining portion of the year shall be 50 percent of the regulatory fee for the entire year.
(Ord. No. 14, § VI, 11-6-1995)

Sec. 18-36. Regulatory fee certificate.

(a) *Display.* Every business, individual and location subject to payment of a regulatory fee levied by this article shall display a current regulatory fee 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 regulatory certificate or an unaltered duplicate of such certificate shall be shown to any police officer, the city clerk or the city manager, upon request.

(b) *Payment prior to issuance.* No certificate shall be issued unless the applicant provides a statement by the city clerk certifying that all ad valorem taxes levied against the property and due and owing have been paid.
(Ord. No. 14, § VII, 11-6-1995; Res. of 6-29-2004, § 1(a))

Sec. 18-37. Practitioners of professions and occupations.

Practitioners of professions and occupations shall pay the occupation tax as set forth in section 18-33 or shall pay an occupation tax of $200.00 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.
(Ord. No. 14, § VIII, 11-6-1995)

Sec. 18-38. 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;

(3) Those electrical service businesses organized under 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. § 46-7-15;

(7) Persons purchasing guano, meats, meal, flour, bran, cottonseed, 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. § 49-5-356 for persons selling or introducing into the city agricultural products or livestock, including animal products, raised in this 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.
(Ord. No. 14, § IX, 11-6-1995)

Sec. 18-39. Evidence of state registration required.

Each person who is licensed under Title 43 of the Official Code of Georgia Annotated 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.
(Ord. No. 14, § X, 11-6-1995)

Sec. 18-40. Evidence of qualification required, if applicable.

(a) Any business required to obtain health permits, bonds, certificates of qualifications, 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 qualifications.

(b) Any business required to submit an annual application for continuance of the business shall do so before the registration is issued.
(Ord. No. 14, § XI, 11-6-1995)

Sec. 18-41. Filing returns; other information required or requested.

(a) On or before November 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 fees.

(Ord. No. 14, § XII, 11-6-1995)

Sec. 18-42. Confidentiality.

Information provided by a business or practitioner to the city for the purpose of determining the applicability and amount of the occupation tax or levying or collection the occupation tax is confidential and exempt from disclosure under O.C.G.A. § 50-18-70 et seq. Such information may be provided to the governing authority of another local government for occupation tax purposes or pursuant to court order or for the purpose of collecting occupation tax or prosecution for failure or refusal to pay occupation tax.
(Ord. No. 14, § XIII, 11-6-1995)

Sec. 18-43. Date due; penalty.

(a) Any occupation tax or regulatory fee due pursuant to this article shall be due and payable annually on January 1. If 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.
(Ord. No. 14, § XIV, 11-6-1995)

Sec. 18-44. Enforcement of article; 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. § 49-2-40 or, if such state statute should be repealed, one percent per month. The lien shall cover the property 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 the city clerk of the city 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 or 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 charges 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 a fine and penalty equal to the total amount due under this article not to exceed $1,000.00.

(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 and 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.
(Ord. No. 14, § XV, 11-6-1995)

Sec. 18-45. Public hearing.

After January 1, 1996, the city shall conduct at least one public hearing before adopting any ordinance or resolution which will increase the occupation tax rate specified in section 18-33.
(Ord. No. 14, § XVI, 11-6-1995)

Sec. 18-46. Appendix A.

Occupation taxes for businesses or practitioners pursuant to O.C.G.A. § 48-13-7 and section 18-33 shall be as set from time to time by resolution and are on file in the schedule of fees and charges in the office of the city clerk.
(Ord. No. 14, App. A, 11-6-1995)

Sec. 18-47. Appendix B.

Regulatory fees for the following businesses or practitioners pursuant to O.C.G.A. § 48-13-9(a) and (b) and section 18-33 are as set from time to time by resolution and are on file in the schedule of fees and charges in the office of the city clerk:

(1) Tattoo artists.

(2) Scrap metal processors.

(3) Pawnbrokers.

(4) Massage parlors.

(5) Landfills.

(6) Hypnotists.

(7) Handwriting analysts.

(8) Fortunetellers.

(9) Escort services.

(Ord. No. 14, App. B, 11-6-1995)

Secs. 18-48--18-80. Reserved.

ARTICLE III.

ADULT ENTERTAINMENT ESTABLISHMENTS

Sec. 18-81. Title; purpose.

(a) This article shall be known and may be cited as the "Adult Entertainment Ordinance."

(b) The purpose of this article is to regulate certain types of businesses, including, but not limited to, adult entertainment establishments to the end that the many types of criminal activities frequently engendered by such businesses will be curtailed. However, it is recognized that such regulation cannot de facto approach prohibition. Otherwise a protected form of expression would vanish. As to adult establishments, this article represents a balancing of competing interests: reduced criminal activity and protection of the neighborhoods through the regulation of adult entertainment establishments versus the protected rights of adult entertainment establishments and patrons.

(Ord. No. 03-74, § I, 8-4-2003)

Sec. 18-82. 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:

Adult bookstore means an establishment having a substantial or significant portion of its stock in trade, books, magazines or other periodicals which are distinguished or characterized by their emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas or an establishment with a segment or section, comprising five percent of its total floor space, devoted to the sale or display of such material or five percent of its net sales consisting of printed material which are distinguished or characterized by their emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas.

Adult business means either:

(1) Any business other than those expressly specified in this article, where employees or patrons expose specified anatomical areas or engage in specified sexual activities; or

(2) Any other business or establishment which offers its patrons services or entertainment characterized by an emphasis on matter depicting, describing, discussing or relating to specified sexual activities or specified anatomical areas.

Adult dancing establishment means a business that features dancers displaying or exposing specified anatomical areas.

Adult hotel or motel means a hotel or motel wherein material is presented which is distinguished or characterized by an emphasis on matter depicting, describing or relating to specified sexual activities of specified anatomical areas.

Adult minimotion picture theater means an enclosed building with a capacity for less than 50 persons used for commercially presenting material distinguished or characterized by an emphasis on matter depicting or relating to specified sexual activities or specified anatomical areas for observation by patrons therein.

Adult motion picture arcade means any place to which the public is permitted or invited wherein coin-operated or slug-operated or electronically, electrically or mechanically controlled still or motion picture machines, projectors or other image-producing devices are maintained to show images to five or fewer persons per machine at any one time and where the images so displayed are distinguished or characterized by an emphasis on depicting or describing specified sexual activities or specified anatomical areas.

Adult motion picture theater means an enclosed building with a capacity of 50 or more persons, used for presenting material distinguished or characterized by an emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas for observation by patrons therein.

Adult video store means any establishment having a substantial or significant portion of its stock in trade, videotapes or movies or other reproductions, whether for sale or rent, which are distinguished or characterized by their emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas or an establishment with a segment or section, comprising five percent of its total floor space, devoted to the sale or display of such material or which derives more than five percent of its not sales from videos which are characterized or distinguished by their emphasis on matter depicting, describing, or relating to specified sexual activities or specified anatomical areas.

Church means a body of communicants gathered into church order; united under one form of government by the profession of the same faith and the observance of the same ritual and ceremonies; a place where persons regularly assemble for worship; congregation; organization for religious purposes.

Erotic dance establishment means a nightclub, theater or other establishment which features live performances by topless and/or bottomless dancers, go-go dancers, strippers or similar entertainers, where such performances are distinguished or characterized by an emphasis on specified sexual activities or specified anatomical areas.

Encounter center or rap establishment means any business, agency or person who, for any form of consideration or gratuity, provides a place where two or more persons may congregate, assemble or associate for the primary purpose of engaging in, describing or discussing specified sexual activities, or exposing specified anatomical areas.

Escort bureau, introduction services means any business, agency or person who, for a fee, council, hire, reward or profit, furnishes or offers to furnish names or persons, or who introduces, furnishes or arranges for persons who may accompany other persons to or about social affairs, entertainment or places of amusement, or who may consort with others about any place of public resort or within any private quarters.

Good moral character, according to this article, means if a person has not been convicted of felony, or any crime not a felony if it involves moral turpitude, in the past five years. The city may take into account such other factors as are necessary to determine the good moral character of the applicant or employee. Conviction shall include pleas of nolo contendere or bond forfeiture when charged with such crime.

Minor, for the purposes of this article, means any person who has not attained the age of 18 years.

Specified sexual activities shall include any of the following:

(1) Actual or simulated sexual intercourse, oral copulation, anal intercourse, oral anal copulation, bestiality, direct physical stimulation of unclothed genitals, flagellation or torture in the context of a sexual relationship, or the use of excretory functions in the context of a sexual relationship, and any of the following sexually oriented acts or conduct: anilingus, buggery, coprophagy, coprophilia, cunnilingus, fellatio, necrophilia, pederasty, pedophilia, piquerism, sapphism, or zooerasty;

(2) Clearly depicted human genitals in a state of sexual stimulation, arousal or tumescence;

(3) Use of human or animal ejaculation, sodomy, oral copulation, coitus, or masturbation;

(4) Fondling or touching of nude human genitals, pubic region, buttocks or female breast;

(5) Masochism, erotic or sexually oriented torture, beating or the inflicting of pain;

(6) Erotic or lewd touching, fondling or other sexual contact with an animal by a human being; or

(7) Human excretion, urination, menstruation, vaginal or anal irrigation.

Specified anatomical areas shall include any of the following:

(1) Less than completely and opaquely covered human genitals or pubic region, buttock, or female breast below a point immediately above the top of the areola; or

(2) Human male genitalia in a discernibly turgid state, even if completely and opaquely covered.

(Ord. No. 03-74, § II, 8-4-2003)

Cross References: Definitions generally, § 1-2.

Sec. 18-83. Regulations.

(a) No person, firm, partnership, corporation, or other entity shall advertise, or cause to be advertised, an adult entertainment establishment, as defined in this article, without a valid adult entertainment

license issued pursuant to this article.

(b) No later than March 1 of each year, an adult entertainment establishment licensee shall file a verified report with the license officer showing the licensee's gross receipts and amounts paid to dancers for the preceding calendar year.

(c) An adult entertainment establishment licensee shall maintain and retain for a period of two years the names, addresses, and ages of all persons employed by the establishment, specifically including dancers.

(d) No adult entertainment establishment licensee shall employ or contract with as a dancer a person under the age of 18 years or a person not licensed pursuant to this article.

(e) No person under the age of 18 years shall be admitted to an adult entertainment establishment.

(f) An adult entertainment establishment, as defined in this article, shall be opened only between 8:00 a.m. and 2:00 a.m. each day from Monday through Friday and between 8:00 a.m. and 12:00 p.m. on Saturday, and shall be closed on Sunday. No licensee shall permit his or her place of business to be opened on Christmas Day.

(g) No adult entertainment establishment licensee shall serve, sell, distribute, or suffer the consumption or possession of any intoxicating liquor or controlled substance upon the premises of the licensee.

(h) An adult entertainment establishment licensee shall conspicuously display all licenses required by this article.

(i) All dancing shall occur on a platform intended for that purpose which is raised at least two feet from the level of the floor.

(j) No dancing shall occur closer than ten feet to any patron.

(k) No dancer shall fondle or caress any patron, and no patron shall fondle or caress any dancer.

(l) No patron shall directly pay or give any gratuity to any dancer, and no dancer shall accept or solicit any pay or gratuity from any patron.

(m) All areas of an establishment licensed hereunder shall be fully lighted at all times patrons are present. The term "fully lighted" shall mean illumination equal to 3 5/10 footcandles per square foot.

(n) No adult entertainment licensee shall suffer or permit an employee or any other person on the premises to engage in any of the following sexual activities:

(1) Actual or simulated sexual intercourse, oral copulation, anal intercourse, oral anal copulation, bestiality, direct physical stimulation of unclothed genitals, flagellation or torture in the context of a sexual relationship, or the use of excretory functions in the context of a sexual relationship, and any of the following sexually oriented acts or conduct: anilingus, buggery, coprophagy, coprophilia, cunnilingus, fellatio, necrophilia, pederasty, pedophilia, piquerism, sapphism, or

zooerasty;

(2) Clearly depicted human genitals in a state of sexual stimulation, arousal or tumescence;

(3) Use of human or animal ejaculation, sodomy, oral copulation, coitus, or masturbation;

(4) Fondling or touching of nude human genitals, pubic region, buttocks or female breast;

(5) Masochism, erotic or sexually oriented torture, beating or the inflicting of pain;

(6) Erotic or lewd touching, fondling or other sexual contact with an animal by a human being; or

(7) Human excretion, urination, menstruation, vaginal or anal irrigation.

(Ord. No. 03-74, § III, 8-4-2003)

Sec. 18-84. Certain activities prohibited.

No person, association, partnership, limited liability company, corporation or other business entity shall publicly display or expose or suffer the public display of exposure, with less than a full opaque covering of any portion of a person's genitals, pubic area or buttocks in a lewd or obscene fashion.

(Ord. No. 03-74, § IV, 8-4-2003)

Sec. 18-85. Permit required.

It shall be unlawful for any person, association, partnership, corporation or any other business entity to engage in, conduct or carry on, in or upon any premises within the city any of the adult entertainment establishments defined in this article without a permit so to do. No permit so issued shall condone or make legal any activity thereunder if the same is deemed illegal or unlawful under the laws of the state or the United States.

(Ord. No. 03-74, § V, 8-4-2003)

Sec. 18-86. Operation of unlicensed premises unlawful.

It shall be unlawful for any person to operate an adult bookstore, adult motion picture theater, adult minimotion picture theater, adult hotel or motel, adult motion picture arcade, adult video store, erotic dance establishment, cabaret, encounter center or rap establishment, escort bureau, adult dancing establishment or adult business unless such business shall have a currently valid license or shall have made proper application for renewal within the time required thereof under this article, which license shall not be under suspension or permanently or conditionally revoked.

(Ord. No. 03-74, § VI, 8-4-2003)

Sec. 18-87. Admission of minors unlawful.

It shall be unlawful for a licensee to admit or permit the admission of minors within a licensed premises.

(Ord. No. 03-74, § VII, 8-4-2003)

Sec. 18-88. Sales to minors unlawful.

It shall be unlawful for any person to sell, barter or give; or to offer to sell, barter or give, to any minor any service, material, device or thing sold or offered for sale by an adult bookstore, adult motion picture theater, adult massage parlor or adult dancing establishment or any other adult entertainment facility or business. (Ord. No. 03-74, § VIII, 8-4-2003)

Sec. 18-89. Location.

No adult business or use restricted hereunder shall be located:

(1) Within 1,000 feet of any parcel of land which is zoned, named or used for residential uses or purposes.

(2) Within 1,000 feet of any parcel of land upon which a church, school, governmental building, library, civic center, public park or playground is located.

(3) Within 1,000 feet of any parcel of land upon which another establishment regulated or defined hereunder is located.

(4) Within 1,000 feet of any parcel of land upon which any establishment selling alcoholic beverages is located.

(5) On land containing fewer than 100 feet of road frontage.

For the purposes of this section, distance shall be by airline measurement from property line to property line, using the closest property lines of the parcels of land involved. The term "parcel of land" means any quantity of land capable of being described by location and boundary, designated and used or to be used as a unit. (Ord. No. 03-74, § IX, 8-4-2003)

Sec. 18-90. Employees.

(a) *Qualifications.* Employees of an adult entertainment establishment shall be not less than 18 years of age. Every employee must be of good moral character as defined in this article. Any employee who is convicted of a crime constituting a felony, or a crime not a felony involving moral turpitude, while employed as an adult entertainment establishment employee shall not thereafter work on any licensed premises for a period of five years from the date of such conviction, unless a longer time is ordered by a court of competent jurisdiction. The term "convicted" shall include, but not be limited to, an adjudication of guilt, a plea of guilty, nolo contendere, or a forfeiture of a bond when charged with a crime. The terms "employed as an adult entertainment establishment employee" and "work on any licensed premises" shall include any and all work done or services performed while in the scope of employment whether performed on the licensed premises or elsewhere.

(b) *Approval for employment.* Before any person may work on a licensed premises, he/she shall file a notice with the licensing officer of his/her intended employment on forms supplied by the licensing officer that require the information set forth in subsection (a) of this section and shall receive approval of such employment from the licensing officer. The prospective employer shall supply such information as the licensing

officer requires, including a set of fingerprints on regular city or United States Department of Justice forms. The city shall have 30 days to investigate the information required to be submitted by the employee. If the employee is found to be of good moral character, the licensing officer shall grant approval of employment. Upon approval, the employee may begin working on the licensed premises. If approval is denied, the prospective employee may, within ten days of said denial, apply to the licensing officer for a hearing. The decision of the licensing officer after hearing may be appealed to the city council who shall issue such order as is required. An investigation fee of $50.00 shall accompany the notice of intended employment, or a receipt of the licensing officer evidencing the payment of such fee at the time the notice is filed.

(c) *Suspension; revocation of license.* Violation of the provisions of this article, the laws, regulations and other articles of the city, county, of any municipality located therein, or the laws and regulations of the state or the United States shall subject an employee to suspension or revocation of license.

(d) *Independent contractors.* For the purpose of this article, independent contractors shall be considered as employees and shall be licensed as employees, regardless of the business relationship with the owner or licensee of any adult entertainment establishment.
(Ord. No. 03-74, § X, 8-4-2003)

Sec. 18-91. Application for permit.

(a) Any person, association, partnership, limited liability company, corporation, or any other business entity desiring to obtain a permit to operate, engage in, conduct or carry on any adult entertainment establishment shall make application to the chief of police, or his designated representative. Prior to submitting such application, a non-refundable fee, established by resolution of the city council, shall be paid to the director of the city business license department to defray, in part, the cost of investigation and report required by this article. The director of the city business license department shall issue a receipt showing that such application fee has been paid. The receipt, or a copy thereof, shall be supplied to the chief of police for the city at the time such application is submitted.

(b) The application for permit does not authorize the engaging in, operation of, conduct of or carrying on of any adult entertainment establishment.
(Ord. No. 03-74, § XI, 8-4-2003)

Sec. 18-92. Application contents.

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

(1) The applicant's full true name and any other names used by the applicant at anytime.

(2) The present address and telephone number of the applicant.

(3) The previous addresses of the applicant, if any, for a period of five years immediately prior to the date of the application and the dates of residence at each.

(4) Acceptable written proof that the applicant is at least 18 years of age.

(5) The applicant's height, weight, color of eyes and hair, date and place of birth, and social security number.

(6) Two photographs of the applicant at least two inches by two inches taken within the last six months.

(7) Business, occupation or employment history of the applicant for the five years immediately preceding the date of application. Business or employment records of the applicant, partners in a partnership, members in a limited liability company, directors and officers of a corporation, and if a corporation, all shareholders holding more than five percent of the shares of corporate stock outstanding.

(8) The business license history of the applicant and whether such applicant, in previous operations in this city or any other city, county, state or territory under license, has had such license or permit for an adult entertainment business or similar type of business denied, revoked or suspended, the reason therefor, and the business activity or occupation subsequent to such action of suspension or revocation.

(9) All convictions, including ordinance violations, exclusive of traffic violations, stating the dates and places of any such convictions.

(10) If the applicant is a corporation, the name of the corporation shall be set forth exactly as shown in its articles of incorporation or charter, together with the place and date of incorporation, and the names and addresses of each of its current officers, directors and shareholders holding more than five percent of the stock outstanding in the corporation. If the applicant is a partnership, the applicant shall set forth the name, residence address and dates of birth of the partners, including limited partners if any. If the applicant is a limited partnership, it also shall furnish a copy of its certificate of limited partnership filed with the county clerk. If the applicant is a limited liability company, the name of the limited liability company shall be set forth exactly as shown in its articles of organization or charter, together with the place and date of organization, and the names and addresses of each of its members, and its current officers and managers, if any. If one or more of the partners or members, as the case may be, is a corporation, the provisions of this subsection (10) pertaining to corporations shall apply. The applicant corporation, partnership, or limited liability company shall designate one of its officers, general partners, or managing members to act as its responsible managing officer. If the limited liability company is not member managed, then the limited liability company shall designate one of its officers or general members. Such designated person shall complete and sign all application forms required of an individual applicant under this article, but only one application fee shall be charged.

(11) The names and address of the owner or lesser of the real property upon which the business is to be conducted and a copy of the lease or rental agreement.

(12) Such other identification and information as the chief of police may reasonably require in order to discover the truth of matters hereinbefore specified as required to be set forth in the application.

(13) The age and date of birth of the applicant, of any and all officers, directors, partners, and/or members and, if applicable, any and all shareholders holding more than five percent of the stock outstanding in the corporation.

(14) If the applicant as an individual, or if any partner, member, officer or director of the applicant, as a business entity, has been convicted of any crime constituting a felony, or any crime not a felony involving moral turpitude, in the past five years and, if so, a complete description of any such crime including date of violation, date of conviction, jurisdiction and any disposition, including any fine or sentence imposed and whether terms of disposition have been fully completed.

(15) The city shall require the individual applicant to furnish fingerprints of the applicant.

(16) If the applicant is a person doing business under a trade name, a copy of the trade name properly recorded. If the applicant is a corporation or a limited liability company, a copy of authority to do business in the state, including articles of incorporation if a corporation, or articles of organization if a limited liability company, trade name affidavit, if any, and last annual report, if any.

(17) At least three character references from individuals who are in no way related to the applicant or individual partners, members, shareholders, officers or directors of the business entity and who are not or will not benefit financially in any way from the application if the license is granted and who have not been convicted of any crime constituting a felony, or any crime not a felony involving moral turpitude, within the last five years. The licensing officer shall prepare forms consistent with the provisions of this subsection for the applicant, who shall submit all character references on such forms.

(18) Address of the premises to be licensed.

(19) Whether the premises are owned or rented. If the applicant has a right to legal possession of the premises, copies of those documents giving such legal right.

(20) A plat by a registered engineer, licensed by the state, showing the location of the proposed premises is not inconsistent with the provisions contained in section 18-89 and showing the location of the proposed premises in relation to the neighborhood, the surrounding zoning, its proximity to any church, school, public park, governmental building, library, civic center, neighborhood public park or neighborhood playground, or other business hereunder regulated or defined.

(21) Each applicant for an adult entertainment establishment license shall be verified and acknowledged under oath to be true and correct by:

a. If the applicant is an individual, the individual;

b. If a corporation, the president of the corporation;

c. If a partnership, the manager or general partner;

d. If a limited liability company, the manager or general member; or,

e. If any other organization or association, the chief administrative official.

(22) In addition to the information required herein, the application shall disclose the name, address, social security number and date of birth of any and all persons who have a financial interest of any type in the entity which is applying for the license.

(23) Any other matter reasonably required by the chief of police.

(Ord. No. 03-74, § XII, 8-4-2003)

Sec. 18-93. Applicant to appear.

The applicant, if an individual, or designated responsible managing officer, if a partnership, limited liability company or corporation or any other business entity, shall personally appear at the city hall and produce proof that a nonrefundable application fee, established by resolution of the city council, has been paid and shall present the application containing the aforementioned and described information.

(Ord. No. 03-74, § XIII, 8-4-2003)

Sec. 18-94. Application; investigation.

(a) The city shall have 30 days to investigate the application and the background of the applicant. Upon completion of the investigation, the city council may grant the permit at its next regular meeting if it finds:

(1) The required fee has been paid.

(2) The application conforms in all respects to the provisions of this article.

(3) The applicant has not knowingly made a material misrepresentation in the application.

(4) The applicant has fully cooperated in the investigation of the application.

(5) The applicant, if an individual; any of the shareholders, officers or directors, if the applicant is a corporation; any of the partners, including limited partners, if the applicant is a partnership; or any of the members, officers, or managers, if the applicant is a limited liability company; has not been convicted in a court of competent jurisdiction of an offense involving conduct, or convicted of an attempt to commit any, of the above-mentioned offenses, or convicted in any state of any offense which, if committed or attempted in this state, would have been punishable as one or more of the above-mentioned offenses, or any crime involving dishonesty, fraud, deceit or moral turpitude.

(6) The applicant has not had an adult entertainment establishment permit or other similar license or

permit denied or revoked for cause by this city or any other governmental jurisdiction located in or out of this state prior to the date of application.

(7) The building, structure, equipment, or location of such business, as proposed by applicant, would comply with all applicable laws; including but not limited to, health, zoning, distance, fire and safety requirements and standards, and would qualify to receive a certificate of occupancy.

(8) The applicant is at least 21 years of age.

(9) That the applicant, his or her employee, agent, partner, member, director, officer, shareholder or manager has not, within five years of the date of the application, knowingly allowed or permitted any of the specified sexual activities as defined herein to be committed or allowed in or upon the premises where such adult entertainment establishment is to be located, or to be used as a place in which solicitation for the specified actual activities as defined herein openly occur.

(10) That on the date the business for which a permit is required herein commences, and thereafter, there will be a responsible person on the premises to act as manager at all times during which the business is open.

(11) That the proposed premises is not to be located within 1,000 feet of any parcel of land which is zoned for residential uses or purposes; within 1,000 feet of any parcel of land upon which a church, school, governmental building, library, civic center, neighborhood public park or neighborhood playground is located; or within 1,000 feet of any parcel upon which another establishment regulated or defined hereunder is located.

(12) That the grant of such license will not cause a violation of this article or any other ordinance or regulation of the city, the county, of any other municipality located therein, the state, or the United States.

(13) Any other inquiry deemed necessary or desirable by the county to ensure the health, safety and welfare of the citizens of the city or the preservation of its neighborhoods.

(14) The licensee shall maintain at all times a written notification of the name, address and phone number of the manager or assistant manager in charge of the licensed premises.

(15) There is hereby created a continuing obligation on the licensee to comply with all provisions of this article.

(b) The applicant shall appear before the city council at any hearing on this issue of the grant or denial of the requested license.
(Ord. No. 03-74, § XIV, 8-4-2003)

Sec. 18-95. Persons prohibited as licensees.

No license provided for by this article shall be issued to or held by:

(1) An applicant who has not paid all required fees and taxes for a business at that location or property taxes.

(2) Any person who is not of good moral character.

(3) Any corporation, any of whose officers, directors or, if any, shareholders holding more than five percent of the corporation's outstanding stock, are not of good moral character.

(4) Any partnership, limited liability company, or association, any of whose partners, members, officers, directors or managers are not of good moral character.

(5) Any persons employing, assisted by or financed in whole or in part by any person who is not of good moral character.

(6) Any applicant who is not qualified to hold and conduct business according to the laws of the United States, the state, the county, of any other municipality located therein.

(Ord. No. 03-74, § XV, 8-4-2003)

Sec. 18-96. Permit renewal.

Permits for adult entertainment establishments may be renewed on a year-to-year basis, provided that the permittees continue to meet the requirements set out in this article. The renewal fee for the adult entertainment establishments permits shall be established by resolution of the city council. Renewal applications shall be submitted by November 15 of each year prior to January 1 of the year for which such permit is requested.

(Ord. No. 03-74, § XVI, 8-4-2003)

Sec. 18-97. Permits nontransferable.

No adult entertainment establishment permit may be sold, transferred or assigned by a permittee, or by operation of law, to any other person. Any such sale, transfer or assignment, or attempted sale, transfer or assignment, shall be deemed to constitute a voluntary surrender of such permit, and such permit shall thereafter be null and void; provided and excepting, however, that if the permittee is a partnership, limited liability company, or association and one or more of the partners or members should die, one or more of the surviving partners or members may acquire, by purchase or otherwise, the interest of the deceased partners or members, without effecting a surrender or termination of such permit, and in such case, the permit upon notification to the city, shall be placed in the name of the surviving partners or members. An adult entertainment establishment permit issued to a corporation shall be deemed transferred and void when either any outstanding stock of the corporation is sold, transferred or assigned after the issuance of the permit, or any stock authorized but not issued at the time of granting of a permit is thereafter issued and sold, transferred, or assigned.

(Ord. No. 03-74, § XVII, 8-4-2003)

Sec. 18-98. Change of location or name.

(a) No adult entertainment establishment shall move from the location specified on its permit until a change of location fee, established by resolution of the city council, has been deposited with the city and

approval has been obtained from the city manager and the zoning department. Such approval shall not be given unless all requirements and regulations as contained in the city rules, regulations, this article, and any other ordinances have been met.

(b) No permittee shall advertise, operate, conduct, manage, engage in, or carry on an adult entertainment establishment under any name other than the permittee's name and the name of the business as specified on the permit.

(c) Any application for an extension or expansion of a building or other place of business where an adult entertainment establishment is located shall require inspection and shall comply with the provisions and regulations of this article.
(Ord. No. 03-74, § XVIII, 8-4-2003)

Sec. 18-99. Permit, refusal, appeal.

If the city following investigation of the applicant deems that the applicant does not fulfill the requirements as set forth in this article, it shall notify the city clerk of such opinion and, within 30 days of the date of application, provide copies of the investigation report to the city clerk. The city clerk shall, within ten days, notify the applicant by certified mail of such denial. Any applicant who is denied a permit may appeal such denial to the city council by filing a written notice of appeal within ten days of the receipt of notice from the city clerk. A hearing before the city council shall be scheduled within 30 days of such notice.
(Ord. No. 03-74, § XIX, 8-4-2003)

Sec. 18-100. Appeal procedure.

The permittee shall, within ten days after being notified of an adverse determination, submit a notice of appeal to the city clerk. The notice of appeal shall be addressed to the city council and shall specify the subject matter of the appeal, the date of any original and amended application or requests, the date of the adverse decision (or receipt of notice thereof), the basis of the appeal, the action requested of the city council, and the name and address of the applicant. The clerk shall place the appeal on the agenda of the next regular council meeting occurring not less than five nor more than 30 days after receipt of the application for the council action.
(Ord. No. 03-74, § XX, 8-4-2003)

Sec. 18-101. Appeal; council determines procedures.

When an appeal is placed on the council's agenda, the city council may take either of the following actions:

(1) Set a hearing date and instruct the city clerk to give such notice of hearing as may be required by law.

(2) Appoint a hearing officer and fix the time and place for hearing. The hearing officer may or may not be a city employee, and may be appointed for an extended period of time. The clerk shall assume responsibility for such publication of notice of the hearing as may be required by law. If a hearing officer is appointed, the hearing shall be conducted in accordance with the procedures set out in this article.

(Ord. No. 03-74, § XXI, 8-4-2003)

Sec. 18-102. City council hearing.

Whenever the city clerk has scheduled an appeal before the city council, at the time and date set therefor, the council shall receive all relevant testimony and evidence from the permittee, from interested parties and from city staff. The city council may sustain, overrule or modify the action complained of. The action of the city council shall be final.
(Ord. No. 03-74, § XXII, 8-4-2003)

Sec. 18-103. Powers of hearing officer.

The hearing officer, appointed pursuant to the procedure set out in this article, may receive and rule on admissibility of evidence, hear testimony under oath and call witnesses as he may deem advisable with respect to the conduct of the hearing.
(Ord. No. 03-74, § XXIII, 8-4-2003)

Sec. 18-104. Rules of evidence inapplicable.

The city council and the hearing officer shall not be bound by the traditional rules of evidence in hearings conducted under this article. Rules of evidence as applied in an administrative hearing shall apply.
(Ord. No. 03-74, § XXIV, 8-4-2003)

Sec. 18-105. Hearing officer; report.

(a) The hearing officer shall, within a reasonable time not to exceed 30 days from the date such hearing is terminated, submit a written report to the city council. Such report shall contain a brief summary of the evidence considered and state findings, conclusions and recommendations. All such reports shall be filed with the city clerk, and shall be considered public records. A copy of such report shall be forwarded by certified mail to the permittee/appellant the same day it is filed with the city clerk, with additional copies furnished to the city manager and chief of police.

(b) The city clerk shall place the hearing officer's report on the agenda of the next regular city council meeting occurring not less than ten days after the report is filed and shall notify the permittee/appellant of the date of such meeting at least ten days prior to the meeting unless the permittee/appellant stipulates to a shorter notice period.
(Ord. No. 03-74, § XXV, 8-4-2003)

Sec. 18-106. Hearing officer report; action by city council.

The city council may adopt or reject the hearing officer's decision in its entirety or may modify the proposed recommendation. If the city council does not adopt the hearing officer's recommendation, it may:

(1) Refer the matter to the same or another hearing officer for a completely new hearing, or for the taking of additional evidence on specific points; in either of such cases, the hearing officer shall proceed as provided in this article.

(2) Decide the case upon a review of the entire record before the hearing officer with or without taking additional evidence.

(Ord. No. 03-74, § XXVI, 8-4-2003)

Sec. 18-107. Penalty for violation.

Any person violating the provisions of this article shall be guilty of a misdemeanor, punishable by a fine not to exceed $1,000.00 per violation or by imprisonment for a period not to exceed six months, or by both such fine and imprisonment. In addition to such fine or imprisonment, violation of this article shall also be grounds for immediate suspension or revocation of the license issued hereunder.

(Ord. No. 03-74, § XXVII, 8-4-2003)

Sec. 18-108. Unlawful operation declared nuisance.

Any adult entertainment establishment operated, conducted or maintained contrary to the provisions of this article shall be and the same is hereby declared to be unlawful and a public nuisance. The city may, in addition to, or in lieu of prosecuting a criminal action hereunder, commence an action or actions, proceeding or proceedings for abatement, removal or enjoinment thereof, in the manner provided by law. It shall take such other steps and shall apply to such courts as may have jurisdiction to grant such relief as will abate or remove such adult entertainment establishment and restrain and enjoin any person from operating, conducting or maintaining an adult entertainment establishment contrary to the provisions of this article. In addition, violation of the provisions of this article shall be per se grounds for suspension or revocation of a license granted hereunder.

(Ord. No. 03-74, § XXVIII, 8-4-2003)

Sec. 18-109. Revocation and appeal.

(a) The chief of police shall be authorized to suspend or revoke a license previously granted herein. In the event the chief of police seeks to suspend or to revoke a license, the chief of police shall give written notification to the licensee of such action and such notice shall contain a specification of the violations and shall be served upon the licensee at least five days prior to the notice of hearing. The licensee shall be given written notice of the time and place of the hearing.

(b) The chief of police shall be authorized to suspend or revoke a license in the event of any one or more of the following:

(1) The license application is not filed in good faith or is filed by some person or entity as a subterfuge for any other person or entity;

(2) Any person or entity to whom a license has been issued is no longer engaged in the adult entertainment business or no longer qualifies as a licensee under this article;

(3) A licensee gave false or misleading information in the original application process;

(4) A licensee has knowingly allowed possession, use, or sale of controlled substances on the

premises and/or knowingly allowed possession, use, or sale of controlled substances to a minor on the premises;

(5) A licensee has knowingly allowed the violation of an ordinance of the city or a violation of any criminal law of the state to occur on the premises;

(6) A licensee has violated any provision of this article;

(7) A licensee has been convicted of any drug-related, alcohol-related or sex-related crime or crime of moral turpitude by the state or the County of Stephens, regarding an offense which was committed on the premises or which would otherwise violate the provisions of this article; and

(8) A licensee fails to pay any fee, license fee, fine or other amount of money due to the city under this article or any other licensing ordinance of the city.

(c) In the event the chief of police shall suspend or revoke any license hereunder, the suspension or revocation shall be for a period of not less than one day nor more than 36 days, within the discretion of the chief of police. Provided, however, that the licensee shall be authorized to continue its business operations until that date of the hearing scheduled in accordance with subsection (d) of this section. No licensee or other applicant may apply for a license for the adult entertainment establishment during any period of suspension or revocation. In any hearing conducted by the chief of police, the chief of police shall consider, among other things, the severity of the allegations, the evidence submitted and the testimony presented, in making any decision on suspension, revocation and the duration of either.

(d) In the event of a suspension or revocation by the chief of police, the licensee may appeal the decision of the chief of police to the city council by filing a written notice of appeal within ten days from the date of the decision of the chief of police. Thereafter, a hearing shall be scheduled before the city council within 30 days after the date of the notice of appeal by the applicant. After hearing by the city council, the city council may take such action as it deems appropriate, including the upholding of the action of the chief of police or the imposition of such action as the city council may deem appropriate under the facts. The decision of the city council shall be final. Appeals from the decision of the city council shall be to the superior court of Habersham County filed within 30 days after the final action of the city council. In the event the licensee does not file an appeal from any decision of the chief of police, as provided herein, the decision of the chief of police shall be final.
(Ord. No. 03-74, § XXIX, 8-4-2003)

Sec. 18-110. License and annual renewal fees.

There is hereby established a nonrefundable fee to be submitted with any and every application to operate an adult entertainment establishment pursuant to this article providing for the issuance of such permit. The nonrefundable fee shall be as set forth in the schedule of fees and charges. The annual renewal fee for any such licensee shall be as set forth in the schedule of fees and charges. The nonrefundable fee and annual renewal fee shall be determined by the city council by October 1 of each year for the succeeding license year.
(Ord. No. 03-74, § XXX, 8-4-2003)

Sec. 18-111. Advertising and posting.

The premises for which the license herein is sought shall be posted with a notice in a form prescribed by the chief of police for at least 21 days prior to the hearing before the city council as set forth herein. In addition, a newspaper advertisement shall be published in a form prescribed by the chief of police at least once in the newspaper a minimum of ten days prior to the hearing before the city council as set forth herein.
(Ord. No. 03-74, § XXXI, 8-4-2003)

Sec. 18-112. Premises open for inspection.

The premises shall be open at reasonable times for inspection by the city to ensure compliance with this article.
(Ord. No. 03-74, § XXXII, 8-4-2003)

Sec. 18-113. Compliance.

Any business lawfully operating on the effective date of the ordinance from which this article is derived that is in violation of the requirements hereof shall be deemed to be doing so unlawfully, and shall be deemed a public nuisance, pursuant to section 18-98. Such operation shall be permitted to continue for a period not to exceed 90 days, unless sooner terminated for any reason or voluntarily discontinued for a period of 30 days or more. Such unlawful use, or such public nuisance, shall not be increased, enlarged, extended or altered except that the use may be changed to a lawful use or one which does not constitute a public nuisance. If two or more adult entertainment establishments, as defined within this article, are located within 1,000 feet of any other adult entertainment establishment, as defined within this article, yet both are otherwise in a permissible location hereunder, the adult entertainment establishment that was first established and continually operated at a particular location shall be the lawful use, and the later-established adult entertainment establishment shall be deemed unlawful and a public nuisance.
(Ord. No. 03-74, § XXXIII, 8-4-2003)

Chapters 19--21

RESERVED

Chapter 22

CABLE COMMUNICATIONS*

* **Cross References:** Utilities, ch. 58.

State Law References: Municipalities prohibited from granting franchise for cable television within unincorporated area of county, O.C.G.A. § 36-18-3; avoiding or attempting to avoid charges for use of cable television service, O.C.G.A. § 46-5-2.

Sec. 22-1. Compliance with federal regulations.

Sec. 22-1. Compliance with federal regulations.

(a) The city will follow the FCC rate regulations in its regulation of the basic service rates and charges of the company and other cable television systems operating in the city, notwithstanding any different or inconsistent provisions in the franchise.

(b) In connection with such regulation, the city will ensure a reasonable opportunity for consideration of the views of interested parties.

(c) The mayor, or his designee, is authorized to execute on behalf of the city and file with the FCC such certification forms or other instruments as are now or may hereafter be required by the FCC rate regulations in order to enable the city to regulate basic service rates and charges.
(Ord. No. 61, 9-7-1993)

Editors Note: The city's cable television franchise agreements are on file in the office of the city clerk.

Chapters 23--25

RESERVED

Chapter 26

ENVIRONMENT*

* **Cross References:** Animals, ch. 10; buildings and building regulations, ch. 14; fire prevention and protection, ch. 30; floods, ch. 34; health and sanitation, ch. 38; utilities, ch. 58; zoning, app. A.

Article I. In General

Secs. 26-1--26-30. Reserved.

Article II. Soil Erosion and Sedimentation Control

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Sec. 26-31. Definitions.
Sec. 26-32. Exemptions to article provisions.
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Division 2. Administration and Enforcement

Sec. 26-56. Inspection and enforcement.
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Sec. 26-106. Review of plans and land development ordinances.
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Article III. Water Supply Watershed Protection Plan

Sec. 26-141. Title.
Sec. 26-142. Definitions.
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Sec. 26-145. Exemptions and variances.
Sec. 26-146. Administration, interpretation, inspection and enforcement.
Sec. 26-147. Penalties and remedies.
Sec. 26-148. Administrative appeal and judicial review.
Sec. 26-149. Liability.

ARTICLE I.

IN GENERAL

Secs. 26-1--26-30. Reserved.

ARTICLE II.

SOIL EROSION AND SEDIMENTATION CONTROL*

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* **State Law References:** Georgia Surface Mining Act of 1968, O.C.G.A. § 12-4-70 et seq.; Georgia Water Quality Control Act, O.C.G.A. § 12-5-20 et seq.; stop work orders, O.C.G.A. § 12-7-14; exemptions, O.C.G.A. § 12-7-17; Erosion and Sedimentation Act of 1975, O.C.G.A. § 12-7-1 et seq.; local land disturbing activity ordinances, O.C.G.A. § 12-7-4; minimum standards, O.C.G.A. § 12-7-6; permits for land disturbing activities, O.C.G.A. §§ 12-7-7, 12-7-9.

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DIVISION 1.

GENERALLY

Sec. 26-31. Definitions.

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

Best management practices (BMPs) means a collection of structural measures and vegetative practices which, when properly designed, installed and maintained, will provide effective erosion and sedimentation control for all rainfall events up to and including a 25-year, 24-hour rainfall event.

Board means the board of natural resources.

Buffer means an area along the course of any state waters to be maintained in an undisturbed and natural condition.

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 the original ground surface to the excavated surface; also known as excavation.

Department means the department of natural resources.

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

District means the Upper Chattahoochee 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.

Issuing authority means the governing authority of any county or municipality which has been certified by the director of the environmental protection division of the department of natural resources as an issuing authority, pursuant to the Erosion and Sedimentation Act of 1975, O.C.G.A. § 12-7-1 et seq., or the division in those instances where an application for a permit is submitted to the division.

Land disturbing activity means any activity which may result in soil erosion from water or wind and the movement of sediments into state waters or onto lands within the state including, but not limited to, clearing, dredging, grading, excavating, transporting and filling of land, but not including agricultural practices as described in section 26-32(5).

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

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

Person means any individual, partnership, firm, association, joint venture, public or private corporation,

trust, estate, commission, board, public or private institution, utility, cooperative, state agency, municipality or other political subdivision of this state, any interstate body or any other legal entity.

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

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 of 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 Upper Chattahoochee 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 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 measures means measures 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 measures can be found in the publication Manual for Erosion and Sediment Control in Georgia.

Trout streams means all streams or portions of streams within the watershed as designated by the 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 practices means practices for the stabilization of erodible or sediment-producing areas by covering the soil with:

(1) Permanent seeding, sprigging or planting, producing longterm vegetative cover;

(2) Temporary seeding, producing shortterm vegetative cover; or

(3) Sodding, covering areas with a turf of perennial sod-forming grass.

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

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

Wetlands means those areas that are inundated or saturated by surface 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. No. 51, § II, 10-2-1995)

Cross References: Definitions generally, § 1-2.

Sec. 26-32. Exemptions to article provisions.

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

(1) Surface mining, as surface mining 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 and other related activities which result in minor soil erosion.

(4) The construction of single-family residences, when such are constructed by or under the contract with the owner for his own occupancy, or the construction of single-family residences not a part of a platted subdivision, a planned community or an association of other residential lots consisting of more than two lots, 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 division 3 of this article. 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 as set forth in 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 division 3 of this article and the buffer zones provided by this section shall be enforced by the issuing authority.

(5) Agricultural operations as defined in O.C.G.A. § 1-3-3 to include raising, harvesting or storing of products of the field or orchard; feeding, breeding or managing livestock or poultry; producing or storing feed for use in the production of livestock including, but not limited to, cattle, calves, swine, hogs, goats, sheep and rabbits, or for use in the production of poultry including, but not limited to, chicken, hens and turkeys; producing plants, trees, fowl or animals; the production of aqua culture, horticultural, dairy, livestock, poultry, eggs and apiarian products; forestry land management practices, including harvesting and farm buildings and farm ponds.

(6) Any project carried out under the technical supervision of the Natural Resources Conservation Service of the United States Department of Agriculture.

(7) Any project involving 1 1/10 acres or less; provided, however, that this exemption shall not apply to any land disturbing activity 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 yearround; provided, however, that any person responsible for a project which involves 1 1/10 acres or less, 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 in this section shall prevent the issuing authority from regulating any such project which is not specifically exempted by subsections (1), (2), (3), (4), (5), (6), (8), or (9) of this section.

(8) 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 such projects shall conform to the minimum requirements set forth in division 3 of this article.

(9) 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, provided that any such land disturbing activity shall conform to the minimum requirements set forth in sections 26-82 and 26-83.

Where this section requires compliance with the minimum requirements set forth in sections 26-82 and 26-83, issuing authorities shall enforce compliance with the minimum requirements as if a permit had been issued and violations shall be subject to the same penalties as violations by permit holders.
(Ord. No. 51, § III, 10-2-1995)

Secs. 26-33--26-55. Reserved.

DIVISION 2.

ADMINISTRATION AND ENFORCEMENT

Sec. 26-56. Inspection and enforcement.

(a) The city building inspector will periodically inspect the sites of land disturbing activities for which permits have been issued to determine if the activities are being conducted in accordance with the plan and if the measures required in the plan are effective in controlling erosion and sedimentation. If, through inspection, it is deemed that a person engaged in land disturbing activities 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 activities fails to comply within the time specified, he shall be deemed in violation of this article.

(b) The city building inspector 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, district or division who requests entry for the purposes of inspection, and who presents appropriate credentials, nor shall any person obstruct, hamper or interfere with any such representative while in the process of carrying out his official duties.

(d) The districts or the commission, or both, shall periodically review the actions of counties and municipalities which have been certified as issuing authorities pursuant to O.C.G.A. § 12-7-8(a). The districts or the commission, or both, may provide technical assistance to any county or municipality for the purpose of improving the effectiveness of the county's or municipality's erosion and sedimentation control program. The districts or the commission shall notify the division and request investigation by the division if any deficient or ineffective local program is found.

(e) The division may periodically review the actions of counties and municipalities which have been certified as issuing authorities pursuant to O.C.G.A. § 12-7-8(a). Such review may include, but shall not be limited to, review of the administration and enforcement of a governing authority's ordinances and review of conformance with an agreement, if any, between the district and governing authority. If such review indicates that the governing authority of any county or municipality certified pursuant to O.C.G.A. § 12-7-8(a) has not administered or enforced its ordinances or has not conducted the program in accordance with any agreement entered into pursuant to O.C.G.A. § 12-7-7(d), the division shall notify the governing authority of the county or municipality in writing. The governing authority of any county or municipality so notified shall have 30 days within which to take the necessary corrective action to retain certification as an issuing authority. If the county or municipality does not take necessary corrective action within 30 days after notification by the division, the division may revoke the certification of the county or municipality as an issuing authority.
(Ord. No. 51, § VI, 10-2-1995)

Sec. 26-57. 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 such 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.* Upon notice from the issuing authority or its agent, work on any project that is being done contrary to the provisions of this article or in a dangerous or unsafe manner, shall be immediately stopped. Such notice shall be in writing and shall be given to the owner of the property, his authorized agent or the person in charge of the activity on the property, and shall state the conditions under which work may be resumed. Where an emergency exists, no written notice shall be required.

(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 26-107(e). 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 violating any provisions of this article, permitting conditions, or stop work order shall be liable for a monetary penalty not to exceed $2,500.00 per day, by a sentence of imprisonment not exceeding 60 days in jail, or both fine and jail or work alternative. Each day during which the violation or failure or refusal to comply continues shall constitute a separate violation.
(Ord. No. 51, § VII, 10-2-1995)

Sec. 26-58. Administrative appeal; judicial review.

(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 city council within 45 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 county superior court.
(Ord. No. 51, § VIII, 10-2-1995)

Secs. 26-59--26-80. Reserved.

DIVISION 3.

MINIMUM REQUIREMENTS

Sec. 26-81. 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 excluded 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 sections 26-82 and 26-83. 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.
(Ord. No. 51, § IV(A), 10-2-1995)

Sec. 26-82. Best management practices--Generally.

(a) Best management practices as set forth in this section and section 26-83 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) 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). As used in this section, the terms "proper design" and "properly designed" mean designed to control soil erosion and sedimentation for all rainfall events up to and including a 25-year, 24-hour rainfall event.

(b) 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 by the division or of any general permit for construction activities issued by the division pursuant to O.C.G.A. § 12-5-30(f) for each day on which such discharge results in the turbidity of receiving waters being increased by more than 25 nephelometric turbidity units for waters supporting warm water fisheries or by more than ten nephelometric turbidity units for waters classified as trout waters. The turbidity of the receiving waters shall be measured in accordance with guidelines to be issued by the director.

(c) 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 by the division or of any general permit for construction activities issued by the division pursuant to O.C.G.A. § 12-5-30(f) for each day on which such failure occurs.

(d) 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.
(Ord. No. 51, § IV(B), 10-2-1995)

Sec. 26-83. Same--Enumeration.

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, best management practices, including sound conservation and engineering practices to prevent and minimize erosion and resultant sedimentation, which are consistent with, and no less stringent than, those practices contained in the Manual for Erosion and Sediment

Control in Georgia, published by the Georgia Soil and Water Conservation Commission as of January 1 of the year in which the land disturbing activity was permitted, as well as the following:

(1) Stripping of vegetation, regrading and other development activities shall be conducted in a manner so as to minimize erosion.

(2) Cut-fill operations must be kept to a minimum.

(3) Development plans must conform to topography and soil type so as to create the lowest 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 measures 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 section, a disturbed area is stabilized when it is brought to a condition of continuous compliance with the requirements of this article.

(10) Adequate provisions must be provided to minimize damage from surface water to the cut face of excavations or the sloping surface of fills.

(11) Cuts and fills may not endanger adjoining property.

(12) Fills may not encroach upon natural watercourses or constructed channels in a manner so as to adversely affect other property owners.

(13) Grading equipment must cross flowing streams by means of bridges or culverts except when such methods are not feasible; provided, in any case, that such crossings are kept to a minimum.

(14) Land disturbing activity plans for erosion and sedimentation control shall include provisions for treatment or control of any source of sediments and adequate sedimentation control facilities to retain sediments on the site or preclude sedimentation of adjacent waters beyond the levels specified in section 26-82(b).

(15) Land disturbing activities shall not be conducted within 25 feet of the banks of any state waters,

as measured from the point where vegetation has been wrested by normal stream flow or wave action, except where the director determines to allow a variance that is at least as protective of natural resources and the environment, where otherwise allowed by the director pursuant to O.C.G.A. § 12-2-8, or where a drainage structure or a roadway drainage structure must be constructed, provided that adequate erosion control measures are incorporated in the project plans and specifications and are implemented; provided, however, that buffers of at least 25 feet established pursuant to O.C.G.A. § 12-5-440 et seq., the Metropolitan River Protection Act, shall remain in force unless a variance is granted by the director as provided in this section.

(16) Land disturbing activities shall not be conducted within 100 horizontal feet, as measured from the point where vegetation has been wrested by normal stream flow or wave action, of the banks of any state waters classified as trout streams pursuant to the Georgia Water Quality Control Act as set forth in O.C.G.A. § 12-5-20 et seq., unless a variance for such activity is granted by the director except where a roadway drainage structure must be constructed, provided that adequate erosion control measures are incorporated in the project plans and specifications and are implemented.

(Ord. No. 51, § IV(C), 10-2-1995)

Sec. 26-84. Adoption of rules exceeding division requirements.

Nothing contained in this article shall prevent an issuing authority from adopting rules and regulations, ordinances or resolutions which contain requirements that exceed the minimum requirements in sections 26-82 and 26-83.

(Ord. No. 51, § IV(D), 10-2-1995)

Sec. 26-85. Injury of property not to constitute proof of article or permit violation.

The fact that land disturbing activity for which a permit has been issued results in injury to the property of another shall neither constitute proof of nor create a presumption of a violation of the standards provided for in this article or the terms of the permit.

(Ord. No. 51, § IV(E), 10-2-1995)

Secs. 26-86--26-105. Reserved.

DIVISION 4.

PERMIT AND PLAN REQUIREMENTS

Sec. 26-106. Review of plans and land development ordinances.

The property owner, developer and designated planners and engineers shall review the general development plans and detailed plans of the 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 prevention ordinance, this article, and the other ordinances which regulate the development of land within the jurisdictional boundaries of the issuing authority. However, the property owner is the only party that can obtain a permit.

(Ord. No. 51, § V(A), 10-2-1995)

Sec. 26-107. Application for permit.

(a) *Required.* No person shall conduct any land disturbing activity within the jurisdictional boundaries of the city without first obtaining a permit from the office of the city manager to perform such activity.

(b) *Submissions.* The application for a permit shall be submitted to the city manager and must include the applicant's erosion and sedimentation control plan with supporting data, as necessary. Such plans shall include, as a minimum, the data specified in section 26-108. Soil erosion and sedimentation control plans shall conform to the provisions of sections 26-82 and 26-83. Applications for a permit will not be accepted unless accompanied by two copies of the applicant's soil erosion and sedimentation control plans.

(c) *Fee.* A fee, in the amount found in the schedule of fees and charges per acre for the first ten acres and an amount found in the schedule of fees and charges for each additional acre or fraction thereof, shall be charged for the project area.

(d) *Review.* Immediately upon receipt of an application and plan for a permit, the 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. 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 26-83(15) and (16) and bonding, if required as per section 26-107(e) 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.

(e) *Denial; bond.* If a permit applicant has had two or more violations of previous permits, this section, or the Erosion and Sedimentation Act of 1975 as set forth in O.C.G.A. § 12-7-1 et seq., within three years prior to the date of filing of the application under consideration, the issuing authority may deny the permit application. The 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 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. This subsection 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 issuing authority with respect to alleged permit violations.
(Ord. No. 51, § V(B), 10-2-1995)

Sec. 26-108. Plan requirements.

(a) *Design criteria.* Plans must be prepared to meet the minimum requirements as contained in sections 26-82 and 26-83. 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 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.

(b) *Data required for site plan.* Data required for the site plan is as follows:

(1) Narrative or notes and other information: Notes or narrative shall be located on the site plan in general notes or in erosion and sediment control notes.

(2) Description of existing land use at project site and a description of the proposed project.

(3) Name, address and phone number of the property owner.

(4) Name and phone number of 24-hour local contact who is responsible for erosion and sedimentation controls.

(5) Size of project, or phase under construction, in acres.

(6) 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."

(7) Stormwater and sedimentation management systems-storage capacity, hydrologic study and calculations, including off-site drainage areas.

(8) Vegetative plan for all temporary and permanent vegetative practices, including species, planting dates and seeding, fertilizer, lime and mulching rates. The vegetative plan should show options for yearround seeding.

(9) Detail drawings for all structural practices. Specifications may follow guidelines set forth in the Manual for Erosion and Sediment Control in Georgia.

(10) Maintenance statement: "Erosion and sedimentation control measures will be maintained at all times. Additional erosion and sedimentation control measures and practices will be installed if deemed necessary by onsite inspection."

(c) *Certification of plans; certified plan contents.* 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. The certified plans shall contain:

(1) Graphic scale and north point or an arrow indicating magnetic north.

(2) Vicinity maps showing location of project and existing streets.

(3) Boundary line survey.

(4) Delineation of disturbed areas within project boundary.

(5) Existing and planned contours, with contour lines drawn with an interval in accordance with the following:

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

(6) Adjacent areas and features areas such as streams, lakes, residential areas, etc. which might be affected should be indicated on the plan.

(7) Proposed structures or additions to existing structures and paved areas.

(8) Delineate the 25-foot horizontal buffer adjacent to state waters and the specified width in MRPA areas.

(9) Delineate the specified horizontal buffer along designated trout streams, where applicable.

(10) Location of erosion and sedimentation control measures and practices using coding symbols from the Manual for Erosion and Sediment Control in Georgia, chapter 6.

(d) *Maintenance of control practices; responsibility.* Maintenance of all soil erosion and sedimentation control practices, whether temporary or permanent, shall be at all times the responsibility of the property owner.
(Ord. No. 51, § V(C), 10-2-1995)

Sec. 26-109. Issuance or denial.

(a) *Deadline.* Permits shall be issued or denied as soon as practicable but in any event not later than 45 days after receipt by the issuing authority of a completed application, providing variances and bonding are obtained, where necessary.

(b) *Issuance requirements.* No permit shall be issued by the issuing authority unless the erosion and sedimentation control plan has been approved by the district and the issuing authority has affirmatively determined that the plan is in compliance with this article, any variances required by section 26-83(15) and (16) are obtained, bonding requirements, if necessary, as per section 26-107(e) are met and all ordinances and rules and regulations in effect within the jurisdictional boundaries of the issuing authority are met. If the permit is denied, the reason for denial shall be furnished to the applicant.

(c) *Phase development.* If the tract is to be developed in phases, then a separate permit shall be required for each phase.

(d) *Reasons for suspension, revocation or modification.* The permit may be suspended, revoked or modified by the 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.

(e) *Ad valorem taxes must be paid prior to issuance.* No permit shall be issued unless the applicant provides a statement by the city clerk certifying that all ad valorem taxes levied against the property and due and owing have been paid.
(Ord. No. 51, § V, 10-2-1995)

Secs. 26-110--26-140. Reserved.

ARTICLE III.

WATER SUPPLY WATERSHED PROTECTION PLAN

Sec. 26-141. Title.

This article will be known as the "City of Clarkesville Water Supply Watershed Protection Plan."
(Ord. No. 72, § I, 5-3-1999)

Sec. 26-142. 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:

Buffer means a natural or enhanced vegetated area of a specified required width with no or limited land disturbances, such as trails and picnic areas.

Corridor means all land within the buffer area and other setback areas specified for perennial streams within a water supply watershed.

Impervious surface means a manmade structure or surface which prevents the infiltration of stormwater to the ground below the structure or surface including, but not limited to, buildings, roads, driveways, parking lots, decks, swimming pools and patios.

Intermittent stream means a stream or portion of a stream that flows only part of the year as identified on a United States Geological Survey (USGS) quadrangle map. It receives little or no water from springs, usually only flows in direct response to precipitation, and is dry for a large part of the year, ordinarily more than three months.

Land disturbing activity means any grading, scraping, excavating, or fill of land; clearing of vegetation; and other alteration of land which causes land and stream bank erosion, siltation or water pollution; and any construction, rebuilding or alteration of a structure.

Lot means a parcel of land occupied or capable of being occupied by a use, building or group of buildings devoted to a common use, together with the customary accessories and open spaces belonging to the same, and having principal frontage on a public street; a developed or undeveloped tract of land in one ownership legally transferable as a single unit of land.

Lot of record means a lot which is part of a subdivision, a plat of which has been recorded in the records of the county superior court clerk; or a parcel of land, the deed of which has been recorded in the same office as of the effective date of the ordinance from which this article is derived.

Perennial stream means a stream which flows throughout the whole year as indicated on a United States Geological Survey (USGS) quadrangle map.

Planning coordinator means the city manager or his authorized representative.

Reservoir boundary means the edge of a water supply reservoir defined by its normal pool level.

Septic tank means an approved watertight tank designed or used to receive sewage from a building sewer and to effect separation and organic decomposition of sewage solids, and discharging sewage effluent to an absorption field or other management system.

Setback means the minimum horizontal distance between a stream bank and a man-made structure or surface.

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, storm water systems and railroads or other utilities identified by a local government.

Water supply reservoir means a government-owned impoundment of water for the primary purpose of providing water to one or more government-owned public drinking systems. This excludes the multipurpose reservoirs owned by the U.S. Army Corps of Engineers.

Water supply watershed means the area of land upstream of a government-owned public drinking water intake or water supply reservoir.

Water supply watershed protection plan means a land use plan prepared and adopted by the local government for the protection of the quality of drinking water obtained from the watershed.
(Ord. No. 72, § II, 5-3-1999)

Cross References: Definitions generally, § 1-2.

Sec. 26-143. Special provisions.

Notwithstanding the definitions provided in section 26-142, the sections of streams described below, even though they are shown as intermittent streams on the USGS quadrangle map, will be considered perennial streams for the purpose of this article since they have been found to have water flowing throughout the year and therefore could have greater impact on the water supply watershed than a true intermittent stream.

(1) The unnamed stream that originates in the vicinity of Yonah Circle and enters the Soque River just to the south of and downstream of the terminus of West Waters Street. The section of the stream to which this article applies is all of that downstream from where the stream passes under Memorial Drive.

(2) The unnamed stream that originates in the vicinity of the intersection of Minis Drive and Stanford Mill Road and enters the Soque River just to the north of and upstream from the Highway 115 (J. R. Reeves) Bridge. The section of stream to which this article applies is all of that downstream from where the stream passes under West Waters Street.

(3) The stream known locally as "Rocky Branch" that originates about 100 meters north of the intersection of Railroad Avenue and South Washington Street (Highway 197 South) and enters the Soque River near the terminus of Mary Street. The section of stream to which this article applies is all of that downstream from where the stream passes under East Louise Street (Highway 17 South). This also includes the small tributary to Rocky Branch that originates near the Habersham County Recreation Park and enters Rocky Branch just to the south of where Rocky Branch passes under Grant Street (Old Historic Highway 441 North). The section of stream to which this article applies is all that portion downstream from where the stream enters the city limits.

(Ord. No. 72, § III, 5-3-1999)

Sec. 26-144. Minimum criteria.

Following are the city water supply watershed protection plan minimum criteria:

(1) Stream corridors of all perennial streams within the city are protected by the following criteria:

a. A buffer will be maintained for a distance of 50 feet on both sides of the stream as measured from the stream banks.

b. No impervious surface shall be constructed within a 75-foot setback area on both sides of the stream as measured from the stream banks.

c. Septic tanks and septic tank drain fields are prohibited in the setback area of subsection b. above.

(2) New sanitary landfills are allowed only if they have synthetic liners and leachate collection systems.

(3) New hazardous waste treatment or disposal facilities are prohibited.

(4) New facilities that handle hazardous materials of the types and amounts determined by the department of natural resources shall perform their operations on impermeable surfaces having spill and leak collection systems as prescribed by the department of natural resources.

(Ord. No. 72, § IV, 5-3-1999)

Sec. 26-145. Exemptions and variances.

Following are exceptions to the criteria established by section 26-144:

(1) The mayor and city council are authorized to hear appeals and grant variances for existing lots of record, and only for existing lots of record, from the minimum stream buffer and setback requirements of 50 feet and 75 feet respectfully in accordance with the procedures of the current city zoning ordinance. However, even with a variance, such lots of record shall be required to conform to the following:

a. Maintain a minimum 25-foot wide stream natural buffer.

b. Maintain a minimum 50-foot wide impervious surface setback area.

c. Maintain a minimum 50-foot setback for septic tanks and septic tank drain fields.

(2) The planning coordinator is authorized to exempt utilities such as water, sewer, telephone, electric, and cable television from the stream corridor buffer and setback area requirements provided such utilities cannot feasibly be located outside these areas. Location of utilities in this situation shall comply with the following:

a. The utilities shall be located as far from the stream bank as reasonably possible.

b. The installation and maintenance of the utilities shall be done in such a manner to protect the integrity of the buffer and setback areas to the satisfaction of the planning coordinator.

c. The utilities shall not impair the quality of the drinking water stream.

(3) The planning coordinator is authorized to exempt specific forestry and agricultural activities from the stream corridor buffer and setback requirements in accordance with following conditions:

a. The activity shall be consistent with best management practices established by the state forestry commission or the state department of agriculture.

b. The activity shall not impair the quality of the drinking water stream.

(4) All existing structures, improvements and utilities currently located within the minimum stream buffer and setback requirements are exempt from the same. However, any future modifications or additions to such structures, improvements and utilities shall be subject to subsection (1) of this section.

(Ord. No. 72, § V, 5-3-1999)

Sec. 26-146. Administration, interpretation, inspection and enforcement.

(a) The planning coordinator will be responsible for the administration of this article and for the interpretation and enforcement of the provisions thereof.

(b) The planning coordinator will periodically inspect land disturbing activity and building sites for which permits have been issued to determine if the provisions of this article are being followed. If, through inspection, he determines that the provisions of this article are not being followed, the planning coordinator will issue a written notice to the person responsible for the site not in compliance. The notice will set forth the measures necessary to achieve compliance and will state the time within which such measures must be completed. Upon receipt of such notice, work on any project that is being done not in compliance with this article will be stopped immediately. If the person fails to comply within the time frame specified, he will be deemed in violation of this article.

(c) The planning coordinator will have the authority to conduct such investigations as he may reasonably deem necessary to carry out duties as prescribed in this article, and for this purpose to enter upon any property, public or private, for the purpose of investigation and inspection of land disturbing activity or building sites.

(d) No person will refuse entry or access to any authorized representative or agent of the planning coordinator who requests entry for the purpose 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. No. 72, § VI, 5-3-1999)

Sec. 26-147. Penalties and remedies.

(a) Any person, firm or corporation violating, neglecting or refusing to comply with any of the provisions of this article shall be guilty of a misdemeanor and, upon conviction, shall be fined not less than $100.00 nor more than $500.00 for each offense, or a sentence of imprisonment not to exceed 30 days in jail, or to work on the streets or public works for a period not to exceed 30 days, or as determined by the court of proper jurisdiction. Each day such violation continues shall constitute a separate offense.

(b) In case of any land disturbing activity or building site that is or would be in violation of any provision of this article, the planning coordinator or his authorized representative may, in addition to other remedies, and after due notice to the owner of the site in violation, issue a citation for violation of this article requiring the presence of the violator in the court of proper jurisdiction and/or institute injunction or other appropriate action or proceeding to prevent such unlawful activity or construction in order to correct or abate such violation. Where such violation exists with respect to a structure, the planning coordinator may, in addition to other remedies, require that utility service be withheld therefrom until such time as the structure or premises is no longer in violation of this article.
(Ord. No. 72, § VII, 5-3-1999)

Sec. 26-148. Administrative appeal and judicial review.

(a) The suspension, revocation, modification or granting with condition of a permit for any land disturbing or construction activity upon finding that the holder is not in compliance with the conditions of the permit shall entitle the person holding the permit to a hearing before the mayor and city council within 45 days

after receipt by the planning coordinator of written notice of appeal. Such notice of appeal must be submitted within ten days of issuance of a suspension, revocation, modification or granting with condition of a permit.

(b) Any person, aggrieved by a decision or order by the planning coordinator, after exhausting his administrative remedies, will have the right to an appeal de novo to the superior court of the county.
(Ord. No. 72, § VIII[1], 5-3-1999)

Sec. 26-149. Liability.

(a) Neither the approval or issuance of a permit under the provisions of this article, nor the compliance with the 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 city for damage to any person or property.

(b) The fact that a land disturbing or construction activity for which a permit has been issued results in injury to the property of another shall neither constitute proof or nor create a presumption of a violation of the standards provided for in this article or the terms of the permit.
(Ord. No. 72, § VIII[2], 5-3-1999)

Chapters 27--29

RESERVED

Chapter 30 (Replaced old ordinance September10, 2012)

FIRE PREVENTION AND PROTECTION*

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* **Cross References:** Buildings and building regulations, ch. 14; environment, ch. 26; manufactured homes and trailers, ch. 42; utilities, ch. 58.

State Law References: Authority to provide police and fire protection, Ga. Const. art. IX, § II, ¶ III(a)(1); impersonating a public officer or employee, O.C.G.A. § 16-10-23; obstruction or hindering of firefighters, O.C.G.A. § 16-10-24.1; obstruction or hindering of firefighters, O.C.G.A. § 16-10-24.1; false fire alarms, O.C.G.A. § 16-10-27; fireworks, O.C.G.A. § 25-10-1 et seq.; Georgia Fire Sprinkler Act, O.C.G.A. § 25-11-1 et seq.; regulation of fire and other hazards to persons and property generally, O.C.G.A. § 25-2-1 et seq.; smoke detector requirements, O.C.G.A. § 25-2-40; local fire departments generally, O.C.G.A. § 25-3-1 et seq.; local fire safety standards authorized, O.C.G.A. § 25-3-4; Georgia Firefighter Standards and Training Act, O.C.G.A. § 25-4-1 et seq.; mutual aid resource pacts, O.C.G.A. § 25-6-1 et seq.; Georgia Fire Academy Act, O.C.G.A. § 25-7-1 et seq.; following fire apparatus or emergency vehicle, O.C.G.A. § 40-6-247; the Uniform Act for the Application of Building and Fire Related Codes to Existing Buildings, O.C.G.A. § 8-2-200; fire escapes in buildings, O.C.G.A. § 8-2-1950; statewide application of Standard Fire Prevention Code, O.C.G.A. § 8-2-2025(a).

Sec. 30-1. Fire department established; administration and enforcement of codes.
Sec. 30-2. Fire protection outside the corporate limits of the city.
Sec. 30-3. Automatic fire sprinkler systems.

Sec. 30-1. Fire department established; administration and enforcement of codes.

There is hereby established a fire department which shall be operated under the direction of a fire chief. The fire chief shall supervise and operate the city fire department under the rules and regulations adopted by the mayor and city council from time to time; shall enforce the fire prevention code and fire safety regulations of the city; and shall perform such other duties as directed by the city manager from time to time.
(Res. of 6-29-2004, § 1(b))

Sec. 30-2. Fire protection outside the corporate limits of the city.

Any person owning a dwelling or a place of business which is located within five miles of the corporate limits of the city may register such building for fire protection purposes with the city fire department. Upon such registration and payment of an annual registration fee as set forth in the schedule of fees and charges, the city fire department shall be authorized to furnish fire protection for such building. The city fire department shall not answer any calls to fires outside the corporate limits of the city, except to buildings registered as provided in this section, or in response to a call for help from another fire department. It is provided, however, that at all times at least one of the city fire trucks shall remain inside the corporate limits so as to provide protection for the residents of the city.
(Ord. No. 22, 3-7-1988)

Section 30-3. Fire Protection Systems.

Section 30-3.1. Scope

This ordinance provides for the design, installation and maintenance of, alarms and automatic fire suppression systems for the protection against fire hazards in all structures in the City of Clarkesville.

Section 30-3.2 Purpose.

(A) The minimum standard codes as amended by the State of Georgia Department of Community Affairs and Georgia Insurance and Safety Fire Commissioner Office and adopted by the City of Clarkesville shall govern the design, installation and maintenance of all fire suppressions system within the City limits. In addition this ordinance provides for enhanced measures to aid in the detection and control of fires in commercial occupancies located within the Clarkesville Preservation District and thus provide improved protection against injury, life loss and property damage. A sprinkler system, designed, installed and maintained in accordance with this ordinance and the associated codes is anticipated to prevent flashover (total involvement) in the room of fire origin, when sprinkled, and to improve the opportunity for occupants to escape or be evacuated. Nothing in the ordinance is intended to restrict new technologies or alternate arrangements, provided that such technologies and/or methods do not diminish the level of safety prescribed within this ordinance.

(B) In considering the criteria prescribed within this ordinance in conjunction with codes and standards listed in Section 30-3-2.A, the City of Clarkesville, has evaluated the existing and projected building conditions within the City and established the following requirements with life safety as its paramount concern, and the desire to protect property and minimize implementation costs to the citizens and businesses of Clarkesville.

Section 30-3.3 Clarkesville Downtown Business District

The following shall apply to existing buildings undergoing alterations for commercial occupancies within the Clarkesville Downtown Business District.

(A) Buildings less than 3000 sq ft under roof, building material used in non load bearing walls or structures must be of non combustible materials (Metal Studs,5/8 fire rated sheetrock etc…)or chemically treated to provide a minimum of 1hour fire resistance-rated walls and 2-hour fire resistance-rated floor/ceiling. Emergency lighting with illuminated exit sign must be installed. Panic hardware shall be installed on all egress doors whenever a new door is installed or the door is altered or changed, portable fire extinguishers shall be installed a minimum of one (10 lb) per 1000 sq ft of floor area. In addition to the above an automatic monitored fire alarm system shall be installed with interior and exterior audible signal and visual (strobes) located throughout the building. One strobe must be located within 15 feet of the front entrance. The system must be tested at least once each year and a record maintained of the test results. A copy of the monitoring contract and records of the system test results must be provided to the city upon request.

(B) In addition to the above, buildings that are over 5000 sq ft under roof shall install an Automatic Fire Sprinkler System (AFSS) when alterations during any consecutive 24 month period exceed 35 % of the buildings total square footage.

Section 30-3.4 Clarkesville Preservation District

The following shall apply to existing buildings undergoing alterations for commercial occupancies within the Clarkesville Preservation District.

(A) Buildings less than 3000 sq ft under roof, building material used in non load bearing walls or structures must be of non combustible materials (Metal Studs,5/8 fire rated sheetrock etc…)or chemically treated to provide a minimum of 1hour fire resistance-rated walls and 2-hour fire resistance-rated floor/ceiling. Emergency lighting with illuminated exit sign must be installed. Panic hardware shall be installed on all egress doors whenever a new door is installed or the door is altered or changed, portable fire extinguishers shall be installed a minimum of one (10 lb) per 1000 sq ft of floor area.

(B) In addition to the above, buildings that are 3001-5000 sq ft under roof shall install an automatic

monitored fire alarm system with interior and exterior audible signal and visual (strobes) located throughout the building. One strobe must be located within 15 feet of the front entrance. The system must be tested at least once each year and a record maintained of the test results. A copy of the monitoring contract and records of the system test results must be provided to the city upon request.

(C) In addition to the above, buildings that are over 5000 sq ft under roof shall install an Automatic Fire Sprinkler System (AFSS) when alterations during any consecutive 24 month period exceed 35 % of the buildings total square footage.

Section 30-3.5 Automatic Fire Sprinkler Systems required in New Construction.

(A) Automatic Fire Sprinkler Systems (AFSS), shall be designed and installed when required by the Applicable Building codes and the current edition of the Life Safety Code101(See Section 30-3-2.A) in accordance with NFPA13, 13D and 13R, as required in all new construction, (except single family residential).

(B) Buildings in which the nearest point of fire department vehicle access is 200 feet or more to the Building entrance or which would otherwise prohibit the nozzle from reaching the seat of the fire, and buildings 2 or more stories above grade shall be protected throughout by an automatic fire sprinkler system.

Section 30-3.6 Automatic Fire Sprinkler Systems required in Existing Buildings.

Existing buildings, if otherwise required to have automatic fire sprinkler system by Sec. 30-3.3 or 30-3.4, Must be retrofitted with an automatic fire sprinkler system designed in accordance with NFPA 13, 13D or 13R.

Section 30-3.7 Fire Protection Systems – Additional Requirements.

(A) Where required, post indicator valves (PIV) and fire department connections (FDC) shall be located at or near the main entry to the site but no closer than one and one-half times the height of the building. Appropriate signage shall be provided to designate PIV and FDC connections.

(B) All water-based fire protection systems shall be provided with electronically supervised monitoring and all fire alarm systems installed in commercial buildings shall be supervised at all times. The fire alarm systems shall include the installation of both external and internal audible alarms. Visual (strobes) must be installed throughout the building one of which must be located within 15 feet of the front entrance to the building. The system must be tested once a year and records maintained of the test results. Records of the system test results must be provided to the city upon request.

Section 30-3.8 Automatic sprinkler system not to be disabled.

(A) No person shall shut off or disable any automatic fire sprinkler system, and no owner, occupant, or resident of any building shall disarm such system. Provided, however, a sprinkler system may be turned off in order to perform maintenance work on the system during the time that qualified maintenance personnel are on the premises performing necessary maintenance work. Such maintenance work shall only be conducted after notice to and approval by the Clarkesville fire

department.

(B) A fire watch will be required during the time the water-based fire protection system is disabled or removed from service for four or more hours. The fire watch shall remain in place until such time as the system(s) are returned to their full capacity.

Section 30-3.9 Fire alarm systems.

(A) No person shall shut off or disable any fire alarm system, and no owner, occupant, or resident of any building shall disarm such system. An alarm system may be shut off in order to perform maintenance work on the system during the time that qualified maintenance personnel are on the premises performing necessary maintenance work. Such maintenance work shall only be conducted after notice to and approval by the Clarkesville Fire Department.

(B) A fire watch may be required when the alarm system is turned off if the Clarkesville fire department deems it necessary during the time the fire alarm system is removed from service as outlined above. If required by the fire department, the fire watch shall remain in place until such time as the system(s) are returned to their full capacity.

Section 30-3.10. Standpipe systems.

Besides when required by code standpipe systems shall be installed when one of the following occurs:

(A) New buildings of three or more stories in height in which the nearest point of fire department vehicle access is 200 feet or more to the building entrance or which would otherwise prohibit the nozzle from reaching the seat of the fire, as determined by the fire official shall be protected throughout by a Class I standpipe system.

(B) In existing buildings, when required to have standpipe systems by subsections (A) above or Section 30-3.3 or Section 30-3.4, shall be retrofitted for standpipe systems. These buildings shall be required to upgrade in the renovation/alteration to meet all current codes, standards, and ordinances as applicable including fire protection and life safety systems. Historical buildings may be considered for a variance, which must be approved on a case by case basis by the building official in order to maintain as much as possible of its historic status and yet increase the fire safety of the building.

(C) A standpipe system shall be installed in all new or renovated multi-tenant dwellings three or more stories in height with or without multiple classifications of occupancy(s) regardless of size.

Section 30-3.11. Smoke exhaust devices.

(A) Roof vents or other approved smoke/heat exhausting ventilation devices or systems when required by code shall be installed in commercial buildings and be installed to conform to the Life Safety Code, as adopted and amended by the Georgia Insurance and Safety Fire Commissioner.
(B) Existing buildings shall be retrofitted for roof vents or other approved smoke and heat venting devices as required by the building official when their occupancy requires it by code even if the

alteration does not exceed 35 percent of the existing enclosed square footage of the building. The installation must conform to the Life Safety Code, as adopted and amended by the Georgia Insurance and Safety Fire Commissioner.

Section 30-3.12 Variance request

The Clarkesville City Council may in specific cases approve a variance from the terms of this ordinance when the council believes it will not be contrary to the public interest where, due to special circumstances, a literal enforcement of the ordinance will result in an unnecessary hardship, so that the intent of the ordinance shall be observed, public safety and welfare are secured, and substantial justice done. Financial cost shall not constitute a reason for granting a requested variance. All variances shall be applied for and processed in accordance with Appendix D section 4 of the Zoning Ordinance of the City of Clarkesville, Georgia.

Section 30-4 Severability – If any section, provision or clause of any part of this article shall be declared invalid or unconstitutional, or if the provisions of any part of this article as applied to any particular situation or set of circumstances shall be declared invalid or unconstitutional, such invalidity shall not be construed to affect the portions of this article not so held to be invalid, or the application of this article to other circumstances not so held to be invalid. It is hereby declared as the intent that this article would have been adopted had such invalid portion not been included herein.

Section 30-5 Repealer – The provisions of any ordinances or resolutions or parts of ordinances or resolutions in conflict herewith are repealed.

Adopted and ordained this _____ day of _____, 2012

_____ _____

Mayor Attest: City Clerk

Seal

Chapter 30

(Replaced with new ordinance September 10, 2012)

~~FIRE PREVENTION AND PROTECTION*~~

~~* **Cross References:** Buildings and building regulations, ch. 14; environment, ch. 26; manufactured homes and trailers, ch. 42; utilities, ch. 58.~~

~~**State Law References:** Authority to provide police and fire protection, Ga. Const. art. IX, § II, ¶ III(a)(1); impersonating a public officer or employee, O.C.G.A. § 16-10-23; obstruction or hindering of firefighters, O.C.G.A. § 16-10-24.1; obstruction or hindering of firefighters, O.C.G.A. § 16-10-24.1; false fire alarms, O.C.G.A. § 16-10-27; fireworks, O.C.G.A. § 25-10-1 et seq.; Georgia Fire Sprinkler Act, O.C.G.A. § 25-11-1 et seq.; regulation of fire and other hazards to persons and property generally, O.C.G.A. § 25-2-1 et seq.; smoke detector requirements, O.C.G.A. § 25-2-40; local fire departments generally, O.C.G.A. § 25-3-1 et seq.; local fire safety standards authorized, O.C.G.A. § 25-3-4; Georgia Firefighter Standards and Training Act, O.C.G.A. § 25-4-1 et seq.; mutual aid resource pacts, O.C.G.A. § 25-6-1 et seq.; Georgia Fire Academy Act, O.C.G.A. § 25-7-1 et seq.; following fire~~

apparatus or emergency vehicle, O.C.G.A. § 40-6-247; the Uniform Act for the Application of Building and Fire Related Codes to Existing Buildings, O.C.G.A. § 8-2-200; fire escapes in buildings, O.C.G.A. § 8-2-1950; statewide application of Standard Fire Prevention Code, O.C.G.A. § 8-2-2025(a).

Sec. 30-1. Fire department established; administration and enforcement of codes.
Sec. 30-2. Fire protection outside the corporate limits of the city.
Sec. 30-3. Automatic fire sprinkler systems.

Sec. 30-1. Fire department established; administration and enforcement of codes.

There is hereby established a fire department which shall be operated under the direction of a fire chief. The fire chief shall supervise and operate the city fire department under the rules and regulations adopted by the mayor and city council from time to time; shall enforce the fire prevention code and fire safety regulations of the city; and shall perform such other duties as directed by the city manager from time to time.
(Res. of 6-29-2004, § 1(b))

Sec. 30-2. Fire protection outside the corporate limits of the city.

Any person owning a dwelling or a place of business which is located within five miles of the corporate limits of the city may register such building for fire protection purposes with the city fire department. Upon such registration and payment of an annual registration fee as set forth in the schedule of fees and charges, the city fire department shall be authorized to furnish fire protection for such building. The city fire department shall not answer any calls to fires outside the corporate limits of the city, except to buildings registered as provided in this section, or in response to a call for help from another fire department. It is provided, however, that at all times at least one of the city fire trucks shall remain inside the corporate limits so as to provide protection for the residents of the city.
(Ord. No. 22, 3-7-1988)

Sec. 30-3. Automatic fire sprinkler systems. *(New Ordinance Adopted August 13, 2007. This existing section is deleted in its entirety and replaced with the following new sections.)*

Section 30-3. Fire Protection Systems.

Section 30-3.1. Scope

This ordinance provides for the design, installation and maintenance of automatic fire suppression systems for the protection against fire hazards in all structures in the City of Clarkesville.

Section 30-3.2 Purpose.

This ordinance is intended to provide design and installation requirements for a fire sprinkler system to aid in the detection and control of fires in commercial and residential occupancies and thus provide improved protection against injury, life loss and property damage. A sprinkler system designed, installed and maintained in accordance with this ordinance and the associated codes is anticipated to prevent flashover (total involvement) in the room of fire origin, when sprinkled, and to improve the opportunity for occupants to escape or be evacuated. Nothing in the ordinance is intended to restrict new technologies or alternate arrangements, provided that such technologies and/or methods do not diminish the level of safety prescribed within this ordinance.

In considering the criteria prescribed within this ordinance in conjunction with national and state codes and standards, the City of Clarkesville, surveyed over 150 municipalities and counties throughout the state of Georgia to determine the levels of reasonable protection afforded in other communities, evaluated the existing and projected building conditions within this City and established these requirements with life safety as its paramount concern, and the desire to protect property and minimize implementation costs to the citizens and businesses of Clarkesville.

Section 30-3.3 Automatic Fire Sprinkler Systems required in New Construction.

(C) Automatic Fire Sprinkler Systems (AFSS), in accordance with NFPA13, 13D and 13R, are required in all new commercial and residential construction of any occupancy group, use or building construction type, as defined by the current edition of the Life Safety Code 101 and adopted and amended by the Georgia Insurance and Safety Fire Commissioner and as enumerated below:

(1) Assembly Occupancies: All new assembly occupancies with an occupancy load over 300 persons and assembly occupancies with an occupancy load of 100 or more persons wherein alcohol is regulated by the City of Clarkesville Alcoholic Beverages Ordinance and all new assembly occupancies comprised of greater that 3,000 square feet of enclosed area.

(2) Educational Occupancies: All new educational occupancies.

(3) Day Care Occupancies: All new day care occupancies.

(4) Health Care Occupancies: All new health care occupancies.

(5) Detention and Correctional Occupancies: All new detention and correctional occupancies.

(6) Residential Occupancies: All new residential occupancies that provide sleeping accommodations for purposes other than health care or detention or correctional purposes.

(a) Exception: One- and two-family dwellings, provided that two family dwellings shall be separated between adjoining dwelling units by not less than 2 hour construction and provided that dwellings designed with inhabitable spaces above the garages (either attached or detached) shall have the garage spaces protected with an automatic fire sprinkler system.

(7) Residential Board and care Occupancies: All new residential board and care occupancies.

(8) Mercantile Occupancies: All new mercantile occupancies comprised of greater than 3,000 square feet of enclosed area.

(9) Business Occupancies: All new business occupancies comprised of greater that 3,000 square feet of enclosed area.

(10) Industrial Occupancies: All new industrial occupancies comprised of greater that 3,000 square feet of enclosed area.

(a) Exception: In areas of buildings storing materials that are water reactive, an automatic Fire sprinkler system is not required; however, such areas shall not exceed 5000 square feet without 2-hour compartmentalized construction.

(11) Storage Occupancies: All new storage occupancies comprised of greater that 3,000 square feet of enclosed area.

(12) Mixed Occupancies: Required automatic fire sprinkler systems for all new mixed Occupancies shall be determined by the above sections wherein any portion of a structure shall be required to be protected by an automatic fire sprinkler system or where the total combined enclosed area of all uses exceeds 3,000 square feet.

(B) Additions to existing unprotected buildings where the addition totals less than 1000 square feet may be granted an exemption by the building department, provided, however, the addition must be separated by fire rated construction in accordance with building codes. In no case, shall additions which increase the total building area in excess of 3,000 square feet be granted an exemption if the total building area would otherwise be required to comply with the requirements contained within another section of this code.

(C) Buildings in which the nearest point of fire department vehicle access is 200 feet or more to the Building entrance or which would otherwise prohibit the nozzle from reaching the seat of the fire shall be protected throughout by an automatic fire sprinkler system.

Section 30-3.4 Automatic Fire Sprinkler Systems required in Existing Buildings.

(A) Existing buildings, if otherwise required to have automatic fire sprinkler system by Sec. 30-3.3, Retrofitted with an automatic fire sprinkler system in accordance with NFPA 13, 13D or 13R, as Required by the building department, when the cost of renovation exceeds 35% of the existing enclosed square footage of the building.

(1) Exception: One and two family dwellings, provided that two family dwellings shall be s Separated between adjoining dwelling units by not less than 1 hour construction and provided that dwellings designed with inhabitable spaces above the garages (either attached Or detached) shall have the garage spaces protected with an automatic fire sprinkler system.

Section 30-3.5 Fire Protection Systems.

(C) Where required, post indicator valves (PIV) and fire department connections (FDC) shall be located at or near the main entry to the site but no closer that one and one-half times the height of the building. Appropriate signage shall be provided to designate PIV and FDC connections.

(D) All water-based fire protection systems shall be provided with electronically supervised monitoring and all fire alarm systems installed in commercial buildings shall be supervised at all times. The fire alarm systems shall be required to include the installation of horns and strobes as designated by the building official.

Section 30-3.6 Automatic sprinkler system not to be disabled.

(C) No person shall shut off or disable any automatic fire sprinkler system, and no owner, occupant, or resident of any building shall disarm such system. Provided, however, a sprinkler system may be shut off in order to perform maintenance work on the system during the time that qualified maintenance personnel are on the premises performing necessary maintenance work. Such maintenance work shall be conducted after notice to and approval by the fire department.

(D) A fire watch may be required during the time the water-based fire protection system is removed from service as outlined above. If required by the fire officials, the fire watch shall remain in place until such time as the system(s) are returned to their full capacity.

Section 30-3.7 Fire alarm systems.

(A) No person shall shut off or disable any fire alarm system, and no owner, occupant, or resident of any building shall disarm such system. An alarm system may be shut off in order to perform maintenance work on the system during the time that qualified maintenance personnel are on the premises performing necessary maintenance work. Such maintenance work shall be conducted after notice to and approval by the fire department and after notice to the Habersham 911.

(B) A fire watch may be required during the time the fire alarm system is removed from service as outlined above. If required by the fire officials, the fire watch shall remain in place until such time as the system(s) are returned to their full capacity.

Section 30-3.8. Standpipe systems.

Section 905.3 of the International Building Code is amended to include the following:

Section 905.3.1.1 Other required installations.

(D) In addition to any other provisions of this code, all new buildings of two or more stories in height with more than 3,000 square feet per floor area shall be protected throughout by a Class 1 wet stand pipe system.

(E) In addition to any other provisions of this Code, all new buildings of two or more stories in height in which the nearest point of fire department vehicle access is 200 feet or more to the building entrance or which would otherwise prohibit the nozzle from reaching the seat of the fire, as determined by the fire official shall be protected throughout by a Class 1 wet standpipe system.

(F) Existing buildings, where required to have standpipe systems by subsections (A) or (b) above, shall Be retrofitted for standpipe systems when the renovation exceeds 35% of the existing enclosed square footage of the building. These buildings shall be required to upgrade in the renovation to meet all current codes, standards, and ordinances as applicable to required fire protection and life safety systems. Historical buildings may require an equivalency concept and working through of the process in conjunction with the historical society.

(G) A standpipe system shall be installed in all new or renovated multi-tenant dwellings with or without multiple classifications of occupancy(s) regardless of size. The building official may modify these requirements as necessary for cause.

Section 30-3.9. Smoke exhaust devices.

(C) Roof vents or other approved smoke/heat exhausting ventilation devices or systems shall be required In commercial buildings and be installed to conform to the Life Safety Code, as adopted and amended by the Georgia Insurance and Safety Fire Commissioner.

(D) Existing buildings shall be retrofitted for roof vents or other approved smoke and heat venting Devices as required by the building official when the renovation exceeds 35 percent of the existing enclosed square footage of the building. These buildings shall be required to upgrade during renovation to meet all current codes, standards and ordinances as applicable to required fire

~~protection and life safety systems.~~

~~ALL ORDINANCES AND PARTS OF ORDINANCES IN CONFLICT WITH THIS ORDINANCE ARE HEREBY REPEALED.~~

Chapters 31--33

RESERVED

Chapter 34

FLOODS*

New Ordinance Adopted April 7, 2008
This Ordinance replaced

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* **Cross References:** Buildings and building regulations, ch. 14; environment, ch. 26; health and sanitation, ch. 38; manufactured homes and trailers, ch. 42; utilities, ch. 58; zoning, app. A.

State Law References: Georgia Safe Dams Act of 1978, O.C.G.A. § 12-5-370 et seq.

FLOOD DAMAGE PREVENTION ORDINANCE

ARTICLE 1.
STATUTORY AUTHORIZATION, FINDINGS OF FACT, PURPOSE AND OBJECTIVES

SECTION A. AUTHORIZATION

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

SECTION B. FINDINGS OF FACT

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

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

SECTION C. STATEMENT OF PURPOSE

It is the purpose of this ordinance to promote the public health, safety and general welfare and to minimize public and private losses due to flood conditions in specific areas by provisions designed to:

(1) require that uses vulnerable to floods, including facilities, which serve such uses, be protected against flood damage at the time of initial construction;

(2) restrict or prohibit uses which are dangerous to health, safety and property due to water or erosion hazards, or which increase flood heights, velocities, or erosion;

(3) control filling, grading, dredging and other development which may increase flood damage or erosion, and;

(4) prevent or regulate the construction of flood barriers which will unnaturally divert flood waters or which may increase flood hazards to other lands;

(5) control the alteration of natural floodplains, stream channels, and natural protective barriers, which are involved in the accommodation of floodwaters.

SECTION D. OBJECTIVES

The objectives of this ordinance are:

(1) to protect human life and health;

(2) to minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, streets and bridges located in floodplains;

(3) to help maintain a stable tax base by providing for the sound use and development of flood prone areas in such a manner as to minimize flood blight areas,

(4) to minimize expenditure of public money for costly flood control projects;

(5) to minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;

(6) to minimize prolonged business interruptions, and;

(7) to insure that potential homebuyers are notified that property is in a flood area.

ARTICLE 2.
GENERAL PROVISIONS

SECTION A. LANDS TO WHICH THIS ORDINANCE APPLIES

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

SECTION B. BASIS FOR AREA OF SPECIAL FLOOD HAZARD

The Areas of Special Flood Hazard identified by the Federal Emergency Management Agency in its Flood Insurance Study (FIS), dated February 17, 1988 with accompanying maps and other supporting data and any revision thereto, are adopted by reference and declared a part of this ordinance.

For those land areas acquired by a municipality through annexation, the current effective FIS dated April 2, 1991, with accompanying maps and other supporting data and any revision thereto, for Habersham County are hereby adopted by reference.

Areas of Special Flood Hazard may also include those areas known to have flooded historically or defined through standard engineering analysis by governmental agencies or private parties but not yet incorporated in a FIS.

The Repository for public inspection of the Flood Insurance Study (FIS), accompanying maps and other supporting data is located: City of Clarkesville, City Hall,

SECTION C. ESTABLISHMENT OF DEVELOPMENT PERMIT

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

SECTION D. COMPLIANCE

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

SECTION E. ABROGATION AND GREATER RESTRICTIONS

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

SECTION F. INTERPRETATION

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

SECTION G. WARNING AND DISCLAIMER OF LIABILITY

The degree of flood protection required by this ordinance is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur; flood heights may be increased by man-made or natural causes. This ordinance does not imply that land outside the Areas of Special Flood Hazard or uses permitted within such areas will be free from flooding or flood damages. This ordinance shall not create liability on the part of City of Clarkesville or by any officer or employee thereof for any flood damages that result from reliance on this ordinance or any administrative decision lawfully made hereunder.

SECTION H. PENALTIES FOR VIOLATION

Failure to comply with the provisions of this ordinance or with any of its requirements, including conditions and safeguards established in connection with grants of variance or special exceptions shall constitute a violation. Any person who violates this ordinance or fails to comply with any of its requirements shall, upon conviction thereof, be fined not more than $100 or imprisoned for not more than 30 days, or both, and in addition, shall pay all costs and expenses involved in the case. Each day such violation continues shall be considered a separate offense. Nothing herein contained shall prevent the City of Clarkesville from taking such other lawful actions as is necessary to prevent or remedy any violation.

ARTICLE 3.
ADMINISTRATION

SECTION A. DESIGNATION OF ORDINANCE ADMINISTRATOR

The Building Official or his/her designee is hereby appointed to administer and implement the provisions of this ordinance.

SECTION B. PERMIT PROCEDURES

Application for a Development Permit shall be made to the Building Official or his/her designee on forms furnished by the community PRIOR to any development activities, and may include, but not be limited to the following: plans in duplicate drawn to scale showing the elevations of the area in question and the nature, location, dimensions, of existing or proposed structures, earthen fill placement, storage of materials or equipment, and drainage facilities.

Specifically, the following information is required:

(1) Application Stage -

(a) Elevation in relation to mean sea level (or highest adjacent grade) of the lowest floor, including basement, of all proposed structures;

(b) Elevation in relation to mean sea level to which any non-residential structure will be flood-proofed;

(c) Design certification from a registered professional engineer or architect that any proposed non-residential flood-proofed structure will meet the flood-proofing criteria of Article 4, Section B (2);

(d) Description of the extent to which any watercourse will be altered or relocated as a result of a proposed development, and;

(2) Construction Stage -

For all new construction and substantial improvements, the permit holder shall provide to the Administrator an as-built certification of the regulatory floor elevation or flood-proofing level immediately after the lowest floor or flood proofing is completed. Any lowest floor certification made relative to mean sea level shall be prepared by or under the direct supervision of a registered land surveyor or professional engineer and certified by same. When flood proofing is utilized for non-residential structures, said certification shall be prepared by or under the direct supervision of a professional engineer or architect and certified by same.

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

The Building Official or his/her designee shall review the above referenced certification data submitted. Deficiencies detected by such review shall be corrected by the permit holder immediately and prior to further progressive work being allowed to proceed. Failure to submit certification or failure to make said corrections required hereby, shall be cause to issue a stop-work order for the project.

SECTION C. DUTIES AND RESPONSIBILITIES OF THE ADMINISTRATOR

Duties of the Building Official or his/her designee shall include, but shall not be limited to:

(1) Review proposed development to assure that the permit requirements of this ordinance have been satisfied.

(2) Review proposed development to assure that all necessary permits have been received from governmental agencies from which approval is required by Federal or State law, including section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1334. Require that copies of such permits be provided and maintained on file.

(3) 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 Article 2 Section B, then the Building Official or his/her designee shall obtain, review and reasonably utilize any base flood elevation and floodway data available from a Federal, State or other sources in order to administer the provisions of Article 4.

(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 Article 3, Section B (2).

(6) Verify and record the actual elevation, in relation to mean sea level to which any new or substantially improved structures have been flood-proofed, in accordance with Article 3, Section B (2).

(7) When flood-proofing is utilized for a structure, the Building Official or his/her designee shall obtain certification of design criteria from a registered professional engineer or architect in accordance with Article 3(B)(1)(c) and Article 4(B)(2) or (D)(2).

(8) Make substantial damage determinations following a flood event or any other event that causes damage to structures in flood hazard areas.

(9) Notify adjacent communities and the Georgia Department of Natural Resources prior to any alteration or relocation of a watercourse and submit evidence of such notification to the Federal Emergency Management Agency (FEMA).

(10) For any altered or relocated watercourse, submit engineering data/analysis within six (6) months to the FEMA to ensure accuracy of community flood maps through the Letter of Map Revision process. Assure flood carrying capacity of any altered or relocated watercourse is maintained.

(11) Where interpretation is needed as to the exact location of boundaries of the Areas of Special Flood Hazard (for example, where there appears to be a conflict between a mapped boundary and actual field conditions) the Building Official or his/her designee shall make the necessary interpretation. Any person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in this Ordinance.

(12) All records pertaining to the provisions of this ordinance shall be maintained in the office of the Building Official or his/her designee and shall be open for public inspection.

ARTICLE 4.
PROVISIONS FOR FLOOD HAZARD REDUCTION

SECTION A. GENERAL STANDARDS

In ALL Areas of Special Flood Hazard the following provisions are required:

(1) New construction and substantial improvements of existing structures shall be anchored to prevent flotation, collapse or lateral movement of the structure;

(2) New construction and substantial improvements of existing structures shall be constructed with materials and utility equipment resistant to flood damage;

(3) New construction or substantial improvements of existing structures shall be constructed by methods and practices that minimize flood damage;

(4) Elevated Buildings - All New construction or substantial improvements of existing structures that include ANY fully enclosed area located below the lowest floor formed by foundation and other exterior walls shall be designed so as to be an unfinished or flood resistant enclosure. The enclosure shall be designed to equalize hydrostatic flood forces on exterior walls by allowing for the automatic entry and exit of floodwater.

(a) Designs for complying with this requirement must either be certified by a professional engineer or architect or meet the following minimum criteria:

(i) Provide a minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding;

(ii) The bottom of all openings shall be no higher than one foot above grade; and,

(iii) Openings may be equipped with screens, louvers, valves or other coverings or devices provided they permit the automatic flow of floodwater in both direction.

(b) So as not to violate the "Lowest Floor" criteria of this ordinance, the unfinished or flood resistant enclosure shall only be used for parking of vehicles, limited storage of maintenance equipment used in connection with the premises, or entry to the elevated area, and

(c) The interior portion of such enclosed area shall not be partitioned or finished into separate rooms.

(5) All heating and air conditioning equipment and components (including ductwork), all electrical, ventilation, plumbing, and other service facilities shall be designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.

(6) Manufactured homes shall be anchored to prevent flotation, collapse, or lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors. This standard shall be in addition to and consistent with applicable State requirements for resisting wind forces.

(7) New and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system;

(8) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters;

(9) On-site waste disposal systems shall be located and constructed to avoid impairment to them or contamination from them during flooding, and;

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

SECTION B. 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 standards of Article 4, Section A (4), "Elevated Buildings".

(a) All heating and air conditioning equipment and components (including ductwork), all electrical, ventilation, plumbing, and other service facilities shall be elevated at or above one (1) foot above the base flood elevation.

(2) Non-Residential Construction - New construction and/or the substantial improvement of any structure located in A1-30, AE, or AH zones, may be flood-proofed in lieu of elevation. The structure, together with attendant utility and sanitary facilities, must be designed to be water tight to one (1) foot above the base flood elevation, with walls substantially impermeable to the passage of water, and structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effect of buoyancy. A registered professional engineer or architect shall certify that the design and methods of construction are in accordance with accepted standards of practice for meeting the provisions above, and shall provide such certification to the official as set forth above and in Article 3, Section C. (6).

(3) Standards for Manufactured Homes and Recreational Vehicles - Where base flood elevation data are available:

(a) All manufactured homes placed 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:

(i) The lowest floor of the manufactured home is elevated no lower than one foot above the level of the base flood elevation, or

(ii) The manufactured home chassis is elevated and supported by reinforced piers (or other foundation elements of at least an equivalent strength) of no less than 36 inches in height above grade.

(c) All manufactured homes must be securely anchored to an adequately anchored foundation system to resist flotation, collapse and lateral movement. (Ref. Article 4(A)(6) above)

(d) All recreational vehicles placed on sites must either:

(i) Be on the site for fewer than 180 consecutive days.

(ii) Be fully licensed and ready for highway use, (a recreational vehicle is ready for highway use if it is licensed, on its wheels or jacking system, attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached structures or additions), or

(iii) The recreational vehicle must meet all the requirements for "New Construction", including the anchoring and elevation requirements of Article 4, Section B (3)(a)(c), above.

(4). Floodway - Located within Areas of Special Flood Hazard established in Article 2, Section B, are areas designated as floodway. A floodway may be an extremely hazardous area due to velocity floodwaters, debris or erosion potential. In addition, the area must remain free of encroachment in order to allow for the discharge of the base flood without increased flood heights. Therefore, the following provisions shall apply:

(a) Encroachments are prohibited, including earthen fill, new construction, substantial improvements or other development within the regulatory floodway. Development may be permitted however, provided it is demonstrated through hydrologic and hydraulic analyses performed in accordance with standard engineering practice that the encroachment shall not result in any increase in flood levels or floodway widths during a base flood discharge. A registered professional engineer must provide supporting technical data and certification thereof.

(b) ONLY if Article 4 (B)(4)(a) above is satisfied, then any new construction or substantial improvement shall comply with all other applicable flood hazard reduction provisions of Article 4.

SECTION C. <u>BUILDING STANDARDS FOR STREAMS WITHOUT ESTABLISHED BASE FLOOD ELEVATIONS AND/OR FLOODWAY (A-ZONES)</u> -

Located within the Areas of Special Flood Hazard established in Article 2, Section B, where streams exist but no base flood data have been provided (A-Zones), OR where base flood data have been provided but a Floodway has not been delineated, the following provisions apply:

(1) When base flood elevation data or floodway data have not been provided in accordance with Article 2(B), then the Building Official or his/her designee shall obtain, review, and reasonably utilize any scientific or historic base flood elevation and floodway data available from a Federal, State, or other source, in order to administer the provisions of Article 4. ONLY if data are not available from these sources, then the following provisions (2&3) shall apply:

(2) No encroachments, including structures or fill material, shall be located within an area equal to the width of the stream or twenty feet, whichever is greater, measured from the top of the stream bank, unless certification by a registered professional engineer is provided demonstrating that such encroachment shall not result in more than a one (1) foot increase in flood levels during the occurrence of the base flood discharge.

(3) In special flood hazard areas without base flood elevation data, new construction and substantial improvements of existing structures shall have the lowest floor of the lowest enclosed area (including basement) elevated no less than three (3) feet above the highest adjacent grade at the building site. (NOTE: Require the lowest floor to be elevated one foot above the estimated base flood elevation in A-Zone areas where a Limited Detail Study has been completed). Openings sufficient to facilitate the unimpeded movements of floodwaters shall be provided in accordance with standards of Article 4, Section A (4) "Elevated Buildings".

(a) All heating and air conditioning equipment and components (including ductwork), all electrical, ventilation, plumbing, and other service facilities shall be elevated no less than three (3) feet above the highest adjacent grade at the building site.

The Building Official or his/her designee shall certify the lowest floor elevation level and the record shall become a permanent part of the permit file.

SECTION D. <u>STANDARDS FOR AREAS OF SHALLOW FLOODING (AO ZONES)</u> -

Areas of Special Flood Hazard established in Article 2, Section B, may include designated "AO" shallow flooding areas. These areas have base flood depths of one to three feet (1'-3') above ground, with no clearly defined channel. The following provisions apply:

(1) All new construction and substantial improvements of residential and non-residential structures shall have the lowest floor, including basement, elevated to the flood depth number specified on the Flood Insurance Rate Map (FIRM), above the highest adjacent grade. If no flood depth number is specified, the lowest floor, including basement, shall be elevated at least three feet (3) above the highest adjacent grade. Openings sufficient to facilitate the unimpeded movements of flood waters shall be provided in accordance with standards of Article 4, Section A (4), "Elevated Buildings".

The Building Official or his/her designee shall certify the lowest floor elevation level and the record shall become a permanent part of the permit file.

(2) New construction or the substantial improvement of a non-residential structure may be flood-proofed in lieu of elevation. The structure, together with attendant utility and sanitary facilities, must be designed to be water tight to the specified FIRM flood level plus one (1) foot, above highest adjacent grade, with walls substantially impermeable to the passage of water, and structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effect of buoyancy. A registered professional engineer or architect shall certify that the design and methods of construction are in accordance with accepted standards of practice for meeting the provisions above, and shall provide such certification to the official as set forth above and as required in Articles 3(B)(1)(c) and (3)(B)(2).

(3) Drainage paths shall be provided to guide floodwater around and away from any proposed structure.

SECTION E. STANDARDS FOR SUBDIVISIONS

(1) All subdivision and/or development proposals shall be consistent with the need to minimize flood damage;

(2) 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;

(3) All subdivision and/or development proposals shall have adequate drainage provided to reduce exposure to flood hazards, and;

(4) For subdivisions and/or developments greater than fifty (50) lots or five (5) acres, whichever is less, base flood elevation data shall be provided for subdivision and all other proposed development, including manufactured home parks and subdivisions. Any changes or revisions to the flood data adopted herein and shown on the FIRM shall be submitted to FEMA for review as a Conditional Letter of Map Revision (CLOMR) or Conditional Letter of Map Amendment (CLOMA), whichever is applicable. Upon completion of the project, the developer is responsible for submitting the "as-built" data to FEMA in order to obtain the final LOMR.

SECTION F. STANDARDS FOR CRITICAL FACILITIES

(1) Critical facilities shall not be located in the 100-year floodplain or the 500-year floodplain.

(2) All ingress and egress from any critical facility must be protected to the 500-year flood elevation.

ARTICLE 5.
VARIANCE PROCEDURES

(A) The City Council as established by the City of Clarkesville shall hear and decide requests for appeals or variance from the requirements of this ordinance.

(B) The City Council shall hear and decide appeals when it is alleged an error in any requirement, decision, or determination is made by the Building Official or his/her designee in the enforcement or administration of this ordinance.

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

(D) Variances may be issued for the repair or rehabilitation of Historic Structures upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a Historic Structure and the variance is the minimum to preserve the historic character and design of the structure.

(E) Variances may be issued for development necessary for the conduct of a functionally dependent use, provided the criteria of this Article are met, no reasonable alternative exists, and the development is protected by methods that minimize flood damage during the base flood and create no additional threats to public safety.

(F) Variances shall not be issued within any designated floodway if ANY increase in flood levels during the base flood discharge would result.

(G) In reviewing such requests, the City Manager and City Council shall consider all technical evaluations, relevant factors, and all standards specified in this and other sections of this ordinance.

(H) **Conditions for Variances:**

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

(**i**) a finding of good and sufficient cause,

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

(**iii**) a determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisance, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.

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

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

(4) The Building Official or his/her designee 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 ordinance, the City Council may attach such conditions to the granting of variances as it deems necessary to further the purposes of this ordinance.

ARTICLE 6.
DEFINITIONS

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

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

"Addition (to an existing building)" means any walled and roofed expansion to the perimeter of a building in which the addition is connected by a common load-bearing wall other than a firewall. Any walled and roofed addition, which is connected by a firewall or is separated by an independent perimeter load-bearing wall, shall be considered "New Construction".

"Appeal" means a request for a review of the Building Official or his/her designee's interpretation of any provision of this ordinance.

"Area of shallow flooding" means a designated AO or AH Zone on a community's Flood Insurance Rate Map (FIRM) with base flood depths from one to three feet, and/or where a clearly defined channel does not exist, where the path of flooding is unpredictable and indeterminate, and where velocity flow may be evident.

"Area of special flood hazard" is the land in the floodplain within a community subject to a one percent or greater chance of flooding in any given year. In the absence of official designation by the Federal Emergency

Management Agency, Areas of Special Flood Hazard shall be those designated by the local community and referenced in Article 2, Section B.

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

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

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

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

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

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

"Development" means any man-made change to improved or unimproved real estate, including, but not limited to, buildings or other structures, mining, dredging, filling, grading, paving, excavating, drilling operations, and storage of materials or equipment.

"Elevated building" means a non-basement building built to have the lowest floor of the lowest enclosed area elevated above the ground level by means of fill, solid foundation perimeter walls, pilings, columns, piers, or shear walls adequately anchored so as not to impair the structural integrity of the building during a base flood event.

"Existing construction" Any structure for which the "start of construction" commenced before August 8, 1987.

"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 August 8, 1987.

"Expansion to an existing manufactured home park or subdivision" means the preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed, including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads.

"Flood" or "flooding" means a general and temporary condition of partial or complete inundation of normally dry land areas from:

(a.) the overflow of inland or tidal waters; or

(b.) the unusual and rapid accumulation or runoff of surface waters from any source.

"Flood Hazard Boundary Map (FHBM)" means an official map of a community, issued by the Federal Insurance Administration, where the boundaries of areas of special flood hazard have been defined as Zone A.

"Flood Insurance Rate Map (FIRM)" means an official map of a community, issued by the Federal Insurance Administration, delineating the areas of special flood hazard and/or risk premium zones applicable to the community.

"Flood Insurance Study" the official report by the Federal Insurance Administration evaluating flood hazards and containing flood profiles and water surface elevations of the base flood.

"Floodplain" means any land area susceptible to flooding.

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

"Floodway" means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height.

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

"Highest adjacent grade" means the highest natural elevation of the ground surface, prior to construction, adjacent to the proposed foundation of a building.

"Historic Structure" means any structure that is;

a. Listed individually in the National Register of Historic Places (a listing maintained by the U.S. Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register:

b. Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district:

c. Individually listed on a state inventory of historic places and determined as eligible by states with historic preservation programs which have been approved by the Secretary of the Interior; or

d. Individually listed on a local inventory of historic places and determined as eligible by communities with historic preservation programs that have been certified either:

1. By an approved state program as determined by the Secretary of the Interior, or

2. Directly by the Secretary of the Interior in states without approved programs.

Lowest floor means the lowest floor of the lowest enclosed area, including basement. An unfinished or flood resistant enclosure, used solely for parking of vehicles, building access, or storage, in an area other than a basement, is not considered a building's lowest floor, provided that such enclosure is not built so as to render the structure in violation of other provisions of this code.

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

"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 this ordinance, the term is synonymous with National Geodetic Vertical Datum (NGVD).

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

"New construction" means ANY structure (see definition) for which the "start of construction" commenced on or after August 8, 1987 and includes any subsequent improvements to the structure.

"New manufactured home park or subdivision" means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after August 8, 1987.

"**North American Vertical Datum (NAVD)"** as corrected in 1988 is a vertical control used as a reference for establishing varying elevations within the floodplain.

"Recreational vehicle" means a vehicle, which is:

a. built on a single chassis;

b. 400 square feet or less when measured at the largest horizontal projection;

c. designed to be self-propelled or permanently towable by a light duty truck; and

d. designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

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

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

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

"Substantial damage" means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed fifty (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 5-year period, in which the cumulative cost equals or exceeds fifty (50) percent of the market value of the structure prior to the "start of construction" of the improvement. NOTE: *The market value of the structure should be (1) the appraised value of the structure prior to the start of the initial repair or improvement, or (2) in the case of damage, the value of the structure prior to the damage occurring*. This term includes structures, which have incurred "substantial damage", regardless of the actual amount of repair work performed.

For the purposes of this definition, "substantial improvement" is considered to occur when the first alteration of any wall, ceiling, floor, or other structural part of the building commences, whether or not that alteration affects the external dimensions of the building. The term does not, however, include (1) those improvements of a structure required to comply with existing violations of state or local health, sanitary, or safety code specifications which are solely necessary to assure safe living conditions and which have been identified by the Code Enforcement Official, and not solely triggered by an improvement or repair project, or (2) any alteration of a "historic structure" provided that the alteration will not preclude the structure's continued designation as a "historic structure".

"Substantially improved existing manufactured home parks or subdivisions" is where the repair, reconstruction, rehabilitation or improvement of the streets, utilities and pads equals or exceeds 50 percent of the value of the streets, utilities and pads before the repair, reconstruction or improvement commenced.

"Variance" is a grant of relief from the requirements of this ordinance, which permits construction in a manner otherwise prohibited by this ordinance.

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

ARTICLE 7.
SEVERABILITY

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

Ordinance adopted on __April 7, 2008_____.

BY: _J. Terry Greene_____

Certified by: _____

Date:_____

ORDINANCE 2009-2
FLOOD DAMAGE PREVENTION ORDINANCE

ARTICLE 1. STATUTORY AUTHORIZATION, FINDINGS OF FACT, PURPOSE AND OBJECTIVES

SECTION A. AUTHORIZATION

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

SECTION B. FINDINGS OF FACT

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

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

SECTION C. STATEMENT OF PURPOSE

It is the purpose of this ordinance to promote the public health, safety and general welfare and to minimize public and private losses due to flood conditions in specific areas by provisions designed to:

(1) require that uses vulnerable to floods, including facilities, which serve such uses, be protected against flood damage at the time of initial construction;

(2) restrict or prohibit uses which are dangerous to health, safety and property due to water or erosion hazards, or which increase flood heights, velocities, or erosion;

(3) control filling, grading, dredging and other development which may increase flood damage or erosion, and;

(4) prevent or regulate the construction of flood barriers which will unnaturally divert flood waters or which may increase flood hazards to other lands;

(5) control the alteration of natural floodplains, stream channels, and natural protective barriers, which are involved in the accommodation of floodwaters.

SECTION D. OBJECTIVES

The objectives of this ordinance are:

(1) to protect human life and health;

(2) to minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, streets and bridges located in floodplains;

(3) to help maintain a stable tax base by providing for the sound use and development of flood prone areas in such a manner as to minimize flood blight areas,

(4) to minimize expenditure of public money for costly flood control projects;

(5) to minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;

(6) to minimize prolonged business interruptions, and;

(7) to insure that potential homebuyers are notified that property is in a flood area.

ARTICLE 2. GENERAL PROVISIONS

SECTION A. LANDS TO WHICH THIS ORDINANCE APPLIES

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

SECTION B. BASIS FOR AREA OF SPECIAL FLOOD HAZARD

The Areas of Special Flood Hazard identified by the Federal Emergency Management Agency in its Flood Insurance Study (FIS), dated June 2, 2009, with accompanying maps and other supporting data and any revision thereto, are adopted by reference and declared a part of this ordinance.

For those land areas acquired by a municipality through annexation, the current effective FIS dated June 2, 2009, with accompanying maps and other supporting data and any revision thereto, for (*Habersham County*) are hereby adopted by reference.

Areas of Special Flood Hazard may also include those areas known to have flooded historically or defined through standard engineering analysis by governmental agencies or private parties but not yet incorporated in a FIS. (*none noted*)

The Repository for public inspection of the Flood Insurance Study (FIS), accompanying maps and other supporting data is located: Clarkesville City Hall, 123 N. Laurel Drive, Clarkesville, Georgia 30523.

SECTION C. ESTABLISHMENT OF DEVELOPMENT PERMIT

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

SECTION D. COMPLIANCE

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

SECTION E. ABROGATION AND GREATER RESTRICTIONS

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

SECTION F. INTERPRETATION

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

SECTION G. WARNING AND DISCLAIMER OF LIABILITY

The degree of flood protection required by this ordinance is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur; flood heights may be increased by man-made or natural causes. This ordinance does not imply that land outside the Areas of Special Flood Hazard or uses permitted within such areas will be free from flooding or flood damages. This ordinance shall not create liability on the part of the City of Clarkesville or by any officer or employee thereof for any flood damages that result from reliance on this ordinance or any administrative decision lawfully made hereunder.

SECTION H. PENALTIES FOR VIOLATION

Failure to comply with the provisions of this ordinance or with any of its requirements, including conditions and safeguards established in connection with grants of variance or special exceptions shall constitute a violation. Any person who violates this ordinance or fails to comply with any of its requirements shall, upon conviction thereof, be fined not more than

$1000 or imprisoned for not more than 5 days, or both, and in addition, shall pay all costs and expenses involved in the case. Each day such violation continues shall be considered a separate offense. Nothing herein contained shall prevent the City of Clarkesville from taking such other lawful actions as is necessary to prevent or remedy any violation.

ARTICLE 3. ADMINISTRATION

SECTION A. DESIGNATION OF ORDINANCE ADMINISTRATOR

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

SECTION B. PERMIT PROCEDURES

Application for a Development Permit shall be made to the Zoning 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 non-residential structure will be flood-proofed;

(c) Design certification from a registered professional engineer or architect that any proposed non-residential flood-proofed structure will meet the flood-proofing criteria of Article 4, Section B (2);

(d) Description of the extent to which any watercourse will be altered or relocated as a result of a proposed development, and;

(2) Construction Stage -

For all new construction and substantial improvements, the permit holder shall provide to the Administrator an as-built certification of the regulatory floor elevation or flood-proofing level immediately after the lowest floor or flood proofing is completed. Any lowest floor certification made relative to mean sea level shall be prepared by or under the direct supervision of a registered land surveyor or professional engineer and certified by same. When flood proofing is utilized for non-residential structures, said

certification shall be prepared by or under the direct supervision of a professional engineer or architect and certified by same.

Any work undertaken prior to submission of these certifications shall be at the permit holder's risk.
The Zoning Administrator shall review the above referenced certification data submitted. Deficiencies detected by such review shall be corrected by the permit holder immediately and prior to further progressive work being allowed to proceed. Failure to submit certification or failure to make said corrections required hereby, shall be cause to issue a stop-work order for the project.

SECTION C. DUTIES AND RESPONSIBILITIES OF THE ADMINISTRATOR
Duties of the Zoning Administrator shall include, but shall not be limited to:

(1) Review proposed development to assure that the permit requirements of this ordinance have been satisfied.

(2) Review proposed development to assure that all necessary permits have been received from governmental agencies from which approval is required by Federal or State law, including section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1334. Require that copies of such permits be provided and maintained on file.

(3) 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 Article 2 Section B, then the Zoning Administrator shall obtain, review and reasonably utilize any base flood elevation and floodway data available from a Federal, State or other sources in order to administer the provisions of Article 4.

(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 Article 3, Section B (2).

(6) Review and record the actual elevation, in relation to mean sea level to which any new or substantially improved structures have been flood-proofed, in accordance with Article 3, Section B (2).

(7) When flood-proofing is utilized for a structure, the Zoning Administrator shall obtain certification of design criteria from a registered professional engineer or architect in accordance with Article 3(B)(1)(c) and Article 4(B)(2) or (D)(2).

(8) Make substantial damage determinations following a flood event or any other event that causes damage to structures in flood hazard areas.

(9) Notify adjacent communities and the Georgia Department of Natural Resources prior to any alteration or relocation of a watercourse and submit evidence of such notification to the Federal Emergency Management Agency (FEMA).

(10) For any altered or relocated watercourse, submit engineering data/analysis within six (6) months to the FEMA to ensure accuracy of community flood maps through the Letter of Map Revision process. Assure flood carrying capacity of any altered or relocated watercourse is maintained.

(11) Where interpretation is needed as to the exact location of boundaries of the Areas of Special Flood Hazard (for example, where there appears to be a conflict between a mapped boundary and actual field conditions) the Zoning Administrator shall make the necessary interpretation. Any person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in this Ordinance.

(12) All records pertaining to the provisions of this ordinance shall be maintained in the office of the Zoning Administrator and shall be open for public inspection.

ARTICLE 4. PROVISIONS FOR FLOOD HAZARD REDUCTION

SECTION A. GENERAL STANDARDS

In ALL Areas of Special Flood Hazard the following provisions are required:

(1) New construction and substantial improvements of existing structures shall be anchored to prevent flotation, collapse or lateral movement of the structure;

(2) New construction and substantial improvements of existing structures shall be constructed with materials and utility equipment resistant to flood damage;

(3) New construction or substantial improvements of existing structures shall be constructed by methods and practices that minimize flood damage;

(4) Elevated Buildings - All New construction or substantial improvements of existing structures that include ANY fully enclosed area located below the lowest floor formed by foundation and other exterior walls shall be designed so as to be an unfinished or flood resistant enclosure. The enclosure shall be designed to equalize hydrostatic flood forces on exterior walls by allowing for the automatic entry and exit of floodwater.

(a) Designs for complying with this requirement must either be certified by a professional engineer or architect or meet the following minimum criteria:

(i) Provide a minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding;

(ii) The bottom of all openings shall be no higher than one foot above grade; and,

(iii) Openings may be equipped with screens, louvers, valves or other coverings or devices provided they permit the automatic flow of floodwater in both direction.

(b) So as not to violate the "Lowest Floor" criteria of this ordinance, the unfinished or flood resistant enclosure shall only be used for parking of vehicles, limited storage of maintenance equipment used in connection with the premises, or entry to the elevated area, and

(c) The interior portion of such enclosed area shall not be partitioned or finished into separate rooms.

(5) All heating and air conditioning equipment and components (including ductwork), all electrical, ventilation, plumbing, and other service facilities shall be designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.

(6) Manufactured homes shall be anchored to prevent flotation, collapse, or lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors. This standard shall be in addition to and consistent with applicable State requirements for resisting wind forces.

(7) New and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system;

(8) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters;

(9) On-site waste disposal systems shall be located and constructed to avoid impairment to them or contamination from them during flooding, and;

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

SECTION B. 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 standards of Article 4, Section A (4), "Elevated Buildings".

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

(2) Non-Residential Construction - New construction and/or the substantial improvement of any structure located in A1-30, AE, or AH zones, may be flood-proofed in lieu of elevation. The structure, together with attendant utility and sanitary facilities, must be designed to be water tight to ***one foot*** above the base flood elevation, with walls substantially impermeable to the passage of water, and structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effect of buoyancy. A registered professional engineer or architect shall certify that the design and methods of construction are in accordance with accepted standards of practice for meeting the provisions above, and shall provide such certification to the official as set forth above and in Article 3, Section C. (6).

(3) Standards for Manufactured Homes and Recreational Vehicles - Where base flood elevation data are available:

(a) All manufactured homes placed 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:

(i) The lowest floor of the manufactured home is elevated no lower than ***one foot*** above the level of the base flood elevation, or

(ii) The manufactured home chassis is elevated and supported by reinforced piers (or other foundation elements of at least an equivalent strength) of no less than 36 inches in height above grade.

(c) All manufactured homes must be securely anchored to an adequately anchored foundation system to resist flotation, collapse and lateral movement. (Ref. Article 4(A)(6) above)

(d) All recreational vehicles placed on sites must either:

(i) Be on the site for fewer than 180 consecutive days.

(ii) Be fully licensed and ready for highway use, (a recreational vehicle is ready for highway use if it is licensed, on its wheels or jacking system, attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached structures or additions), or

(iii) The recreational vehicle must meet all the requirements for "New Construction", including the anchoring and elevation requirements of Article 4, Section B (3)(a)(c), above.

(4). Floodway - Located within Areas of Special Flood Hazard established in Article 2, Section B, are areas designated as floodway. A floodway may be an extremely hazardous area due to velocity floodwaters, debris or erosion potential. In addition, the area must remain free of encroachment in order to allow for the discharge of the base flood without increased flood heights. Therefore, the following provisions shall apply:

(a) Encroachments are prohibited, including earthen fill, new construction, substantial improvements or other development within the regulatory floodway. Development may be permitted however, provided it is demonstrated through hydrologic and hydraulic analyses performed in accordance with standard engineering practice that the encroachment shall not result in **any** increase in flood levels or floodway widths during a base flood discharge. A registered professional engineer must provide supporting technical data and certification thereof.

(b) ONLY if Article 4 (B)(4)(a) above is satisfied, then any new construction or substantial improvement shall comply with all other applicable flood hazard reduction provisions of Article 4.

SECTION C. BUILDING STANDARDS FOR STREAMS WITHOUT ESTABLISHED BASE FLOOD ELEVATIONS AND/OR FLOODWAY (A-ZONES) -

Located within the Areas of Special Flood Hazard established in Article 2, Section B, where streams exist but no base flood data have been provided (A-Zones), OR where base flood data have been provided but a Floodway has not been delineated, the following provisions apply:

(1) When base flood elevation data or floodway data have not been provided in accordance with Article 2(B), then the Zoning Administrator shall obtain, review, and reasonably utilize any scientific or historic base flood elevation and floodway data available from a Federal, State, or other source, in order to administer the provisions of Article 4. ONLY if data are not available from these sources, then the following provisions (2&3) shall apply:

(2) No encroachments, including structures or fill material, shall be located within an area equal to the width of the stream or twenty feet, whichever is greater, measured from the top of the stream bank, unless certification by a registered professional engineer is provided demonstrating that such encroachment shall not result in more than a ***one foot*** increase in flood levels during the occurrence of the base flood discharge.

(3) In special flood hazard areas without base flood elevation data, new construction and substantial improvements of existing structures shall have the lowest floor of the lowest enclosed area (including basement) elevated no less than ***three feet*** above the highest adjacent grade at the building site. (NOTE: Require the lowest floor to be elevated one foot above the estimated base flood elevation in A-Zone areas where a Limited Detail Study has been completed). Openings sufficient to facilitate the unimpeded movements of floodwaters shall be provided in accordance with standards of Article 4, Section A (4) "Elevated Buildings".

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

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

SECTION D. STANDARDS FOR AREAS OF SPECIAL FLOOD HAZARD (ZONES AE) WITH ESTABLISHED BASE FLOOD ELEVATIONS WITHOUT DESIGNATED FLOODWAYS

Located within the Areas of Special Flood Hazard established in Article 2, Section B, where streams with base flood elevations are provided but no floodways have been designated, (Zones 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 flood-proofed to elevations established in accordance with Article 4, Section B.

SECTION E. STANDARDS FOR AREAS OF SHALLOW FLOODING (AO ZONES) - Areas of Special Flood Hazard established in Article 2, Section B, may include designated "AO" shallow flooding areas. These areas have base flood depths of ***one to three feet*** above ground, with no clearly defined channel. The following provisions apply:

(1) All new construction and substantial improvements of residential and non-residential structures shall have the lowest floor, including basement, elevated to the flood depth number specified on the Flood Insurance Rate Map (FIRM), above the highest adjacent grade. If no flood depth number is specified, the lowest floor, including basement, shall be elevated at least ***three feet*** above the highest adjacent grade. Openings sufficient to facilitate the unimpeded movements of flood waters shall be provided in accordance with standards of Article 4, Section A (4), "Elevated Buildings".

The Zoning 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 non-residential structure may be flood-proofed in lieu of elevation. The structure, together with attendant utility and sanitary facilities, must be designed to be water tight to the specified FIRM flood level plus ***one foot***, above highest adjacent grade, with walls substantially impermeable to the passage of water, and structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effect of buoyancy. A registered professional engineer or architect shall certify that the design and methods of construction are in accordance with accepted standards of practice for meeting the

provisions above, and shall provide such certification to the official as set forth above and as required in Articles 3(B)(1)(c) and (3)(B)(2).

(3) Drainage paths shall be provided to guide floodwater around and away from any proposed structure.

SECTION F. STANDARDS FOR SUBDIVISIONS

(1) All subdivision and/or development proposals shall be consistent with the need to minimize flood damage;

(2) 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;

(3) All subdivision and/or development proposals shall have adequate drainage provided to reduce exposure to flood hazards, and;

(4) For subdivisions and/or developments greater than ***fifty lots or five acres***, whichever is less, base flood elevation data shall be provided for subdivision and all other proposed development, including manufactured home parks and subdivisions. Any changes or revisions to the flood data adopted herein and shown on the FIRM shall be submitted to FEMA for review as a Conditional Letter of Map Revision (CLOMR) or Conditional Letter of Map Amendment (CLOMA), whichever is applicable. Upon completion of the project, the developer is responsible for submitting the "as-built" data to FEMA in order to obtain the final LOMR.

SECTION G. STANDARDS FOR CRITICAL FACILITIES

(1) Critical facilities shall not be located in the 100-year floodplain or the 500-year floodplain.

(2) All ingress and egress from any critical facility must be protected to the 500-year flood elevation.

ARTICLE 5. VARIANCE PROCEDURES

(A) The Planning Commission as established by Clarkesville Mayor and Council shall hear and decide requests for appeals or variance from the requirements of this ordinance.

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

(C) Any person aggrieved by the decision of the Planning Commission may appeal such decision to the Superior Court of Habersham County, as provided in Section 5-4-1 of the Official Code of Georgia Annotated.

(D) Variances may be issued for the repair or rehabilitation of Historic Structures upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a Historic Structure and the variance is the minimum to preserve the historic character and design of the structure.

(E) Variances may be issued for development necessary for the conduct of a functionally dependent use, provided the criteria of this Article are met, no reasonable alternative exists, and the development is protected by methods that minimize flood damage during the base flood and create no additional threats to public safety.

(F) Variances shall not be issued within any designated floodway if ANY increase in flood levels during the base flood discharge would result.

(G) In reviewing such requests, the Planning Commission shall consider all technical evaluations, relevant factors, and all standards specified in this and other sections of this ordinance.

(H) **Conditions for Variances:**

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

(i) a finding of good and sufficient cause,

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

(iii) a determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisance, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.

(2) The provisions of this Ordinance are minimum standards for flood loss reduction; therefore any deviation from the standards must be weighed carefully. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief; and, in the instance of 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 Zoning 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 ordinance, the Planning Commission may attach such conditions to the granting of variances as it deems necessary to further the purposes of this ordinance.

ARTICLE 6. DEFINITIONS

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

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

"Addition (to an existing building)" means any walled and roofed expansion to the perimeter of a building in which the addition is connected by a common load-bearing wall other than a firewall. Any walled and roofed addition, which is connected by a firewall or is separated by an independent perimeter load-bearing wall, shall be considered "New Construction".

"Appeal" means a request for a review of the Zoning Administrator's interpretation of any provision of this ordinance.

"Area of shallow flooding" means a designated AO or AH Zone on a community's Flood Insurance Rate Map (FIRM) with base flood depths from one to three feet, and/or where a clearly defined channel does not exist, where the path of flooding is unpredictable and indeterminate, and where velocity flow may be evident.

"Area of special flood hazard" is the land in the floodplain within a community subject to a one percent or greater chance of flooding in any given year. In the absence of official designation by the Federal Emergency Management Agency, Areas of Special Flood Hazard shall be those designated by the local community and referenced in Article 2, Section B.

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

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

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

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

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

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

"Development" means any man-made change to improved or unimproved real estate, including, but not limited to, buildings or other structures, mining, dredging, filling, grading, paving, excavating, drilling operations, and storage of materials or equipment.

"Elevated building" means a non-basement building built to have the lowest floor of the lowest enclosed area elevated above the ground level by means of fill, solid foundation perimeter walls, pilings, columns, piers, or shear walls adequately anchored so as not to impair the structural integrity of the building during a base flood event.

***"Existing construction"** means for the purposes of determining rates, structures for which the "start of construction" commenced before February 17, 1988.

***"Existing Manufactured Home Park or subdivision"** means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum the installation of utilities, the construction of streets, and final site grading or the pouring of concrete pads) is completed before September 8, 1987

"Expansion to an existing manufactured home park or subdivision" means the preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed, including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads.

"Flood" or "flooding" means a general and temporary condition of partial or complete inundation of normally dry land areas from:

(a.) the overflow of inland or tidal waters; or

(b.) the unusual and rapid accumulation or runoff of surface waters from any source.

"Flood Hazard Boundary Map (FHBM)" means an official map of a community, issued by the Federal Insurance Administration, where the boundaries of areas of special flood hazard have been defined as Zone A.

"Flood Insurance Rate Map (FIRM)" means an official map of a community, issued by the Federal Insurance Administration, delineating the areas of special flood hazard and/or risk premium zones applicable to the community.

"Flood Insurance Study" the official report by the Federal Insurance Administration evaluating flood hazards and containing flood profiles and water surface elevations of the base flood.

"Floodplain" means any land area susceptible to flooding.

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

"Floodway" means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height.

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

"Highest adjacent grade" means the highest natural elevation of the ground surface, prior to construction, adjacent to the proposed foundation of a building.

"Historic Structure" means any structure that is;

a. Listed individually in the National Register of Historic Places (a listing maintained by the U.S. Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register:

b. Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district:

c. Individually listed on a state inventory of historic places and determined as eligible by states with historic preservation programs which have been approved by the Secretary of the Interior; or

d. Individually listed on a local inventory of historic places and determined as eligible by communities with historic preservation programs that have been certified either:

1. By an approved state program as determined by the Secretary of the Interior, or

2. Directly by the Secretary of the Interior in states without approved programs.

Lowest floor means the lowest floor of the lowest enclosed area, including basement. An unfinished or flood resistant enclosure, used solely for parking of vehicles, building access, or storage, in an area other than a basement, is not considered a building's lowest floor, provided that such enclosure is not built so as to render the structure in violation of other provisions of this code.

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

"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 is a vertical control used as a reference for establishing varying elevations within the floodplain.

***"New construction"** means, for the purposes of determining insurance rates, structures for which the "start of construction" commenced after February 17, 1988 and includes any subsequent improvements to such structures. For floodplain management purposes, "new construction" means structures for which the "start of construction" commenced after September 8, 1987 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 September 8, 1987.

"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:

a. built on a single chassis;

b. 400 square feet or less when measured at the largest horizontal projection;

c. designed to be self-propelled or permanently towable by a light duty truck; and

d. designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

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

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

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

"Substantial damage" means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed fifty (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 5-year period, in which the cumulative cost equals or exceeds fifty (50) percent of the market value of the structure prior to the "start of construction" of the improvement. NOTE: *The market value of the structure should be (1) the appraised value of the structure prior to the start of the initial repair or improvement, or (2) in the case of damage, the value of the structure prior to the damage occurring.* This term includes structures, which have incurred "substantial damage", regardless of the actual amount of repair work performed.

For the purposes of this definition, "substantial improvement" is considered to occur when the first alteration of any wall, ceiling, floor, or other structural part of the building commences, whether or not that alteration affects the external dimensions of the building. The term does not, however, include

(1) those improvements of a structure required to comply with existing violations of state or local health, sanitary, or safety code specifications which are solely necessary to assure safe living conditions and which have been identified by the Code Enforcement Official, and not solely triggered by an improvement or repair project, or (2) any alteration of a "historic structure" provided that the alteration will not preclude the structure's continued designation as a "historic structure".

"Substantially improved existing manufactured home parks or subdivisions" is where the repair, reconstruction, rehabilitation or improvement of the streets, utilities and pads equals or exceeds 50 percent of the value of the streets, utilities and pads before the repair, reconstruction or improvement commenced.

"Variance" is a grant of relief from the requirements of this ordinance, which permits construction in a manner otherwise prohibited by this ordinance.

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

ARTICLE 7. SEVERABILITY

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

Ordinance adopted on April 6, 2009.

BY: Franklin Brown

Tina Evans

Certified by: Elizabeth Kemp

Date: 4/6/2009

Chapters 35--37

RESERVED

Chapter 38

HEALTH AND SANITATION*

* **Editors Note:** Pursuant to a resolution adopted December 7, 1992, the city adopted the solid waste management plan for Habersham County and the cities of Alto, Baldwin, Clarkesville, Cornelia, Demorest, Mount Airy, and Tallulah Falls, dated May 1992, prepared by Hodges, Harbin, Newberry and Tribble, Inc.

Cross References: Alcoholic beverages, ch. 6; buildings and building regulations, ch. 14; businesses, ch. 18; environment, ch. 26; floods, ch. 34; offenses and miscellaneous provisions, ch. 46; utilities, ch. 58.

State Law References: Promulgation of rules, regulations and standards by state department of human resources and county boards of health, O.C.G.A. § 26-2-373; authority to provide public health facilities and services, Ga. Const. art. IX, § II, ¶ III(a)(3); health generally, O.C.G.A. § 31-1-1 et seq.; regulations for septic tanks or individual sewerage management systems in unincorporated areas, O.C.G.A. § 31-3-5.1; power of county board of health to adopt rules and regulations of local application, O.C.G.A. § 31-3-6; power of county board of health to adopt and enforce rules and regulations, O.C.G.A. § 31-3-4(a)(4).

Sec. 38-1. Food establishments required to install food and grease traps.
Sec. 38-2. Licenses, permits, tags or certificates.

Sec. 38-1. Food establishments required to install food and grease traps.

All business establishments in the city serving food shall be required to have installed a food and grease trap. The size shall be determined and approved by the state department of natural resources as interpreted by the county health department. The county environmental health regulations officer will provide the specifications and the inspections for compliance.
(Ord. of 7-1-1984)

Sec. 38-2. Licenses, permits, tags or certificates.

No licenses, permits, tags or certificates required by this chapter shall be issued unless the applicant provides a statement by the city clerk certifying that all ad valorem taxes levied against the property and due and owing have been paid.
(Res. of 6-29-2004, § 1(a))

Chapters 39--41

RESERVED

Chapter 42

MANUFACTURED HOMES AND TRAILERS*

* **Cross References:** Buildings and building regulations, ch. 14; fire prevention and protection, ch. 30; floods, ch. 34; taxation, ch. 50; traffic and vehicles, ch. 54; utilities, ch. 58; zoning, app. A.

State Law References: Registration and licensing of dealers, manufacturers and persons transporting mobile homes, O.C.G.A. § 40-2-38; removal of transportable housing from lands subject to writ of possession, O.C.G.A. § 44-7-59; ad valorem taxation of mobile homes, O.C.G.A. § 48-5-440 et seq.; issuance of mobile home location permits; display of decals, O.C.G.A. § 48-5-492; the Uniform Standards Code for Manufactured Homes Act, O.C.G.A. § 8-2-130 et seq.; classification of mobile homes as a separate class of property for ad valorem property tax purposes, Ga. Const. art. VII, § I, ¶ III.

Article I. In General

Sec. 42-1. Provisions saved from repeal.
Secs. 42-2--42-30. Reserved.

Article II. Mobile Home Parks

Division 1. Generally

Sec. 42-31. Definitions.
Sec. 42-32. Penalty for violation of article.
Sec. 42-33. Setback.
Sec. 42-34. Lot.
Sec. 42-35. Density.
Sec. 42-36. Additions and modifications.
Sec. 42-37. Animals and pets.
Sec. 42-38. Lot and park maintenance.
Sec. 42-39. Park lighting.
Sec. 42-40. Roads.
Sec. 42-41. Water.
Sec. 42-42. Garbage stations.
Sec. 42-43. Management.
Secs. 42-44--42-65. Reserved.

Division 2. Permit

Sec. 42-66. Required.
Sec. 42-67. Period of validity.
Sec. 42-68. Park plan to be submitted and approved.
Sec. 42-69. Issuance.
Sec. 42-70. Fees; form of application.
Sec. 42-71. Revocation and suspension.
Sec. 42-72. Hearing on granting, denial, renewal, revocation or suspension.

ARTICLE I.

IN GENERAL

Sec. 42-1. Provisions saved from repeal.

Ordinance number 15 regulating house trailers in the city is not repealed and shall continue in full force and effect pending a revision of the subject matter by the city.

Secs. 42-2--42-30. Reserved.

ARTICLE II.

MOBILE HOME PARKS

DIVISION 1.

GENERALLY

Sec. 42-31. Definitions.

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

Lot means a section of land in a mobile home park of not less than 5,000 square feet of unoccupied space designated as the location for only one mobile home.

Mobile home includes a manufactured home and means a structure, transportable in one or more sections, which, in the traveling mode, is eight body feet or more in width or 40 body feet or more in length or, when erected on site is 320 or more square feet and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air conditioning and electrical systems contained therein; except that such term shall also include any structure which meets all the requirements of this definition except the size requirements and with respect to which the manufacturer voluntarily files a certification required by the secretary of housing and urban development and complies with the standards established under the National Manufactured Home Construction and Safety Standards Act of 1974, 42 USC 5401 et seq.

Mobile home park means any tract, parcel or lot of land designed, maintained or intended for the purposes of supplying a location, accommodation or placement of any mobile home and shall include any buildings or structures used or intended to be used as common facilities by all mobile home owners or tenants whether a charge is made for the use of the mobile home park and its facilities or not. The term "mobile home park" shall not include mobile home sales lots on which unoccupied mobile homes are parked for purposes of inspection and sale.

Person means a natural person, partnership, firm, company, corporation, tenant, owner, lessee, or licensee, their agents, heirs and assigns.
(Ord. No. 37, § I, 4-2-1984)

Cross References: Definitions generally, § 1-2.

Sec. 42-32. Penalty for violation of article.

Any person found guilty of violating any provision of this article shall be punished as provided in section 1-12.
(Ord. No. 37, § VII, 4-2-1984)

Sec. 42-33. Setback.

No mobile home shall be located closer than 50 feet from the centerline of any road within the mobile home park or the road upon which the mobile home park fronts. No portion of any mobile home shall be closer than 15 feet to any portion of any other mobile home.
(Ord. No. 37, § II(a), 4-2-1984)

Sec. 42-34. Lot.

(a) Each mobile home lot shall be a minimum of 50 feet by 100 feet and a minimum area of 5,000 square feet.

(b) Each lot will be furnished with electrical, water and sewerage connections. All utilities and their entrances shall be underground.

(c) Each lot will have an off-street paved parking spot for at least one vehicle.

(d) One unattached, enclosed metal storage building not to exceed ten feet by 12 feet in size shall be allowed on each lot.
(Ord. No. 37, § II(b), 4-2-1984)

Sec. 42-35. Density.

No more than five mobile homes per developed acre will be allowed within the mobile home park.
(Ord. No. 37, § II(c), 4-2-1984)

Sec. 42-36. Additions and modifications.

No additional heated living space or rooms shall be added to the original home. Modifications to mobile homes shall be limited to patios, decks and awnings.
(Ord. No. 37, § II(d), 4-2-1984)

Sec. 42-37. Animals and pets.

No outdoor pens, hutches, kennels, dog houses or any other outdoor shelter for animals and pets shall be allowed.
(Ord. No. 37, § II(e), 4-2-1984)

Sec. 42-38. Lot and park maintenance.

(a) All unwooded open areas of the park and each lot shall be grassed and landscaped. Trees shall be left at random throughout the mobile home park.

(b) The park owner will inspect each lot at least once a month to ensure that each lot and its yard are properly maintained in a reasonable manner.

(c) No unlicensed vehicles, trailers, motorcycles or mopeds shall be allowed in the park. Any unlicensed or unoperable vehicle remaining within the park for a month shall be subject to being towed away, stored or disposed of at the vehicle owner's expense.

(d) Any lot not being properly maintained shall, after ten days' notice of such lack of maintenance to the occupant by the park owner or manager, be subject to having such maintenance done by park management at the owner's expense.
(Ord. No. 37, § II(f), 4-2-1984)

Sec. 42-39. Park lighting.

The park owner shall provide one security light for every five mobile homes located within the park boundaries.
(Ord. No. 37, § II(g), 4-2-1984)

Sec. 42-40. Roads.

All roads and driveways within the park boundaries shall be paved within two years of the issuance of the initial park permit.
(Ord. No. 37, § II(h), 4-2-1984)

Sec. 42-41. Water.

All water used or consumed within the park area shall be metered by a master meter.
(Ord. No. 37, § II(i), 4-2-1984)

Sec. 42-42. Garbage stations.

All garbage pickup stations shall be enclosed so that garbage cans cannot be tipped over. All garbage containers shall have covers or lids.
(Ord. No. 37, § II(j), 4-2-1984)

Sec. 42-43. Management.

(a) *Posting copy of article by park manager.* The manager or owner of every mobile home park shall post a copy of this article and park permit in a conspicuous place within the park which is protected from the weather and accessible to all residents of the park.

(b) *Maintenance of register of park residents; contents.* It is the duty of the park manager to maintain a register of all residents of the park (which shall be open at all times to inspection by state, federal and city officers) showing for all lot occupants:

(1) Their names and addresses.

(2) License numbers of all vehicles belonging to any park resident.

(3) Description and manufacturers ID number for any home located in the park.

(c) *Park maintenance.* The park manager shall maintain the park in a clean, orderly and sanitary condition at all times.

(d) *Enforcement procedures.* The park manager shall see that the provisions of this article are complied with and enforced and report promptly to the proper authorities any violations of this article which may or should come to his attention.

(e) *Running at large of animals.* The park manager shall prevent the running loose of dogs, cats or other animals or pets.

(f) *Prevention of nuisances.* The park manager shall prevent any lot or mobile home from becoming an eyesore, unsafe or a nuisance.
(Ord. No. 37, § IV, 4-2-1984)

Secs. 42-44--42-65. Reserved.

DIVISION 2.

PERMIT

Sec. 42-66. Required.

It shall be unlawful for any person to establish, operate or maintain, or permit to be established, operated or maintained, upon any property owned or controlled by him a mobile home park within the limits of the city without having first secured a permit therefor from the mayor and city council, granted and existing in compliance with the terms of this article.
(Ord. No. 37, § III(a), 4-2-1984)

Sec. 42-67. Period of validity.

A mobile home park permit shall be valid for a period of 12 months or until the end of the calendar year in which it was issued, at which time it shall be subject to review and revocation or renewal.
(Ord. No. 37, § III(b), 4-2-1984)

Sec. 42-68. Park plan to be submitted and approved.

Prior to the issuance of the initial park permit, a scaled plan of the mobile home park shall be submitted to and approved by the mayor and city council. Such plan will indicate:

(1) Entrances and exits to the park, roadways, walkways and parking areas.

(2) Location and size of each mobile home lot.

(3) Location, size and number of common facilities including, but not limited to, laundries,

playground, recreation areas, swimming pools, laundry rooms and storage areas.

(4) Method and plan for sewage disposal.

(5) Method and plan of garbage and refuse removal.

(6) Plan of water supply.

(7) Plan of street and security lighting.

(8) Type of road surfacing.

(9) Incinerator and burning space.

(Ord. No. 37, § III(c), 4-2-1984)

Sec. 42-69. Issuance.

(a) Once the initial plan is approved, the mayor and city council shall authorize the city clerk to issue a park permit.

(b) No permit shall be issued unless the applicant provides a statement by the city clerk certifying that all ad valorem taxes levied against the property and due and owing have been paid.

(Ord. No. 37, § III(d), 4-2-1984; Res. of 6-29-2004, § 1(a))

Sec. 42-70. Fees; form of application.

The application for such permit shall be filed with the city clerk and shall be accompanied by a fee as set forth in the schedule of fees and charges per mobile home lot. The application for the permit or renewal of the permit shall be made on printed forms furnished by the city clerk and shall include the following:

(1) The name, address and phone number of the property owner.

(2) A legal description of the premises, upon which the mobile home park will be located as will readily identify and definitely locate the premises.

(3) In the case of an initial permit or a renewal thereof with material changes from the initial permit, a scaled plan of the mobile home park as set forth in section 42-68.

(4) The name, address and telephone number of the park manager.

(Ord. No. 37, § III(e), 4-2-1984)

Sec. 42-71. Revocation and suspension.

The mayor and city council are hereby authorized to revoke any permit issued pursuant to the terms of this article if, after due investigation, they determine that the holder has violated any of the provisions of this article or that any mobile home, lot or park is being maintained in an unsanitary or unsafe manner or is a

nuisance.
(Ord. No. 37, § V(a), 4-2-1984)

Sec. 42-72. Hearing on granting, denial, renewal, revocation or suspension.

Any person aggrieved by an order of the mayor and city council granting, denying, renewing, revoking or suspending a permit for a mobile home park under this article may file a written request for a hearing before the mayor and city council within five days after the issuance of such order. The mayor and city council shall give notice of a public hearing upon this request to be held no less than five days after service of the notice on the person requesting the hearing. At such a hearing, the mayor and city council shall determine whether the granting, denial, renewal, revocation or suspension of the permit was in accordance with the provisions of this article and shall issue a written findings of fact, conclusions of law and an order to carry out its findings and conclusions. These findings of fact, conclusions of law and order shall be filed with the city clerk and served by the mayor and city council upon all parties appearing or represented at the hearing.
(Ord. No. 37, § VI, 4-2-1984)

Chapters 43--45

RESERVED

Chapter 46

OFFENSES AND MISCELLANEOUS PROVISIONS*

* **Cross References:** Alcoholic beverages, ch. 6; animals, ch. 10; health and sanitation, ch. 38; traffic and vehicles, ch. 54.

State Law References: Criminal Code of Georgia, O.C.G.A. § 16-1-1 et seq.; limitation on home rule powers of municipal corporations with respect to duplication of state criminal offenses, O.C.G.A. § 36-35-6(a)(2).

Article I. In General

Sec. 46-1. Damaging or tampering with facilities or services; unlawful diversion of service.
Sec. 46-2. Loitering or prowling.
Sec. 46-3. Drinking in public.
Sec. 46-4. Public drunkenness.
Sec. 46-5. Disorderly conduct.
Sec. 46-6. Littering.
Sec. 46-7. Swimming, bathing or wading in Soque River.
Sec. 46-8 Nuisances, offensive or hazardous conditions
Secs. 46-9-46-40. Reserved.

Article II. Firearms and Explosives

Sec. 46-41. Definitions.
Sec. 46-42. Penalty for violation of article.
Sec. 46-43. Prohibited acts.
Sec. 46-44. Discharge of firearm in self-defense or defense of third party.
Sec. 46-45. Discharge or detonation of firearms with permit authorized.
Secs. 46-46--46-75. Reserved.

Article III. Sexually Explicit Materials

Sec. 46-76. Purpose of article.
Sec. 46-77. Definitions.
Sec. 46-78. Penalty for violation of article.
Sec. 46-79. Prohibited acts.

ARTICLE I.

IN GENERAL

Sec. 46-1. Damaging or tampering with facilities or services; unlawful diversion of service.

(a) *Prohibited acts.* It shall be unlawful for any person intentionally and without authority to injure or destroy any meter, pipe, conduit, wire, line, post, lamp or other apparatus belonging to a company or to the city or other political subdivision engaged in the manufacture or sale of electricity, gas, water, telephone or other public services, or intentionally and without authority to prevent a meter from properly registering the quantity of such service supplied, or in any way to interfere with the proper action of such company or city or political subdivision, or intentionally to divert any services of such company, city or political subdivision or otherwise intentionally and without authority to use or cause to be used, without the consent of such company, city or political subdivision, any service manufactured, sold or distributed by such company, the city or political subdivision.

(b) *Presumption of responsibility.* Where there is no evidence to the contrary, the person performing any of the illegal acts described in subsection (a) of this section and the person who with knowledge of such violation receives the benefit of such service without proper charge as a result of such improper action shall be presumed to be responsible for such acts of tampering or diversion.

(c) *Penalty for violation of section.* Violators of the provisions of this section shall be punished as provided in section 1-12.

(d) *Additional remedies.* In addition to fines, forfeiture and imprisonment, any person convicted for violation of this section shall pay retribution to the city for any damage to its equipment at current costs for labor and materials necessary to reestablish service.

State Law References: Damaging, injuring or interfering with utilities, O.C.G.A. § 16-7-25.

Sec. 46-2. Loitering or prowling.

The offense of loitering or prowling, as defined in this section, within the city, is hereby declared unlawful. A person commits the offense of loitering or prowling when he is in a place at a time or in a manner not usual for law-abiding individuals under circumstances that warrant a justifiable and reasonable alarm or immediate concern for the safety of persons or property in the vicinity. Among the circumstances which may be considered in determining whether alarm is warranted is the fact that the person takes flight upon the appearance of a law enforcement officer, refuses to identify himself, or manifestly endeavors to conceal himself or any object. Unless flight by the person or other circumstances make it impracticable, a law enforcement officer shall, prior to any arrest for this offense, afford the person an opportunity to dispel any alarm or immediate concern which would otherwise be warranted by requesting the person to identify himself and explain his presence and conduct. No person shall be convicted of this offense if the law enforcement officer failed to comply with such procedure or if it appears at trial that the explanation given by the person was true and would have dispelled the alarm or immediate concern.

State Law References: Loitering or prowling, O.C.G.A. § 16-11-36.

Sec. 46-3. Drinking in public.

It shall be unlawful for any person to consume any spirituous malt or alcoholic beverage while a pedestrian in or upon any street, alley, sidewalk or other public way or place within the city, or within any public building.

Sec. 46-4. Public drunkenness.

It shall be unlawful for any person within the city to be and appear in an intoxicated condition upon any street or sidewalk of the city, or in any other public place or private business premises patronized by the public, when such condition results in boisterous, disruptive or annoying behavior which interferes with the lawful pursuits of others.

State Law References: Public drunkenness, O.C.G.A. § 16-11-41.

Sec. 46-5. Disorderly conduct.

It shall be unlawful for any person within the city to engage in any violent, tumultuous, obstreperous or similar disorderly conduct tending to infringe on the peace and repose of the citizens of the city. Such unlawful

disorderly conduct shall include, but not be limited to, the following:

(1) Fighting between two or more persons in which physical contact is made, except which occurs in organized boxing, martial arts or wrestling exhibitions or training programs, organized and presented as part of a recognized athletic program or lawfully presented entertainment event.

(2) The commission of a reckless or knowing act which may reasonably be expected to prevent or disrupt a lawful meeting, gathering or procession.

Sec. 46-6. Littering.

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

Litter means all discarded sand, gravel, slag, brickbats, rubbish, waste material, tin cans, refuse, garbage, trash, debris, dead animals or other discarded materials of every kind and description which are not waste as such term is defined in O.C.G.A. § 16-7-51.

Public property or *private property* means the right-of-way of any road or highway; any body of water or watercourse or the shores or beaches thereof; any park, playground, building, refuge or conservation or recreation area; and residential or farm properties, timberlands or forests.

(b) *Prohibited acts.* It shall be unlawful for any person to dump, deposit, throw or leave, or to cause or permit the dumping, depositing, placing, throwing or leaving of litter on any public or private property in this city or any waters in this city, unless:

(1) The property is designated by the city for the disposal of litter and the person is authorized by the proper public authority to use such property;

(2) The litter is placed into a litter receptacle or container installed on such property; or

(3) The person is the owner or tenant in lawful possession of such property or has first obtained consent of the owner or tenant in lawful possession or unless the act is done under the personal direction of the owner or tenant, all in a manner consistent with the public welfare.

(c) *Penalty for violation of section.* Any person who violates subsection (b) of this section shall be guilty of a misdemeanor and, upon conviction, shall be punished as follows:

(1) By a fine of not less than $100.00, nor more than $1,000.00;

(2) In the sound discretion of a court in which conviction is obtained, the person may be directed to pick up and remove from any public street or highway or public right-of-way for a distance not to exceed one mile any litter the person has deposited and any and all litter deposited thereon by anyone else prior to the date of execution of sentence; or

(3) In the sound discretion of the judge of a court in which conviction is obtained, the person may be

directed to pick up and remove from any public beach, public park, private right-of-way, or, with the prior permission of the legal owner or tenant in lawful possession of such property, any private property upon which it can be established by competent evidence that the person has deposited litter, any and all litter deposited thereon by anyone prior to the date of execution of sentence.

(d) The court may publish the names of persons convicted of violating subsection (b) of this section.

State Law References: Litter Control Law, O.C.G.A. § 16-7-40 et seq.

Sec. 46-7. Swimming, bathing or wading in Soque River.

(a) *Permission required.* It is hereby a violation of this section for anyone to swim, bathe or wade in the Soque River along its course extending on the boundary of that area known as Pitts Park, without receiving prior written permission of the city manager for such swimming, bathing or wading.

(b) *Penalty for violation of section.* Violators of this section shall, upon conviction, be punished as provided in section 1-12.
(Ord. No. 58, § 2, 7-6-1992)

Sec. 46-8. Creating or maintaining hazardous or offensive condition or nuisances.

It shall be unlawful for any person to create or permit to be continued a nuisance, hazardous or physically offensive condition, including, but not limited to, actions or conditions offensive to the senses of sight, sound and smell, by any act which serves no legitimate purpose, whether or not the act is otherwise legal or not. A nuisance is anything that causes hurt, inconvenience, or damage to another and the fact that the act done may otherwise be lawful shall not keep it from being a nuisance. Such acts shall include anything that is hazardous or a nuisance under State or federal law, including but not limited to the provisions of O.C.G.A. sec. 41-1-1 as amended from time to time. Such acts shall also include any actions or conditions that would constitute disorderly conduct as defined in O.C.G.A. sec. 16-11-39, as amended from time to time, and maintaining a disorderly house as defined in O.C.G.A. sec. 16-11-44, as amended from time to time

Penalty for violation of section. Violators of this section shall be guilty of a misdemeanor and, upon conviction, be punished by a fine of not less than $100.00, nor more than $1000.00.

Secs. 46-9--46-40. Reserved.

ARTICLE II.

FIREARMS AND EXPLOSIVES*

* **State Law References:** Fireworks, O.C.G.A. § 25-10-1 et seq.

Sec. 46-41. 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:

Fireworks and *explosive device* mean any combustible or explosive composition or any substance, or combination of substances or article, prepared for the purpose of producing a visible or audible effect by combustion, explosion, deflagration or detonation, including blank cartridges, firecrackers, torpedoes, skyrockets, Roman candles, bombs, sparklers and other combustibles and explosives of like construction, as well as articles containing any explosive or flammable compound and tablets and other devices containing an explosive substance.
(Ord. of 4-2-1990, § II)

Cross References: Definitions generally, § 1-2.

Sec. 46-42. Penalty for violation of article.

Violators of this article shall, upon conviction, be punished as provided in section 1-12.
(Ord. of 4-2-1990, § V)

Sec. 46-43. Prohibited acts.

No person shall discharge or cause to be discharged a firearm, fireworks or other explosive device within the city.
(Ord. of 4-2-1990, § I)

State Law References: Discharge of firearm near public highway or street, O.C.G.A. § 16-11-103; discharge of firearm on property of another, O.C.G.A. § 16-11-104; discharge of firearm on Sunday, O.C.G.A. § 16-11-105; Georgia Firearms and Weapons Act, O.C.G.A. § 16-11-120 et seq.

Sec. 46-44. Discharge of firearm in self-defense or defense of third party.

It shall not constitute a violation of this article if a firearm is discharged in lawful defense of oneself or a third person as defined by O.C.G.A. § 16-3-21.
(Ord. of 4-2-1990, § III)

Sec. 46-45. Discharge or detonation of firearms with permit authorized.

It shall not constitute a violation of this article if a firearm is discharged at the city firing range, or if the fireworks or explosive device is detonated in a commercial display, provided that in each such instance the person desiring to use the firing range or detonate the fireworks shall first obtain from the chief of police of the city a written permit for such activity.
(Ord. of 4-2-1990, § IV)

Secs. 46-46--46-75. Reserved.

ARTICLE III.

SEXUALLY EXPLICIT MATERIALS

Sec. 46-76. Purpose of article.

The purpose of this article is to eliminate the sale, loan and exhibition of sexually explicit materials to minors which may be harmful to them.
(Ord. No. 30, § I, 11-7-1983)

Sec. 46-77. 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:

Display to minors means to allow minors the uncontrolled access to any of the materials and matters regulated by this article. It shall be deemed sufficient control of access to such materials or matters if any of the following procedures are instituted and maintained by such vendors:

(1) Such materials are displayed on racks at a height above the level to which a 16-year old child can reach with a plain cover on such materials with nothing but the name of the materials left showing.

(2) Such materials are kept out of plain view and are sold only by specific request of nonminors.

Harmful to minors means that quality of any description or representation, in whatever form, of sexually explicit nudity, sexual conduct, sexual excitement, bestiality or sadomasochistic abuse, when taken as a whole it:

(1) Predominantly appeals to the prurient, shameful or morbid interest of minors;

(2) Is patently offensive to prevailing standards in the adult community as a whole with respect to what is suitable material for minors; and

(3) Lacks serious literary, artistic, political or scientific value.

Knowingly means having general knowledge of, or reason to know, or a belief or ground for belief which warrants further inspection or inquiry of both:

(1) The character and content of any material described in this article which is reasonably susceptible of examination by the defendant; and

(2) The age of the minor, provided that an honest mistake shall constitute an excuse from liability under this article if the defendant made a reasonable bona fide attempt to ascertain the true age of such minor.

Minor means any person under the age of 16 years.

Sadomasochistic abuse means actual or simulated flagellation or torture by or upon a person nude or clad in undergarments, a mask or bizarre costume, or the condition of being fettered, bound or otherwise physically restrained on the part of one so clothed or nude.

Sexual conduct means actual or simulated acts of masturbation, homosexuality, bestiality, sexual intercourse or physical contact with a person's clothed or unclothed genitals, pubic area, buttocks, or, if such person is a female, her breast.

Sexual excitement means the condition of human male or female genitals when in a state of sexual stimulation or arousal.

Sexually explicit nudity means the showing of the human male or female genitals, pubic area or buttocks with less than a full opaque covering, or the showing of the female breast with less than a fully opaque covering of any portion thereof below the top of the nipple, or the depiction of covered male genitals in a discernibly turgid state.
(Ord. No. 30, § II, 11-7-1983)

Cross References: Definitions generally, § 1-2.

Sec. 46-78. Penalty for violation of article.

Any person that shall fail to comply with, or shall violate any of the provisions of this article, shall, upon conviction, be punished as provided in section 1-12.
(Ord. No. 30, § IV, 11-7-1983)

Sec. 46-79. Prohibited acts.

It shall be unlawful for any person knowingly to sell or loan for monetary consideration to a minor, or display to minors:

(1) A picture, photograph, drawing, sculpture, motion picture film or similar visual representation or image of a person or portion of the human body which depicts sexually explicit nudity, sexual conduct or sadomasochistic abuse and which, taken as a whole, is harmful to minors; or

(2) Any book, pamphlet, magazine or printed matter, however reproduced, or sound recording which contains any matter enumerated in subsection (1) of this section, or explicit and detailed verbal descriptions or narrative accounts of sexual excitement, sexual conduct or sadomasochistic abuse and which, taken as a whole, is harmful to minors.

(Ord. No. 30, § III, 11-7-1983)

Chapters 47--49

RESERVED

Chapter 50

TAXATION*

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* **Cross References:** Administration, ch. 2; alcoholic beverages, ch. 6; businesses, ch. 18; manufactured homes and trailers, ch. 42.

State Law References: Revenue Bond Law, O.C.G.A. § 36-82-60 et seq.; ad valorem taxation of property, O.C.G.A. § 48-5-1 et seq.; ad valorem taxation of motor vehicles, O.C.G.A. § 48-5-440 et seq.; freeport exemption, O.C.G.A. § 48-5-48.2; joint county and municipal sales and use tax, O.C.G.A. § 48-8-80 et seq.; landmark historic property tax abatement program, O.C.G.A. § 58-5-7.3; limitation on taxing power of municipalities and counties, Ga. Const. art. IX, § II, ¶ VIII; taxation power of municipal and county governments, Ga. Const. art. IX, § IV, ¶ I.

Article I. In General

Secs. 50-1--50-30. Reserved.

Article II. Hotel-Motel Excise Tax

Sec. 50-31. Definitions.
Sec. 50-32. Penalties for violation of article.
Sec. 50-33. Imposition and rate.
Sec. 50-34. Collection of tax by operator.
Sec. 50-35. Exemptions.
Sec. 50-36. Registration of operator.
Sec. 50-37. Certificate of taxing authority.
Sec. 50-38. Due date of taxes.
Sec. 50-39. Returns and time of filing; remittance.
Sec. 50-40. Collection fee allowed operators.
Sec. 50-41. Deficiency determinations.
Sec. 50-42. Determination if no return made.
Sec. 50-43. Collection of tax.
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Article III. Insurers' License Fees and Taxes

Sec. 50-76. Life insurer's license fees.
Sec. 50-77. License fee for life insurers insuring certain risks at additional business locations.
Sec. 50-78. Life insurance agency license fees; independent life insurance agencies, brokers, etc., not otherwise licensed.
Sec. 50-79. Gross premiums tax imposed on life insurers.
Sec. 50-80. Gross premiums tax; all other insurers.
Sec. 50-81. Due date for license fees.
Secs. 50-82--50-110. Reserved.

Article IV. Depository Financial Institutions Business License Tax

Sec. 50-111. Purpose of article.
Sec. 50-112. Penalty for violation of article.
Sec. 50-113. Imposition; rate; due date.
Sec. 50-114. Determination and definition of gross receipts.

ARTICLE I.

IN GENERAL

Secs. 50-1--50-30. Reserved.

ARTICLE II.

HOTEL-MOTEL EXCISE TAX*

* **State Law References:** Tourist courts, O.C.G.A. § 31-28-1 et seq.; operators of hotels, inns and roadhouses, O.C.G.A. § 43-21-1 et seq.

Sec. 50-31. Definitions.

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

Clerk means the city clerk.

Due date means the 20th day after the end of the monthly period for which tax is to be computed.

Guestroom means a room occupied, or intended, arranged or designed for occupancy, by one or more occupants for the purpose of living quarters or residential use.

Monthly period means a calendar month.

Motel means any structure or any portion of a structure, including any motel, lodginghouse, roominghouse, dormitory, Turkish bath, bachelor hotel, hotel, motor hotel, auto court, inn, bed and breakfast inn, public club or private club, containing guestrooms and which is occupied, or is intended or designed for occupancy by guests, whether rent is paid in money, goods, labor, or otherwise. Such term does not include any jail, hospital, asylum, sanitarium, orphanage, prison, detention center or other buildings in which human beings are housed and detained under legal restraint.

Occupancy means the use or possession, or the right to the use or possession, of the furnishings or to the services and accommodations accompanying the use and possession of the room.

Occupant or *guest* means any person who, for a consideration, uses, possesses, or has the right to use or possess, any room in a motel under any lease, concession, permit, right of access, license to use or other agreement, or otherwise.

Operator means any person operating a motel in the city including, but not limited to, the owner or proprietor of such premises, the lessee, sublessee, lender in possession, licensee or any other person otherwise operating such motel.

Person means an individual, firm, partnership, joint venture, association, social club, fraternal organization, joint stock company, corporation, nonprofit corporation or cooperative nonprofit membership, estate, trust, business trust, receiver, trustee, syndicate, or any other group or combination acting as a unit, the plural as well as the singular number, excepting the United States of America, the state, and any political subdivision of either upon which the city is without power to impose the tax provided in this article.

Rent means the consideration received for occupancy valued in money, whether received in money or otherwise, including all receipts, cash, credits, and property or services of any kind or nature, and also the amount for which credit is allowed by the operator to the occupant, without any deduction therefrom whatsoever.

Return means any return filed or required to be filed as provided in this article.

Tax means the tax imposed by this article.
(Ord. No. 45, § 1, 10-5-1987)
Cross References: Definitions generally, § 1-2.

Sec. 50-32. Penalties for violation of article.

(a) Any person violating any of the provisions of this article shall be deemed guilty of an offense and, upon conviction, shall be punished as provided in section 1-12. Each such person shall be guilty of a separate offense for each and every day or portion of a day during which any violation of any provision of this article is committed, continued or permitted by such person, and shall be punished accordingly.

(b) Any operator or other person who fails to register as required in this article, or to furnish any return required to be made, or who fails or refuses to furnish a supplemental return or other data required by the clerk, or who renders a false or fraudulent return shall be deemed guilty of an offense and, upon conviction, shall be punished as provided in section 1-12. Any person required to make, render, sign, or verify any report who makes any false or fraudulent report, with intent to defeat or evade the determination of an amount due required by this article to be made shall be deemed guilty of an offense and, upon conviction, shall be punished as provided in section 1-12.
(Ord. No. 45, § 15, 10-5-1987)

Sec. 50-33. Imposition and rate.

(a) There is hereby levied and imposed, and there shall be paid a tax of five percent of the rent for every occupancy of a guestroom in a motel in the city, provided that levy and collection of that portion of such tax amounting to two percent of the rent which is required to be expended for the purpose of promoting tourism, conventions and trade shows, or for other purposes provided in O.C.G.A. § 48-13-51(a)(3), shall be suspended during periods of time during which the city has no contract for the expenditure of such funds with the state, a department of the state government, a state authority or a private sector nonprofit organization, or a contract or contracts with some combination of such entities. Written notice of the dates of the beginning and end of such periods of suspension shall be given to each operator of a motel in the city on or before the date immediately preceding the date each period begins and ends by the clerk of the city or such other person as may be designated by him to give such notice. Such notice shall be deemed sufficient if delivered to any person authorized to collect rent for the operator of the motel to whom notice is required to be given.

(b) Such tax shall be paid upon any occupancy occurring on or after February 1987, although such occupancy is had pursuant to a contract, lease, or other arrangement made prior to such date. Where rent is paid, or charged or billed, or falls due on either a weekly, monthly or other term basis, the rent so paid, charged, billed or falling due shall be subject to the tax imposed in this section.

(c) No tax shall be levied as provided in this section upon the fees or charges for any rooms, lodgings or accommodations furnished for a period of more than ten consecutive days or for use as meeting rooms.
(Ord. No. 45, § 2, 10-5-1987)

Sec. 50-34. Collection of tax by operator.

It shall be the duty of every operator of a motel located within the city to collect from the occupants the tax levied and imposed upon the occupancy of guestrooms by the provisions of this article.
(Ord. No. 45, § 3, 10-5-1987)

Sec. 50-35. Exemptions.

Notwithstanding any other provision of this article, no tax shall be levied as provided in this article upon the fees or charges for any rooms, lodgings or accommodations furnished for use by state or local government officials or employees when traveling on official business.
(Ord. No. 45, § 4, 10-5-1987)

Sec. 50-36. Registration of operator.

(a) Every person engaging or about to engage in business as an operator of a motel in this city shall immediately register with the clerk of the city on a form provided by such clerk. Persons engaged in such business must so register not later than 15 days after the effective date the ordinance from which this section derives, but such privilege of registration after the imposition of such tax shall not relieve any person from the obligation of payment or collection of tax on and after the date of imposition. Such registration shall set forth the name under which such person transacts business or intends to transact business, the location of his place of business and such other information which would facilitate the collection of the tax as the clerk may require. The registration shall be signed by the owner if a natural person; by a member or partner in case of ownership by an association or partnership; and by an executive officer in the case of ownership by a corporation.

(b) A separate registration shall be required for each place of business of an operator.

(c) Should the clerk of the city deem it necessary, in order to facilitate registration, he may prescribe administrative provisions therefor other than those provided in this section. Such provisions shall be made to effect the purposes of this section.
(Ord. No. 45, § 5, 10-5-1987)

Sec. 50-37. Certificate of taxing authority.

Upon the registration of an operator as provided in section 50-36, the city clerk shall issue to such operator, without charge, a certificate of authority to collect the tax from the occupants, stating the name and location of the business to which it is applicable. Such certificates shall be nonassignable and nontransferable, and shall be returned immediately to the clerk upon the cessation of business by the registered operator at the location named, or upon sale or transfer of such business at such location.
(Ord. No. 45, § 6, 10-5-1987)

Sec. 50-38. Due date of taxes.

All taxes levied and imposed by this article shall be due and payable to the city monthly on or before the 20th day of every month next succeeding each respective monthly period in which such taxes are collected.
(Ord. No. 45, § 7, 10-5-1987)

Sec. 50-39. Returns and time of filing; remittance.

(a) On or before the 20th day of the month following each monthly period, a return for the preceding monthly period shall be filed with the clerk of the city, in such form as the clerk may prescribe, by every operator liable for the payment of tax under this article.

(b) All returns shall show the gross rent, exempt rent, taxable rent, amount of tax collected or otherwise due for the monthly period for which filed, and such other information as may be required by the clerk, and shall be accompanied, when filed by remittance, of the net amount of tax due.
(Ord. No. 45, § 8, 10-5-1987)

Sec. 50-40. Collection fee allowed operators.

Operators collecting the tax levied under this article shall be allowed a percentage of the tax due and accounted for and shall be reimbursed in the form of a deduction in submitting, reporting and payment of the amount due, if such amount is not delinquent at the time of payment. The rate of the deduction shall be the same rate authorized for deductions from state sales and use tax under O.C.G.A. § 48-8-50, as now or hereafter amended.
(Ord. No. 45, § 9, 10-5-1987)

Sec. 50-41. Deficiency determinations.

(a) *Recomputation of tax; authority to make; basis of recomputation.* If the city clerk is not satisfied with the return of the tax or the amount of the tax required to be paid to the city by any person, he may compute and determine the amount required to be paid upon the basis of any information in his possession or which may come into his possession. One or more than one deficiency determination may be made of the amount due for one or more than one monthly period.

(b) *Interest on deficiency.* The amount of the unpaid tax found to be due shall bear interest at the rate of three-fourths of one percent per month from and after the 20th day of the month following the monthly period for which the amount should have been returned until the date of payment of such tax and interest.

(c) *Offsetting of overpayments.* In making a determination, the secretary may offset overpayments for a period against unpaid tax found to be due for another period, against penalties, and against the interest on such unpaid tax.

(d) *Notice of determination; service.* The clerk, or his designated representative, shall give to the operator written notice of his determination. The notice may be served personally or by mail. If by mail, such service shall be addressed to the operator at his address as it appears in the records of the clerk.

(e) *Time within which notice of deficiency determination to be mailed.* Except in the case of failure to make a return, every notice of a deficiency determination shall be mailed within three years after the 20th day of the calendar month following the monthly period for which the amount is proposed to be determined, or within three years after the return is filed, whichever period shall last expire.
(Ord. No. 45, § 10, 10-5-1987)

Sec. 50-42. Determination if no return made.

(a) *Estimate of gross receipts.* If any operator fails to make a return, the city clerk shall make an estimate of the amount of the gross receipts of the operator or, as the case may be, of the amount of the total rentals in this city which are subject to the tax. The estimate shall be made for the period in respect to which the person failed to make the return, and shall be based upon any information which is or may come into the possession of the clerk. Upon the basis of this estimate, the clerk shall compute and determine the amount required to be paid the city, adding to the sum thus determined a penalty equal to 15 percent. One or more determinations may be made of the amount due for one or for more than one monthly period.

(b) *Offsetting of overpayments.* In making a determination, the clerk may offset overpayments for a period against unpaid tax found to be due for another period, against penalties, and against interest on unpaid tax found to be due. The interest on such unpaid tax shall be computed in the manner set forth in section 50-41(b).

(c) *Interest on amount found due.* The amount of the unpaid tax found to be due shall bear interest at the rate of three-fourths of one percent per month from and after the 20th day of the month following the monthly period for which the amount should have been returned until the date of payment of such tax, penalties and interest.

(d) *Notice of determination; service.* Promptly after making his determination, the clerk shall give to the operator written notice of his determination, which notice may be served personally or by mail in the manner prescribed for service of notice of a deficiency determination.
(Ord. No. 45, § 11, 10-5-1987)

Sec. 50-43. Collection of tax.

(a) *Action for tax; time for.* When it is determined by a return filed, or by the secretary having made a determination under the provisions of sections 50-41 or 50-42, that tax is due and payable to the city under the provisions of this article, the city manager may at any time within three years after determination that such tax is due and payable bring an action in the courts of this state, of any other state, or of the United States in the name of the city to collect the amount of tax payable to the city, together with interest thereon and penalties, court costs, attorney's fees and other legal fees incident thereto. The bringing of such an action shall not be a prerequisite for the issuance of a fi. fa. under the provisions of subsection (d) of this section.

(b) *Duty of successors or assignees of operator to withhold tax from purchase money.* If any operator liable for any amount of tax under this article sells or transfers his business, his successors or assigns shall withhold a sufficient amount of the purchase price of the business to cover such amount of tax, interest thereon, and penalties, and pay such sum over to the city unless the operator liable for such tax delivers to such purchaser or transferee, as the case may be, at the time of such sale or transfer, a certificate from the clerk

showing that all tax returns required of such operator have been filed and all taxes shown as being payable on such returns have been paid in full.

(c) *Liability for failure to withhold; time to enforce successor's liability.* If the purchaser or transferee of a business fails to withhold the required amount of the purchase price, he shall be personally liable for the payment of the amount required to be withheld by him to the extent of the purchase price, valued in money. The time within which the obligation of a successor may be enforced shall start to run at the time the operator sells or transfers his business, or at the time that the determination against the operator becomes final, whichever event occurs the later.

(d) *Issuance of fi. fa.* The clerk is hereby authorized to issue a fi. fa. for execution and levy to satisfy the amount of any tax, penalty or interest due but not paid under the provisions of this article.
(Ord. No. 45, § 12, 10-5-1987)

Sec. 50-44. Administration of article.

(a) *Authority of the clerk.* The clerk of the city, under supervision of the city manager, shall administer and enforce the provisions of this article for the levy and collection of the tax imposed by this article.

(b) *Rules and regulations.* The clerk shall have the power and authority to make and publish reasonable rules and regulations not inconsistent with this article or other ordinances of the city, or the laws of the state, or the constitution of this state or the United States, for the administration and enforcement of the provisions of this article and the collection of the taxes under this article.

(c) *Records required from operators; form.* Every operator shall keep such records, receipts, invoices and other pertinent papers in such form as the city clerk may require.

(d) *Examination of records; audits.* The clerk, or any person authorized in writing by him, may examine the books, papers, records, financial reports, equipment and other facilities of any operator in order to verify the accuracy of any return made, or if no return is made by the operator, to ascertain and determine the amount of tax required to be paid.

(e) *Authority to require reports; contents.* In administration of the provisions of this article, the clerk may require the filing of reports by any person or class of persons having in their possession or custody information relating to rentals of guestrooms which are subject to the tax. The reports shall be filed with the secretary when required by the clerk and shall set forth the rental charged for each occupancy, the dates of occupancy, and such other information as the clerk may require.

(f) *Limitation on disclosure of business of operators.* The clerk, or any person having an administrative duty under this article, shall not make known in any manner the business affairs, operations or information obtained by an audit of books, papers, records, financial reports, equipment and other facilities of any operator or any other person visited or examined in the discharge of official duty, or the amount or source of income, profits, losses, expenditures or any particular thereof set forth or disclosed in any return, or permit any return or copy thereof or any book containing any abstract or particulars thereof to be seen or examined by any person not having such administrative duty under this article, except in case of judicial proceedings or other proceedings necessary to collect the tax hereby levied and assessed. Successors, receivers, trustees, executors,

administrators, assignees and guarantors, if directly interested, may be given information as to the items included in the measure and amount of unpaid tax or amounts of tax, interest and penalties required to be collected.
(Ord. No. 45, § 13, 10-5-1987)

Sec. 50-45. Agents for receiving notices.

When registering pursuant to section 50-36, each operator shall appoint, in writing, an agent to receive for the operator any notice required to be given to the operator under the provisions of this article, stating the full name, street address, mailing address and telephone number of such agent. Such agent shall be either an individual resident of the city or an employee of the operator who regularly works at the operator's place of business on a daily basis, and the appointment of the agent must be accompanied by the written consent of such agent to serve as agent for the operator. Such agent may be changed from time to time by written appointment of, and consent of, a successor agent. The operator is required to have such an agent at all times and should an agent cease to be a resident of the city or an employee regularly working at the operator's place of business in the city, as the case may be, the operator shall immediately file a written appointment of a new agent and such agent's consent to serve as such with the clerk. Any agent so appointed by an operator shall be authorized to receive for and on behalf of the operator any notice required to be given to the operator by the provisions of this article. Delivery of any such notice to such agent, in person or by mail, shall be sufficient to meet the requirements of this article, and such notice shall be binding on the operator. This method of giving notice to operators is supplementary and cumulative of the other methods of giving notice set forth in this article.
(Ord. No. 45, § 14, 10-5-1987)

Secs. 50-46--50-75. Reserved.

ARTICLE III.

INSURERS' LICENSE FEES AND TAXES*

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* **State Law References:** Local tax on life insurance companies, O.C.G.A. § 33-8-8.1; general assembly authorized to provide for taxation of insurance companies based on gross direct premiums received from insurance policies within the unincorporated areas of counties, Ga. Const. art. IX, § IV, ¶ I(c).

Sec. 50-76. Life insurer's license fees.

There is hereby levied an annual license fee upon each life insurer doing business within the city in an amount set forth in the schedule of fees and charges. For each separate business location in excess of one not covered by section 50-77, which is operating on behalf of such insurers within the city, there is hereby levied a license fee in an amount set forth in the schedule of fees and charges. For the purposes of this article, the term "insurer" means a company which is authorized to transact business in the class of insurance designated in O.C.G.A. § 33-3-5(1).
(Ord. No. 29, § 1, 11-7-1983)

Sec. 50-77. License fee for life insurers insuring certain risks at additional business locations.

For each separate business location, not otherwise subject to a license fee under this article, 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 insurer for life insurance, such insurer shall pay an additional license fee in an amount set forth in the schedule of fees and charges per location for the year 1984, and for each year thereafter.
(Ord. No. 29, § 2, 11-7-1983)

Sec. 50-78. Life insurance agency license fees; independent life insurance agencies, brokers, etc., not otherwise licensed.

There is hereby levied an annual license fee upon independent agencies and brokers for each separate business location from which a life insurance business is conducted and which is not subject to the company license fee imposed by section 50-76, in an amount set forth in the schedule of fees and charges for each such location within the city.
(Ord. No. 29, § 3, 11-7-1983)

Sec. 50-79. Gross premiums tax imposed on life insurers.

There is hereby levied an annual tax based solely upon gross direct premiums upon each insurer writing life, accident and sickness insurance within the 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. Gross direct premiums as used in this section shall mean gross direct premiums as used in O.C.G.A. § 33-8-4. The premium tax levied by this section is in addition to the license fees imposed by section 50-76.
(Ord. No. 29, § 4, 11-7-1983)

Sec. 50-80. Gross premiums tax; all other insurers.

There is hereby levied 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 2 1/2 percent of the gross direct premiums received during the calendar year, in accordance with O.C.G.A. § 33-8-8.2. Gross direct premiums as used in this section shall mean gross direct premiums as used in O.C.G.A. § 33-8-8.2(a).
(Ord. No. 29, § 5, 11-7-1983)

Sec. 50-81. Due date for license fees.

License fees imposed in sections 50-76, 50-77 and 50-78 shall be due and payable on January 1 of each year.
(Ord. No. 29, § 6, 11-7-1983)

Secs. 50-82--50-110. Reserved.

ARTICLE IV.

DEPOSITORY FINANCIAL INSTITUTIONS BUSINESS LICENSE TAX*

_____

* **State Law References:** Local depository financial institutions business license tax, O.C.G.A. § 48-6-93.

_____

Sec. 50-111. Purpose of article.

The purpose of this article is to impose a local business license tax on depository financial institutions, as authorized by O.C.G.A. § 48-6-83 et seq.
(Ord. No. 31, § I, 10-3-1983)

Sec. 50-112. Penalty for violation of article.

Any person that shall fail to comply with or shall violate any of the provisions of this article shall, upon conviction, be punished as provided in section 1-12.
(Ord. No. 31, § IV, 10-3-1983)

Sec. 50-113. Imposition; rate; due date.

The city hereby imposes and levies upon all depository financial institutions located and doing business within the city limits a business license tax equal to 0.25 percent of the gross receipts, or the amount of $1,000.00, whichever amount is greater, to be due and payable on an annual basis between January 1 and March 31 of each year.
(Ord. No. 31, § II, 10-3-1983)

Sec. 50-114. Determination and definition of gross receipts.

(a) *Definition; deductions.* For purposes of this article, the term "gross receipts" means the total amount of revenue generated from the sources itemized in this section during the calendar year immediately preceding the date on which the tax authorized by this article shall be due. Before determining gross receipts there shall be deducted:

(1) An amount equal to the amount of interest paid on all liabilities for the period;

(2) An amount equal to income derived from the authorized activities of any domestic international banking facility operating pursuant to the Domestic International Banking Facility Act as set forth in O.C.G.A. § 7-1-730 et seq.;

(3) An amount equal to any income arising from the conduct of a banking business with persons or entities located outside of the United States, its territories or possessions;

(4) An amount equal to a depository financial institution's gross income which is taxed under the tax laws of a state other than the state; and

To the extent that any deductions are made pursuant to subsections (a)(2), (a)(3) and (a)(4) of this section, any deductions taken under subsection (a)(1) of this section shall be reduced by the same proportion that the deductions in subsections (a)(2)--(a)(4) of this section bear to the gross receipts of the depository financial institution as calculated before making any deductions pursuant to subsections (a)(1)--(a)(4) of this section.

(b) *Items included in calculations with respect to banks.* The items to be included in the calculation of gross receipts with respect to banks are as follows:

(1) Interest and fees on loans less any interest collected on those portions of loans sold and serviced for others;

(2) Interest on balances with other depository financial institutions;

(3) Interest on federal or correspondent funds sold and securities purchased under agreement to resell;

(4) Interest on other bonds, notes and debentures, excluding interest on obligations of the state or its political subdivisions and obligations of the United States;

(5) Dividends on stock;

(6) Income from direct lease financing;

(7) Income from fiduciary activities;

(8) Service charges on deposit accounts;

(9) Other service charges, commissions and fees; and

(10) Other income.

(c) *Items included in calculations with respect to savings* and *loan associations.* The items to be included in the calculation of gross receipts with respect to savings and loan associations are as follows:

(1) Interest on mortgage loans less any interest collected on those portions of loan sold and serviced for others;

(2) Interest on mortgages, participations or mortgage-backed securities;

(3) Interest on real estate sold on contract;

(4) Discounts on mortgage loans purchased;

(5) Interest on other loans, excluding interest on obligations of the state or its political subdivisions and obligations of the United States;

(6) Interest and dividends on investments and deposits;

(7) Loan fees;

(8) Loan servicing fees;

(9) Other fees and charges;

(10) Gross income from real estate-owned operations;

(11) Net income from office building operations;

(12) Gross income from real estate held for investment;

(13) Net income from service corporations and subsidiaries;

(14) Miscellaneous operating income;

(15) Profit on sale of real estate owned, investment securities, loans and other assets; and

(16) Miscellaneous nonoperating income.

(d) *Returns; allocation method.* Every depository financial institution subject to the tax imposed by this article shall file a return of its gross receipts with the city by March 1 of the year following the year in which such gross receipts are measured. Such return shall be in the manner and in the form prescribed by the state revenue commissioner, based on the allocation method set forth in this subsection. The return shall provide the information necessary to determine the portion of the taxpayer's total gross receipts to be allocated to the city. The total gross receipts generated in the state by a depository financial institution, subject to any tax authorized by this article, shall be allocated among separate taxing jurisdictions as follows:

(1) If a depository financial institution shall have an office or a place of business in more than one municipality, the amount of gross receipts taxable by the city shall be the amount of gross receipts attributable to such offices or places of business in the city as of December 31 of the year in which gross receipts are measured; and

(2) In determining the amount of gross receipts attributable to each location, 20 percent of the gross receipts shall be attributable to the parent bank. The remaining 80 percent of gross receipts shall be attributable to branch banks and bank offices, with none of the gross receipts attributable to bank facilities or other outlets not considered to be a parent bank, branch bank or bank office. The terms "parent bank," "branch bank," and "bank office," as used in this article, mean those same terms as defined in the Financial Institutions Code of Georgia as set forth in O.C.G.A. § 7-1-1 et seq. If there are fewer than five branch banks or bank offices in addition to the parent bank, the amount of gross receipts attributable to each such parent bank, branch bank or bank office shall be determined by dividing the total gross receipts by the aggregate number of such outlets. For purposes of this distribution formula only, the term "bank" also means a savings and loan association.

(Ord. No. 31, § III, 10-3-1983)

Cross References: Definitions generally, § 1-2.

Chapters 51--53

RESERVED

Chapter 54

TRAFFIC AND VEHICLES*

* **Cross References:** Manufactured homes and trailers, ch. 42; offenses and miscellaneous provisions, ch. 46.

State Law References: Authority to regulate or prohibit stopping, standing or parking, O.C.G.A. § 40-6-371(a)(1); preventing or disrupting lawful procession, O.C.G.A. § 16-11-34; deposit of driver's license for violations of laws pertaining to traffic and motor vehicles, O.C.G.A. § 17-6-11; authority to regulate or prohibit processions or assemblages on the highways, O.C.G.A. § 40-6-371(a)(3); prosecution of traffic offenses, O.C.G.A. § 40-13-1 et seq.; traffic offenses triable on complaint without indictment except in superior courts, O.C.G.A. § 40-13-3; alteration of speed limits by local authorities, O.C.G.A. § 40-6-183; stopping, standing and parking,O.C.G.A. § 40-6-200 et seq.; handicapped Parking Law, O.C.G.A. § 40-6-220 et seq.; bicycles and play vehicles, O.C.G.A. § 40-6-290 et seq.; power of local authorities generally, O.C.G.A. § 40-6-371; funeral processions, O.C.G.A. § 40-6-76; operation of motorcycles and motor vehicles in parades, O.C.G.A. § 40-6-7; authority to provide devices to control the flow of traffic, Ga. Const. art. IX, § II, ¶ III(a)(4); responsibility of railroad employees for obstructing crossings, O.C.G.A. § 46-8-197; sirens, whistles and bells prohibited on vehicles, O.C.G.A. § 40-8-70(b).

Article I. In General

Sec. 54-1. Uniform rules of the road adopted.
Sec. 54-2. Parking.
Secs. 54-3--54-35. Reserved.

Article II. Speed Zones

Sec. 54-36. Provisions saved from repeal.
Secs. 54-37--54-70. Reserved.

Article III. Special Use Area

Sec. 54-71. Definitions.
Sec. 54-72. Penalty for violation of article.
Sec. 54-73. Designation of downtown area of city for parking.
Sec. 54-74. Prohibited acts.

ARTICLE I.

IN GENERAL

Sec. 54-1. Uniform rules of the road adopted.

(a) The provisions of O.C.G.A. §§ 40-6-372--40-6-376, O.C.G.A. §§ 40-6-2--40-6-395, known as the uniform rules of the road, and the definitions contained in O.C.G.A. § 40-1-1, are hereby adopted as the traffic regulations of the city with like effect as if recited in this section.

(b) Unless another penalty is expressly provided by state law, every person convicted of a violation of any provision of this section shall be punished in accordance with section 1-12.

State Law References: Uniform Rules of the Road, O.C.G.A. § 40-6-1 et seq.

Sec. 54-2. Parking.

(a) *Overnight.* It shall be unlawful for any person to park a motor vehicle on any of the paved streets

of the city and allow the vehicle to remain parked overnight. For the purpose of this section, the term "overnight" shall be construed to mean any period of more than three hours in duration between the hours of 6:00 p.m. and 6:00 a.m.

(b) *Unmetered parking time limit.* It shall be unlawful for any person to park a motor vehicle on any of the paved streets of the city, other than at a parking place regulated by a parking meter, for more than two hours during the hours between 6:00 a.m. and 6:00 p.m.

(c) *Use of sidewalks.* It shall be unlawful for any person to drive a motor vehicle upon or onto any paved sidewalk in the city; provided, however, that this section shall not be construed to prohibit the driving across a sidewalk at a place regularly prepared for a driveway entrance.

(d) *Parallel parking on certain streets.* All motor vehicles parked on Washington Street, Grant Street and Monroe Street shall be parked parallel to the curb on the right side of such street, considering the direction in which the motor vehicle is facing. Any person parking a motor vehicle on such streets in any other manner shall be punished as provided in this chapter.
(Ord. No. 16, § 4, 6-29-2004)

State Law References: Authority to regulate or prohibit stopping, standing or parking, O.C.G.A. § 40-6-371(a)(1); stopping, standing and parking,O.C.G.A. § 40-6-200 et seq.

Secs. 54-3--54-35. Reserved.

ARTICLE II.

SPEED ZONES*

* **State Law References:** Alteration of speed limits by local authorities, O.C.G.A. § 40-6-183.

Sec. 54-36. ***Provisions saved from repeal.*** ~~***New Ordinance adopted November 8, 2006****~~***This Ordinance replaced on 01/04/2010***

LIST NUMBER 1670-09-2009

The City of Clarkesville is hereby requesting that the following roadways be approved for the use of speed detection devices:

LIST OF ROADWAYS
for
CITY OF CLARKESVILLE

ON-SYSTEM

STATE ROUTE	WITHIN THE CITY/TOWN LIMITS OF and/or *School Name*	FROM	MILE POINT	TO	MILE POINT	LENGTH IN MILES	SPEED LIMIT
S. R. 17	CLARKESVILLE	528' south of Rocky Branch Rd. (South Clarkesville City Limits)	06.30	317' south of Church Street	06.89	00.59	45
S. R. 17	CLARKESVILLE	317' south of Church Street	06.89	160' south of Morgan Street	07.97	01.08	35
S. R. 17	CLARKESVILLE	160' south of Morgan Street	07.97	53' south of Bryant Street	08.28	00.31	25
S. R. 17	CLARKESVILLE	53' south of Bryant Street	08.28	211' north of Ridge Street	08.58	00.30	35
S. R. 17	CLARKESVILLE	211' north of Ridge Street	08.58	SR 115	10.05	01.47	45
S. R. 17 *** School Zone ***	Clarkesville Elementary School SCHOOL DAYS ONLY	158' north of Lockwood Street	08.60	528' north of Jimmy Black Road	08.86	00.26	35
S. R. 197	CLARKESVILLE	370' north of Stewart Avenue	03.27	State Route 17	03.48	00.21	45
S. R. 197	CLARKESVILLE	***This segment of roadway runs common with State Route 17 from MP 03.48 to MP 04.53 for 01.05 miles.***					
S. R. 197	CLARKESVILLE	State Route 17	04.53	52' north of Washington Street (North Clarkesville City Limits)	04.84	00.31	45
S. R. 385 U. S. 441 Bus.	CLARKESVILLE	39' south of Double Bridge Road (South City Limits)	04.45	1478' north of Robertson Loop Road	05.13	00.68	45
S. R. 385 U. S. 441 Bus.	CLARKESVILLE	1478' north of Robertson Loop Road	05.13	State Route 17	05.25	00.12	35
S. R. 385 U. S. 441 Bus.	CLARKESVILLE	***This section of roadway runs common with State Route 17 from MP 05.25 to 06.25 for 01.00 miles.***					
S. R. 385 U. S. 441 Bus.	CLARKESVILLE	***This section of roadway runs common with State Route 197 from MP 06.25 to 06.36 for 00.11 miles.***					
S. R. 385 U. S. 441 Bus.	CLARKESVILLE	State Route 197	06.36	528' south of Gabrels Drive	06.82	00.46	35

LIST NUMBER 1670-09-2009

STATE ROUTE	WITHIN THE CITY/TOWN LIMITS OF and/or *School Name*	FROM	MILE POINT	TO	MILE POINT	LENGTH IN MILES	SPEED LIMIT
S. R. 385 U. S. 441 Bus.	CLARKESVILLE	528' south of Gabrels Drive	06.82	316' north of Paper Lane (North City Limits)	07.03	00.21	45

OFF-SYSTEM

ROAD NAME	WITHIN THE CITY/TOWN LIMITS OF and/or *School Name*	FROM	TO	LENGTH IN MILES	SPEED LIMIT
Arrendale Road	CLARKESVILLE	State Route 17	Rocky Branch Road	00.30	35
Gabrels Drive	CLARKESVILLE	U. S. 441	Rocky Branch Road	00.40	30
Railroad Road	CLARKESVILLE	State Route 197	State Route 385	00.45	35
Robertson Loop	CLARKESVILLE	State Route 385	Memorial Drive	00.45	30
Rocky Branch Road	CLARKESVILLE	900' east of Gabrels Drive	East City Limits	00.43	30
Rocky Branch Road	CLARKESVILLE	S. R. 17/U. S. 441 Bus.	900' east of Gabrels Drive	00.42	25
Spring Street	CLARKESVILLE	State Route 17	Sunset Street	00.25	25

ALL LISTS AND PARTS OF LISTS IN CONFLICT WITH THIS LIST ARE HEREBY REPEALED.

Signature of Governing Authority:

Mayor

City Council Members

Sworn and Subscribed before me
This 4th day of January, 2010.

NOTARY PUBLIC

ELIZABETH KEMP NOTARY PUBLIC GEORGIA

Secs. 54-37--54-70. Reserved.

ARTICLE III.

SPECIAL USE AREA*

* **State Law References:** Power of local authorities generally, O.C.G.A. § 40-6-371.

Sec. 54-71. 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:

Downtown area of the city means the public square area lying on either side of Washington Street and bounded on the south by Water Street and on the north by Monroe Street, and shall also include that portion of Washington Street lying between Morgan Street and Grant Street.

Employee means any person employed by a merchant on either a part-time or full-time basis.

Merchant means all persons who own or operate any business or practice any profession within the downtown area of the city.

Motor vehicles means any vehicle which is self-propelled.
(Ord. No. 47, § I, 7-7-1988)

Cross References: Definitions generally, § 1-2.

Sec. 54-72. Penalty for violation of article.

Any person violating the provisions of this article shall be issued a citation to appear in the municipal court and, upon conviction, shall be punished as provided in section 1-12.
(Ord. No. 47, § IV, 7-7-1988)

Sec. 54-73. Designation of downtown area of city for parking.

The downtown area of the city is hereby designated as a special use parking area reserved for the parking of vehicles operated by customers and visitors to the city.
(Ord. No. 47, § II, 7-7-1988)

Sec. 54-74. Prohibited acts.

(a) It shall be unlawful for any merchant or employee to park any vehicle owned or operated by such person, or to permit any other person to park a motor vehicle owned by such merchant or employee, within the downtown business area of the city between the hours of 10:00 a.m. and 5:00 p.m., Monday through Saturday, except on holidays observed by a majority of the businesses located within the downtown business area of the city.

(b) It shall be unlawful for any person to park a motor vehicle in the downtown business area of the city at any place which is not marked and designated for parking.
(Ord. No. 47, § III, 7-7-1988)

Chapters 55--57

RESERVED

Chapter 58

UTILITIES*

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* **Editors Note:** Water and sewer rates, fees, charges and deposit amounts charged in connection with the administration of this chapter are as set forth in the city's schedule of fees and charges.

Cross References: Buildings and building regulations, ch. 14; cable communications, ch. 22; environment, ch. 26; fire prevention and protection, ch. 30; floods, ch. 34; health and sanitation, ch. 38; manufactured homes and trailers, ch. 42; zoning, app. A.

State Law References: Waterwell standards, O.C.G.A. § 12-5-120 et seq.; water resources, O.C.G.A. § 12-5-1 et seq.; dumping certain wastes in storm or sanitary sewers prohibited, O.C.G.A. § 12-8-2; power of municipality to grant franchises or make contracts with public utilities, O.C.G.A. § 36-34-2(7); authority to acquire, construct, extend, operate, maintain and collect fees for water and sewerage systems, O.C.G.A. § 36-34-5; adoption of ordinances, rules and regulations relating to payment for street improvements and construction of water, gas and sewer connections; payment of costs of connections, O.C.G.A. § 36-39-7; grants of state funds to municipal corporations for public purposes, O.C.G.A. § 36-40-20 et seq.; limitation on action expanding the power of regulation over any business activity regulated by the Public Service Commission, O.C.G.A. § 36-35-6(a)(5); authority to provide sewage collection and disposal systems; authority to provide stormwater, sewerage collection and disposal systems, Ga. Const. art. IX, § II, ¶ III(a)(6); authority to provide for the development storage and distribution of water, Ga. Const. art. IX, § II, ¶ III(a)(7).

Article I. In General

Sec. 58-1. Work permit required; penalty for violation of section.
Sec. 58-2. Licenses, permits, tags or certificates.
Secs. 58-3--58-35. Reserved.

Article II. Water Service

Sec. 58-36. Application and scope of article.
Sec. 58-37. Definitions.
Sec. 58-38. Deposit fee.
Sec. 58-39. Obtaining service.
Sec. 58-40. Application for service.
Sec. 58-41. Service charges for temporary service.
Sec. 58-42. Connection charges.
Sec. 58-43. Main extensions to developed areas.
Sec. 58-44. Main extensions outside the corporate limits.
Sec. 58-45. Variances from and effect of sections 58-43 and 58-44 as to extension.
Sec. 58-46. Meters.
Sec. 58-47. Meter tests.
Sec. 58-48. Schedule of rates.
Sec. 58-49. Multiple services through a single meter.
Sec. 58-50. Billing.
Sec. 58-51. Discontinuance or refusal of service.
Sec. 58-52. Reconnection charge.
Sec. 58-53. Termination of service by customer.
Sec. 58-54. Access to customers' premises.
Sec. 58-55. Inspections.
Sec. 58-56. Customer's responsibility for system's property.
Sec. 58-57. Customer's responsibility for violations.
Sec. 58-58. Supply and resale of water.
Sec. 58-59. Unauthorized use or interference with water supply.
Sec. 58-60. Limited use of unmetered private fire line.
Sec. 58-61. Damages to property due to water pressure.
Sec. 58-62. Liability for cutoff failures.
Sec. 58-63. Restricted use of water.
Sec. 58-64. Interruption of service.

Sec. 58-65. Connections with fire hydrant.
Secs. 58-66--58-100. Reserved.

Article III. Water Conservation

Sec.58-100.1-4 Restriction on Outdoor Water of Landscape (12-6-2010)
Sec. 58-101. Four phases of drought conditions established.
Sec. 58-102. Phase 1 restrictions.
Sec. 58-103. Phase 2 restrictions.
Sec. 58-104. Phase 3 restrictions.
Sec. 58-105. Phase 4 restrictions.
Sec. 58-106. Determination of phases; notification.
Sec. 58-107. Application of article.
Sec. 58-108. Penalty for violation of article.
Secs. 58-109--58-140. Reserved.

Article IV. Sewer Use

Division 1. Generally

Sec. 58-141. Use of public sewers required; unlawful deposits.
Sec. 58-142. Definitions.
Secs. 58-143--58-165. Reserved.

Division 2. Administration and Enforcement

Sec. 58-166. Inspectors; power and authority.
Sec. 58-167. User compliance with regulatory requirements.
Sec. 58-168. Malicious damage.
Sec. 58-169. Violations of article; penalties; notices and orders of corrective action; hearings.
Sec. 58-170. Authority of city to disconnect service; causes.
Secs. 58-171--58-190. Reserved.

Division 3. Industrial Waste

Sec. 58-191. Unpolluted waters.
Sec. 58-192. General discharge prohibitions.
Sec. 58-193. Specific discharge prohibitions or restrictions.
Sec. 58-194. Hazardous waste; action by city.
Sec. 58-195. Grease, oil and sand interceptors.
Sec. 58-196. Observation, sampling and measurement.
Sec. 58-197. Determination of compliance with article; required industrial user information.
Sec. 58-198. Special agreements between city and industrial users.
Sec. 58-199. Measurements, tests and analyses; use of Standard Methods.
Sec. 58-200. Pretreatment of wastes; minimum facilities.
Sec. 58-201. Waiver of article requirements.
Sec. 58-202. Discontinuance of service for failure to comply; procedures.
Sec. 58-203. Responsibilities of discharger of waste.
Sec. 58-204. Federal pretreatment standards to be met.
Secs. 58-205--58-225. Reserved.

Division 4. Private Sewage Disposal

Sec. 58-226. Use when public sanitary sewer unavailable.
Sec. 58-227. Requirements.
Sec. 58-228. Use of pit privies.
Sec. 58-229. Private removal of sewage; permit required; equipment standards; manner of disposal.
Sec. 58-230. Prohibited discharges during private removal of sewage.
Sec. 58-231. Action required by the superintendent regarding deleterious waste disposal.
Sec. 58-232. Receipt of payment required prior to disposal into treatment works.
Sec. 58-233. Disposal fee.
Sec. 58-234. Identification of wastewater source required prior to disposal.
Secs. 58-235--58-255. Reserved.

Division 5. Connections

Sec. 58-256. When required; notice from city.
Sec. 58-257. Tap fees required.
Sec. 58-258. City to make connections.
Sec. 58-259. Building sewers and connections.
Sec. 58-260. Structures located in the floodplain.
Secs. 58-261--58-290. Reserved.

Article V. Water Supply Connections and Cross Connections

Sec. 58-291. Definitions.
Sec. 58-292. Penalty for violation of article.
Sec. 58-293. Adoption of safe drinking water codes.
Sec. 58-294. Prohibited connections and cross connections.
Sec. 58-295. Filing of statement of nonexistence of prohibited connections or cross connections.
Sec. 58-296. Inspections.
Sec. 58-297. Backflow prevention devices; installation; inspection; testing and repairing.
Sec. 58-298. Right of entry for inspection; furnishing required information.
Sec. 58-299. Reasonable compliance time to be allowed.
Sec. 58-300. Labeling of nonpotable water supply.

ARTICLE I.

IN GENERAL

Sec. 58-1. Work permit required; penalty for violation of section.

(a) Before the commencement or continuation of any work or repairs of any nature upon or within the street rights of way, alleys or easements of the city, all individuals, partnerships, corporations, utility companies and all other parties shall first make application for a work permit from the city. Such work permit shall be on a form approved and provided by the city and must be received by the applicant and granted by the city before the commencement of any work or repairs.

(b) Any person who neglects or refuses to comply with any of the provisions of this section shall be deemed guilty of a misdemeanor and, upon conviction therefor, shall be fined not less than $10.00 nor more than $100.00, and each day of continued violation after conviction shall constitute a separate offense.
(Ord. No. 62, §§ 1, 2, 8-2-1993)

Sec. 58-2. Licenses, permits, tags or certificates.

No licenses, permits, tags or certificates required by this chapter shall be issued unless the applicant provides a statement by the city clerk certifying that all ad valorem taxes levied against the property and due and owing have been paid.
(Res. of 6-29-2004, § 1(a))

Secs. 58-3--58-35. Reserved.

ARTICLE II.

WATER SERVICE

Sec. 58-36. Application and scope of article.

This article is a part of all contracts for receiving water service from the city and shall apply whether the service is based upon contract, agreement, signed application or otherwise.
(Ord. No. 43, § 43-01, 4-15-1985)

Sec. 58-37. Definitions.

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

Customer means any person who receives water service from the city under either an express or implied contract.

Department means the city water department.

Discount date means the last date upon which water bills can be paid at net rates.

Dwelling means any single structure, with auxiliary buildings, occupied by one or more persons or households for residential purposes.

Premises means any structure or group of structures operated as a single business or enterprise; provided, however, that the term "premises" shall not include more than one dwelling.

Service line means the pipeline extending from any water main of the city to private property. Where a meter and meter box are located on private property, the service line shall be construed to include the pipeline extending from the city's water main to and including the meter and meter box.
(Ord. No. 43, § 43-02, 4-15-1985)

Cross References: Definitions generally, § 1-2.

Sec. 58-38. Deposit fee.

A deposit in an amount as set forth in the schedule of fees and charges for water service shall be required for all customers requesting service. This water service deposit fee shall not be returnable unless and until the following conditions are met:

(1) All amounts due for the first 12 months' service must have been promptly and timely paid with no delinquency.

(2) Applicants must complete and return to the city a form requesting return of the water service department fee.

(3) The form to request such return shall be provided by the city.

(4) If such request is not made by the filing of the requisite form within 60 days from the expiration of the initial 12 months' service, the water service deposit fee can only be returned to the applicant upon termination of service, provided that all amounts due the city by the customer have been paid and a request for the refund is made within one year from the date of termination of service.

(Ord. of 8-7-1989, § I; Ord. of 3-7-1994, § I; Res. of 6-29-2004, § 1(c))

Sec. 58-39. Obtaining service.

A written application signed by the applicant for either the original or additional service must be made and be approved by the department before connection or meter installation orders will be issued and the work performed.
(Res. of 6-29-2004, § 1(e))

Sec. 58-40. Application for service.

Application for connection for water service shall be initiated by a connection fee in an amount set forth in the schedule of fees and charges for in-city customers, and in an amount set forth in the schedule of fees and charges for outside-the-city-limits customers. If the service applied for cannot be supplied in accordance with this article, service shall be limited to the return of the connection fee paid by such applicant. The connection fee as required by this section is in addition to any fees, costs or charges provided for elsewhere in this article.
(Ord. No. 43, § 43-04, 4-15-1985; Ord. of 8-7-1989, § 2; Ord. of 10-1-1990, § 1)

Sec. 58-41. Service charges for temporary service.

Customers requiring temporary service shall pay all costs for connection and disconnection incidental to the supplying and removing of service in addition to the regular charge for water used.
(Ord. No. 43, § 43-05, 4-15-1985)

Sec. 58-42. Connection charges.

(a) Service lines will be laid by the city from the water main to the property line and will be included as a cost to the tap fee for a five-eighths-inch and three-quarter-inch connection. Connection costs for one inch and larger will be adjusted based on the size and additional cost above five-eighths-inch and three-quarters-inch connection cost.

(b) When a service line is completed, the department shall be responsible for the maintenance and upkeep of such service line from the main to and including the meter and meter box, and such portion of the service line shall belong to the city. The remaining portion of the service line beyond the meter box shall belong to and be the responsibility of the customer even though the meter and meter box are located within the property line. The department shall be responsible for installation and maintenance of all meters.
(Ord. No. 43, § 43-06, 4-15-1985)

Sec. 58-43. Main extensions to developed areas.

The provisions of this section shall apply only to water main extensions of 500 feet or less to areas where there is a demand for water service by the occupants of existing houses. This section shall in no event be applicable to land development projects and subdivision promotions, even though accompanied by the erection of occasional houses within such areas. At its discretion, the city may make such extensions at its own expense.
(Ord. No. 43, § 43-07, 4-15-1985)

Sec. 58-44. Main extensions outside the corporate limits.

(a) The provisions of this section shall apply to all areas to which section 58-43 is not applicable.

(b) Customers desiring water main extensions pursuant to this section must pay all of the cost of making such extensions.

(c) The size, type and installation of water mains pursuant to this section must be approved by the department. All such mains shall be constructed either by the department's forces or by other forces working directly under the supervision of the department. If the work being done is by the water department, an advance deposit may be required in an amount not to exceed the estimated cost of the proposed extension.

(d) Upon completion of such extensions and their approval by the department, such water mains shall become the property of the department. The persons paying the cost of constructing such mains shall execute any written instruments requested by the department to provide evidence of the department's title to such mains.

(e) In consideration of such mains being transferred to the department, such mains shall be incorporated as an integral part of the water system, and the department shall furnish water therefrom in accordance with its rules, regulations and rate schedules, subject always to such limitations as may exist because of the size and elevation of such mains.

(f) As further consideration, the department shall, for a period of five years (and no longer), repay to the person or persons who pay the cost of such a water main extension in the amount set forth in the schedule of fees and charges for each new service line connection attached to the extension within the five-year period. The total payments for new service connections shall in no event exceed the cost of the extension to the person who paid therefor. Payments for new connections shall not include those of a temporary nature such as circuses, fairs, temporary construction and other temporary requirements for water service.

(g) No payment shall be made for service line connections not made directly to the water main extension in question, even though such service line connections are made to a main extending from, or receiving water through, the main extension in question.

(h) The cost of any extension of water mains and/or service lines which are located outside the corporate limits of the city shall be paid in full by the property owners and/or developers.

(i) Upon completion of such water main extensions and their approval by the water department, such water mains shall become the property of the water department.
(Ord. No. 43, § 43-08, 4-15-1985)

Sec. 58-45. Variances from and effect of sections 58-43 and 58-44 as to extension.

(a) Whenever the water department is of the opinion that it is to the best interest of the water system to construct a water main extension without requiring strict compliance with sections 58-43 and 58-44, such extension may be constructed upon such terms and conditions as shall be approved by the city.

(b) The authority to make water main extensions under sections 58-43 and 58-44 is permissive only, and nothing contained therein shall be construed as requiring the city to make water main extensions or to furnish service to any persons, even though such prospective customers meet all of the requirements contained in sections 58-43 and 58-44 so as to authorize the department to make a main extension.
(Ord. No. 43, § 43-09, 4-15-1985)

Sec. 58-46. Meters.

Any customer shall have the right to purchase and furnish a meter, provided such meter meets the requirements and standards of new meters then being installed by the city. When a customer furnishes his own meter, it shall remain the property of the customer. The city will test, repair and maintain the meter, but the customer shall be responsible for the cost of such maintenance and repair. No one shall tamper with or work on a water meter without the written permission of the water department. No one shall cause water to pass through or around a water meter without the passage of such water being registered fully by the meter.
(Ord. No. 43, § 43-10, 4-15-1985)

Sec. 58-47. Meter tests.

(a) The city will, at its own expense, make routine tests of meters when it considers such tests desirable.

(b) In testing meters, the water passing through a meter will be weighed or measured at various rates of discharge and under varying pressures. To be considered accurate, the meter registration shall check with the weighed or measured amounts of water within the percentage shown in the following table:

Meter Size (in inches)	Percentage
5/8, 3/4, 1, 2	2
3	3
4	4
6 and over	5

(c) The city will also make tests or inspections of its meters at the request of the customer. However, if a test requested by a customer shows a meter to be accurate within the limits stated in subsection (b) of this section, the customer shall pay a meter testing charge in an amount established by the city from time to time.

(d) If such test shows a meter not to be accurate within such limits, the cost of such meter test shall be borne by the city.
(Ord. No. 43, § 43-11, 4-15-1985; Res. of 6-29-2004, § 1(f))

Sec. 58-48. Schedule of rates.

All water service shall be furnished under such rate schedules as the city may from time to time adopt by appropriate resolution.
(Ord. No. 43, § 43-12, 4-15-1985; Res. of 6-29-2004, § 1(g))

Sec. 58-49. Multiple services through a single meter.

(a) No customer shall supply water service to more than one dwelling or premises from a single service line and meter without first obtaining the written permission of the city.

(b) Where the city allows more than one dwelling or premises to be served through a single service line and meter, the amount of water used by all the dwellings and premises served through a single service line and meter shall be allocated to each separate dwelling or premise served. The water charge for each such dwelling or premises thus served shall be computed just as if each such dwelling or premises had received through a separately metered service the amount of water allocated to it, such computation to be made at the city's applicable water rates schedule, including the provisions as to minimum bills. The separate charges for each dwelling or premises served through a single service line and meter shall then be added together, and the sum thereof shall be billed to the customer in whose name the service is supplied.
(Ord. No. 43, § 43-13, 4-15-1985)

Sec. 58-50. Billing.

(a) Water bills and sewer bills must be paid jointly on or before the cutoff date shown thereon. Failure to receive a bill will not release a customer from payment obligation, nor extend the cutoff date.

(b) If a bill is not paid on or before the cutoff date, service may be discontinued without further notice. The city shall not be liable for any damages resulting from discontinuing service under the provisions of this section, even though payment of the bill is made at any time on the day that service is actually discontinued.

(c) Any account not paid by the 15th day of each month will be subject to a late penalty of ten percent added to the account balance.

(d) Should the final date of payment of bill fall on Sunday or a holiday, the business day next following the final date will be the last day for cutoff. A remittance received by mail after the time limit for payment will be accepted by the city if the envelope is date-stamped on or before the final date for payment.

(e) If a meter fails to register properly, or if a meter is removed to be tested or repaired, or if water is received other than through a meter, the city reserves the right to render an estimated bill based on the best information available.
(Ord. No. 43, § 43-14, 4-15-1985; Ord. of 4-4-1994, § 1)

Sec. 58-51. Discontinuance or refusal of service.

(a) The department shall have the right to discontinue service or refuse to connect service for a violation of, or a failure to comply with, any of the following:

(1) These rules and regulations of this article.

(2) The payment of any obligation due the department including any required deposit.

(b) Such right to discontinue service shall apply to all service received through a single connection or service, even though more than one customer or tenant is furnished service therefrom, and even though the

delinquency or violation is limited to only one such customer or tenant.

(c) Discontinuance of service by the city for any cause stated in this article shall not release the customer from liability for service already received or from liability for payments that thereafter become due under other provisions of the customer's contract.

(d) The city shall have the right to refuse to render service to any applicant whenever the applicant or any member of the household, company or firm to which such service is to be furnished, is in default in the payment of any obligation to the city or has heretofore had his service disconnected because of a violation of this article.

(e) If the city should for any reason begin to render service to an applicant to whom the city has a good and valid reason for refusing to render such service, the city shall have the right to discontinue such service at any time within one year after such service is begun, even though such customer does nothing to justify the discontinuance of service during the time such service is being rendered.
(Ord. No. 43, § 43-15, 4-15-1985)

Sec. 58-52. Reconnection charge.

When service is discontinued as provided for in section 58-51, an administrative fee set forth in the schedule of fees and charges shall be assessed and shall be collected by the city before service is restored.
(Res. of 6-29-2004, § 1(h))

Sec. 58-53. Termination of service by customer.

(a) Customers who have fulfilled their contract terms and wish to discontinue service must give notice to that effect. The city shall have the right to continue such service not to exceed ten days from receipt of notice. Notice to discontinue service prior to the expiration of a contract term will not relieve the customer from any minimum or guaranteed payment under such contract or applicable rate schedule.

(b) Under no circumstance will the continuance or discontinuance of service be used as a means of forcing the occupant of the premises to surrender possession thereof.
(Ord. No. 43, § 43-17, 4-15-1985)

Sec. 58-54. Access to customers' premises.

The water department's identified representatives and employees shall be granted access to all customers' premises at all reasonable times for the purpose of reading meters, for testing, inspecting, repairing, removing and replacing all equipment belonging to the city, and for inspecting the customer's plumbing and premises generally in order to secure compliance with this article.
(Ord. No. 43, § 43-18, 4-15-1985)

Sec. 58-55. Inspections.

(a) The city may, but shall not be obligated to inspect any installation or plumbing system before water service is furnished, or at any later time. The city reserves the right to refuse service or to discontinue

service to any premises not meeting standards fixed by municipal ordinances regulating building and plumbing, or not in accordance with any special contract, this article, or other requirements of the city.

(b) Any failure to inspect or reject a customer's installation or plumbing system shall not render the city liable or responsible for any loss or damage which might have been avoided had such inspection or rejection been made.
(Ord. No. 43, § 43-19, 4-15-1985)

Sec. 58-56. Customer's responsibility for system's property.

Except as elsewhere expressly provided in this article, all meters, service connections and other equipment furnished by or for the city shall be and remain the property of the city. Each customer shall provide space for and exercise proper care to protect the property of the city on his premises. In the event of loss or damage to such property, arising from the neglect of a customer to properly care for same, the cost of necessary repairs or replacements shall be paid by the customer.
(Ord. No. 43, § 43-20, 4-15-1985)

Sec. 58-57. Customer's responsibility for violations.

Where the city furnishes water service to a customer, such customer shall be responsible for all violations of this article which occur on the premises so served. Personal participation by the customer in any such violations shall not be necessary to impose such personal responsibility on him.
(Ord. No. 43, § 43-21, 4-15-1985)

Sec. 58-58. Supply and resale of water.

All water shall be supplied within the city exclusively by the city, and no customer shall, directly or indirectly, sell, sublet, assign or otherwise dispose of the water or any part thereof, except with written permission from the city.
(Ord. No. 43, § 43-22, 4-15-1985)

Sec. 58-59. Unauthorized use or interference with water supply.

No person shall turn on or turn off any of the city's stopcocks, valves, hydrants, spigots or fireplugs without permission or authority from the department.
(Ord. No. 43, § 43-23, 4-15-1985)

Sec. 58-60. Limited use of unmetered private fire line.

(a) Where a private fire line or sprinkler system line is not metered, no water shall be used from such line or from any fire hydrant thereon, except to fight fire or except when being inspected in the presence of an authorized agent of the department.

(b) All private fire hydrants may be sealed by the city, and shall be inspected at regular intervals to see that they are in proper condition and that no water is being used therefrom in violation of this article. When the seal is broken on account of fire, or for any other reason, the customer taking such service shall immediately

give the city a written notice of such occurrence.
(Ord. No. 43, § 43-24, 4-15-1985)

Sec. 58-61. Damages to property due to water pressure.

The city shall not be liable to any customer for damages caused to his plumbing or property by high pressure, low pressure, or fluctuations in pressure in the city's water mains.
(Ord. No. 43, § 43-25, 4-15-1985)

Sec. 58-62. Liability for cutoff failures.

(a) The city's liability shall be limited to the forfeiture of the right to charge a customer for water that is not used but is received from a service line under any of the following circumstances:

(1) After receipt of at least ten days' notice to cut off a water service, the city has failed to cut off such service.

(2) The city has attempted to cut off a service, but such service has not been completely cut off.

(3) The city has completely cut off a service, but, subsequently, the cutoff develops a leak or is turned on again so that water enters the customer's pipes from the city's main.

(b) Except to the extent stated in subsection (a) of this section, the city shall not be liable for any loss or damage resulting from cutoff failures. If a customer wishes to avoid possible damage for cutoff failures, the customer shall rely exclusively on privately owned cutoffs and not on the city's cutoff. Also, the customer (and not the city) shall be responsible for seeing that his plumbing is properly drained and is kept properly drained after his water service has been cut off.
(Ord. No. 43, § 43-26, 4-15-1985)

Sec. 58-63. Restricted use of water.

In times of emergencies or in times of water shortage, the city reserves the right to restrict the purposes for which water may be used by a customer and the amount of water which a customer may use.
(Ord. No. 43, § 43-27, 4-15-1985)

Sec. 58-64. Interruption of service.

(a) The city will endeavor to furnish continuous water service, but does not guarantee to the customer any fixed pressure or continuous service. The city shall not be liable for any damages for any interruption of service whatsoever.

(b) In connection with the operation, maintenance, repair and extension of the city water system, the water supply may be shut off without notice when necessary or desirable, and each customer must be prepared for such emergencies. The city shall not be liable for any damages from such interruption of service or for damages from the resumption of service without notice after any such interruption.
(Ord. No. 43, § 43-28, 4-15-1985)

Sec. 58-65. Connections with fire hydrant.

Water may be obtained from city fire hydrants with the permission of the water department, provided the permittee shall comply with the following conditions:

(1) No wrench shall be used to open fire hydrant outlet except one approved by the water department.

(2) The main valve of the hydrant is to remain open at all times during the operation, and water shall be regulated through a reduced coupling and independent valve.

(3) No leakage of water shall be permitted from the fire hydrant.

(Ord. No. 43, § 43-29, 4-15-1985)

Secs. 58-66--58-100. Reserved.

ARTICLE III.

WATER CONSERVATION

The section58-100.1-4 added 12-6-2010

Sec. 58-100-1 Restriction on Outdoor Water of Landscape.

Outdoor watering for purposes of planting, growing, managing or maintaining ground cover, trees, shrubs or other plants may occur only between the hours of 4:00 p.m. and 10:00 a.m.; provided, however, that this limitation shall not create any limitation upon the following outdoor water uses:

(A)Commercial raising, harvesting or storing of crops; feeding, breeding, or managing livestock or poultry; the commercial production or storing of feed for use in the production of livestock, including, but not limited to, cattle, calves, swine, hogs, goats, sheep and rabbits or for use in the production of poultry, including but not limited to chickens, hens, ratites and turkeys; producing plants, trees, fowl or animals; or the commercial production of aquacultural, horticultural, dairy, livestock poultry, eggs and apiarian products or as otherwise defined in O.C.G.A.§1-3-3;

(B)Capture and reuse of cooling system condensate or storm water in compliance with applicable ordinances and state guidelines;

(C)Reuse of gray water in compliance with O.C.G.A.§31-3-5.2 and applicable local board of health regulations;

(D)Use of reclaimed waste water by a designated user from a system permitted by the Environmental Protection Division of the Georgia Department of Natural Resources to provide reclaimed waste water;

(E)Watering personal food gardens;

(F)Watering new and replanted plant, seed or turf in landscapes, golf courses or sports turf fields during installation and for a period of 30 days immediately following the date of installation;

(G)Drip irrigation or irrigation using soaker hoses;

(H)Hand watering with a hose with automatic cutoff or handheld container;

(I)Use of water withdrawn from private water wells or surface water by an owner or operator of property if such well or surface water is on said property;

(J)Watering horticultural crops held for sale, resale or installation;

(K)Watering athletic fields, golf courses or public turf grass recreational areas;

(L)Installation, maintenance or calibration of irrigation systems; or
(M)Hydroseeding.

Sec.58-100.2 Enforcement.

(a) No person shall use or allow the use of water in violation of the restrictions on outdoor water use contained in this ordinance.
(b) The Clarkesville Police Department shall be the enforcement authority for this ordinance. The City Manager may also authorize other departments as may be deemed necessary to support enforcement.
(c) Criminal and alternative penalties: Any violation of this section may also be enforced by a citation or accusation returnable to the Clarkesville municipal court or by any other legal means as set forth in this code.

Sec.58-100.3 Repealer.

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

Sec. 58-100.4 Effective Date. This Ordinace shall go into effect on January 1, 2011.

Sec. 58-101. Four phases of drought conditions established.

There is hereby established four phases of drought conditions, with phase 1 being any drought condition which is deemed serious enough to require the restriction of water use. Phase 2, phase 3 and phase 4 shall consist of successive periods of worsening of drought conditions.
(Ord. No. 44, § 1, 6-24-1986)

Sec. 58-102. Phase 1 restrictions.

During any period of phase 1 drought conditions, no individual using water distributed through the water distribution system of the city shall use any water for watering lawns and gardens, washing cars, cleaning sidewalks and driveways or other outside use of water between the hours of 8:00 a.m. and 6:00 p.m.
(Ord. No. 44, § 2, 6-24-1986)

Sec. 58-103. Phase 2 restrictions.

During any period of phase 2 drought conditions, no individual using water distributed through the water distribution system of the city shall use any water for outside watering, except for the watering of gardens, at any time.
(Ord. No. 44, § 3, 6-24-1986)

Sec. 58-104. Phase 3 restrictions.

During any period of phase 3 drought conditions, no person or business shall use any water distributed through the water distribution system of the city for any outside use whatsoever.
(Ord. No. 44, § 4, 6-24-1986)

Sec. 58-105. Phase 4 restrictions.

During any period of phase 4 drought conditions, all residential and commercial users of water distributed through the water distribution system of the city shall be limited to monthly consumption of water based upon the number of members in each household and the number of employees and nature of business of each commercial establishment after determination of the amount of water which will be available for distribution to water customers of the city.
(Ord. No. 44, § 5, 6-24-1986)

Sec. 58-106. Determination of phases; notification.

The city manager, after consultation with the manager of the city water plant, and after consideration of all available data as to the extent of existing drought conditions, shall from time to time determine whether conditions exist for restrictions under phase 1, phase 2, phase 3 or phase 4. Upon determination of the existence of the need for restrictions under any phase, the city manager shall cause notification to be inserted in the Tri-County Advertiser and broadcast on a local radio station and, when phase 4 conditions exist, notification shall also be given in person or by mail.
(Ord. No. 44, § 6, 6-24-1986)

Sec. 58-107. Application of article.

The restrictions on water use provided for in this article shall also apply to any other person, organization or municipality purchasing water from the city for distribution through a separate water distribution system.
(Ord. No. 44, § 7, 6-24-1986)

Sec. 58-108. Penalty for violation of article.

Any person or other entity violating the provisions of this article shall be cited to appear in the municipal court and, upon conviction, shall be punished as provided in section 1-12. Any violation by anyone purchasing water from the city for redistribution shall subject such person or other entity to forfeit of the right to purchase water from the city.
(Ord. No. 44, § 8, 6-24-1986)

Secs. 58-109--58-140. Reserved.

ARTICLE IV.

SEWER USE

DIVISION 1.

GENERALLY

Sec. 58-141. Use of public sewers required; unlawful deposits.

(a) It shall be unlawful for any person to place, deposit or permit to be deposited in any unsanitary

manner upon public or private property within the city or in any area under the jurisdiction of the city any human or animal excrement, garbage or other objectionable waste.

(b) It shall be unlawful to discharge to any natural outlet within the city or in any area under the jurisdiction of the city any sanitary sewage, industrial wastes or other polluted waters, except where suitable treatment has been provided in accordance with this article.

(c) All sinks, dishwashing machines, lavatories, basins, shower baths, bathtubs, laundry tubs, washing machines and similar plumbing fixtures or appliances shall be connected to the public sewer; provided, however, that where no sewer is available, septic tanks or other private subsurface disposal facilities approved by the city may be used.
(Ord. No. 53, Div. 1, 10-1-1990)

Sec. 58-142. Definitions.

(a) 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:

Accidental discharge means any release of wastewater which, for any unforeseen reason, fails to comply with any prohibition or limitation in this article.

Act or *the Act* means the Federal Water Pollution Control Act, (P.L. 92-500), as amended by the Clean Water Act of 1977 (P.L. 95-217), 33 USC 1251-1387, and as further amended.

Approval authority means the director of the state department of natural resources, environmental protection division (EPD).

Authorized representative of industrial user means:

(1) A principal executive officer of at least the level of vice-president if the industrial user is a corporation, or a general partner or proprietor if the industrial user is a partnership or proprietorship, respectively.

(2) A duly authorized representative of the individual designated in subsection (1) of this definition if such representative is responsible for the overall operation of the facilities from which the indirect discharge originates.

Biochemical oxygen demand or *BOD* means the quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedures in five days at 20 degrees Celsius (68 degrees Fahrenheit) expressed in terms of weight and volume (milligrams per liter).

Building sewer or *house connection* means the connecting pipe from a building to the sanitary sewer.

Categorical standard means national categorical pretreatment standard or pretreatment standard.

City means the City of Clarkesville, Georgia. Activities attributable to the city shall be the responsibility

of the city council or any city employee or contractor delegated to act for the city by the city council.

City administrator means the administrative officer of the city who is charged with administrative control of all operations of the sewer system as designated by the city council and is responsible directly to the city council. As used in this article, it may also include any city employee delegated to act for the city by the city administrator or the city council.

City council means the City Council of the City of Clarkesville, Georgia, which is responsible for establishment of policy control of all operations of the sewer system. As used herein, it may also include any city employee or contractor delegated to act on specific policy matters for the city by the city council.

Color means the true color of the light transmitted by a waste solution after removing suspended material including pseudocolloidal particles.

Combined sewer means a sewer receiving both surface runoff and wastewater.

Constituents means the specific compounds and components which comprise the wastewater.

Control authority means the city.

Cooling water means the water discharged from any use such as air conditioning, cooling or refrigeration, or to which the only pollutant added is heat.

Direct discharge means the discharge of treated or untreated wastewater directly to the waters of the state.

Domestic wastewater means all liquid and waterborne pollutants, exclusive of unpolluted wastewater or wastewater or wastes from processes or operations of industrial users.

Environmental Protection Agency or *EPA* means the U.S. Environmental Protection Agency or, where appropriate, the term may also be used as a designation for the administrator or other duly authorized official of the agency.

Grab sample means a sample which is taken from a waste stream on a one-time basis with no regard to the flow in the waste stream and without consideration of time.

Holding tank waste means any waste from holding tanks such as vessels, chemical toilets, campers, trailers, septic tanks, vacuum-pump tank trucks and septic tank haulers.

Indirect discharge means the discharge or the introduction of nondomestic pollutants from any source regulated under section 307(b) or (c) of the Act (33 USC 1317(b) or (c)) into the sewer system, including holding tank waste discharged into the sewer system.

Industrial user means any user of the sewer system who is a source of indirect discharge which does not constitute a discharge of pollutants under regulations issued pursuant to section 402 of the Act (33 USC 1342). (A user who discharges industrial waste into the sewer system.)

Industrial waste means the liquid or other wastes resulting from any process of industry, manufacture, trade or business or from the development of natural resources.

Infiltration means the water entering sewers and building sewer connections from the soil through defective joints, broken or cracked pipe, improper connections, manhole walls, etc. Infiltration does not include, and is distinguished from, inflow.

Inflow means the water discharged into sewer lines from such sources as roof leaders, cellar and yard area drains, foundation drains, commercial and industrial discharges of unpolluted wastewater as defined in this section, drains from springs and swampy areas, etc. It does not include and is distinguished from infiltration.

Interference means the inhibition or disruption of the wastewater treatment processes or operations, or acts or discharges which may cause damage to any portion of the sewer system, and/or which contribute to a violation of any requirement of the city's NPDES permit. The term includes interference with sewage sludge use or disposal in accordance with section 405 of the Act (33 USC 1345) or any criteria, guidelines or regulations developed pursuant to the Solid Waste Disposal Act (SWDA) (P.L. 89-272, as amended), or more stringent state criteria (including those contained in any state sludge management plan prepared pursuant to title IV of SWDA) applicable to the method of disposal or use employed by the sewer system.

National categorical pretreatment standard, categorical pretreatment standard or pretreatment standard means any regulation containing pollutant discharge limits promulgated by EPA in accordance with sections 307(b) and (c) of the Act (33 USC 1317(b), (c))which apply to a specific category of industrial users.

National Pollutant Discharge Elimination System (NPDES permit) means a permit to discharge wastewater issued pursuant to section 402 of the Act (33 USC 1342).

New source means any source, the construction of which is commenced after October 1, 1990, or the publication of proposed regulations prescribing a section 307(c) (33 USC 1317(c)), categorical pretreatment standard, which will be applicable to such source, if such standard is thereafter promulgated within 120 days of proposal in the federal register. Where the standard is promulgated later than 120 days after proposal, a new source means any source, the construction of which is commenced after the date of promulgation of the standard.

Normal waste means a waste having average concentrations of 300 mg/l of BOD, or less, and 250 mg/l of suspended solids, or less, as determined by samples taken before entering the sewer system.

pH means the logarithm of the reciprocal of the concentration of hydrogen ions in moles per liter of solution. Stabilized pH is that determined after a sample of waste has been subjected to natural aeration.

Pollution means the manmade or man-induced alteration of the chemical, physical, biological and/or radiological integrity of water.

Pollutant means any solid waste, chemical waste, biological material, radioactive material, thermal waste or industrial, municipal or agricultural waste discharged into water.

Publicly owned treatment works or *POTW* means the wastewater treatment plant and any sewers that convey wastewater to the wastewater treatment plant (sewer system).

Receiving stream means that body of water, stream or watercourse receiving the discharge from a wastewater treatment plant or that body of water, stream or watercourse formed by the effluent from a wastewater treatment plant.

Sanitary sewage means sewage, excluding process wastes from industrial users.

Sanitary sewer means a public sewer controlled by a governmental agency or public utility that carries liquid and waterborne wastes from residences, commercial buildings, industrial plants and institutions, together with minor quantities of groundwater and surface water that are not admitted intentionally.

Sewage means a combination of water-carried wastes from residences and industrial users (wastewater).

Sewer system means all facilities for collecting, pumping, treating and disposing of wastewater (POTW).

Shall; may. "Shall" is mandatory; "may" is permissible.

Significant industrial user means any industrial user of the city sewer system who:

(1) Has a discharge flow of 25,000 gallons or more per average workday.

(2) Has a discharge which is greater than five percent of the hydraulic flow or organic design capacity of the city sewer system.

(3) Has a discharge which contains toxic pollutants or priority pollutants as defined pursuant to section 307 of the Act (33 USC 1317) or state statutes and rules and regulations.

(4) Is found by the city, the approval authority or the EPA to have significant impact, either singly or in combination with other contributing industries, on the sewer system, the quality of sludge, the system's effluent quality, or air emission generated by the sewer system.

Slug means any discharge of water or wastewater for any duration during which the rate of flow or concentration of any constituent increases to such magnitude so as to adversely affect the operation of the sewer system, or the ability of the city's wastewater treatment plant to meet applicable water quality objectives.

Standard industrial classification (SIC) means a classification of an industry based on its product or service pursuant to the Standard Industrial Classification Manual, 1972, Office of Management and Budget of the Federal Government, as amended.

Standard Methods means the analytical procedures set forth in the latest edition of "Standard Methods for the Examination of Water and Wastewater," published by the American Public Health Association, or "EPA Methods for Chemical Analysis of Water and Wastes," as per 40 CFR 136, and amendments thereto.

Storm sewer or *storm drain* means a sewer which carries stormwater and surface water and drainage but

which excludes sanitary sewage and polluted industrial wastes.

Stormwater means any flow occurring during or following any form of natural precipitation and resulting therefrom.

Strength of waste means the concentration of pollutants or substances contained in a liquid waste.

Suspended solids means the total solid matter that either floats on the surface of or is suspended in water or liquid waste and which is removable by laboratory filtration.

Toxic pollutant means any pollutant or combination of pollutants listed as toxic in regulations promulgated by EPA under provisions of section 307(a) of the Act (33 USC 1317(a)), or by the state.

24-hour, flow proportional composite sample or *composite sample* means a sample consisting of at least eight portions collected during a 24-hour period or the total period of waste flow if less than 24 hours, and in which the sample portions are collected proportionate to the flow and then proportionately combined into a single sample.

Unpolluted wastewater means any wastewater which is substantially free of pollutants and is discharged from the following:

(1) Rain downspouts and drains.

(2) Footing drains.

(3) Stormwater and surface water drains.

(4) Cooling water systems.

(5) Unpolluted wastewater shall contain, by definition, none of the following:

a. BOD in excess of ten mg/l.

b. Suspended solids in excess of ten mg/l.

c. Free or emulsified greases or oils.

d. Acids or alkalies.

e. Phenols or other substances imparting taste or odor to receiving waters.

f. Toxic or poisonous substances.

g. Noxious or odorous gases.

Any wastewater with a temperature which exceeds 60 degrees Celsius (140 degrees Fahrenheit) at its

introduction into the sewer system or which exceeds 40 degrees Celsius (104 degrees Fahrenheit) at its introduction into a wastewater treatment plant or a receiving stream.

User means any person who contributes, causes or permits the contribution of wastewater into the sewer system.

Wastewater means sewage.

Wastewater treatment plant means the facilities of the city for testing and disposing of wastewater.

Watercourse means a channel in which a flow of water occurs, either continuously or intermittently.

Waters of the state means all bodies or accumulations of water, surface or underground, within the boundaries of the state.

(b) The following abbreviations shall have the designated meanings:

BOD means biochemical oxygen demand.

CFR means Code of Federal Regulations.

COD means chemical oxygen demand.

EPA means the U.S. Environmental Protection Agency.

EPD means the state department of natural resources, environmental protection division.

l means liter.

mg means milligrams.

mg/l means milligrams per liter.

NPDES means National Pollutant Discharge Elimination System.

O&M means operation and maintenance.

OSHA means Occupational Safety and Health Administration.

P.L. means Public Law.

POTW means publicly owned treatment works.

SS means suspended solids.

(Ord. No. 53, Div. 1, 10-1-1990)

Cross References: Definitions generally, § 1-2.

Secs. 58-143--58-165. Reserved.

DIVISION 2.

ADMINISTRATION AND ENFORCEMENT

Sec. 58-166. Inspectors; power and authority.

(a) Duly authorized employees or agents of the city bearing proper credentials and identification shall be permitted to enter all properties for the purposes of inspection, observation, measurement, sampling and testing pertinent to discharge to the public sewer system in accordance with the provisions of this article.

(b) While performing the necessary work on private properties referred to in this section, the authorized employees or agents of the city shall observe all safety rules applicable to the premises established by the company, and the company shall be held harmless for injury or death to the employees. The city shall indemnify the company against loss or damage to its property by such employees of agents and against liability claims and demands for personal injury or property damage asserted against the company, except as such may be caused by negligence or failure of the company to maintain safe conditions as required by this article.

(c) Duly authorized employees or agents of the city bearing proper credentials and identification shall be permitted to enter all private properties through which the city holds an easement for the purposes of, and not limited to, inspection, observation, measurement, sampling, repair and maintenance of any portion of the wastewater facilities lying within such easement. All entry and subsequent work, if any, or such easement, shall be done in full accordance with terms of the duly negotiated easement pertaining to the private property involved.
(Ord. No. 53, Div. 5, 10-1-1990)

Sec. 58-167. User compliance with regulatory requirements.

The provisions of this article shall not be deemed as alleviating compliance with applicable state and federal regulations. Specific user charge and industrial cost recovery requirements, promulgated pursuant to P.L. 92-500, shall be considered as a part of this article upon official adoption. All nonresidential users will be required to comply with pretreatment standards as outlined in 40 CFR 403, as amended. Any person violating any of the provisions of this article shall become liable to the city for any expense, loss or damage occasioned the city by reason of violation.
(Ord. No. 53, Div. 5, 10-1-1990)

Sec. 58-168. Malicious damage.

No unauthorized person shall maliciously, willfully or negligently break, damage, destroy, uncover, deface or tamper with any structure, appurtenance or equipment which is part of the municipal sewerage. Any person violating this section shall be subject to immediate arrest under charge of disorderly conduct or malicious mischief.
(Ord. No. 53, Div. 5, 10-1-1990)

Sec. 58-169. Violations of article; penalties; notices and orders of corrective action; hearings.

(a) Any violation of this article shall be a misdemeanor punishable by a penalty of up to $1,000.00 per offense. A penalty shall be assessed after the violator has failed to restore his system into satisfactory order as mandated in a written decree from the city within the allowed 30 days or whenever there have been over four violations per six-month period. Each day of the continuing violation shall be considered a separate offense.

(b) In the event of a violation of this article, the city may verbally instruct the owner as to the necessary corrective action. If the owner fails to carry out such verbal instructions in a timely manner or if a serious violation or hazard to public health exists, the city may issue to the owner a written order stating the nature of the violation, the corrective action, and the time limit for completing the corrective action. The record of the mailing of such notice or order shall be prima facie evidence thereof, and failure of such owners to receive same shall in no way affect the validity of any proceedings conducted pursuant to this article.

(c) Failure to comply with any written order duly issued by the city pursuant to this article will constitute a separate misdemeanor and, upon conviction, shall be punishable as provided by the laws of the state. Compliance with this article is required notwithstanding the fact that a written order might not have been issued.

(d) The violation of any provisions of this article, as now existing or as may be hereafter amended, may be enjoined by instituting appropriate proceedings for injunction in the courts of competent jurisdiction in this state. Any public nuisance which is injurious to the public health, safety, or comfort may be abated by instituting appropriate proceedings for injunction in the court of competent jurisdiction in this state. Such actions may be maintained notwithstanding the fact that such violation also constitutes a crime, and notwithstanding that other adequate remedies at law exist. Such actions may be instituted in the name of the city.

(e) Upon the receipt of a notice of a violation of this article and/or an order of the city requiring an act or thing to be done or to cease, the owners of any premises then in question may, in writing, demand a hearing before the city to present the evidence challenging the validity of the city's order. The owner may appear in person, by agent, or by attorney. Such demand must be filed with the clerk of the city and be made within five days from the receipt of the order being challenged. Upon receipt of a demand for a hearing, the city will set a date, time, and place for such hearing to be less than 21 days from the date of filing of such demand. The hearing as provided in this subsection shall apply to any customer's complaint, dispute or challenge of the city's rules, regulations, resolutions, ordinances or policies. Upon the customer's written complaint filed with the clerk, the city shall set a hearing as provided in this subsection or at a time agreed upon by the parties.

(f) Evidence before the city of any hearing conducted under this section shall be admitted in accordance with the rules of evidence of the state superior courts; provided, however, that the city may take official notice of any order, rule, regulation or any other document, record or entry contained in its official record or minutes for evidentiary purposes.
(Ord. No. 53, Div. 5, 10-1-1990)

Sec. 58-170. Authority of city to disconnect service; causes.

The city reserves the right to terminate water and wastewater disposal services and disconnect a customer from the system when:

(1) Acids or chemicals damaging to sewer lines or treatment process are released into the public sewer causing rapid deterioration of these structures or interfering with proper conveyance and treatment of wastewater;

(2) A governmental agency informs the city that the effluent from the wastewater treatment plant is no longer of a quality permitted for discharge into a watercourse and it is found that the customer is discharging wastewater into the public sewer that cannot be sufficiently treated or requires treatment that is not provided by the city as normal domestic treatment; or

(3) The customer:

a. Discharges industrial waste or wastewater that is in violation of the permit issued by the approving authority;

b. Discharges wastewater at an uncontrolled, variable rate in sufficient quantity to cause an imbalance in the wastewater treatment process;

c. Fails to pay monthly bills for sanitary sewer service when due; or

d. Repeats a discharge of prohibited wastes into public sewers.

(Ord. No. 53, Div. 5, 10-1-1990)

Secs. 58-171--58-190. Reserved.

DIVISION 3.

INDUSTRIAL WASTE

Sec. 58-191. Unpolluted waters.

No person shall discharge or cause to be discharged any unpolluted drainage, cooling water or unpolluted industrial process waters into any sanitary sewer. Unpolluted cooling or condensing water may be discharged into the storm sewer system, provided that the intended discharger obtains an NPDES permit from the state department of natural resources, environmental protection division for such discharge.
(Ord. No. 53, Div. 1, 10-1-1990)

Sec. 58-192. General discharge prohibitions.

No person shall discharge or cause to be discharged any of the following described waters or wastes into any public sewers:

(1) Any gasoline, benzene, naphtha, fuel oil or other flammable or explosive liquid, solid or gas.

(2) Any waters containing toxic or poisonous solids, liquids or gases in sufficient quantity, either singly or by interaction with other wastes, to injure or interfere with any waste treatment process,

constitute a hazard to humans or animals, create a public nuisance or create any hazard in the receiving waters of the wastewater treatment plant.

(3) Any waters or wastes having a pH lower than 5.5 or greater than 9.0 or having any other corrosive property capable of causing damage or hazard to structure, equipment and personnel of the wastewater works.

(4) Solid or viscous substances in quantities or of such size capable of causing obstruction to the flow in sewers or other interference with the proper operation of the wastewater facilities such as, but not limited to, ashes, bones, cinders, sand, mud, straw, shavings, metal, glass, rags, feathers, tar, plastics, wood, unground garbage, whole blood, paunch manure, hair and fleshings, entrails and paper dishes, cups, milk containers, etc., either whole or ground by garbage grinders.

(Ord. No. 53, Div. 1, 10-1-1990)

Sec. 58-193. Specific discharge prohibitions or restrictions.

The following described substances, materials, waters or waste shall be limited in discharges to municipal systems to concentrations or quantities which will not harm either the sewers, wastewater treatment process or equipment; will not have an adverse effect on the receiving stream; or will not otherwise endanger lives, limb, public property, or constitute a nuisance. The limitations or restrictions on materials or characteristics of waste or wastewater discharged to the sanitary sewer which shall not be violated without approval of the city are as follows:

(1) Wastewater having a temperature higher than 150 degrees Fahrenheit (65 degrees Celsius) or wastewater which will elevate the temperature of the influent to the publicly owned treatment works (POTW) to 104 degrees Fahrenheit (40 degrees Celsius) or higher.

(2) Any garbage that has not been properly shredded. Garbage grinders may be connected to sanitary sewers from homes, hotels, institutions, restaurants, hospitals, catering establishments or similar places whether garbage originates from the preparation of food in kitchens for the purpose of consumption on the premises or when served by caterers.

(3) Wastewater containing more than 25 milligrams per liter of petroleum oil, nonbiodegradable cutting oils or products of mineral oil origin.

(4) Wastewater containing more than 50 milligrams per liter of oils, fat, grease, or wax, whether emulsified or not, or containing substances which may solidify or become viscous at temperatures between 32 degrees Fahrenheit (0 degrees Celsius) and 150 degrees Fahrenheit (65 degrees Celsius).

(5) All industrial discharges to the city sewer system must comply with the federal industrial pretreatment standards (40 CFR 403, as amended) and those industrial pretreatment standards developed by the state environmental protection division.

(6) Any waters or wastes containing taste-producing or odor-producing substances exceeding limits which may be established by the city.

(7) Any radioactive wastes or isotopes of such half-life or concentrations as may exceed limits established in compliance with applicable state or federal regulations.

(8) Waters or wastes containing substances which are not amenable to treatment or reduction by the wastewater treatment processes employed, or are amenable to treatment only to such degree that the wastewater treatment plant effluent cannot meet the requirements of other agencies having jurisdiction over discharge to the receiving waters.

(9) Any water or wastes which, by interaction with other water or wastes in the public sewer system, release obnoxious gases, form solids which interfere with the collection system, or create a condition deleterious to structures and treatment processes.

(10) Materials which exert or cause:

a. Any unusual concentrations or inert suspended solids (such as, but not limited to, Fuller's earth, lime slurries and lime residues) or dissolved solids (such as, but not limited to, sodium chloride and sodium sulfate) in excess of TSS of 250 mg/l or TDS of 300 mg/l.

b. Excessive discoloration (such as, but not limited to, dye wastes and vegetable tanning solutions).

c. Unusual BOD (above 300 mg/l), chemical oxygen demand or chlorine demand in such quantities as to constitute a significant load on the sewage treatment plant.

(Ord. No. 53, Div. 1, 10-1-1990)

Sec. 58-194. Hazardous waste; action by city.

If any waters or wastes are discharged or are proposed to be discharged to the public sewers, which waters contain the substances or possess the characteristics enumerated in sections 58-192 and 58-193, and which in the judgment of the city may have a deleterious effect upon the wastewater facilities, processes, equipment, or receiving waters, or which otherwise create a hazard to life or constitute a public nuisance, the city may:

(1) Reject the water;

(2) Require pretreatment to an acceptable condition for discharge to the public sewers;

(3) Require control over the quantities and rates of discharge; and/or

(4) Require surcharge payment to cover added cost of handling and treatment of the wastes.

(Ord. No. 53, Div. 1, 10-1-1990)

Sec. 58-195. Grease, oil and sand interceptors.

Grease, oil and sand interceptors shall be provided when, in the opinion of the city, they are necessary

for the proper handling of liquid wastes containing floatable grease in excessive amounts, sand or other harmful ingredients; except that such interceptors shall not be required for private living quarters or dwelling units. All interceptors shall be of a type and capacity approved by the superintendent and shall be located as to be readily and easily accessible for cleaning and inspection. In the maintenance of these interceptors, the owner shall be responsible for the proper removal and disposal by appropriate means of the captured material and shall maintain records of the dates and means of disposal which are subject to review by the superintendent. Any removal and hauling of the collected materials not performed by owner's personnel must be performed by currently licensed waste disposal firms.
(Ord. No. 53, Div. 1, 10-1-1990)

Sec. 58-196. Observation, sampling and measurement.

When required by the city the owner of any property serviced by a building sewer carrying industrial wastes shall install a suitable structure together with such necessary meters and other appurtenances in the building sewer to facilitate observation, sampling and measurement of the wastes. Such structure, when required, shall be constructed in accordance with approved plans. The structure shall be installed by the owner at his expense and shall be maintained by him so as to be safe and accessible at all times. This requirement will be on a case-by-case basis.
(Ord. No. 53, Div. 1, 10-1-1990)

Sec. 58-197. Determination of compliance with article; required industrial user information.

The industrial users may be required to provide information needed to determine compliance with this article. These requirements may include:

(1) Wastewater discharge peak rate and volume over a specified time period;

(2) Chemical analyses of wastewaters;

(3) Information on raw materials, processes and products affecting wastewater volume and quality;

(4) Quantity and disposition of specific liquid, sludge, oil, solvent or other materials important to sewer use control;

(5) A plot of sewers of the user's property showing sewer and pretreatment facility location;

(6) Details of wastewater pretreatment facilities; and

(7) Details of systems to prevent and control the losses of materials through spills to the public sewer.

(Ord. No. 53, Div. 1, 10-1-1990)

Sec. 58-198. Special agreements between city and industrial users.

No statement contained in this article shall be construed as preventing any special agreement or arrangement between the city and any industrial concern whereby any industrial waste of unusual strength or

character may be accepted by the city for treatment.
(Ord. No. 53, Div. 1, 10-1-1990)

Sec. 58-199. Measurements, tests and analyses; use of Standard Methods.

All measurements, tests and analyses of the characteristics of waters and wastes to which reference is made in this article shall be determined in accordance with the latest edition of "Standard Methods for the Examination of Water and Wastewater," published by the American Public Health Association. Sampling methods, location times, durations and frequencies are to be determined on an individual basis, subject to approval by the city.
(Ord. No. 53, Div. 1, 10-1-1990)

Sec. 58-200. Pretreatment of wastes; minimum facilities.

Persons discharging industrial wastes into the sewer system may be required to pretreat such wastes. Plans for all pretreatment facilities shall be approved by the superintendent or the state environmental protection division prior to construction. At the time written plans are submitted for approval, written maintenance plans shall also be submitted and approved by the superintendent. The facilities shall be allowed to operate only as long as they are maintained in accordance with the approved maintenance plans. Pretreatment requirements shall be determined on a case-by-case basis and shall include the following facilities as a minimum:

(1) *Neutralization.* If plans are submitted for the neutralization of strong acid or alkaline wastes, the plans shall include the necessary instrumentation and controls to ensure compliance with such regulations at all times.

(2) *Equalization.* Holding tanks or equalization basins shall be required ahead of the receiving manhole of the city sewer system when deemed necessary by the superintendent to prevent peak flows that exceed the capacity of the system or that result in operational problems.

(3) *Operation and maintenance of facilities.* All pretreatment facilities shall be operated and maintained continuously in satisfactory and effective operation by the owner at his expense.
(Ord. No. 53, Div. 1, 10-1-1990)

Sec. 58-201. Waiver of article requirements.

(a) There shall be no provision for the granting of variances for discharge of incompatible wastes. If a user begins to violate any of the provisions of this article, it shall be his responsibility to apply to the superintendent who can issue a temporary permit along with a compliance schedule for planning and construction of necessary treatment or pretreatment works. Each case will be carefully evaluated with respect to its effect on the wastewater treatment system and the environment prior to issuance of a temporary permit and compliance schedule.

(b) Any dilution of the wastewater by the user for the purpose of decreasing the concentrations of toxic materials shall be considered as a violation of this article.
(Ord. No. 53, Div. 1, 10-1-1990)

Sec. 58-202. Discontinuance of service for failure to comply; procedures.

Failure to comply shall be cause for the discontinuance of sewer or water service to the offending person. The procedure shall be as follows: A written notice, signed by the superintendent, shall be delivered personally to the person then responsible for the offending use, outlining the conditions of the wastes which violate the city ordinances. If the person in charge will not accept the notice, it shall be conveyed by registered mail to the responsible person. The person notified shall have 24 hours from the time of receipt of the notice, either personally delivered or received by registered mail, to correct the offending conditions. If correction is not made or a request for extension is not received by the city within 24 hours, it shall be mandatory that water or sewer service shall be discontinued to the offending person without further notice. If a request for an extension of time is received by the city within 24 hours of such notice and if circumstances are such that, in the opinion of the superintendent, the best interest of the city would be served by extending the time for correction of the offending condition, then he may grant an extension of time up to a maximum limit of 30 days.
(Ord. No. 53, Div. 1, 10-1-1990)

Sec. 58-203. Responsibilities of discharger of waste.

It shall be the responsibility of the person discharging industrial waste into the city sewer system to:

(1) *Control manhole.* Build a control structure in the discharge line from his premises, immediately prior to the entrance of the discharge line into the city sewer system, suitable for the sampling and measuring of wastes. Plans for this structure must be approved by the city. This requirement may be waived if deemed unnecessary by the city. If no special manhole is required, the control manhole shall be considered to be the nearest downstream manhole in the public sewer to the point at which the building sewer is connected.

(2) *Notify superintendent of operation changes.* Contact the superintendent prior to operation changes which will materially alter the characteristics of the wastes from the prior sampling.

(3) *Timely surcharge payments.* Make timely, periodic payments to the city of surcharges for excessive loadings as detailed in the city user charge system.

(Ord. No. 53, Div. 1, 10-1-1990)

Sec. 58-204. Federal pretreatment standards to be met.

All industrial users shall meet federal pretreatment requirements of 40 CFR 403, as amended.
(Ord. No. 53, Div. 1, 10-1-1990)

Secs. 58-205--58-225. Reserved.

DIVISION 4.

PRIVATE SEWAGE DISPOSAL

Sec. 58-226. Use when public sanitary sewer unavailable.

When a public sanitary sewer is not available, the building sewer shall be connected to a private sewage disposal system which meets the requirement set forth in this division.
(Ord. No. 53, Div. 3, 10-1-1990)

Sec. 58-227. Requirements.

(a) The type, capacities, location and layout of a private sewage disposal system, including all septic tanks and absorption fields, shall comply with all recommendations of the state department of human resources and the state department of natural resources, environmental protection division. No permit shall be issued for any private sewage disposal system employing subsurface soil absorption facilities where the area of the lot is less than 15,000 square feet. No septic tank or cesspool shall be permitted to discharge to any public sewer or natural outlet.

(b) Septic tanks shall be constructed, repaired, altered, enlarged and maintained in accordance with plans and specifications approved by the city. Septic tanks shall be maintained in sanitary working order.

(c) No person shall construct, repair, alter or enlarge any septic tank unless he shall hold a valid permit for such work issued by the city. The city may withhold the issuance of such a permit pending the inspection and approval by the city of the site and location of the proposed work.

(d) No septic tank or other subsurface disposal facility shall be installed where a public sewer is accessible to the premises involved, nor in any place where the health officer deems the use of such system to be a menace to human health or well-being.

(e) At such time as a public sewer becomes available to a property served by a private sewage disposal system, a direct connection shall be made to the public sewer in compliance with this article, and any septic tanks, cesspools and similar private sewage disposal facilities shall be abandoned and filled with suitable material.

(f) The owner shall operate and maintain all private sewage disposal facilities in a sanitary manner at all times and at no expense to the city.

(g) No subsurface disposal facilities shall be installed in any place where the health officer deems the use of such facilities to be a menace to human health or well-being.

(h) Every flush toilet shall be connected to a public sewer where available or to a septic tank. Flush toilets shall be provided at all times with sufficient running water under pressure to flush the toilet clean after each use.

(i) Any premises that has a septic tank, privy or any other sewage, industrial waste or liquid waste disposal system, located thereon that does not function in a sanitary manner shall be corrected within 30 days from the receipt of written notification from the city.

(j) Premises with private water systems shall not be connected with the public sewer system.

(k) No statement contained in this section shall be construed to interfere with any additional

requirements that may be imposed by the city.

(l) No effluent or cesspool overflow to any open drain, ditch or well penetrating a water bearing formation will be permitted.
(Ord. No. 53, Div. 3, 10-1-1990)

Sec. 58-228. Use of pit privies.

No pit privy shall be installed in the following locations:

(1) Where a public sewer is accessible to the premises involved;

(2) In areas where the city deems the use of pit privies to constitute a nuisance or menace to the public health;

(3) Where a pit privy may pollute any water supply; or

(4) Where the use of pit privies is not in keeping with the standard of sanitation in adjacent areas.
(Ord. No. 53, Div. 3, 10-1-1990)

Sec. 58-229. Private removal of sewage; permit required; equipment standards; manner of disposal.

No person shall remove, transport or dispose of any sewage, sewage sludge or the contents of any septic tank by a portable or mobile container unless he has a permit from the city authorizing him to do so. A permit shall be issued only to a person who shall use equipment that will not permit spillage or exposure of the sewage to the outside air. Sewage sludge shall be disposed of in one of the following manners at the discretion of the city:

(1) Disposal in a manhole or public sanitary sewer; or

(2) Disposal at a sewage treatment plant.
(Ord. No. 53, Div. 3, 10-1-1990)

Sec. 58-230. Prohibited discharges during private removal of sewage.

No person shall discharge or cause to be discharged into the city's system salvage wastewater during the private removal of salvage wastewater from sources other than residential single-family dwellings or equivalent domestic sewage located in the county. No person shall discharge or cause to be discharged the following described substances, materials, waters or wastes if it appears likely, in the opinion of the superintendent to the wastewater facility, that such wastes will harm either the sewers, sewerage treatment process or equipment; have an adverse effect on the receiving stream; will endanger life, limb, public property or constitute a nuisance; or cause the treatment plant to violate its NPDES permit or applicable receiving water standards. Some of the substances prohibited are: Any pumpings from grease, sand or oil interceptors and any substances prohibited by P.L. 92-500, all amendments thereto and regulations promulgated thereunder. No person shall discharge or cause to be discharged sewage to any waters of the state such as brooks, creeks and rivers.
(Ord. No. 53, Div. 3, 10-1-1990)

Sec. 58-231. Action required by the superintendent regarding deleterious waste disposal.

If, in the opinion of the superintendent, the private wastewater to be discharged into the publicly owned septic tank receiving station is from a source located outside of the county or may have deleterious effect on the sewer works, processes, equipment or receiving waters or would be a public nuisance, the superintendent may reject the waste within 24 hours after oral-delivered or hand-delivered written notice and if the person receives such notice, the wastewater shall be removed by the city at the person's expense. In addition to the foregoing, a fine not to exceed an amount established in the schedule of fees and charges per day may be levied for each day any wastewater is not removed as provided for in this section. No permit for the removal, transportation or disposal of privately removed sewage shall be issued to any person who owes the city for any fine or penalty levied pursuant to this article.
(Ord. No. 53, Div. 3, 10-1-1990)

Sec. 58-232. Receipt of payment required prior to disposal into treatment works.

No person shall discharge wastewater from salvage wastewater collections into the publicly owned treatment works without a receipt signed by the city clerk or his designated representative.
(Ord. No. 53, Div. 3, 10-1-1990)

Sec. 58-233. Disposal fee.

All persons discharging wastewater into the publicly owned treatment works shall pay a fee in an amount set forth in the schedule of fees and charges per 1,000 gallon truck or any portion thereof.
(Ord. No. 53, Div. 3, 10-1-1990)

Sec. 58-234. Identification of wastewater source required prior to disposal.

No person shall discharge wastewater into the publicly owned treatment works without having supplied the following information to the city clerk:

(1) The name and address of the owner or tenant of each residential single-family dwelling from which wastewater is collected;

(2) The number of gallons of wastewater collected from the residential single-family dwelling; and

(3) Any other information deemed necessary by the city clerk.

(Ord. No. 53, Div. 3, 10-1-1990)

Secs. 58-235--58-255. Reserved.

DIVISION 5.

CONNECTIONS

Sec. 58-256. When required; notice from city.

All property owners, within 30 days after receipt of a written notice from the city, shall connect their premises with the sewer system.
(Ord. No. 53, Div. 4, 10-1-1990)

Sec. 58-257. Tap fees required.

No connection or tap shall be made to the sewer system of the city until the required tap fee has first been paid to the city clerk. The cost of such fee shall be an amount set forth in the schedule of fees and charges for each tap made inside the city limits, and an amount set forth in the schedule of fees and charges for each tap made outside the city limits.
(Ord. No. 53, Div. 4, 10-1-1990)

Sec. 58-258. City to make connections.

All public sewer connections or taps shall be made exclusively by personnel of the city.
(Ord. No. 53, Div. 4, 10-1-1990)

Sec. 58-259. Building sewers and connections.

(a) *Separate and independent sewer per building.* A separate and independent building sewer shall be provided for every building, except where one building stands at the rear of another on an interior lot and no private sewer is available or can be constructed to the rear building through an adjoining alley, courtyard or driveway, the front building may be extended to the rear building and the whole considered as one building sewer. The city does not and will not assume any obligation or responsibility for damage caused by or resulting from any such single connection aforementioned.

(b) *Old building sewers.* Old building sewers may be used in connection with new buildings only when they are found, on examination and test by the superintendent, to meet all requirements of this article.

(c) *Size, slope, alignment; materials and procedures.* The size, slope, alignment and materials of construction of a building sewer and the methods to be used in construction shall all conform to the requirements of the building and plumbing codes or other applicable rules and regulations of the county. In the absence of code provisions or in amplification thereof, the materials and procedures set forth in appropriate specifications of the American Society for Testing and Materials (ASTM) and Water Environment Federation (WEF) Manual of Practice No. 9 shall apply. Additionally, the following materials and methods shall apply to building sewers within city supervision:

(1) The building sewer shall be cast iron soil pipe, ASTM Specification A74, latest revision, or equal; ductile iron pipe, American National Standards Institute (ANSI) Specification A21.51, latest revision, or equal; or polyvinyl chloride (PVC) sewer pipe, ASTM Specification D3034, latest revision. All joints shall be tight and waterproof. Any part of the building sewer that is located within ten feet of a water service pipe shall be constructed of cast iron soil pipe and ductile iron pipe with bolted mechanical joints. This also may be required by the superintendent where the sewer is exposed to damage by tree roots. If installed in filled or unstable ground, the building shall be of cast iron soil pipe, except that plastic pipe may be acceptable if laid on a

suitable concrete bed or cradle as approved by the superintendent.

(2) The size and slope of the building sewer shall be subject to the approval of the superintendent, but in no event shall the diameter be less than four inches. The slope of such four-inch pipe shall not be less than one-eighth of an inch per foot. Furthermore, the appropriate requirements of the Occupational Health and Safety Act (OSHA), 29 USC 651 et seq., shall be followed.

(3) The depth shall be sufficient to afford protection from frost, and the building sewer shall be laid at uniform grade and with straight alignment insofar as possible. Changes in direction shall be made only with properly curved pipe and fittings. Building sewers shall not be placed in the same trench with water service lines.

(4) An excavation required for the installation of a building sewer shall be open trench work unless otherwise approved by the superintendent. Pipelaying and backfill shall be performed in accordance with ASTM Specification C12, latest revision, except that no backfill shall be placed until the work has been inspected and approved.

(5) All joints and connections shall be made gastight and watertight. Push-on joints for cast iron soil pipe shall have neoprene gaskets in accordance with the requirements of ASTM C-564. Push-on joints for ductile iron pipe shall also have neoprene gaskets and be installed according to the manufacturer's recommendations. PVC pipe joint material shall be of the bell and spigot type, sealed with a rubber O-ring gasket, having a composition and texture which is resistant to the common ingredients of sewage, industrial wastes (including oils), and groundwater, and which will endure permanently under the conditions likely to be imposed by this use. Installation of gasket shall be done in accordance with the pipe manufacturer's instructions using all the necessary materials, lubricants, and equipment recommended by the manufacturer. Other jointing materials may be used only when approved by the superintendent.

(d) *Elevation; lifting of sewage.* Whenever possible, the building sewer shall be brought to the building at an elevation below the basement floor. No building sewer shall be laid parallel to or within three feet of any bearing wall which might thereby be weakened. In all buildings in which any building drain is too low to permit gravity flow to the public sewer, sanitary sewage carried by such building drain shall be lifted by an approved means and discharged to the building sewer.

(e) *Connections to sources of surface runoff or groundwater.* No person shall make connection of roof downspouts, foundation drains, areaway drains, or other sources of surface runoff or groundwater to a building sewer or building drain which in turn is connected directly or indirectly to a public sanitary sewer unless such connection is approved for purposes of disposal of polluted surface drainage.

(f) *Notification of superintendent of readiness of sewer for inspection.* The applicant for the building sewer permit shall notify the superintendent when the building sewer is ready for inspection and connection to the public sewer. The connection shall be made by the city.

(g) *Guarding of excavations; restoration of public property.* 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.

(h) *Action by city in case of infiltration or inflow.* If any house sewer permits the entrance of infiltration or inflow, the city may:

(1) Require the owner to repair the house sewer.

(2) Charge the owner a sewer rate that reflects the costs of the additional expense of sewage treatment from the owner's property.

(3) Require the owner to disconnect his sewer from the city sewer system.

(Ord. No. 53, Div. 4, 10-1-1990)

Sec. 58-260. Structures located in the floodplain.

No new sewer connections shall be provided to any structure which is located within a 100-year floodplain area as determined by a state registered land surveyor or licensed civil engineer, from the maps in effect at the time of application for the permit for connection to the sewer system. Such certification shall be presented at the request of the city and the costs of the certification shall be borne by the property owner. (Ord. of 7-2-1990, § 1)

Secs. 58-261--58-290. Reserved.

ARTICLE V.

WATER SUPPLY CONNECTIONS AND CROSS CONNECTIONS

Sec. 58-291. Definitions.

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

Auxiliary intake means any piping connection or other device whereby water may be secured from a source other than that normally used.

Bypass means any system of piping or other arrangement whereby the water may be diverted around any part or portion of a water purification plant.

Cross connection means any physical connection whereby the public water supply is connected with any other water supply system, whether public or private, either inside or outside of any building or buildings, in such manner that a flow of water into the public water supply is possible either through the manipulation of valves, or connection of hose pipes on any other temporary piping, or because of ineffective check or backpressure valves, or because of any other arrangement.

Interconnection means any system of piping or other arrangement whereby the public water supply is connected directly with a sewer, drain, conduit, pool, storage reservoir or other device which does or may

contain sewage or other waste or liquid which would be capable of imparting contamination to the public water supply.

Person means any and all persons, natural or artificial, including any individual firm or association, and any municipal or private corporation organized or existing under the laws of this or any other state or country.

Public water supply means the waterworks system furnishing water to the city inside and outside the city limits for general use and which supply is recognized as the public water supply by the state department of natural resources/environmental protection division.
(Ord. No. 66, § 1, 7-11-1994)

Cross References: Definitions generally, § 1-2.

Sec. 58-292. Penalty for violation of article.

Any person who neglects or refuses to comply with any of the provisions of this article shall be deemed guilty of a misdemeanor and, upon conviction, shall be punished as provided in section 1-12. In addition to such fines and penalties, the water superintendent or public works superintendent of the city shall discontinue the public water supply service at any premises upon which there is found such cross connection, auxiliary intake, bypass or interconnection until such premises are brought into compliance with the provisions of this article.
(Ord. No. 66, § 10, 7-11-1994)

Sec. 58-293. Adoption of safe drinking water codes.

The city public water supply is to comply with the Georgia Safe Drinking Water Act of 1977 as set forth in O.C.G.A. § 12-5-170 and P.L. 93-523 of the Federal Safe Drinking Water Act (42 USC 300f et seq.), legally adopted in accordance with this Code, which pertain to cross connections, and establish an effective, ongoing program to control these undesirable water uses.
(Ord. No. 66, § 2, 7-11-1994)

Sec. 58-294. Prohibited connections and cross connections.

It shall be unlawful for any person to cause a cross connection, auxiliary intake, bypass or interconnection to be made, or to allow one to exist for any purpose whatsoever.
(Ord. No. 66, § 3, 7-11-1994)

Sec. 58-295. Filing of statement of nonexistence of prohibited connections or cross connections.

Any person whose premises are supplied with water from the public water supply, and who also has on the same premises a separate source of water supply or stores water in an uncovered or unsanitary storage reservoir from which the water stored therein is circulated through a piping system, shall file with the water superintendent or public works superintendent of the city a statement of the nonexistence of unapproved or unauthorized cross connections, auxiliary intakes, bypasses, or interconnections. Such statement shall also contain an agreement that no cross connection will be permitted upon the premises.
(Ord. No. 66, § 4, 7-11-1994)

Sec. 58-296. Inspections.

It shall be the duty of the city public water supply to cause inspections to be made of all properties served by the public water supply where cross connections with the public water supply are deemed possible. The frequency of inspections and reinspections based on potential health hazards involved shall be as established by the water superintendent or public works superintendent of the city.
(Ord. No. 66, § 5, 7-11-1994)

Sec. 58-297. Backflow prevention devices; installation; inspection; testing and repairing.

(a) The water superintendent or public works superintendent of the city, or his designated representative, shall require the use of an approved protective device on the service line serving the premises to ensure that any contamination that may originate in the customer's premises is contained therein. The protective devices shall be either a reduced pressure zone type backflow preventer approved by the water superintendent or public works superintendent, or a double checkvalve, as determined by the water superintendent or public works superintendent as to manufacture, model and size. All hosepipes shall be fitted with a vacuum sucker device. The method of installation of backflow protective devices shall be approved by the water superintendent or public works superintendent of the city prior to installation and shall comply with the criteria set forth by the water superintendent or public works superintendent.

(b) The installation shall be at the expense of the owner or occupant of the premises. The departments shall have the right to inspect and test the devices on an annual basis or whenever deemed necessary by the water superintendent or public works superintendent or his designated representative. Water service shall not be disrupted to test the device without the knowledge of the occupant of the premises.

(c) Where the use of water is critical to the continuance of normal operations or protection of life, property or equipment, duplicated units shall be provided to avoid the necessity of discontinuing water service to test or repair the protective devices. Where only one unit is installed and the continuance of service is critical, the water superintendent or public works superintendent shall notify, in writing, the occupant of the premises of plans to discontinue water service and arrange for a mutually acceptable time to test and/or repair the device. The water system shall require the occupant of the premises to make all repairs indicated promptly, and the expense of such repairs shall be borne by the owner or occupant of the premises. These repairs shall be made by qualified personnel, acceptable to the water superintendent or public works superintendent of the city.
(Ord. No. 66, § 5, 7-11-1994)

Sec. 58-298. Right of entry for inspection; furnishing required information.

The water superintendent or public works superintendent, or authorized representative, shall have the right to enter at any reasonable time any property served by a connection to the city public water supply for the purpose of inspecting the piping system or systems thereof for cross connections, auxiliary intakes, bypasses, or interconnection. On request, the owner, lessee or occupant of any property so served shall furnish to the inspection agency any pertinent information regarding the piping system or systems on such property. The refusal of such information or refusal of access, when requested, shall be deemed evidence of the presence of cross connections.
(Ord. No. 66, § 6, 7-11-1994)

Sec. 58-299. Reasonable compliance time to be allowed.

Any person who now has cross connections, auxiliary intakes, bypasses, or interconnections in violation of the provisions of this article shall be allowed a reasonable time within which to comply with the provisions of this article. After a thorough investigation of existing conditions and an appraisal of the time required to complete the work, the amount of time shall be designated by the water superintendent or public works superintendent of the city.
(Ord. No. 66, § 7, 7-11-1994)

Sec. 58-300. Labeling of nonpotable water supply.

The potable water supply made available on the properties served by the public water supply shall be protected from possible contamination as specified in this section. Any water outlet which could be used for potable or domestic purposes and which is not supplied by the potable system must be labeled in a conspicuous manner as:

Water Unsafe for Drinking

The minimum acceptable sign shall have black letters, one inch high, located on a red background.
(Ord. No. 66, § 9, 7-11-1994)

APPENDIX B

ZONING PROCEDURES*

City of Clarkesville, Georgia

AN ORDINANCE ADOPTING PROCEDURES FOR THE CALLING AND CONDUCTING OF PUBLIC HEARINGS AND ADOPTING STANDARDS GOVERNING THE EXERCISE OF ZONING POWER, AND FOR OTHER PURPOSES

ADOPTED AFTER PUBLIC HEARING AND NOTICE
IN REGULAR SESSION OF THE MAYOR AND COUNCIL
OF CLARKESVILLE, GEORGIA, APRIL 7, 2008

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AN ORDINANCE ENTITLED

AN ORDINANCE OF THE CITY OF CLARKESVILLE ADOPTING PROCEDURES FOR THE CALLING AND CONDUCTING OF PUBLIC HEARINGS AND ADOPTING STANDARDS GOVERNING THE EXERCISE OF ZONING POWER, AND FOR OTHER PURPOSES

Pursuant to the State of Georgia Zoning Procedures Law, Georgia Code, Chapter 36-66, enacted by Georgia Laws 1985, page 1139, be it ordained, and it is hereby ordained by the Mayor and City Council of Clarkesville, Georgia:

Section 1. Intent.

It is the intent of the Mayor and City Council to comply with the above referenced "Zoning Procedures Law" by adopting the following ordinance. To simplify the review of applicable city zoning regulations by developers, staff and other interested individuals, the Clarkesville Mayor and City Council intend to incorporate, upon adoption, the entire subject ordinance into the city's zoning ordinance. Action to subsequently incorporate zoning procedures and other criteria, as adopted by this ordinance, into the Zoning Ordinance, will save interested individuals the cost of purchasing two separate ordinances and will place such procedures and criteria in the most appropriate position.

Section 2. Authority to Amend.

The Governing Body may from time to time amend the number, shape, boundary or area of any zoning district, or may amend any regulation pertaining to any district; or may amend any Article or Section of the zoning ordinance. The procedure for amending the zoning ordinance shall be provided in this ordinance.

Section 3. Initiation of Zoning Amendments.

A petition to amend the text of the zoning ordinance or the official zoning map may be initiated by the Governing Body, the Planning Commission, or any person, firm, corporation or agency that owns property involved in a petition for amendment, subject to the provisions established herein.

Section 4. Frequency of Application.

The Governing Body or the Planning Commission may at any time file, in its own name, an application for amendment to the text of the zoning ordinance or the official zoning map, except that if a zoning decision of the Governing Body is for rezoning of property and the amendment to the zoning ordinance and map to accomplish the rezoning is defeated by the Governing Body, then the same property may not again be considered for rezoning until the expiration of at least six (6) months immediately following the defeat of the rezoning by the Governing Body.

A property owner or subsequent property owner shall not initiate action for a map amendment, conditional use permit, or variance affecting the same or any portion of property more often than once every twelve (12) months from the date of any previous decision rendered by the Governing Body.

A property owner or subsequent property owner shall not initiate action for an amendment to the zoning ordinance text affecting the same or any portion of property more often than once every twelve (12) months from the date of any previous decision rendered by the Governing Body.

This section shall not be construed as to limit new applications involving the same property for which the application was made, provided the new application contains substantive differences from the original application as determined by the Zoning Administrator.

Section 5. Withdrawal of Amendment Application.

Any petition for an amendment to the zoning ordinance text, official zoning map, conditional use approval, or variance may be withdrawn, at the discretion of the person or agency initiating such a request, at any time prior to closing the required public hearing by the Governing Body upon written notice to the Zoning Administrator. If the public hearing before the Governing Body has been completed, withdrawal by the Applicant is not permitted. Any required application fees shall be refunded to the applicant only if such application has not been prepared and submitted for advertisement as determined by the Zoning Administrator.

Section 6. Application Requirements.

Application materials specified in this section shall be required for the following petitions: amendments to the official zoning map, conditional use permits, variances and appeals.

1. An application form furnished by the Zoning Administrator; and
2. A legal description of the property to be considered in the application. The legal description shall be metes and bounds unless an alternative legal description (such as a tax plat map) is accepted by the Zoning Administrator. Boundary surveys should be submitted with the application whenever available; and
3. A letter of intent which at a minimum describes the following:
    a) the existing zoning of the subject property;
    b) the requested action by the Governing Body (i.e., proposed zoning classification, type of conditional use, specific sections of the zoning ordinance for which a variance is sought including the exact amount of variance needed, or the specific determination that is being appealed).
    c) a description of the proposed use that is specific enough to link the development proposal to one or more permitted uses in the existing or proposed zoning district.
    d) the anticipated time frame for development.
    e) justification of the request including a consideration of the criteria specified in this ordinance (Section 10 for variance, Section 8 for zoning map amendments, and Section 9 for conditional uses).
4. Except for rezoning applications to a single-family residential district, a site plan, as defined in Section 20 of this ordinance, with all information specified in Section 7 of this ordinance. Unless otherwise noted in the approval, the site plan in support of an approved application shall be considered a part of the approval and must be followed.
5. A fee for said application as established by the Governing Body from time to time.
6. Applications which require action by the Governing Body shall also require disclosure of any conflicts of interest as specified in Chapter 67A of the Georgia Code, “Conflict of Interest in Zoning Actions.”

7. Applicants shall submit fifteen (15) copies of any required site plans and letters of intent to the Zoning Administrator for distribution to the applicable bodies and/or review agencies. The Zoning Administrator may require more or less copies depending on the nature and extent of the required review.

Any application which fails to contain a letter of intent, site plan or other application requirement specified in this Section shall be considered incomplete and shall not be processed by the Zoning Administrator.

Section 7. Site Plan Requirements.

All site plans required by this ordinance shall, at a minimum, contain the following information:

1. Title of the proposed development and the name, address and telephone number of the property owner.
2. The name, address and telephone number of the architect, engineer or other designer of the proposed development.
3. Scale, date, north arrow, and general location map showing relationship of the site to streets and natural landmarks.
4. Boundaries of the subject property, all existing and proposed streets, including right-of-way and street pavement widths; buildings, water courses; parking and loading areas; and other physical characteristics of the property and proposed development.

Section 8. Criteria To Consider For Map Amendments

The applicant, Zoning Administrator, Planning Commission and Governing Body should review an application for zoning map amendment with regard to the following criteria:

1. The existing uses and zoning of nearby property and whether the proposed zoning will adversely affect the existing use or usability of nearby property.
2. The extent to which property values are diminished by the particular zoning restrictions.
3. The extent to which the destruction of the property values promotes the health, safety, morals or general welfare of the public.
4. The relative gain to the public, as compared to the hardship imposed upon the individual property owner.
5. The physical suitability of the subject property for development as presently zoned and under the proposed zoning district.
6. The length of time the property has been vacant, considered in the context of land development in the area in the vicinity of the property, and whether there area existing or changed conditions affecting the use and development of the property which give supporting grounds for either approval or disapproval of the rezoning request.
7. The zoning history of the subject property.
8. The extent to which the proposed zoning will result in a use which will or could cause excessive or burdensome use of existing streets, transportation facilities, utilities, schools, parks or other public facilities.
9. Whether the zoning proposal is in conformity with the policy and intent of the comprehensive plan, land use plan or other adopted plans.
10. The possible creation of an isolated district unrelated to adjacent or nearby districts.

The Zoning Administrator, Planning Commission and Governing Body may consider other factors deemed relevant before formulating recommendations and taking action on a particular request.

Section 9. Criteria To Consider For Conditional Uses.

The applicant, Zoning Administrator, Planning commission and Governing Body should review applications for conditional uses with regard to the following criteria:

1. Off-street parking and loading facilities are adequate in terms of location, amount and design to serve the use.
2. The number, size and type of signs proposed are compatible with the surrounding area.
3. The amount and location of open space and the provision of screening is such that buffering of incompatible uses is achieved.
4. Ingress and egress to the property is suitable and safe, and the effect of the proposed activity on traffic flow along adjoining streets is not adverse.
5. The location and intensity of outdoor lighting is such that it does not cast light on adjacent, adjoining and neighboring properties.
6. Hours and manner of operation of the proposed use are not inconsistent with adjacent and nearby uses.
7. Public facilities and utilities are capable of adequately serving the proposed use.
8. The proposed use will not have a significant adverse effect on the level of property values or the general character of adjacent land uses or the general area.
9. The physical conditions of the site, including size, shape, topography and drainage, are suitable for the proposed development.
10. The proposed use is consistent with the goals and objectives of the city's Comprehensive Plan.

The Zoning Administrator, Planning Commission and Governing Body may consider other factors deemed relevant before formulating recommendations and taking action on a particular conditional use application.

Section 10. Criteria to Consider for Variances.

The Governing Body is hereby empowered to authorized upon application in specific cases such variance from the dimensional requirements of zoning regulations (any provisions requiring a number to be achieved, such as height in feet, setback, lot area, lot width, parking and loading requirements, etc.) as will not be contrary to the public interest where, owing to special conditions, a literal enforcement of the provisions of these regulations shall be observed, public safety and welfare secured, and substantial justice done. The existence of a non-confirming use of a neighboring land, buildings or structures in the same zoning district or of permitted or non-conforming uses in other districts shall not constitute a reason for the requested variance. A variance may be granted in an individual case of unnecessary hardship, after appropriate application in accordance with Section 6 of this ordinance, upon specific findings that all of the following conditions exist. The absence of any one (1) of the conditions shall be grounds for denial of the application for variance:

1. There are extraordinary and exceptional conditions pertaining to the particular piece of property in question because of its size, shape or topography that are not applicable to other land or structures in the same district; and
2. A literal interpretation of the provisions of these zoning regulations would create an unnecessary hardship and would deprive the applicant of rights commonly enjoyed by other property owners within the district in which the property is located; and

3. Granting the variance requested will not confer upon the property of the applicant any special privileges that are denied to other properties of the district in which the applicant's property is located; and
4. Relief, if granted, will be in harmony with the purpose and intent of these Regulations and will not be injurious to the neighborhood or general welfare in such a manner as will interfere with or discourage the appropriate development and use of adjacent land and buildings or unreasonable affect their value; and
5. The special circumstances are not the result of the actions of the applicant; and
6. The variance requested is the minimum variance that will make possible legal use of the land, building, or structure; and
7. The variance is not a request to permit a use of land, building or structures which is not permitted by right in the district involved.

A variance shall not be granted in cases where the requested relief to the property owner can be remedied by a change to a zoning district which otherwise would not require a variance.

Section 11. Procedures For Appeals.

The Governing Body is empowered to hear and decide appeals where it is alleged there is an error in any order, requirement, decision or determination made by the Zoning Administrator in the interpretation or enforcement of these zoning regulations.

The Board is empowered to hear an appeal made by any person, firm, or corporation, by any officer, department, board, or bureau affected by any decisions of the Planning Commission or Zoning Administrator based on the zoning ordinance.

This section shall not be construed as permitting an appeal of the Governing Body's denial of a rezoning request or conditional use, the appropriate remedy of which would be suit in county Superior Court.

Such appeal shall be taken with sixty (60) days, or as provided by the rules of the Governing Body, by filing with the Zoning Administrator notice of appeal specifying the grounds there of. All papers constituting the record upon which the a action appealed from was taken shall forthwith be transmitted to the Governing Body.

The Board shall select a reasonable time and place for the hearing of the appeal and give at least fifteen 15 days of public notice thereof and due notice to the parties in interest and shall render a decision on the appeal within a reasonable time.

Section 12. Simultaneous Consideration of Multiple Applications.

Petitioner may simultaneously submit multiple applications involving the same property, such as a rezoning request, conditional use, and variance. The Planning Commission and Governing Body may simultaneously hear and consider multiple applications, provided the applicable public notice and other specified requirements are met. The proper order of consideration of multiple applications shall be the rezoning request first, conditional use second, and variances(s)third. The Governing Body may consider and act upon a variance request at the same meeting as rezoning request and/or conditional use is approved, in accordance with Section 10. of this ordinance. For multiple applications, specified filing fees shall be paid for each individual application, to defray the cost of newspaper advertisements and posting of sign(s) on the subject property.

Section 13. Conditional Approval Permitted.

The letter of intent, site plan, and other information submitted as a part of any approved application for zoning map amendment, variance, appeal or conditional use, as well as any

statements of intent made by the petitioner in public meetings recorded in the minutes of the body considering the application, shall be considered a part of the approval and must be followed.

In addition to the conditions of the following the submitted site plan, letter of intent and other assurances made by the petitioner, the planning commission may be recommended, and the Governing Body may attach, any conditions to its approval which it finds necessary to render the proposed development compatible with adjacent and nearby properties and land uses.

Applications to modify the approved site plan, letter of intent, or other conditions of approval may be considered by the Governing Body after review and recommendation by the Planning Commission, without the requirement of any public hearings. Any request however, which in the opinion of Zoning Administrator constitutes a change that is tantamount to a new application that would otherwise require a rezoning, new conditional use, or variance to Articles and Sections of the zoning ordinance not previously contemplated, shall require re-submittal and reconsideration of the request as a new application that meets all submittal, notification and public hearing requirements specified in this ordinance.

Section 14. Public Notice and Public Hearing Required.

This section shall apply to all applications for amendments to the zoning ordinance, amendments to the official zoning map, petitions for variances and appeals to the Governing Body, and requests for conditional use approval. Except as otherwise noted, this Section shall apply to adoption and re-adoption of a zoning ordinance and official zoning map.

Upon receipt of a completed application, fees and other information required by this Ordinance, the Zoning Administrator shall cause notice of such application to be published at least one (1) time in a newspaper of general circulation in the community at least fifteen (15) days but not more that forty-five (45) days prior to the date of public hearing before the Governing Body. The 15 day requirement shall not apply to the public hearing before the Planning Commission. Said published notice shall include, as a minimum, the purpose, location, date and time of the public hearing, before the Planning Commission and Governing Body, the location of the property being considered, the present zoning classification of the property, and proposed action to be taken, as appropriate, (such as proposed zoning district, type of conditional use, variance to particular Articles and Sections, and so forth).

The Zoning Administrator shall also cause to have posted in a conspicuous place on said property one (1) or more sign(s), each of which shall contain the information specified for published notices. The public hearing before the Governing Body shall not take place until said have been posted for at least fifteen (15) days but not more than forty-five (45) days prior to the date of the public hearing. Post of sign(s) shall not be required for appeals, since an appeal only applies to interpretation of zoning regulations which apply to all similarly situated properties. Posting of signs shall not be required by the Governing Body when adopting or readopting a zoning ordinance and official zoning map.

Public hearings may be delayed, rescheduled or continued at another time and date, provided announcement is given at the time and place of the initially scheduled and advertised public hearing, and provided such date, time and location of the public hearing to be delayed, rescheduled or continued is announced.

Section 15. Recommendation by Zoning Administrator

The Zoning Administrator may, as appropriate, customarily submit to the recommending and/or decision making body, prior to scheduled public hearing, copies of the site plan and letter of

intent along with a written recommendation for approval, disapproval, deferral, withdrawal, or other recommendations. Said recommendations shall include reasons for said recommendations, considered within the context of the appropriate criteria as specified by this ordinance. The recommendations of the Zoning Administrator shall have an advisory effect only and shall not be binding on the Governing Body. Copies of the Zoning Administrator's recommendations shall be made available to the applicant and other interested parties upon completion and distribution to the appropriate bodies and at the public hearing.

Section 16. Planning Commission Recommendation.

Prior to the public hearing held by the Governing Body, the Planning Commission shall hold a public hearing on all applications for amendment to the text of the zoning regulations, amendments to the official zoning map, conditional use applications and variances. The Planning Commission shall also provide a recommendation regarding adoption or re-adoption of a zoning ordinance.

After completing its studies of the particular petition, the Planning Commission shall submit a recommendation action in writing to the Governing Body. The Planning Commission may submit any additional report it deems appropriate. The recommendations of the Planning Commission shall have an advisory effect only and shall not be binding on the Governing. Copies of the Planning Commission's recommendations and reports shall be made available to the applicant and other interested parties upon completion and distribution to the Governing Body and at the public hearing before the Governing Body.

The Planning Commission shall have up to sixty-five (65) days within which to submit its recommendations. The Governing Body shall not take action on any of said applications until it has received the recommendations of the Planning Commission within the specified time; provided, however, that this shall not be construed to limit the Governing Body from conducting its scheduled public hearing on the matter, should it desire to do. If the Planning Commission fails to submit a recommendation within the sixty-five (65) day period, it shall be deemed to have approved the proposed application.

Section 17. Conduct of Public Hearing.

All public hearings regarding applications considered by the Planning Commission and Governing Body shall be held in accordance with any procedures adopted by said body and, in addition, shall be governed by the following procedures:

The presiding officer shall open the hearing by stating the specific application being considered at the public hearing. At this time the presiding officer may summarize the public hearing procedures.

The Zoning Administrator or other staff may present a description of the proposed application, any applicable background material, his/her recommendation regarding action on said application as appropriate, and the recommendations and reports of the Planning Commission, as appropriate.

Persons who support the application will be asked to comment first. The petitioner may, upon recognition and upon statement of name and address, present and explain his application. The petitioner, or his designated agent, is expected to attend the public hearing unless written notice of hardship is received prior to such meeting. A time limitation may be imposed at the discretion of the presiding officer.

Persons who oppose the application or who have questions about the subject application will be asked comment next. All interested parties after being recognized shall be afforded an opportunity to address the proposed application by standing before the appropriate body and

identifying their name, address and interest along with any comments on the proposed application. A time limitation may be imposed at the discretion of the presiding officer.

The petitioner shall have an opportunity to answer any questions raised by the public, for summary remarks and rebuttal concerning the proposed application.

Upon the completion of any comments from interested parties and the petitioner, the public hearing shall be completed and adjourned.

All public comments having been heard, the members of the body considering the application may discuss the request among themselves. During this discussion period, the members of the body may call on the petitioner or other interested parties to clarify points made previously or to answer questions. Said petitioner or interested parties may respond upon recognition. Additional questions from the general public may not be asked once the public hearing has been closed. Once the public hearing is closed, and a vote or other action is being considered, unrecognized responses from the petitioner shall be ruled out of order by the presiding officer.

Section 18. Action by The Appropriate Body.

After the public hearing has been completed, the Governing Body may take action to approve or deny the request, refer the application back to the Zoning Administrator or Planning Commission for further study, or the Governing Body may table or defer action until a later meeting. In voting on a petition, the Planning Commission and Governing Body shall follow applicable bylaws for such body, or in lieu of adopted bylaws, shall generally follow "Robert's Rules of Order."

Section 19. Availability Of This Ordinance For Public Review.

The Zoning Administrator, or other official in the city shall ensure that copies of this ordinance are printed and available for distribution to the general public.

Section 20. Definitions of Terms Used In This Ordinance.

Appeal: A process by which the Governing Body may, upon application by an individual, overturn an order, requirement, determination or decision made by the Zoning Administrator or Planning Commission in the interpretation or enforcement of the zoning ordinance.

Compatibility: The characteristics of different uses or activities that permit such uses or activities to be located near each other in harmony and without conflict. Some elements affecting compatibility include: intensity of occupancy as measured by dwelling units per acre or gross square footage per acre; pedestrian or vehicular traffic generated; volume of goods handled, and such environmental affects as noise, vibration, odor, glare, air pollution or radiation.

Comprehensive Plan: Those coordinated plans or portions thereof which have been prepared by or for the Governing Body for the physical development of the jurisdiction; or any plans that designate plans or programs to encourage the most appropriate use of the land in the interest of public health, safety and welfare.

Conditional Use: A use which would not be appropriate without restriction throughout a zoning district and is not automatically permitted by right within a zoning district, but which may be permitted within a zoning district subject to meeting specific conditions
(such as controls on number, size, area, location and activities) contained in these regulations or required by the Governing Body. Such uses may be permitted only if approved by the Governing Body in accordance with the procedures established in this ordinance.

Conditional Zoning: The granting or adoption of zoning for property subject to compliance with restrictions as to use, size, density or actions stipulated by the Governing Body to mitigate adverse impacts that are anticipated without impositions of such conditions.

Governing Body: The Mayor and Council of the City of Clarkesville, duly elected by the citizens within the jurisdiction.

Metes and Bounds: A system describing and identifying land by distances or measures (metes) and bearing or direction (bounds) from and identifiable point of reference, such as a monument or other marker or the corner of intersection streets.

Official Zoning Map: The map, which accompanies the zoning ordinance text, that delineates the geographic location of the boundaries of zoning district established in the zoning ordinance in relation to natural features, man-made features and/or property uses.

Screening: A method of shielding, obscuring or buffering one use or building from another use or building by fencing, walls, berms, densely planted vegetation or other means; a visual and acoustical barrier which is of such nature and density that provides year-round maximum opacity from the ground to a height of at least six (6) feet that screens structures and activities from view from the normal level of a first story window on an abutting lot.

Site Plan: A graphic illustration, two-dimensional, prepared to scale, showing accurately and with complete dimensioning, the boundaries of a lot or tract and the location of all buildings, structures, uses and principal site development features proposed for a specific lot or tract of land.

Variance: A minimal relaxation or modification of the strict terms of the height, area, placement, setback, yard, buffer, landscape strip, parking and loading regulations as applied to specific property when, because of particular physical surrounds, shape, or topographical condition of the property, compliance would result in a particular hardship upon the owner, as distinguished from a mere inconvenience or a desire to make a profit.

Zoning Administrator: The Clerk of the Governing Body or other city official appointed by the Governing Body.

Section 21. Repealer.

All ordinances and resolutions and portions thereof in conflict herewith are repealed.

Section 22. Effective Date,

This Ordinance shall become effective immediately upon its adoption.

ADOPTED THIS DATE OF April 7, 2008

CODE COMPARATIVE TABLE
ORDINANCES/RESOLUTIONS

This is a numerical listing of the ordinances/resolutions of the city used in this Code. Repealed or superseded laws at the time of the codification and any omitted materials are not reflected in the table.

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ZONING ORDINANCE
OF
THE CITY OF CLARKESVILLE, GEORGIA

Approved and Adopted by

THE MAYOR AND CITY COUNCIL
OF THE CITY OF CLARKESVILLE
on

April 7, 2008

Amended February 2, 2009
(Changes to:902.1,1302.7, Section 14 of Zoning Procedures
Also, Article XXVIII amended by adopting new Subdivision Regulations)
Amended December 6, 2010 (§2409 Burning Restrictions)
Amended May 2, 2011 (Article VIII Sign Regulations)
Amended October 3, 2011 (Article VIII Sign regulations)
Amended October 3, 2011 (Appendix D)
Amended February 6, 2012 (Article XXIX)
Amended March 5, 2012 (Article III)
Amended March 5, 2012 (Article XXII)
Amended September 18, 2012 (Articles IX, X, XI, XII)

ZONING ORDINANCE
OF
THE CITY OF CLARKESVILLE, GEORGIA

CLARKESVILLE MAYOR AND CITY COUNCIL
J. Terry Greene, Mayor
Bobby Webb, Mayor Pro Tempore
Franklin Brown
Brad Lewallen
Tina Evans
Casey Ramsey

CLARKESVILLE STAFF
Steven A. Hashimoto, City Manager
Elizabeth Kemp, City Clerk

CLARKESVILLE PLANNING COMMISSION
Lynn Kilpatrick, Chairperson
Richard Averack, Vice Chairman
Jennifer Tench, Secretary
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ZONING ORDINANCE
CITY OF CLARKESVILLE, GEORGIA

AN ORDINANCE REPEALING THE ZONING ORDINANCE OF THE CITY OF CLARKESVILLE, GEORGIA ADOPTED AS AMENDED, AND ADOPTING A NEW ZONING ORDINANCE FOR THE CITY OF CLARKESVILLE, GEORGIA FOR THE PURPOSE OF REGULATING THE LOCATION, HEIGHT, BULK, NUMBER OF STORIES AND THE SIZE OF BUILDINGS AND STRUCTURES; THE AMOUNT OF LOT WHICH MAY BE OCCUPIED; THE SIZE OF YARDS, COURTS, AND OTHER OPEN SPACE; THE DENSITY AND DISTRIBUTION OF POPULATION; THE USE OF BUILDINGS, STRUCTURES, AND LAND FOR TRADE, INDUSTRY, COMMERCE, RESIDENCE, RECREATION, AGRICULTURE, CONSERVATION, WATER SUPPLY, SANITATION, PUBLIC ACTIVITIES, AND OTHER PURPOSES; CREATING DISTRICTS FOR SAID PURPOSES AND ESTABLISHING THE BOUNDARIES THEREOF; DEFINING CERTAIN TERMS USED HEREIN; PROVIDING FOR THE METHOD OF ADMINISTRATION AND AMENDMENT; DEFINING THE POWERS AND DUTIES OF THE ZONING ADMINISTRATOR AND GOVERNING AUTHORITY; PROVIDING PENALTIES FOR VIOLATION; REPEALING CONFLICTING REGULATIONS; AND FOR OTHER PURPOSES.

"This document has been approved as to its legal form and sufficiency by the legal counsel of the local government prior to its adoption."

ARTICLE I
PREAMBLE AND ENACTMENT CLAUSE

WHEREAS; The 1983 Constitution of the State of Georgia, Article IX, Section II, Paragraph IV, authorizes Cities and Counties in Georgia to exercise the power of planning and zoning; and

WHEREAS; The Georgia General Assembly has enacted a general law, commonly referred to as the "Zoning Procedures Law," Chapter 66 of Title 36 of the Official Code of Georgia Annotated, which establishes procedures for the exercise of local zoning power; and

WHEREAS; The Governing Body has complied with the "Zoning Procedures Law" by adopting "An Ordinance Adopting Procedures For The Calling and Conducting of Public Hearings and Adopting Standards Governing the Exercise of Zoning Power, and For Other Purposes," said ordinance having been adopted after adherence to notification, public hearing, and other procedural due process requirements of the Zoning Procedures Law; and

WHEREAS; The Georgia General Assembly has enacted a general law, commonly referred to as the "1989 Georgia Planning Act," Chapter 8 of Title 50 of the Official Code of Georgia Annotated (Georgia Laws 1989, pp. 1317-1391, Act 634); and

WHEREAS; Said planning act among other things provides for local governments to serve essential state interests in protecting and preserving the natural resources, the environment and vital areas of the state by authorizing, promoting and in effect mandating the establishment, implementation and performance of coordinated and comprehensive planning by municipal and county governments; and

WHEREAS; The Georgia Department of Community Affairs has established "Minimum Standards and Procedures for Local Comprehensive Planning", said standards being promulgated as Chapter 110-3-2 of the Rules of the Georgia Department of Community Affairs; and

WHEREAS; The City of Clarkesville, Georgia adopted a comprehensive plan in December, 1992; and

WHEREAS; Said Comprehensive Plan resulted in the establishment of detailed studies and recommended policies and programs relative to control of growth and land development; and

WHEREAS; The Governing Body finds that adoption of a new zoning ordinance is the most practical means of implementing the City of Clarkesville's plans and policies regarding growth and land development; and

WHEREAS; The Governing Body finds that the traditional public purposes for adopting local zoning regulations remain applicable presently in the City of Clarkesville, which include: promoting the health, safety, morals, convenience, order, prosperity, and general welfare of the municipality; lessening congestion in the streets; securing safety from fire, flood, panic and other dangers; providing adequate light and air; preventing the overcrowding of land; avoiding undue concentration of population; promoting desirable living conditions and the sustained stability of neighborhoods; protecting property

against blight and depreciation; securing economy in governmental expenditures; conserving the value of buildings; and encouraging the most appropriate use of land and buildings throughout the municipality;

NOW, THEREFORE, BE IT ORDAINED, AND IT IS HEREBY ORDAINED that the Zoning Ordinance for the City of Clarkesville, Georgia is enacted into law.

Adopted, this 7th day of April , 2008.

_____	_____
Terry Greene, Mayor	Bobby Webb
_____	_____
Brad Lewallen	Franklin Brown
_____	_____
Tina Evans	Casey Ramsey

Attest: _____
Elizabeth Kemp, City Clerk

ARTICLE II
SHORT TITLE

These regulations shall be known and may be cited as the "Zoning Ordinance of the City of Clarkesville, Georgia."

ARTICLE III
DEFINITIONS OF TERMS USED IN ORDINANCE

Amended (Section 301. Definitions- Words Sign & Temporary Sign 3-5-2012)

Section 301. Definitions.

When used in this Ordinance, the following words and phrases shall have the meaning given in this Article. Terms not herein defined shall have their customary dictionary definitions where not inconsistent with the context. The term "shall" is mandatory. When not inconsistent with the context, words used in the singular number include the plural and those used in the plural number include the singular. Words used in the present tense include the future.

Abandonment: The cessation of the use of property by the owner or lessee without any intention of transferring rights to the property to another owner or of resuming the use of the property.

Abandoned Motor Vehicle: Any motor vehicle which has been left unattended on any private property without the property owner's consent; has been left unattended on any public street, road or highway or other public property for a period more than five (5) days; or that has been lawfully towed onto the property of another at the written request of a law enforcement officer and left there for a period more than sixty (60) days without any claim made thereto.

Abutting: Having property or district lines in common, or having property separated by only a public alley. Separation by a street right-of-way is not considered abutting.

Accessory Apartment: A second dwelling unit either in or added to an existing single-family detached dwelling, or in a separate accessory structure on the same lot as the main dwelling, for use as a complete, independent living facility for a single housekeeping unit, with provision within the accessory apartment for cooking, eating, sanitation, and sleeping. Such a dwelling is considered an accessory use and/or structure to the main dwelling.

Accessory Building or Use: A building or use which: is not more than two (2) stories in height; is subordinate to and serves a principal building or principal use; is subordinate in area, extent, or purpose to the principal building or use served; contributes to the comfort, convenience or necessity of occupants of the principal building or principal use; and is located on the same lot as the principal building or principal use.

Alley: An opened or unopened narrow street; *especially*: a thoroughfare through the middle of a block giving access to the rear of lots or buildings.

Alteration: Any change in the supporting members of a building; any modification or change in construction; any addition which increases the area or height; any change in use from that of one district classification to another.

Animal Hospital: A facility operated by a licensed veterinarian specifically for the practice of veterinary medicine.

Antique Shop: A store or shop for the sale of relics, objects of ancient times or of an earlier period, works of art, pieces of furniture or decorative objects made at a much earlier period than present.

Apartment House: A multi-family dwelling located on a parcel of land under a single ownership, designed for use by three or more housekeeping units, living independently of each other, and doing their own cooking on the premises.

Art Gallery: A facility, structure or building used for the display of sculptures, paintings, photographs or other artistic works for public viewing with only incidental sales.

Automated Teller: An accessory facility through which certain banking functions such as deposits and withdrawals can be completed without the personal assistance of a bank employee.

Automobile Sales Lot: An area of land on which more than one (1) car, truck, van, boat, agricultural vehicle or implement, motorcycle, recreational vehicle, or other motorized vehicle exists, and where such vehicles are indicated as for sale, as evidenced by "for sale" signs, dealer tags, warranty signs in windows, or other such indications.

Bed and Breakfast Inn: A commercial establishment, with common interior access to sleeping areas is provided, where no more than 10 guest rooms, with or without meals, are provided for compensation, and where the operator resides on the premises. Bed and Breakfast (B&B) accommodations differ from rooming or boarding houses in that they are truly transient accommodations, with guests rarely staying more than a few days. In addition, the owner almost always lives in the facility. The impact of a B&B should not be much greater than that of a private home with frequent houseguests, with the exception of parking demand. Many B&Bs are not accessible by mass transit and consequently, guests usually arrive by auto. Adequate parking must be provided. Bed and Breakfast Inns do not have a restaurant for serving meals to guests or the general public, but may serve breakfast meals to its guests only.

Broadcasting Studio: A room or suite of rooms operated as a radio or television broadcasting studio or station with local broadcast capability or intended for satellite distribution of programs.

Buffer: A landscaped open space and/or screen located between incompatible land uses for the purpose of visibly separating uses through distance and to shield or block noise, light, glare, visual or other nuisances; that portion of a given lot, not covered by buildings, pavement, parking, access and service areas, established for the purpose of screening and separating properties with incompatible land uses, the width of which is measured from the common property line and extending the developed portion of the common property line. A buffer consists of trees, shrubs and other natural vegetation undisturbed by grading or site development and replanted where sparsely vegetated or where disturbed for approved access and utility crossings.

Buildable Area: The portion of a lot remaining after required yards, buffers and building setbacks have been provided, where construction of principal buildings is permitted.

Building: Any structure, either temporary or permanent, above or below ground, having a roof or other covering, and designed, built, or used as a shelter or enclosure for persons, animals, or property of any kind.

Building Inspector: The Building Inspector of the City of Clarkesville, or his authorized representative.

Building, Principal: A building or structure in which is conducted the main use of the property on which the building or structure is located. In any residential district, any structure containing a dwelling unit shall be defined to be the principal building on the lot on which said structure is located.

Building Setback Line: A line establishing the minimum allowable distance between the main or front wall of a building, including any covered porches, and the street right-of-way or property line when measured perpendicularly thereto. In the case of corner lots or double frontage lots, front yard requirements shall be observed for those areas adjacent to street right-of-ways.

Car Wash: An establishment engaged in the business of washing vehicles with self serve, automated or staffed facilities.

Carport: An accessory structure or portion of a principal structure, consisting of a roof and supporting members such as columns or beams, unenclosed from the ground to the roof on at least two (2) sides, and designed or used for the storage of motor vehicles or boats.

Cemetery: Land used or intended to be used for the burial of the dead and dedicated for cemetery purposes, but not including crematories and mortuaries.

Certificate of Occupancy: A legal statement or document issued by the Building Inspector indicating that the building and use or reuse of a particular building or land is in conformity with all applicable codes and regulations, and that such building or land may be occupied for the purpose stated therein.

Character Area: A subdivision of the Preservation Corridor Overlay District based on the prevailing visual and architectural character and use within that area as well as on the desired future visual and architectural character and use within that area. There are five types of character areas: Residential, Commercial, Downtown, Greenspace and Redevelopment. Each type of character area has its own regulations for new commercial and multi-family construction (including duplexes); these regulations are referred to as “Site and Architectural Standards for New Commercial and Multi-family Construction.” The Zoning Map shows the location and boundaries of the character areas. The regulations and standards for new construction are found in Article XX.

Church: An institution that people regularly attend to participate in or hold religious services, meeting and other purposes, including education, day care and recreation facilities when owned and operated by such church.

Circus: The temporary use of land offering entertainment and instruction in the form of such things as thrill rides, games of chance and skill, educational exhibits, display of oddities and the like. The term also includes carnivals and fairs.

City Engineer: The Engineer or Engineering Firm in the employ of the City of Clarkesville, or his authorized representative.

Clarkesville Preservation Corridor Overlay Zone: All that area within the City of Clarkesville laying within one block or 225 feet (whichever is greater) on either side of Washington Street from its intersection with Louise Street on the south thence northward to the "Downtown Square," all existing buildings and lots fronting on the Square, thence continuing northwest and north from the Square all that area lying within one block or 225 feet (whichever is greater) on either side of Grant Street to the City Limits and all that area lying within one block or 225 feet (whichever is greater) on either side of Bridge Street northward from its intersection with Grant Street to the Soque River. The intent of this designation is to include all properties that lay within the above defined boundaries and their continuation of all contiguous lands under a single property owner that constitutes part of the parcel that lies within the corridor.

Clinic: A building designed and used for the diagnosis and treatment of patients that does not include overnight care facilities.

Club, Non-Profit: A building or facilities owned or operated by a group for social, educational or recreational purposes, but not customarily for profit or to render a service that is customarily carried on for gain.

Commercial Recreation Facility: Any use of building and/or land that involves the provision of sports and leisure activities to the general public for a fee, including but not limited to the following: amphitheaters and stadiums; assembly halls, auditoriums and meeting halls; billiard halls, pool rooms and amusement/video arcades; bowling alleys; firearms shooting ranges and turkey shoots; golf driving ranges, miniature golf courses and baseball batting cages; private clubs operated for profit, race tracks for animals and motor-driven vehicles, ice and roller skating rinks; horse and pony-riding rinks; circuses and carnivals; indoor and drive-in theaters; physical fitness facilities and health clubs; botanical gardens and zoological gardens; racquetball courts; bungi jumping.

Compatibility: The characteristics of different uses or activities that permit such uses or activities to be located near each other in harmony and without conflict. Some elements affecting compatibility include: intensity of occupancy as measured by dwelling units per acre or gross square footage per acre; pedestrian or vehicular traffic generated; volume of goods handled; and such environmental effects as noise, vibration, odor, glare, air pollution or radiation.

Comprehensive Plan: Those coordinated plans or portions thereof which have been prepared by or for the Governing Body for the physical development of the jurisdiction; or any plans that designate plans or programs to encourage the most appropriate use of the land in the interest of public health, safety and welfare.

Conditional Use: A use which would not be appropriate without restriction throughout a zoning district and is not automatically permitted by right within a zoning district, but which may be permitted within a zoning district subject to meeting specific conditions (such as controls on number, size, area, location and activities) contained in these regulations or required by the Governing Body. Such uses may be permitted only if approved by the Governing Body in accordance with the regulations established herein.

Conditional Zoning: The granting or adoption of zoning for property subject to compliance with restrictions as to use, size, density or actions stipulated by the Governing Body to mitigate adverse impacts that are anticipated without imposition of such conditions.

Condominium (Residential Building): A building or complex of multiple-unit dwellings in which a tenant holds full title to his unit and joint ownership in the common grounds.

Continuing Care Retirement Community: An age restricted development or facility that provides, to individuals of retirement status, accommodations and care such as board, independent living, licensed nursing care and medical or other health related services, and that typically enters into contracts to provide care.

Contractor's Establishment: An establishment engaged in the provision of construction activities including but not limited to plumbing, electrical work, building, paving, carpentry and other such contracting activities, including the storage of materials and the overnight parking of commercial vehicles.

Convalescent Home: A home for the care of children or the aged or infirm, or a place of rest for those suffering bodily disorders, wherein two (2) or more persons are professionally cared for.

Convenience Store: A small retail store which sells packaged food products, household items, and other items, and which may include the sale of gasoline and diesel fuel.

Conversion: Any change in the original use or purpose of a building or lot to a different use.

Country Inn: A commercial establishment, wherein no more than 30 guest rooms, with or without meals, are provided for compensation. Country Inn accommodations differ from bed and breakfast inns, rooming or boarding houses in that they are transient accommodations, with guests rarely staying more than a few days. The impact of a Country Inn should not be greater than that of a bed and breakfast. Adequate parking must be provided. Country Inns may have a restaurant for serving meals to guests or the general public. The owner(s) or agents do not normally live on the premises. Ingress and egress from rooms may be made from interior hallways or exterior doors from each guest accommodation.

Curb Cut: A provision for vehicular ingress and/or egress between property and an abutting public street.

Day Care Center: Any place operated by a person, society, agency, corporation, institution or group wherein are received for pay for group care, for fewer than twenty-four (24) hours per day without transfer of legal custody, seven (7) or more children under eighteen (18) years of age. A day care center of six (6) children or less may be considered to be a home occupation.

Density: The number of dwelling units developed, or to be developed, per gross acre of land, or the gross square footage of a building per acre of land.

Development: Any man-made change on improved or unimproved real estate including, but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation, drilling operations, or permanent storage of materials or equipment.

Developmentally Disabled Person: A person with a disability resulting in substantial functional limitations in such person's major life activities which disability is attributable to mental retardation, cerebral palsy, epilepsy, or autism or is attributable to any other condition related to mental retardation because such condition results in impairment of general intellectual functioning or adaptive behavior similar to that of mentally retarded persons.

Downtown Square: That section of public and private land in Clarkesville lying within the perimeter of the area shown on the accompanying map.

District, Zoning: A geographical area or areas, designated with the use of symbols on the Official Zoning Map, wherein uses of land are restricted in type, size, height and other limitations as established in these regulations.

Drive-in: A retail or service enterprise wherein service is provided to the customer within a motor vehicle on the outside of the principal building.

Drive-in Theater: A facility designed for the outdoor projection of motion pictures onto a permanent screen to be viewed from the patron's automobile.

Dry Cleaners: An establishment engaged in providing laundry, dyeing and dry cleaning services to individual customers.

Dry Cleaning Plant: An establishment engaged in providing laundry, dyeing and dry cleaning services on a large scale for institutions, businesses or other such establishments.

Dwelling: A building or portion thereof, designed, arranged or used for permanent living, and/or sleeping quarters.

Dwelling Unit: A building, or portion thereof, designed, arranged and used for living quarters for one (1) or more persons living as a single housekeeping unit with cooking facilities, but not including units in hotels or other structures designed for transient residence.

Dwelling, Multi-Family: A building designed for or occupied exclusively by three (3) or more single housekeeping units with separate kitchen and bath facilities for each family or housekeeping unit, including apartment houses, row houses, townhouses, and similar housing types but not including motels, hotels, lodging houses, hospitals, nursing homes, or public institutions such as prisons and mental institutions.

Dwelling, Single-Family: A building designed or arranged to be occupied by one (1) single housekeeping unit only.

Dwelling, Two-Family (Duplex): A building designed or arranged to be occupied by two (2) single housekeeping units living independently of each other.

Easement: A non-possessory interest in land; a grant by a property owner for the use by the public, a corporation or persons, of a portion of land for a specified purpose or purposes.

Exterminator: An establishment or person engaged in the service of killing insects, mice, rats or other pests.

Family: An individual, or two (2) or more persons related by blood, marriage, adoption or guardianship, or a group of not more than five (5) unrelated persons, occupying a single dwelling unit and using the same cooking facilities; provided however that domestic servants employed on the premises may be housed on the premises without being counted as a separate family or families. Any group which is licensed by the State of Georgia, or any political subdivision thereof, which contains up to six developmentally disabled persons and up to two supervisors or surrogate parents residing on the premise at one time shall constitute a family.

Fence: A structural barrier for enclosure, screening or demarcation, presenting a solid face or having openings amongst or between its constituent members; also, a wall separate from or extending from a building.

Finance, Insurance and Real Estate Establishments: Including but not limited to banks, savings and loan institutions and credit unions; security and commodity exchanges; insurance agents, brokers and service; real estate brokers, agents and managers; trusts; holding and investment companies.

Flea Market: The use of land, structures or buildings for the sale of produce or new or used goods, usually of second quality or at cut-rate prices, in which more than two (2) vendors are accommodated in spaces on the same lot or within the same building.

Floor Area: The gross heated, finished horizontal area of the floor or floors of a dwelling unit, exclusive of basement, attic, carport or garage.

Funeral Home: A building or part thereof used for human funeral services, which may contain space and facilities for: embalming and the performance of other services used in preparation of the dead for burial; performance of autopsies; storage of caskets; and chapel services.

Garage: An accessory building or portion of a principal building used only for the private storage of motor vehicles and other personal property as an accessory use.

Glare: A sensation of brightness within the visual field that causes annoyance, discomfort, or loss in visual performance and visibility.

Governing Body: The Mayor and City Council of the City of Clarkesville, duly elected by the citizens within the jurisdiction.

Greenhouse: A building designed or used for growing or propagating plants, with walls or roof usually designed to transmit light. Greenhouses shall not be construed to include commercial horticultural activities.

Guest House: A lodging unit used for temporary guests in an accessory building. No such lodging unit shall contain independent cooking or kitchen facilities and shall not be rented or otherwise used as a separate dwelling.

Height, Building: The vertical distance measured from the grade to the highest point of the coping of a flat roof; to the declines of a mansard roof; or to the mean height level between the eaves and ridge of a gable, hip or gambrel roof.

Historic District: A geographically definable area designated as a historic district pursuant to the criteria established by appropriate ordinance adopted by the Governing Body.

Historic Property: An individual building, structure, site, object or work of art including the adjacent area necessary for the proper appreciation thereof designated by the Governing Body as a historic property pursuant to the criteria established by appropriate ordinance adopted by the Governing Body.

Home Occupation: Any occupation or profession engaged in by any occupant of a dwelling not including the conduct of a retail business, or a manufacturing business or repair business of any kind on the premises. Home occupation shall not include any occupation conducted in any building on the premises other than the building which is used by the occupant as his or her private dwelling and shall not include the employment of any additional person in the performance of such services. Such home occupations shall not include clairvoyance, fortune telling, experimentation that involve the use of chemicals or matter or energy that may create or cause to be created noises, noxious odors, or hazards that will endanger the health, safety, or welfare of the community.

Hospital: An institution providing health services, for in-patients and medical or surgical care of the sick or injured, including as an integral part of the institution, such related facilities as laboratories, out-patients department, training facilities, central service facilities and staff offices.

Hotel: A public commercial lodging facility, comprised of more than 30 guest rooms, intended for use as temporary residence which may make provisions for meals, entertainment and various personal

services provided for compensation to persons traveling for business, tourism or other visitation purposes in which ingress and egress from all rooms is made through an inside lobby or office supervised by a person in charge at all hours.

Household Pet: An animal which is customarily kept for company or pleasure within a home or yard; such animal is not exhibited to the public or raised for commercial purposes (e.g. "show dogs"). Household pets include domestic canines, felines, tropical birds, fish, rabbits, rodents and other animals customarily sold in pet stores.

Inoperable Vehicle: Any motorized vehicle, other than those vehicles temporarily disabled incapable of immediately being driven. Any motorized vehicle without a current vehicle registration tag shall be considered an inoperable vehicle.

Junk: Any scrap material or debris, including iron, steel, brass, copper, tin, lead, or other base materials; cordage, ropes, rags, fibers and fabrics; rubber; bottles and glass; brick, wood and other building/structural materials; bones; wastepaper; used plumbing fixtures, stoves, refrigerators and other household appliances, tires and used auto parts; and inoperable and junk motor vehicles.

Junk Motor Vehicle: Any motorized vehicle which is inoperable for 30 days or more, dismantled or partially dismantled, wrecked beyond minor repair, ruined or scrapped.

Junkyard: Any yard, lot, place or property involving the abandonment, parking, storage, sale, resale, rental, dismantling, processing, salvage, baling, and/or disposal of junk, as defined by this ordinance, in whole units or by parts.

Kennel: The housing, breeding, boarding or training of four (4) or more dogs, cats, or other domestic animals, operated for the purpose of providing income or revenue.

Land-Disturbing Activity: Any activity which may result in soil erosion from water or wind and the movement of sediments into state water or onto lands of the State, including but not limited to clearing, dredging, grading, scraping, excavating, transporting, or filling of land; and any construction, rebuilding or alteration of a structure, but specifically excluding agricultural and gardening practices.

Landfill: An area wherein solid wastes are placed, under license, compacted and covered but specifically excluding hazardous or radioactive wastes.

Landscaping: Changing, rearranging or adding to the original vegetation or scenery of a piece of land to produce an aesthetic effect appropriate for the use to which the land is put. It may include reshaping the land by moving the earth, as well as preserving the original vegetation.

Landscaping Service: An establishment engaged in performing a variety of lawn and landscaping services such as lawn fertilizing, mowing, spraying and planting, and the planting and maintenance of landscaping.

Laundromat: A business that provides home-type washing and drying machines for hire to be used by customers on the premises.

Library: A building in which literary, musical, artistic or reference materials are kept for use but not generally for sale.

Loading and Unloading Space: A space, typically with dimensions of twelve (12) feet by sixty (60) feet, logically and conveniently located for pickups and/or deliveries or for loading and/or unloading, scaled to delivery vehicles to be used, and accessible to such vehicles.

Lot: A parcel of land having principal frontage on a public street; a developed or undeveloped tract of land of one ownership legally transferable as a single unit of land.

Lot Area: The total horizontal area within the lot lines of a lot, exclusive of public street right-of-ways but inclusive of easements.

Lot, Corner: A lot abutting upon two or more streets at their intersection.

Lot Coverage: The part or percent of a lot occupied by buildings and structures, including accessory buildings and structures, but not including unenclosed parking areas.

Lot Depth: The mean horizontal distance from the front lot line to the rear lot line.

Lot, Double Frontage: Any lot, other than a corner lot, which has frontage on two (2) streets that do not intersect at a point abutting the property.

Lot, Flag: A tract or lot of land of uneven dimensions in which the portion fronting on a public street is less than the required minimum width for construction of a building or structure on that lot.

Lot Frontage: The width in linear feet of a lot where it abuts the right-of-way of any public street.

Lot of Record: A lot which is part of a subdivision, a plat of which has been recorded in the records of the County Superior Court Clerk; or a parcel of land, the deed of which has been recorded in the same office as of the date of adoption of these regulations.

Lot Width: The horizontal distance between side lot lines measured at the minimum required front yard (regulatory front building set back) line.

Manufactured Home: A structure, built to conform to national standards embodied in the National Manufactured Housing Construction and Safety Standards Act of 1974 as amended, 42 U.S.C. 5401, et seq. administered by the United States Department of Housing and Urban Development, transportable in one or more sections, which, in the traveling mode, is eight (8) body feet or more in width or forty (40) body feet or more in length, or when erected on site, is three-hundred twenty (320) or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling with or

without a permanent foundation when connected to the required utilities, and includes mandatory plumbing, heating, air-conditioning and electrical systems contained therein. A manufactured home displays a certificate from the U.S. Department of Housing and Urban Development.

Manufacturing, Processing and Assembling: The mechanical or chemical transformation of materials or substances into new products. The land uses engaged in these activities are usually described as plants, factories or mills and characteristically use power driven machines and materials handling equipment. Establishments engaged in assembling component parts of manufactured products are also considered under this definition if the new product is neither a fixed structure nor other fixed improvement. Also included is the blending of materials such as lubricating oils, plastic resins or liquors.

Marquee: A permanent roof-like structure made of metal or other durable material affixed to the wall of a building.

Metes and Bounds: A system of describing and identifying land by distances or measures (metes) and bearings or direction (bounds) from an identifiable point of reference, such as a monument or other marker or the corner of intersecting streets.

Mini-Warehouse: A building or group of buildings that contains varying sizes of individual, compartmentalized stalls or lockers used for storage, which may include accessory office and/or night watchman's residence, but not including retail sale on the premises, commercial repair or other services, manufacturing or any other commercial use.

Mobile Home: A structure, transportable in one or more sections, which, in the traveling mode, is eight (8) body feet or more in width or forty (40) body feet or more in length or, when erected on site, is three-hundred twenty (320) or more square feet and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to required utilities and includes the plumbing, heating, air conditioning and electrical systems contained therein and manufactured prior to June 15, 1976.

Modular Structure: A factory fabricated transportable building consisting of units designed to be incorporated at a building site on a permanent foundation into a permanent structure to be used for residential or commercial purposes and which bears a seal of compliance with regulations of either the International Code Council or the Georgia Industrialized Building Act.

Motel: A public commercial lodging facility, comprised of more than 30 guest rooms, intended for use as temporary residence, which may also include provision of meals, entertainment and various personal services, provided for compensation to persons traveling for business, tourism or other visitation purposes, distinguished from a hotel in that ingress and/or egress to and from all rooms is made primarily from an exterior walkway rather than from an interior lobby.

Museum: An establishment engaged in the procurement, care, study, and display of objects of historical, educational and cultural value and interest.

Non-Conforming Lot: A lot, the area, width, or other characteristic of which fails to meet requirements of the zoning district in which it is located and which was of record as of the date of adoption of these regulations. Any lot which was subsequently annexed into the Clarkesville City limits which does not meet the requirements of the particular zoning district shall also be considered a non-conforming lot.

Non-Conforming Structure: Any building or structure which does not conform to the regulations governing the bulk, location, height or size of buildings or structures permitted in the district.

Non-Conforming Use: Any building or use of land or building lawfully existing at the date of adoption of these regulations or as a result of subsequent amendments to these regulations, which does not conform to the permitted use provisions established herein for the district in which it is located.

Nuisance: Anything that interferes with the use or enjoyment of property, endangers public health or safety, or is offensive to the senses; anything that causes hurt, inconvenience or damage to another, even though it may otherwise be lawful.

Nursing Home: A long-term care facility which admits patients by medical referral and provides for continuous medical supervision via 24-hour-a-day nursing care and related services in addition to food, shelter, and personal care. A nursing home may be licensed as a skilled nursing facility, an intermediate care facility, or an intermingled facility.

Off-street: Not located on a street as defined by this Article.

Office: A building or portion thereof wherein predominantly administrative, professional or clerical operations are performed, and not involving retail sales or other sales of any kind on the premises.

Official Zoning Map: The map, which accompanies the zoning ordinance text, that delineates the geographic location of the boundaries of zoning districts established in this ordinance in relation to natural features, man-made features and/or property uses.

Open Air Business: Any commercial establishment that displays products in a non-enclosed area.

Outdoor Display: The keeping of any goods, junk, material or merchandise outside of a business, building or establishment or in an area visible from a public street, for display, advertisement or purposes of attracting rental or sales. Such definition shall not be construed as to include the temporary loading or unloading of such goods, junk, material or merchandise to or from an enclosed area.

Outdoor Storage: The keeping of any goods, junk, material, merchandise, or commercial vehicles in the same outdoor place for more than twenty-four hours.

Parking Lot: Any public or private open area used for the express purpose of temporary parking of private motor vehicles. A parking lot may be the principal use on a given lot or an accessory use to the principal use on a given lot.

Parking Space: An area having an area of at least 160 square feet and three hundred (300) square feet including maneuvering space within a parking lot, to be used exclusively as a temporary parking space for a motor vehicle.

Permitted Use: A use which is specifically authorized in a particular zoning district.

Person: An individual, firm, partnership, corporation, company, association or institution, including any trustee, assigns or other representative.

Personal Care: Protective care and watchful oversight of a resident who needs a watchful environment but who does not have an illness, injury, or disability which requires chronic or convalescent care including medical and nursing services.

Personal Care Home: A building or group of buildings, a facility or place in which is provided two or more beds and other facilities and services, including room, meals and personal care, for non-family ambulatory adults.

Personal Care Home, Family: A personal care home for adults in a family-type residence, non-institutional in character, which offers care to two (2) through six (6) persons.

Personal Care Home, Group: A personal care home for adult persons in residence or other type building(s), non-institutional in character, which offers care to seven (7) through fifteen (15) persons.

Personal Care Home, Congregate: A personal care home for adults which offers care to sixteen (16) or more persons.

Photography Studio: An establishment engaged in photography for hire for the general public, including but not limited to portrait, passport, wedding and other special occasion photographs.

Planned Unit Development: A form of development usually characterized by a unified site design for a number of housing units, clustered buildings, common open space, and a mix of building types and land uses in a more dense setting than allowable on separate zoned lots.

Planning Commission: The Clarkesville Planning Commission as previously established by City Charter or Ordinance.

Premises: A lot as otherwise used in this Ordinance.

Public Use: Any building, structure or use owned and/or operated by the Federal Government, State of Georgia, Habersham County or other county, the City of Clarkesville or other municipality, or any

authority, agency, board or commission of the above governments, which is necessary to serve a public purpose, such as but not limited to the following: government administrative buildings, police and fire stations, public health facilities and hospitals, public works camps, parks and community centers, public roads and streets, airports, water and sanitary sewerage storage, intake, collection and treatment and pumping facilities, public housing facilities, jails and correctional centers.

Recreational Vehicle: A vehicular type portable structure which can be towed, hauled or driven and is primarily designed as temporary living accommodations for recreational, camping and travel uses.

Recreational Vehicle (RV) Park: Any lot of land upon which two or more recreational vehicle sites are located, established or maintained for occupancy on a temporary basis by recreational vehicles of the general public as temporary living quarters by campers, vacationers or travelers.

Recycling Collection Center: A principal or accessory use that serves as a neighborhood or regional drop-off point for temporary storage of recoverable resources such as cans, bottles and newspapers, but specifically excluding processing of such resources.

Rehabilitation: The process of returning a property to a state of utility, through repair or alteration, which makes possible an efficient contemporary use while preserving those portions of the property which are significant to its historic, architectural and cultural values.

Rehabilitation Center: Facilities authorized or licensed by appropriate agencies for the primary purpose of rehabilitation of: offenders against the law; persons with drug or alcohol abuse problems; mentally handicapped; and physically handicapped.

Residence for Caretaker or Night Watchman: An accessory residence, located inside or in addition to the principal structure or use of a parcel of land, designed or occupied by security personnel for security reasons only.

Residential District: Any R, R-1, R-1A, R-1B, or R-2 Zoning District as indicated on the Official Zoning Map.

Restaurant: Any place or premises used for sale, dispensing or service of food, refreshment or beverages.

Restaurant, Drive-in: Any place or premises used for sale, dispensing or service of food, refreshment or beverage to person(s) in automobiles, including those establishments where customers may eat or drink on the premises.

Retail Trade Establishment, Enclosed: Any business offering goods and products for sale to the public, which operates entirely within a structure containing a roof and walls on all sides, except for outdoor display or other use during business hours and accessory storage in enclosed, subordinate buildings. Incidental repair is also included. The following are considered enclosed retail trade establishments (list is not all-inclusive): paint, glass and wallpaper stores; grocery and miscellaneous food stores

including retail bakeries; apparel, shoe and accessory clothing stores; furniture, floor covering and home furnishing stores; household appliance stores; radio, television and computer stores; musical instrument stores; record, tape and compact disc stores; eating and drinking places not involving drive-in or drive-through facilities; drug stores and proprietary stores; liquor stores; used merchandise stores; sporting goods and bicycle shops; book, art and stationery stores; hobby, toy and game shops; jewelry, gift, novelty, souvenir and antique shops; camera and photographic supply stores, luggage and leather goods stores; sewing, needlework and piece goods stores; catalog and mail order stores; florists; tobacco stores; optical goods stores; news stands; automotive parts stores; video rental and sales stores; watch and clock shops; pawnshops; convenience stores with or without retail gasoline sales.

Retail Trade Establishment, Unenclosed: Any business offering goods and products for sale to the public, which does not operate entirely within a structure containing a roof and walls on all sides, and which all or a portion of the goods and products are displayed and/or stored, or business transacted, in the open-air or other shelter not completely enclosed. The following are considered unenclosed retail trade establishments (list is not all-inclusive): lumber and building materials; retail nurseries and garden supply stores; mobile and manufactured home/modular building dealers; new and used car, truck, boat, recreational vehicle, camper, motorcycle, and other motorized vehicle sales and leasing; eating and drinking places including drive-in and drive-through facilities; fuel oil and liquefied petroleum dealers; agricultural implement and equipment sales and rental; Christmas tree sales; flea markets; monument sales establishments; automatic teller facilities; gas stations; produce stands; firewood sales.

Rezoning: An amendment to or a change in the official zoning map.

Right-of-Way: That area, distinguished from an easement, which is owned in fee-simple title by the governing body or other government, for the present or future use of roads, streets, and highways, together with its drainage facilities and other supporting uses and structures.

Rooming House: A building where, for compensation, lodging only is provided.

Sanitarium: A hospital used for treating chronic and usually long-term illness.

School: A facility that provides a curriculum of elementary and secondary academic instruction. A school is considered public if operated by a unit of government.

School, Trade, Technical, Business: An establishment in which is offered, for compensation, instruction in a trade, craft, technical field, or business skills.

Screening: A method of shielding, obscuring or buffering one use or building from another use or building by fencing, walls, berms, densely planted vegetation, natural vegetation or other means; a visual and acoustical barrier which is of such nature and density that provides year-round maximum opacity from the ground to a height of at least six (6) feet or that screens structures and activities from

view from the normal level of a first story window on an abutting lot. Screening methods include opaque fences, walls, hedges, berms and other features.

Semi-Public Use: Any building, structure or use owned and/or operated by private utilities or private companies for a public purpose, or which is reasonably necessary for the furnishing of adequate service by such utilities, such as but not limited to the following: underground or overhead gas, electrical, steam or water distribution or transmission lines or systems, electric power substations, wires, towers, cables, and poles, railroad facilities and bus and air terminals.

Service, Automotive: An establishment providing services and repairs to motor-driven vehicles, including but not limited to: rental car facilities; automobile parking lots; top and body, paint, automotive glass, transmission, and tire repair shops; car washes, including automated and full service facilities; oil change and lubrication.

Service Establishment, Business: A facility engaged in support functions to establishments operating for a profit on a fee or contract basis, including but not limited to: advertising agencies; photocopying, blueprinting and duplication services; mailing agencies; commercial art and graphic design; disinfecting, exterminating and pest control; personnel supply services and employment agencies; computer and data processing services; protected and detective and security system services; accounting, auditing and bookkeeping services; publications and business consulting firms; food catering; interior decorating; and locksmiths.

Service Establishment, Personal: A facility engaged in the provision of services to persons and their apparel, including but not limited to: barber and beauty shops; coin-operated and full service laundries and dry cleaners; photographic studios; shoe repair and shoeshine parlors; dance studios, schools and halls; specialized instructional studios and schools; day care centers; massage parlors; travel agencies.

Service, Health: Health care facilities as well as establishments providing support to the medical profession and patients, such as medical and dental laboratories, blood banks, oxygen and miscellaneous types of medical supplies and services; offices of doctors, dentists and other medical practitioners.

Service, Lodging: A facility which offers temporary shelter accommodations, or place for such shelter, open to the public for a fee, including but not limited to: hotels, motels and motor hotels; rooming and boarding houses; bed and breakfast inns; recreational vehicle parks and campgrounds.

Service, Limited Lodging: A facility which offers temporary shelter accommodations, or place for such shelter, open to the public for a fee, as defined as a country inn.

Service, Miscellaneous: Those service establishments not otherwise specifically classified, including but not limited to: animal hospitals and veterinary clinics; funeral homes, mortuaries and mausoleums; construction contractor's establishments not involving outside storage of vehicles or materials; hospitals and clinics; palm reading and fortune telling; pet grooming, pet psychologists, dog obedience schools, taxidermists or tattoo parlors.

Service Station: Any building, structure or land used for the retail sale of motor vehicle fuel, oil, accessories, and motor vehicle servicing, except that major repairs, body repairs, and painting of motor vehicles shall not be considered motor vehicle servicing.

Setback: The minimum horizontal distance between a street, alley, or the property boundary lines of a lot and the front, rear, or side lines of a building located on that lot.

Shopping Center: A commercial use comprised of multiple tenant spaces within a single structure or multiple tenant spaces within a cluster of structures. A shopping center is further defined as a commercial use in which at least one tenant space is greater than 25,000 square feet in size (see also strip mall). A Shopping Center shall be planned, developed, owned and managed as a unit (rather than individually owned structures or spaces) with off-street parking as required.

Amended 3-5-2012

Sign: Any writing, pictorial presentation, illustration, or decoration, flag, banner or pennant or other device which is used to announce, direct attention to, identify, advertise or otherwise make anything known, and which is designed to be visible from any street or adjoining property, except for house numbers and address numbers and non-business letters on mailboxes. For the purposes of these regulations, any sign not visible from a street or adjoining property or is exempted from these regulations, as are all approved traffic control signs and devices.

Sign, Abandoned: Any sign that remains longer than a period of ninety (90) days where such sign no longer pertains to a business or other use on the subject property. The conditions of abandonment, including but not limited to occupational tax status, active utility services, etc., shall be determined by the Zoning Administrator.

Sign, Animated: Any sign of which all or any part thereof visibly moves in any fashion whatsoever; and any sign which contains or uses for illumination any light, lights or lighting device or devices which change color, flash or alternate, show movement or motion, or automatically change the appearance of said sign or any part thereof.

Sign, Area: The entire area within a circle, triangle, or parallelogram enclosing the extreme limits of writing, representation, emblem, or any figure of similar character, together with any frame or other material or color forming an integral part of the display or used to differentiate the sign from the background against which it is placed; excluding the necessary supports or uprights on which such sign is placed. Where a sign consists solely of lettering or other sign elements printed or mounted on a wall of a building without any distinguishing border, panel, or background; any blank rectangular area which consists of ten (10) percent or more of the area of the sign as otherwise computed shall be disregarded. All of the lettering and other sign elements printed or mounted upon a wall of a building without any distinguishing border, panel, or background and pertaining to the same enterprise shall be treated as a single sign for purposes of area computation. Where a sign has two or more faces, the area of all faces shall be counted as the area of one face if the two faces are of equal area or as the area of the larger face if the two faces are of unequal area.

Sign, Bench: A sign located on any part of the surface of a bench or seat placed on or adjacent to a public right-of-way.

Sign, Construction: Any sign giving the name or names and location of principal contractors, architects, and lending institutions responsible for construction on the site where the sign is placed.

Sign, Directional: A sign temporarily or permanently erected on a site other than that to which persons are directed (off-site) which denotes the route to a particular business or other destination.

Sign, Flashing: A sign designed to attract attention through the use of a flashing, changing, revolving or flickering light source, or a change in light intensity.

Sign, Freestanding/ Ground: A sign principally supported by a structure affixed to the ground, and not supported by a building, including signs supported by one or more columns, poles or braces placed in or upon the ground.

Sign Height: The vertical distance from the finished grade at the base of the supporting structure to the top of the sign, or its frame or supporting structure, whichever is higher.

Sign, Identification: A sign which depicts the name and/or address of a building, subdivision or establishment on the premises where the sign is located as a means of identifying said building, subdivision or establishment.

Sign, Internally Illuminated: A sign illuminated with a light source which is enclosed within the sign and viewed through a translucent panel.

Sign, Mansard: A sign attached to or erected against a mansard or marquee of a building, with the face horizontally parallel to the building wall. Since said sign is mounted parallel to and within the limitations of the building wall on which same is mounted, such sign is deemed to be a wall sign and not a roof sign.

Sign, Number: For the purposes of determining the number of signs, a sign shall be construed to be a single display surface or device containing elements organized, related and composed to form a single unit. A ground sign with sign surface on both sides of such sign shall be construed as a single sign, and the total area of such sign shall be the area computed on a single side.

Sign, Off-site: Any notice or advertisement, pictorial or otherwise which directs attention to goods, commodities, products, services, entertainment or other items that are not sold or offered upon the premises where such sign is located, except that government notices and directional signs shall not be considered off-site signs.

Sign, On-site: Any notice or advertisement, pictorial or otherwise which directs attention to goods, commodities, products, services or entertainment sold or offered upon the premises where such sign is located.

Sign, Political: A sign which announces, promotes or advertises the name, program, or political party of any candidate for public office, or an opinion regarding a public referendum.

Sign, Pole: See "Free-standing sign."

Sign, Portable: A sign, whether on its own trailer, wheels, or otherwise, which is designed to be transported from one place to another. It is characteristic of a portable sign that the space provided for advertising messages may be changed at will by the replacement of lettering or symbols. Even though the wheels or supports of such sign should be removed and the sign converted and attached, temporarily or permanently, to the ground or other structure, such sign shall retain its character as a portable sign based on its original design unless modified to change its original design through incorporation into a permanent ground sign.

Sign, Projecting: A sign other than a wall sign affixed to any building or wall whose leading edge extends more than one (1) foot beyond such building or wall.

Sign, Real Estate: A temporary sign erected by the owner, or his agent, advertising the real property upon which the sign is located for rent, lease or for sale.

Sign, Roof: Any sign erected, constructed and maintained wholly upon or over the roof of any building with the principal support on the roof structure.

Sign, Sandwich: Any sign, double or single-faced, other than a portable sign as defined herein, which is portable and may readily moved from place to place.

Sign, Structure: Any construction used or designed to support a sign.

Amended 3-5-2012

Sign, Temporary: A Handbill, circular, pamphlet, postcard, sign or banners including but not limited to posters, signs or notices, for the purposes of advertising, notifying or otherwise publishing notice of any event, such event including but not limited to yard and garage sales, elections, community events, and flea markets.

Sign, Wall: A sign attached to or erected against the wall of a building with the face in a parallel plane to the plane of the building wall.

Sign, Window: Any sign painted or placed inside or upon a door or window facing the outside and which is intended to be seen from the exterior, which is devoted to operational aspects of a business or other establishment (i.e., open, closed, out-to-lunch, no smoking, etc.) or which may contain general advertising material.

Site Plan: A graphic illustration, two-dimensional, prepared to scale, showing accurately and with complete dimensioning, the boundaries of a lot or tract and the location of all buildings, structures, uses and principal site development features proposed for a specific lot or tract of land.

Story: That portion of a building comprised between a floor and the floor or roof next above.

Street: A public or private thoroughfare which is open to the general public and which affords the principal means of access to abutting property.

Street, Arterial: Unless otherwise specified by the Comprehensive Plan, Transportation element of the Comprehensive Plan or Major Thoroughfare Plan, arterial streets are those streets and highway facilities, including full and partial access controlled highways and major urban area entrance highways, which are designed to carry the highest traffic volumes and the longest trips through and within an urban area.

Street, Collector: Unless otherwise specified by the Comprehensive Plan, the Transportation element of the Comprehensive Plan or Major Thoroughfare Plan, collector streets are those streets that collect traffic from minor streets or other collector streets and channel it to the arterial system. Collector streets provide land access and traffic circulation within residential neighborhoods, commercial and industrial areas.

Street, Public: A dedicated and accepted public right-of-way which affords the principal means of access to abutting properties.

Strip Mall: A commercial use comprised of multiple tenant spaces within a single structure or multiple tenant spaces within a cluster of structures. A strip mall is further defined as a commercial use in which no single tenant space is greater than 25,000 square feet in size (see also shopping center).

Structure: Anything constructed or erected, the use of which requires more or less permanent or semi-permanent location on the ground, or which is attached to something having more or less permanent location on the ground, not including utility poles, but specifically including tents, bleachers, gasoline pumps, recreational vehicles, travel trailers signs, and structures from which products are vended and similar objects.

Subdivision: The division of a parcel or tract of land into two (2) or more lots for the purposes of creation of lots for development, the rearrangement of existing lot lines, or for the purpose of transfer of ownership.

Temporary Use: A use intended for a specified limited duration.

Townhouse: One (1) of a group of three (3) or more attached dwelling units under fee simple ownership.

Transitional Use: A permitted use, building or structure that by nature or level and scale of activity acts as a transition or buffer between two or more incompatible uses.

Transportation, Communication and Utility Facilities: Including but not limited to the following: bus passenger stations and terminals; airports, heliports and helistops; taxi cab and limousine services; radio and television studios and broadcasting towers; recycling collection centers; truck stops and truck terminals; trucking and courier services; marinas; railroad facilities; gas, electric, water supply services; emergency medical services; ultra-light flight parks.

Travel Trailer: A portable dwelling or lodging unit having no other foundation than wheels, distinguished from a mobile or manufactured home, designed for short-term travel, recreational or vacation use, including pickup campers and motor homes.

Tree: Any self-supporting, woody perennial plant having a single trunk diameter of two (2) inches or more which normally grows at maturity to an overall height of a minimum of fifteen (15) feet.

Unenclosed Area: Any area of a given lot or structure which is not covered with a roof and protected by opaque walls on each of the sides of said area or structure.

Use: Any purpose for which a building or structure or a tract of land may be designed, arranged, intended, maintained, or occupied; or any activity, occupation, business, or operation carried on, or intended to be carried on, in a building or structure or on a tract of land.

Utility: Public or private water and sewer piping systems, water or sewer pumping stations, electric power lines, fuel pipelines, telephone lines, cable television lines, roads, driveways, river/lake access facilities, stormwater facilities, railroads, airports and bus terminals.

Variance: A minimal relaxation or modification of the strict terms of the height, area, placement, setback, yard, buffer, landscape strip, parking and loading regulations as applied to specific property when, because of particular physical surroundings, shape, or topographical condition of the property, compliance would result in a particular hardship upon the owner, as distinguished from a mere inconvenience or a desire to make a profit.

Warehouse: A building or group of buildings for the storage of goods or wares, with controlled access to contents.

Wholesale Distribution: An establishment engaged in selling merchandise to retailers, to industrial, commercial, institutional or professional business users or to other wholesalers.

Wrecked Motor Vehicle Compound: An area used to store disabled motor vehicles until such time as their disposition (either by junk, salvage or repair) has been determined by the insurance company, the owner of the vehicle, or his legal representative.

Yard: A space on the same lot with a principal building, which is open, unoccupied, and unobstructed by buildings or structures from ground to sky except where encroachments and accessory buildings are expressly permitted. A yard may contain a parking and/or loading area unless otherwise specified by these regulations.

Yard, Front: A space on the same lot with a principal building, extending the full width of the lot, and situated between the street right-of-way and the front line of the building projected to the side lines of the lot. In the case of a corner lot, both spaces with street frontage shall be considered front yards. In the case of double frontage lots, the spaces as defined above shall both be considered front yards.

Yard, Rear: The space on the same lot with a principal building, extending the full width of the lot and situated between the rear line of the lot and the rear line of the building projected to the side lines of the lot.

Yard, Side: A space on the same lot with a principal building, situated between the building and the side lot line and extending from the rear line of the front yard to the front line of the rear yard.

Yard Sale: The temporary sale of home furniture, appliances, clothing and/or domestic items owned by an occupant of a residential dwelling and taking place on the premises on which such occupant resides, whether in the yard or in a carport or garage, usually as a result of the occupant moving/relocating to another place of residence. Yard sales which do not take place on the premises on which such occupant resides are considered open-air businesses.

Zero Lot Line: The location of a building on a lot in such a manner that one or more building sides have no side building set back and rest directly on a side lot line.

Zoning: A legislative procedure in which the community is divided into districts or zones within which permitted uses, and in some cases conditional uses, are established as well as regulations governing lot size, bulk, height and other development requirements.

Zoning Administrator: The City Manager of Clarkesville, or his authorized representative.

ARTICLE IV
ESTABLISHMENT OF DISTRICTS:
PROVISION FOR OFFICIAL ZONING MAP

Section 401. Use Districts.

For the purpose of this Ordinance, the City of Clarkesville is hereby divided into use districts as set out below:

A,	Agricultural District
CP,	Conservation and Preservation District
R,	Single-Family Residential District
R-1,	Single-Family Residential District
R-1A,	Single-Family Residential District
R-1B,	Single-Family Residential District
R-2,	Multiple-Family Residential District
INS,	Institutional District
PRO,	Professional District
DB	Downtown Business District
CB,	Community Business District
HB,	Highway Business District
M-I,	Light Industrial District

Section 402. Official Zoning Map.

The location and boundaries of the above listed districts are hereby established as shown on a map entitled Official Zoning Map of the City of Clarkesville, Georgia. Said map, together with all explanatory matter thereon, is hereby adopted by reference and declared to be a part of this Ordinance.

The Official Zoning Map shall be identified by the signature of the Mayor, attested by the City Clerk, and bear the seal of the City or that of a Notary Public under the following words: "This is to certify that this is the Official Zoning Map referred to in Article IV of the Zoning Ordinance, City of Clarkesville, Georgia", together with the date of the adoption of the Ordinance. The official Zoning Map may be reproduced so that additional copies of said map may be made available, upon proper certification as described above.

If in accordance with the provisions of this Ordinance and the applicable laws of the State of Georgia, changes are made in boundaries or other matter portrayed on the Official Zoning Map, such changes shall be entered on the Official Zoning Map promptly after the amendment has been approved by the City Council, with appropriate entry or indication of such amendment on the Official Zoning Map. The formal action by the City Council to change the boundaries of the Official Zoning Map shall be sufficient to make such zoning district change effective. Upon such changes, the Zoning Administrator is authorized to enter such changes on the Official Zoning Map, and re-adoption of the said map shall not be required.

No changes of any nature shall be made in the Official Zoning Map or matter shown thereon except in conformity with the procedures set forth in this Ordinance. Any unauthorized change of whatever kind by any person or persons shall be considered a violation of this Ordinance.

Regardless of the existence of purported copies of the Official Zoning Map which may from time to time be made or published, the Official Zoning Map shall be located in the Office of the Zoning Administrator, City of Clarkesville and shall be the final authority as to the current zoning status of land and water areas, buildings, and other structures in the City.

Section 403. Replacement of Official Zoning Map.

In the event that the Official Zoning Map becomes damaged, destroyed, lost, or difficult to interpret because of the nature or number of changes and additions, the Governing Body may adopt a new Official Zoning Map which shall supersede the prior Official Zoning Map. The new Official Zoning Map may correct drafting or other errors or omissions in the prior Official Zoning Map, but no such correction shall have the effect of amending the original Official Zoning Map or any subsequent

amendment thereof. The new Official Zoning Map shall be identified by the signature of the Mayor, attested by the City Clerk, and bear the seal of the City or a Notary public under the following words: "This is to certify that this Official Zoning Map supersedes and replaces the Official Zoning Map adopted (date of adoption of map being replaced) as part of the Zoning Ordinance of the City of Clarkesville, Georgia."

Unless the prior Official Zoning Map has been lost, or has been totally destroyed, the prior map or any significant parts thereof remaining, shall be preserved, together with all available records pertaining to its adoption or amendment.

Section 404. Interpretation of District Boundaries.

404.1 Where boundaries are indicated as approximately following the centerline of streets or highways, street right-of-way lines or railroad right-of-way lines or such lines extended, such centerline, street right-of-way lines, or railroad right-of-way lines shall be construed to be such boundaries.

404.2 Where boundaries are indicated as approximately following the corporate limit line of the city, such corporate limit line shall be construed to be such boundaries.

404.3 Where boundaries are indicated as approximately following property lines or such lines extended, such property lines or such lines extended, as indicated by boundary survey, deed or legal description maintained in the official file of said zoning adoption or amendment, if available, shall be construed to be such boundaries.

404.4 Where boundaries are indicated as approximately following the centerline of stream beds or river beds, such centerline shall be construed to be such boundaries.

404.5 In the case where the exact location of a boundary cannot be determined by the foregoing methods, the Governing Body shall, upon application, determine the location of the boundary.

Section 405. District Boundary Line Divides A Lot Of Single Ownership.

Where a boundary line as appearing on the Official Zoning Map divides a lot in single ownership at the time of the enactment of these regulations, the requirements for the district in which the greater portion of the lot lies may be extended to the balance of the lot without recourse or amendment procedure, provided that this provision shall not apply to a double frontage lot.

Section 406. Designation after Street Abandonment.

Where a public street, alley or other right-of-way is officially vacated or abandoned, the regulations applicable to the property to which it reverted shall apply to such vacated or abandoned public street, alley, or right-of-way.

ARTICLE V
NON-CONFORMING LOTS, BUILDINGS AND USES

Section 501. Purpose and Intent.

Within the districts established by this ordinance, there exist certain incompatible lots, buildings, structures, signs and uses of land which were lawful before these regulations were adopted but which would be prohibited, regulated or restricted under the terms of these regulations or future amendments.

It is the intention of this article to permit these non-conformities to continue but that non-conformities shall not be enlarged upon, expanded or extended, nor be used as grounds for variances or for adding other structures or uses prohibited elsewhere in the same district.

Section 502. Non-Conforming Lots of Record.

In any district, notwithstanding limitations imposed by other provisions of these regulations, a single-family dwelling and customary accessory buildings or any other permitted use may be erected on any single lot of record existing at the effective date of adoption or amendment of these regulations, even though such lot fails to meet the requirements for area or width, or both, applicable to the particular district involved, provided that building setbacks are observed and the lot shall otherwise conform to the regulations for the district in which the lot is located.

Except for those lots described above, if two (2) or more lots or combinations of lots and portions of lots with continuous frontage in single ownership are of record at the time of adoption or amendment of these regulations, and if all or part of the lots do not meet the requirements for lot width and area as established by these regulations, the lands involved shall be considered an undivided parcel for the purposes of these regulations, and no portion of said parcel shall be used which does not meet lot width and area requirements established by these regulations, nor shall any division of the parcel be made which leaves remaining any lot with width or area below the applicable requirements.

Section 503. Continuance of Non-Conforming Use.

The lawful use of any building, structure, sign or land existing at the time of enactment of these regulations may be continued, subject to the limitations of Section 504, even though such use does not conform to the provisions of these regulations, except that the use of a principal building, structure or land containing a non-conforming use shall not be:

503.1 Changed to another non-conforming use;

503.2 Re-established after discontinuance or abandonment for six (6) months. For purposes of this section a use shall be considered discontinued or abandoned if it has not been actively engaged in any principal non-conforming activity during the subject period;

503.3 Expanded, enlarged or extended, unless such use is changed to a use permitted in the district in which such use is located;

503.4 Rebuilt, altered or repaired after damage exceeding fifty (50%) percent of its replacement value at the time of destruction as determined by the Building Official;

503.5 Moved in whole or in part to any other portion of the lot occupied by such use, except in conformity with these regulations.

Nothing in this Article shall be deemed to prevent the strengthening or restoring to a safe condition any building, structure, or portion thereof, declared to be unsafe by an official charged with protecting the public safety or health, upon order of such official.

Changes in ownership or tenancy of a non-conforming use are permitted.

Section 504. Expansion of Non-Conforming Buildings.

A non-conforming building which contains a conforming use may be expanded, enlarged or extended, provided that any such additions meet the applicable yard and building setbacks, buffer and landscape strip requirements and all other regulations for the district in which it is located.

This section shall not, however, be construed as to authorize the expansion of a non-conforming building for a use which is not permitted by the regulations for the district within which such building is located, except as otherwise specifically authorized elsewhere in this ordinance.

Section 505. Buildings under Construction.

Nothing in this Article shall be deemed to require a change in the plans, construction, or designated use of any building on which actual construction was lawfully begun prior to the adoption of these regulations.

Section 506. Replacement of Non-Conforming Mobile/Manufactured Home Permitted.

Notwithstanding the provisions of Section 503, a non-conforming mobile home or manufactured home, whether located in a mobile/manufactured home park or on its own lot, may be replaced with another manufactured home as long as the replacement home is an upgrade (later year model) of the original home, as determined by the Zoning Administrator and comply with all design standards identified in Section 721 of this ordinance.

ARTICLE VI
OFF-STREET PARKING, LOADING AND ACCESS REQUIREMENTS

Section 601. Off-street Parking and Loading Spaces Required.

Off-street automobile parking and loading spaces shall be provided, as specified in this Article, for uses and structures hereafter established in all districts at the time of initial construction of any principal building, unless otherwise exempted from this Article. For developments phased in timing, parking and loading requirements may also be phased in accordance with the requirements applying for each particular time phase of development.

Required parking and loading spaces shall be maintained and shall not be encroached upon by refuse containers, signs or other structures, unless an equal number of spaces are provided elsewhere in conformance with these regulations.

Required parking and loading spaces shall be provided with vehicular access to a public street.

Off-street parking and loading facilities required shall be located contiguous to the principal building or use. However, as much as twenty-five (25) percent of the required number of parking spaces may be located within two hundred (200) feet of the principal building or use, provided proof of ownership of such premises is provided to the Zoning Administrator. Such distance shall be measured between the nearest point of the parking facility and the nearest point of the principal building or use.

The Zoning Administrator shall be authorized to increase or decrease the number of required parking spaces by not greater than nor less than ten percent (10%) of the required number of parking spaces. Granting of said reductions may be made upon request of the applicant after consideration of conditions that warrant such increase or decrease in the opinion of the Zoning Administrator. It shall be the responsibility of the Zoning Administrator to inform the Planning Commission and/or Governing Body of any such grant at the next regularly scheduled meeting.

Section 602. Minimum Number Of Off-street Parking Spaces Required.

The minimum number of required off-street parking spaces for each type of permitted use shall be as indicated below. For uses not specifically listed, the off-street parking requirements shall be those of the most similar use as determined by the Zoning Administrator. When the application of these parking requirements results in a fractional space requirement, the fractional space requirement shall be construed to mean one (1) additional space.

USE CLASSIFICATION	MINIMUM PARKING SPACE REQUIREMENTS
Amusement park activity area	One square foot of parking for each square foot of public
Apartment and other multiple-family residential uses	Two spaces per dwelling unit plus four spaces per leasing office and ten spaces per clubhouse or recreation center
Art gallery	One space for each 300 square feet of gross floor area
Auction facility	One space for each four patron seats
Auditorium, stadium, assembly hall, gymnasium or community center	One space per four fixed seats in largest. assembly room or area
Auto parts store	Three and one-third spaces for each 1,000 square feet of gross floor area
Automobile sales	Six spaces per 1,000 square feet of showroom gross floor area, plus one for each employee and one additional parking space for each service bay. Such parking spaces shall be for the exclusive use of customers and employees and shall not be used for sales
Automobile service and repair	One space for each 150 square feet of gross floor area
Bank or financial institution	One space for each 250 square feet of gross floor area
Barber and beauty shop	Two spaces for each operator or chair
Bed and Breakfast Inn	One space per guest room plus one space for each permanent resident
Billiard hall, amusement arcade	One space for each 200 feet of gross floor area
Boarding or rooming house	One space for each guestroom plus one additional space for each manager or resident owner

USE CLASSIFICATION	MINIMUM PARKING SPACE REQUIREMENTS
Bowling alley	Four spaces for each alley plus one space for each employee
Church or place of worship	One space per three fixed seats in largest assembly room
Convenience retail store	One space for each 200 square feet of gross floor area
Country Inn	One space for each guest room plus one space for each employee.
Dance studio or school	One space for each employee plus one space per 150 square feet of gross floor area
Day care center	One space for each eight children, plus one space per employee
Duplex	Two spaces per dwelling unit
Elderly housing	One space per two bedrooms
Exterminator	One space per 800 square feet of gross floor area
Funeral home or mortuary	One space for each four seats in largest assembly room
Furniture or appliance store	One space per 800 square feet of gross floor area
Gasoline service station	Two spaces per gasoline pump at the pump plus three spaces per service bay
Golf Course (exclusive of Restaurant or pro shop)	Three spaces for each hole plus one space for each employee
Hardware store	Three spaces per 1,000 square feet of gross floor area
Health club, spa	One space for each 200 square feet of gross floor area

USE CLASSIFICATION	MINIMUM PARKING SPACE REQUIREMENTS
Hospital, clinic, nursing home	One space for each two beds plus one space for each staff doctor, plus one space for each two employees (non-doctors)
Hotel, motel	One space for each guest room plus one space for each two employees on largest shift
Industrial or manufacturing	Two spaces for each three employees on largest shift
Laundry, self service	One space for each two washer-dryer combinations
Library, museum	One space for each 200 square feet of gross floor area
Lodge, club	One space for each three seats in largest assembly room
Marina	One space for each boat slip
Miniature golf course	Two spaces per hole
Office, general or professional	One space for each 250 square feet of gross floor area
Office, medical or dental	Six spaces per practitioner
Personal service establishment	One space for each 250 square feet of gross floor area
Post office	One space per 250 square feet of gross floor area
Restaurant or lounge	One space for each 100 square feet of gross floor area, plus one additional space for every four outside seats
Retail business, indoor	One space for each 250 square feet of gross floor area
Retail business, outdoor	One space for each 500 square feet of open sales/display area, plus one space per employee

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USE CLASSIFICATION	MINIMUM PARKING SPACE REQUIREMENTS
Sanitarium, rest and convalescent home, personal care home	One space for each four patient beds plus One space for each doctor and staff member One space for each doctor and staff member
School, elementary	Two spaces per classroom plus one for each administrative or staff person
School, college, trade, vocational, or high school	Ten spaces per classroom plus one space for each administrative or staff person
Self-service storage, facility mini-warehouse	One space for each twenty storage stalls, plus two spaces for resident manager's office
Shopping center	One space for each 250 square feet of gross floor area
Single-family residence	Two spaces for dwelling unit
Skating rink	One space for each 200 square feet of gross floor area
Theater, cinema	One space for each three seats
Veterinarian, animal hospital	Four spaces for each practitioner
Wholesale, merchandise	One space for each 500 square feet of gross floor area

Section 603. Handicapped Parking Requirements.

Each parking area of six (6) or more spaces devoted to uses other than residential shall provide handicapped parking spaces (a minimum of twelve feet in width) counted as a part of the total parking required, in accordance with the following scale:

TOTAL PARKING REQUIREMENTS	HANDICAPPED SPACES REQUIRED
6 - 25	1
26 - 50	2
51 - 75	3
76 - 100	4
101 - 150	5
151 - 200	6
201 - 300	7
301 - 400	8
401 - 500	9
501+	2% of total required

Section 604. Parking Space and Lot Design Flexibility.

Individual parking spaces shall be a minimum of 160 square feet. The angle of design for parking spaces and parking lots may be 30, 45, 60, 90 degrees or parallel to the curb, provided that sufficient maneuvering isle width is provided subject to the approval of the Zoning Administrator.

Section 605. Minimum Number Of Off-street Loading Spaces Required.

On the same lot with every new building, structure or part thereof, erected for manufacturing, storage, warehouse, truck freight terminal, goods display, department store, wholesale store, market, hotel, hospital, mortuary, laundry, dry cleaning, retail business or other uses similarly involving the receipt or distribution of vehicles, materials or merchandise, there shall be provided and maintained on the lot adequate space for the standing, loading and unloading services to avoid undue interference with public use of streets and alleys.

Such loading and unloading space, unless otherwise adequately provided for, shall be an area twelve (12) feet by sixty (60) feet, with fourteen (14) foot height clearance, and shall be provided according to the following schedule.

For the above described uses, one (1) loading space shall be provided for the first 25,000 square feet of gross floor area or fractional part thereof. Uses in excess of 25,000 square feet shall provide loading spaces according to the following schedule:

SQUARE FEET	NUMBER OF SPACES
25,001 - 99,999	2
100,000 - 159,999	3
160,000 - 239,999	4
240,000 - 349,999	5
for each additional 100,000 or fraction thereof	1 additional

All plans for off-street loading areas shall be subject to the approval of the Zoning Administrator.

Section 606. Parking and Loading Area Design 8equirements.

606.1 Improvement of Parking Lots:

All parking areas containing more than five (5) spaces shall meet the following requirements:

a. They shall be graded to insure proper drainage, and maintained in good condition free of obstructions.

b. Parking areas shall not be used for the sale, repair, dismantling or servicing of any vehicle, equipment, materials or supplies.

c. Each parking space shall be clearly marked, and directional arrows or signs shall be provided wherever necessary. Markers, directional arrows and signs shall be properly maintained at all times.

d. A parking area setback of ten (10) feet from any public street right-of-way and five (5) feet from any exterior property line shall be provided, except where access points and interconnections to other parcels have been approved. The parking area setback shall be increased to twenty-five (25) feet where such lot abuts a residential district. Concrete or other suitable curb stops shall be installed so as to prevent vehicle encroachment onto setback areas.

e. Parking lot landscaping shall consist of a minimum of 7% of the parking lot area plus one tree for each seven parking spaces. The tree species shall be an appropriate large canopied shade tree with a minimum of 3" caliper and shall be selected from the Clarkesville Native Plant List (see Section 2007). The landscaped area shall be planted with shrubs and/or groundcover to assure 80% coverage of the ground within five years. Landscaped area shall be evenly distributed throughout the parking area and parking perimeter at the required ratio.

f. Any lighting facilities installed shall be so arranged to prevent the direct illumination of adjacent residential properties or public streets.

A site plan indicating property lines, parking areas, location of parking spaces, parking lot area set backs, drainage facilities, access and other features required to ensure compliance with this Article shall be submitted to the Zoning Administrator. A permit shall be required prior to the construction of new parking areas, or for the expansion or alteration of existing parking areas.

When adjacent to any public right-of-way, parking lots shall also incorporate a buffer that consists of a sight-obscuring landscaped screen that shall reach a height of 36 inches above the finished grade of the parking area, except for required vision clearance zones. The screen may be

achieved by a combination of earth mounding and plant materials. The buffer shall be included as part of the parking lot landscaping requirements.

606.2 Curb Cut and Access Specifications:

Access from public streets to all parking areas, regardless of the number of parking spaces provided, shall meet the following requirements:

a. Curb cuts or access breaks for service drives, entrances and exits on public streets shall not be located within fifty (50) feet of the intersections of two (2) curb lines, street pavement lines or such lines extended or any street intersection nor within forty (40) feet of another curb cut or access break on the same side of the street.

b. Curb cuts shall be no greater than forty (40) feet in width and no closer than twenty-five (25) feet to any property line, unless common use of driveways for an abutting lot is required or approved by the City Engineer.

c. No more than two (2) curb cuts or access breaks shall be permitted for any lot or parcel with a frontage of two hundred (200) feet or less on any one (1) street.

d. All curb cuts or access breaks onto public streets, except for those serving single-family detached residences, shall require a permit from the Zoning Administrator.

e. Curb cuts for driveways that serve commercial, office or industrial zoning districts shall not be permitted to pass through residential zoning districts or to access alleys that abut a residential zoning district.

f. Where the side of an accessed public street or alley does not contain curbing, such curbing or other method of approved access control shall be provided.

Section 607. Parking Areas Must Be Appropriately Zoned.

Parking areas, parking lots or parking garages which constitute the principal use of a lot shall only be permitted in INS, DB, CB, HB and M-1 zoning districts. In cases where parking areas, parking lots or parking garages exist or are proposed to serve as accessory parking for a particular building or use, regardless of whether such parking is required by this Article, such land, area or lot, including all access drives, shall require the same or less restrictive zoning district as that within which such building or use it serves is located. Similarly, in cases where accessory parking serves a building or use which requires, or was approved as, a conditional use, such parking area and access drives shall require the same conditional use approval as that for which such conditional use or building it serves.

Section 608. Parking Space Requirement Not Specified.

Where the parking requirement for a particular use is not described in this chapter, and where no similar use is listed, the Zoning Administrator shall determine the number of spaces to be provided based on requirements for similar uses, location of the proposed use, the number of employees on the largest shift, and the expected demand and traffic generated by the proposed use.

Section 609. Required Parking for Multiple Uses.

When a building includes a combination of uses, the required number of parking spaces shall be the sum of the required parking for each use, when the multiple uses operate simultaneously. For non-simultaneous use, the parking requirements for the use requiring the greater number of parking spaces will govern.

Section 610. Reduction of Required Parking for Mixed or Joint Use of Parking Spaces.

The Zoning Administrator may authorize a reduction in the total number of required off-street parking spaces for two or more uses jointly providing parking facilities when their respective hours of need of maximum parking do not normally overlap, provided that the developer submits sufficient data

to demonstrate that the hours of maximum demand for parking at the respective uses do not normally overlap.

Section 611. Reduction of Required Parking for Alternative Transportation Arrangements.

The Zoning Administrator may in individual cases administratively authorize a reduction in the minimum number of parking spaces for projects that are directly served by public transit and for projects that provide bicycle parking, provided that it can be shown that such available alternative travel modes will reduce the overall need for parking on the site proportional to the requested reduction in parking spaces.

Section 612. Reduction of Required Parking When On-Street Parking is Permitted.

The Zoning Administrator may in individual cases administratively authorize a reduction in the minimum number of parking spaces for projects that are directly served by on-street parking approved by the City Engineer.

Section 613. Parking Maximums.

To avoid excessive surpluses which increase development costs and impervious surfaces, parking shall not be provided in quantities greater than twenty-five percent (25%) above the required minimum; provided, however, the following:

The Zoning Administrator may allow parking at a rate greater than the twenty-five percent (25%) of the minimum required parking spaces, on a case-by-case basis, based upon the scale and impacts of the request, for good cause shown. The applicant shall make said request in writing which shall include documentation from an acceptable industry publication (e.g. Institute of Transportation Engineers, Urban Land Institute, American Planning Association, etc.) or by a study prepared by a traffic engineering firm that documents parking requirements.

The Zoning Administrator may allow a land area for parking that exceeds twenty-five percent (25%) of the above required number of parking spaces to be designed and reserved for future parking use. In such case, said reserved parking area shall not be developed except by written permission from the Zoning Administrator and only after demonstration by the applicant that: (1) existing parking spaces are occupied at a rate of ninety percent (90%) or higher for twenty-five percent (25%) or more of the regular business hours in which the business or use is operated during a non-holiday week; (2) additional parking areas will be constructed of well-known permeable and pervious materials and design.

Section 614. Limited Waiver of Parking Requirement in DB District.

Parking requirements for uses allowed within the DB District, where there are setback requirements and where there is no or very limited private parking, but there is available some municipal parking, may be reduced or waived only after review and recommendation of the Zoning Administrator and approval of the City Council.

ARTICLE VII
GENERAL PROVISIONS

Sec. 100-1. Restriction on Outdoor Water of Landscape. Outdoor watering for purposes of planting, growing, managing, or maintaining ground cover, trees, shrubs, or other plants may occur only between the hours of 4:00 p.m. and 10:00 a.m.; provided, however, that this limitation shall not create any limitation upon the following outdoor water uses:

(A) Commercial raising, harvesting, or storing of crops; feeding, breeding, or managing livestock or poultry; the commercial production or storing of feed for use in the production of livestock, including, but not limited to, cattle, calves, swine, hogs, goats, sheep, and rabbits, or for use in the production of poultry, including, but not limited to, chickens, hens, ratites, and turkeys; producing plants, trees, fowl, or animals; or the commercial production of aquacultural, horticultural, dairy, livestock, poultry, eggs, and apiarian products or as otherwise defined in O.C.G.A. § 1-3-3;

(B) Capture and reuse of cooling system condensate or storm water in compliance with applicable ordinances and state guidelines;

(C) Reuse of gray water in compliance with O.C.G.A. § 31-3-5.2 and applicable local board of health regulations;

(D) Use of reclaimed waste water by a designated user from a system permitted by the Environmental Protection Division of the Georgia Department of Natural Resources to provide reclaimed waste water;

(E) Watering personal food gardens;

(F) Watering new and replanted plant, seed, or turf in landscapes, golf courses, or sports turf fields during installation and for a period of 30 days immediately following the date of installation;

(G) Drip irrigation or irrigation using soaker hoses;

(H) Hand watering with a hose with automatic cutoff or handheld container;

(I) Use of water withdrawn from private water wells or surface water by an owner or operator of property if such well or surface water is on said property;

(J) Watering horticultural crops held for sale, resale, or installation;

(K) Watering athletic fields, golf courses, or public turf grass recreational areas;

(L) Installation, maintenance, or calibration of irrigation systems; or

(M) Hydroseeding.

Sec. 100-2. Enforcement.

(a) No person shall use or allow the use of water in violation of the restrictions on outdoor water use contained in ordinance.

(b) The Clarkesville Police Department shall be the enforcement authority for this ordinance. The city manager may also authorize other departments as may be deemed necessary to support enforcement.

(g) Criminal and alternative penalties. Any violation of this section may also be enforced by a citation or accusation returnable to the Clarkesville municipal court or by any other legal means as set forth in this Code.

Sec. 100-3. Repealer.

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

Sec. 100-4. Effective Date**.** This ordinance shall go into effect on January 1, 2011.

Section 701. Use, Occupancy and Erection.

No building, structure, land, open space or water shall hereafter be used or occupied and no building or structure or part thereof shall hereafter be erected, constructed, reconstructed, moved, structurally altered or maintained, and no new use or change shall be made or maintained of any building, structure, land, open space or water, unless in conformity with all the regulations herein specified for the district in which it is located.

Section 702. Minimum Requirements.

Within each district, the regulations set forth shall be minimum requirements and shall apply uniformly to each class or kind of building, structure or land.

Section 703. Height Limitations.

No building or structure shall hereafter be erected, constructed, reconstructed, or altered, except as otherwise specifically exempted in this Article, to exceed the maximum height for the district in which said building or structure is located; provided, however, that the Governing Body may permit buildings and structures to exceed height limitations upon approval of a conditional use as specified in these regulations.

The height limitations established herein shall not apply to chimneys, smokestacks, church spires and steeples, domes, flag poles, public monuments, observation towers, water towers, non-commercial radio and television towers, electricity transmission towers, utility poles and similar structures.

Section 704. Every Use Must Be Upon A Lot.

No building or structure shall be erected or use established unless upon a lot of record as defined by these regulations except as otherwise provided herein.

Section 705. One Principal Building On A Lot.

Only one principal building and its accessory buildings may hereafter be erected on any one lot intended for such use; provided, however, that more than one multiple dwelling, office, institutional, commercial or industrial building may be located upon a lot, subject to setbacks and separation as provided in these regulations.

Section 706. Reduction In Lot Size Prohibited.

No lot shall be reduced, divided or changed in size so that lot width, size of yards, lot area per dwelling unit or any other requirement of these regulations is not maintained, unless said reduction or division is necessary to provide land which is acquired for a public purpose.

Section 707. Annexation.

Any land area subsequently added to the incorporated area of Clarkesville shall automatically be classified R-1 (Single-Family Residential District) until or unless otherwise classified by amendment to the Official Zoning Map. Within sixty (60) days after the date of annexation approval, the Planning Commission shall, after public hearing, recommend to the Governing Body a zoning classification for each newly annexed area which will carry out the objectives of the Comprehensive Plan. Upon such recommendation by the Planning Commission, for an amendment to the Official Zoning Map as related to the subject property the Governing Body may act in accordance with normal procedures specified in these regulations to assign a different zoning district to the property.

Section 708. Street Frontage Requirement.

No building or structure shall hereafter be erected on a lot, and no lot shall be subdivided, that does not abut for at least thirty (30) feet on a public street, except as provided for non-conforming lots in Article V.

Section 709. Use Prohibited When Not Specified.

Unless otherwise stated, any use not specifically permitted in a use district as provided in these regulations shall be prohibited in that district.

Section 710. Accessory Buildings and Uses.

Accessory buildings and uses shall be permitted only in side or rear yards, except as otherwise provided by these regulations.

Accessory buildings and uses shall be permitted only if they meet the following:

1. Accessory buildings and uses shall be setback a minimum of ten (10) feet from any lot line.
2. Where a building housing an accessory use is structurally attached to the principal building, it shall be subject to and must conform to all regulations applicable to the principal building and shall not be considered an accessory building.
3. In the case of double frontage lots, accessory buildings shall observe front yard requirements on both streets.
4. Detached accessory buildings shall be located a minimum of ten (10) feet from the principal building on a lot.
5. The exterior cladding of accessory buildings shall be constructed with natural materials consistent with the material used on the exterior of the principal structure.

Section 711. Regulations for Specific Accessory Structures.

The following specified structures shall conform to the following regulations:

1. Fences and Walls:

   All fences and walls shall conform to the following:

   a. A permit shall be obtained from the Zoning Administrator.
   b. No fence or wall shall be erected closer than two (2) feet from a public right-of-way or in such a manner as to obstruct vision on a public right-of-way.
   c. Barbed wire top strands six (6) feet above the ground may be permitted in industrial zoning districts only.

2. Gasoline Pumps:

   Gasoline pumps and pump islands shall be setback a minimum of twenty-five (25) feet from any public right-of-way or property line.

3. Canopies and Carports:

Canopies and other attached or detached structures intended for cover shall be setback a minimum of ten (10) feet from any public right-of-way or property line.

4. Non-Residential Occupancy of Manufactured Homes:
   Manufactured homes or other temporary portable structures shall not be used as a permanent or temporary office, classroom, store, or for-hire work space in any district; provided, however that such homes or structures may be used for a temporary construction office for a licensed contractor in any district, upon issuance of a permit by the Zoning Administrator. Said permit shall be temporary but renewable once after a period of six (6) months.
5. Swimming Pools:
   Swimming pools accessory to residences shall be enclosed by a security fence a minimum of forty-two inches (42") in height. (This shall include aboveground pools that are of fifteen feet in diameter or greater, and a minimum of three feet deep). Said fence shall provide security against unauthorized use of the swimming pool, and all pools shall meet the requirements of the International Building Code.

A permit shall be obtained from the Zoning Administrator for siting and construction of a swimming pool. Swimming pools which are operated as an accessory use to hotels, motels or other uses shall be restricted to use by the patrons/guests of the principal use on the subject property and shall not be opened to the general public for a fee.

Section 712. Home Occupations.

A home occupation as defined by these regulations shall conform to the following requirements:

1. Only residents of the dwelling may be engaged in the home occupation, with the exception that employment of one (1) person not residing in the dwelling may be permitted.
2. The home occupation shall be clearly incidental and secondary to the residential use of the dwelling and shall not change the residential character of the building or lot.
3. Only vehicles used primarily as passenger vehicles shall be permitted in connection with the conduct of a home occupation.
4. No internal or external alterations of the dwelling solely for the accommodation of a home occupation are permitted, with the exception of one (1) additional outside entrance for business use.
5. One (1) non-illuminated, non-animated business identification sign or name plate not exceeding four (4) square feet in area indicating the name and/or occupation of occupant shall be permitted.
6. Use of a building for a home occupation shall not exceed twenty-five (25%) percent of one (1) floor of the principal building. Home occupations are not permitted, in whole or part, within accessory buildings.
7. A business license shall be obtained from the City of Clarkesville prior to the operation of any home occupation. Said business license shall require approval by the Zoning Administrator.
8. The following uses are allowable as home occupations (not all inclusive): Tutoring, consultation and instruction in music, dance, arts, crafts and similar subjects, limited to six (6) students at one time; day care centers serving six (6) or less persons; professional services (i.e., attorneys, architects, accountants, realtors, insurance and travel agents;

secretarial services and answering services); mail order and general offices not involving storage of equipment, materials or vehicles; phone solicitations; beauty salons and barber shops limited to two patrons at a time; food catering and home products sales agents.

9. The following uses are specifically prohibited as home occupations (not all inclusive): cabinet shops and or metal cutting; doctors, dentists or other medical professions; automobile repair or related work, small engine repair shops, and landscaping/nursery/greenhouse operations.

The failure of a home occupation licensee to comply with any of the above conditions shall be reasonable grounds for revocation of a home occupation business license.

Section 713. Visibility at Intersections and Driveways.

No fence, wall, sign, hedge or planting which obstructs the sight visibility at any street intersection, or any driveway intersection with a street, shall be placed or permitted to remain.

Section 714. Parking, Storage, or Temporary Use of Recreational Vehicles.

Recreational equipment such as boats, boat trailers, travel trailers, pick-up campers or coaches, motorized dwellings, motor coaches, tent trailers and other vehicles may be parked or stored only in side yards, rear yards, carports, or in an enclosed building, provided however, that such equipment may be parked or stored anywhere on residential premises for a period not to exceed twenty-four (24) hours during loading and unloading. The temporary use of recreational vehicles such as motor homes, travel trailers and tent trailers at private residences shall be permitted but limited to a maximum duration in time of twenty-one (21) consecutive days per year. Such parking or use shall be limited to one (1) recreational vehicle. Connection to city sewer system is prohibited under these terms.

Section 715. Subdivision Plats Must Meet Zoning Requirements.

No proposed plat of a subdivision, nor any plat of re-subdivision, shall hereafter be approved by the Governing Body or by the Planning Commission unless the lots within such plat equal or exceed the minimum size and width requirements set forth in the various zoning districts in these regulations and unless such plat fully conforms with the statutes of the State of Georgia and regulations of the Governing Body.

Section 716. Yard Sales.

Yard sales are subject to the following requirements:

1. Yard sales will be allowed in all residential zoning districts not more than two times during a twelve month period.
2. The duration of any yard sale shall not exceed forty-eight (48) hours.
3. Sales must be operated in such a manner so as not to be a nuisance to the neighbors or obstruct sidewalks or driveways, etc.
4. Yard sales shall be permitted in Institutional Districts for non-profit/charitable fundraising purposes provided that the organization or group conducting the yard sale is directly affiliated with the institutional organization owning the property
5. A permit shall be required from the City of Clarkesville.

Section 717. Design Standards and Requirements for Accessory Apartments.

All accessory apartments shall conform to the following:

a) Only one accessory apartment for a total of two dwelling units per lot shall be permitted.

b) The lot must meet the minimum lot size for the zoning district in which it is located, and there must be a minimum lot area of 6,000 square feet for each dwelling.

c) One additional off-street parking space for the accessory apartment is required, which must be located in a side or rear yard.

d) The heated floor area for an accessory apartment shall be at least 400 square feet and shall not exceed the size of the principal dwelling.

e) Accessory apartments shall not be permitted on a lot in conjunction with a home occupation.

f) Accessory apartments created or converted as a part of the principal dwelling must have its entrance at the side or in the rear rather than the front of the principal dwelling, and the apartment shall have an architectural treatment (brick, wood, stucco, etc.) substantially similar to that of the principal dwelling.

g) Accessory apartments must observe the principal building setbacks established in Section 2001 and maximum lot coverage for the zoning district in which it is located.

The Zoning Administrator must certify that existing/proposed water, sanitary sewer and/or septic tank facilities are adequate to serve both the principal dwelling and the accessory apartment.

Section 718. Facades for Commercial Buildings

All commercial, professional or manufacturing buildings located in the Pro, Professional; CB, Community Business; HB, Highway Business; and M-1, Light Manufacturing Districts shall have the facades of buildings that front on a public right-of-way constructed of natural and natural appearing materials. These include wood, brick, stone, stucco and concrete board such as Hardiplank or similar brand material. Specifically excluded are metal, vinyl and standard concrete block as the primary exterior building material.

Section 719. Telecommunications Towers and Antennas.

The placement of all telecommunications towers and antennas shall be restricted to water tanks located within the city. A written request must be made to the City of Clarkesville and approval granted prior to the placement of any antennas on city water towers. A permit must be obtained for construction or installation of antennas on water towers.

Section 720. Single-Family Dwelling Design Standards.

Within all zoning districts, all conventionally site-built, mobile, modular and manufactured homes except for those permitted pursuant to Section 712.4 of this ordinance shall meet the following requirements:

Conventionally site-built, modular or manufactured residential structures shall meet the currently adopted International Code Council Residential Code or be certified by the U.S. Department of Housing and Urban Development (HUD) or Georgia Department of Community Affairs (DCA) if placed or constructed on any residential lot in the City of Clarkesville.

All site-built, modular or manufactured structures must be placed on a permanent foundation meeting the requirements of the International Code Council Building or Residential Code for the City of Clarkesville.

All residential structures must be designed proportionally so that the narrowest structural width shall not be less than sixty percent (60%) of the greatest structural length.

Residences must be constructed with a minimum roof slope of four inches rise for each twelve inches of horizontal run (4:12), commonly referred to as a “slope of 4 in 12.”

All towing devices, wheels, axles and hitches must be removed.

Each home shall be completely skirted with an appropriate barrier and properly ventilated to enclose the area between the bottom of the structure and the ground. Such skirting shall not be required for those homes with a complete masonry or concrete perimeter foundation.

ARTICLE VIII
SIGN REGULATIONS
(Adopted 5-2-2011)
(Amended 10-3-2011)

Section 801. Purpose and Intent.

The following regulations are designed to promote the public health, safety, order, aesthetics and general welfare of the community by: controlling the number, placement, size and height of signs; preventing excessive and undue distractions to motorists and pedestrians; preventing traffic hazards; and by encouraging a more attractive urban environment.

Section 802. Signs Shall Meet Applicable Codes.

Signs and other advertising structures shall be constructed and maintained in strict conformity with building and electrical codes and all other applicable regulations.

Section 803. Signs Are Permitted Accessory Uses.

Signs and other advertising structures are permitted as accessory uses subject to all applicable limitations as specified in these regulations. For examples of free standing and ground supported signs, refer to Appendix C of Zoning Ordinance.

Section 804. Permit Required.

Unless otherwise excepted by the provisions of this Article, it shall be unlawful for any person to erect, construct, enlarge, move, replace or convert any sign without first obtaining a permit from the Zoning Administrator; provided, however that nothing in this section shall be construed to require a permit for the repainting, cleaning or other normal maintenance or repair of a sign or sign structure.

Section 805. Permit Application.

Applications for permits to erect, construct, enlarge, move or convert signs shall be made to the City Zoning Administrator. The application for permit shall include information such as, but not limited to, ownership information, location, construction cost, site plans, and building elevations, structural details or other information necessary to ensure compliance with the provisions of these regulations and all applicable codes.

Section 806. Permit Fees.

No permit shall be issued until the appropriate application has been filed and fees have been paid as established by the Governing Body from time to time.

Section 807. Signs And Sign Devices Prohibited.

1. Abandoned signs.
2. Animated signs. Except one (1) OPEN sign per street frontage may be animated during hours of operation limited to three (3) square feet or less. Advertising logos, words or symbols for products attached to the open sign are prohibited.
3. Portable signs.
4. Signs erected on or over public property including public rights-of-ways, other than signs erected by public authority for a public purpose.

5. Internally illuminated signs within all zoning districts with the exception of OPEN signs allowed by Section 807.2. Signs may be spot-lighted or uplighted so long as the light does not create a hazard or spill over onto adjacent properties.
6. Off-site signs, including directional signs for the sale of real estate, yard sales or any other purpose.
7. Signs installed on a roof or that extend above the roof line of the building.
8. Signs, which are erected or maintained upon trees or painted or drawn upon rocks or other natural features.
9. Signs attached to parking lot light poles and other poles structures other than those specifically permitted in this ordinance.
10. Signs attached to or painted onto a vehicle parked adjacent to and visible from a street for the sole purpose of advertising onto said street and that are otherwise not used for daily operational use on the public streets.
11. All advertising and other signage that is attached to or painted on the exterior windows or walls of a building, the total of which exceeds twenty-five (25) percent of the street facing window or wall area. Signs facing a street frontage window and located within five feet of the window will be included in the total allowable signage.
12. Illuminated signs, with the exception of signs described in Section 807. 5., facing a street frontage window and located within ten feet of the window.

Section 808. Public Signs And Sign Devices Exempted.

Any sign designed, erected or maintained for a public purpose by a public agency or authority is exempt from the provisions of this Article. Public signs include, but are not limited to, the following: signs denoting routes to any city, town, village, historic place, shrine or hospital; signs directing or regulating traffic; notices of any railroad bridge, airport or other transportation activity necessary for the direction or safety of the public; legal notices or other official instruments denoting time and place of civic meetings; signs denoting street names and street number, address or unit designations, flags of the United States, state, county, municipality or other public authority; flags, banners and other devices for celebrations, conventions, commemorations, events, festivals and other community activities authorized by the Governing Body, and public memorial signs and tablets.

Section 809. Signs Permitted In Districts Zoned Residential - R-1, R-1A, R-1B, and R-2.

1. One (1) identification sign per premise at the entrance drive of each individual residence, estate, farm, conservation area, ranch and plantation which does not exceed four (4) square feet of area.
2. One (1) project identification sign at each entrance to a residential subdivision or complex, or other permitted use, not exceeding thirty-two (32) square feet of area, provided such signs are not internally illuminated.
3. Signs for licensed sales, rental and leasing offices, manager's residences that do not exceed four (4) square feet of area.
4. Political signs, not exceeding four (4) square feet in area. See Section 819.1.
5. Real estate signs that pertain to the rent, lease or sale of properties of less than one acre may not exceed four (4) square feet in area. One (1) sign per premise per each street frontage is permitted. When the property exceeds one acre, one real estate sign per street frontage not exceeding thirty-two (32) square feet in area is permitted.

Section 810. Signs Permitted In The INS Zoning District.

1. Any sign permitted in Section 809 specific to the use described.

2. Identification sign and/or bulletin board for churches, places of worship, fraternal organizations or other similar permitted institutional uses, provided only one (1) sign not exceeding thirty-two (32) square feet of area with a maximum height of ten (10) feet is permitted to be located on site per premise.
3. Directional signs pertaining only to property on which located, not to exceed four (4) square feet.

Section 811. Signs Permitted In CB and PRO Zoning Districts.

1. Any sign permitted in Section 809 specific to the use described.
2. One (1) free-standing identification sign per premises, not exceeding twenty-four (24) square feet in area and eight (8) feet in height including its supporting structure.
3. One (1) primary sign installed on a wall, window, or hanging sign with a total sign area not exceeding the greater of either ten (10) percent of the area of the building face or twenty-four (24) square feet.
4. One (1) secondary wall, window, or hanging sign, or sign installed on an awning or canopy per street frontage not exceeding nine (9) square feet in area on which the name and nature of the business or organization operated on the premises are shown.
5. Directional signs pertaining only to property on which located, not to exceed four (4) square feet.

Section 812. Signs Permitted In HB and M-1 Zoning Districts.

1. Any sign permitted in Section 809 specific to the use described.
2. One (1) free-standing identification sign per premises, not exceeding thirty-two (32) square feet in area and ten (10) feet in height including its supporting structure.
3. One (1) primary sign installed on a wall, window, or hanging sign with a total sign area not exceeding the larger of either ten (10) percent of the area of the building face or thirty-two (32) square feet.
4. One (1) secondary wall, window, or hanging sign, or sign installed on an awning or canopy per street frontage not exceeding nine (9) square feet in area on which the name and nature of the business or organization operated on the premises are shown.
5. Directional signs pertaining only to property on which located, not to exceed four (4) square feet.

Section 813. Signs Permitted In DB Zoning District

1. Any sign permitted in Section 809 specific to the use described.
2. One (1) primary sign installed on a wall, window, awning or hanging structure of a licensed business location with a total sign area not exceeding the larger of either ten (10) percent of the area of the building face or twenty-four (24) square feet.
3. Secondary signs, not to exceed two (2) signs installed on the wall, window, awning or hanging that are dissimilar in type to the primary sign not to exceed nine (9) square feet in area for each sign.
4. Sandwich board signs with the following conditions of use:
   a) Sandwich board signs shall not exceed six square feet (6 s.f.) in area per side.
   b) Only one (1) sandwich board is permitted per building face and shall be placed within the area immediately in front of the building.
   c) Sandwich board signs shall be also placed at or near the building entrance; provided, however such signs shall not obstruct the means of egress from any

building and shall be only allowed wherein six feet (6') of clear passage along the sidewalk is maintained.

d) Sandwich board signs shall be removed from the sidewalk at the close of each business day and shall not be permitted to remain on sidewalks after 9 p.m. under any circumstances.

e) The permit for a sandwich board sign may be revoked for reasons of public health or safety. Examples of grounds for revocation shall include but are not limited to: a hazard to pedestrian travel, the practice of repeatedly left overnight, allowed to be cast from the sidewalk during inclement weather or improper use that results in the creation of a nuisance to pedestrians and the public.

Section 814. Maximum Sign Height and Width.

No permitted sign or mounting support for a sign, regardless of type, shall exceed the height of ten (10) feet or a width of eight (8) feet in any zoning district.

Section 815. General Requirements for Signs.

Signs, regardless of the zoning district in which they are located, shall conform to the following requirements:

1. Signs, together with any supporting members, shall be kept in good repair and maintained so as to present a neat, clean appearance and be in a safe state of preservation. Painted areas and sign surfaces shall be kept in good condition, and illumination if permitted shall be maintained in safe and good working order.
2. Signs shall be set back a minimum of two (2) feet from any public street right-of-way.
3. No sign shall be erected where it will interfere with vision clearance along any street or obstruct the vision of either drivers or pedestrians.
4. Monuments or other structures on which freestanding signs are mounted may not have a total surface area greater than eighty (80) square feet per side.
5. Any illuminated sign shall be placed so that the rays and illumination there from shall not be cast upon neighboring properties.
6. The construction and installation of all permitted signs shall be inspected by the Building Inspector.
7. Other attached signs shall be inspected for safety and compliance with this Ordinance.
8. When a building is constructed, remodeled, or expanded, all signs shall be approved by the appropriate official before an occupancy permit is issued. Drawings containing dimensions of signs and/or descriptions of sign dimensions, construction materials, and methods of erection or design and stress diagrams may be approved by the Building Inspector or other appropriate official, when, in his best judgment, erection of the sign will not constitute a safety hazard and upon determination that the sign meets all the requirements of this Ordinance and the Building Code of the City of Clarkesville.

Section 816. Variances Permitted.

Recognizing that the strict application of the provisions of this Article may, in limited instances involving unique or unusual physical conditions or other such unanticipated situation, pose an unnecessary hardship to the owner or user of a sign, the Planning Commission Body is authorized to permit variances from the provisions of this Article, including but not limited to the following:

1. An increase in the height of a sign.
2. Reduction of the required two (2) foot setback for a sign.
3. An increase in the maximum area of a sign.

4. Temporary signs and sign devices not complying with Section 819.
5. Signs of a historic nature which are re-created and depict a certain era such as signs painted on walls, old neon signs and others.

Any application for a variance from the terms of this Article shall be filed and heard in accordance with variance procedures and shall require the filing of an elevation drawing of the sign or signs proposed to be erected, constructed, modified or continued, along with written justification that unusual conditions warrant such consideration. An appeal of the decision of the Planning Commission may be made to the Governing Body.

Section 817. Nonconforming signs.

1. Signs which on the effective date of the ordinance from which this section derives were legally erected and maintained under previous ordinances and regulations, or which become nonconforming with respect to the requirements of this chapter, may be continued so long as the size of the sign is not increased beyond that existing as of the effective date of the ordinance from which this section derives or any change thereto is made in conformance with this chapter. The display faces of freestanding, monument or other nonconforming signs may be replaced or repainted with a new display face so long as the total area of the sign is not increased.
2. A nonconforming sign shall not be replaced by another sign except one which complies with the requirements of this chapter.
3. Minor repair and maintenance of nonconforming signs such as repainting, electrical repairs and lighting shall be permitted. However, no structural repairs or changes in the size or shape of a nonconforming sign shall be permitted except to make the sign comply with the requirements of this chapter.
4. A nonconforming sign may not be rebuilt, altered or repaired after damage exceeding fifty (50) percent of its replacement value at the time of destruction.
5. Non conforming signs may not be continued if the use of the property changes as a result of the owner's actions.
6. Illegally installed, nonconforming signs for which no permits were issued, and all nonconforming temporary signs shall be removed or made to conform to the requirements of this chapter within 90 days of the effective date of the ordinance from which this section derives.

Section 818. Procedure for Removal of Abandoned, Dangerous or Unlawful Signs.

Should any sign be unlawful or become abandoned, insecure or in danger of falling or otherwise unsafe in the opinion of the Building Inspector, the owner thereof, or the person or firm maintaining the sign, shall upon written notice from the Building Inspector forthwith in the case of immediate danger and in any case within ten (10) days remove, or if lawful, secure the sign in a manner to be approved by the Building Inspector, in conformity with the Building Code of the City of Clarkesville. If such order is not complied with in ten (10) days, the sign shall be removed under instruction of the appropriate official at the expense of the owner or lessee thereof. In case any sign shall be installed, erected or constructed in violation of any of the terms of this Ordinance, the Building Inspector shall notify by certified mail or written notice served personally, the owner or lessee thereof to alter such sign, secure the necessary permit, make required alterations, or remove the sign. If such order is not completed within twenty-four (24) hours from the time of notice being received, the sign shall be removed under instruction of the appropriate official at the expense of the owner of lessee thereof.

Section 819. Temporary Signs. (Amended 10-3-2011)

It shall be unlawful for any person to place on public or private property any temporary sign as defined by this ordinance without compliance with the following provisions:

1. A temporary sign permit shall be obtained prior to the installation of any temporary sign. One temporary sign less than four (4) square feet may be placed in all zoning areas without a permit. During political campaigns signs supporting a candidate and political party are permitted one (1) per candidate or party supported per lot. Real estate signs in areas zoned M1, HB, CB, PRO or INS for the sale or lease of properties less than one acre, are permitted one (1) per road frontage not to exceed twenty-four (24) square feet unless in the Clarkesville Preservation District. Real estate signs in the Clarkesville Preservation District and those in zoning area DB are permitted up to sixteen (16) square feet one sign per road frontage. Real estate signs larger than four (4) square feet are required to have a permit. There will be no cost for this permit. Any sign erected in violation of this ordinance may be removed at the discretion of the Zoning Administrator.

2. Temporary signs shall not be placed on or in any automobile or on any object or structure that is not a part of the building to which the sign pertains.

3. Temporary signs shall not be placed on public property, to include the public right of way, without the express permission of the Governing Body; except real estate directional signs less than two (2) square feet in area, one (1) per property per intersection shall be permitted from 4pm Friday through 6pm Sunday.

4. Only one temporary sign per premise no larger than twenty four (24) square feet is Permitted at one time. Temporary signs shall be limited to three (3) occurrences per Premise per calendar year. Temporary signs shall not remain in place for more than forty-Five (45) days.

5. There shall be no cash bond required provided the applicant has not been in previous violation of this ordinance. Should the applicant have been in previous violation of this ordinance, applicant shall post a $100.00 cash bond with the Clerk of the City and further complete all applicable application and registration procedures with the City. The $100.00 cash bond shall be returned to the applicant after all terms and provisions of this ordinance have been fully complied with. Should the applicant not fully comply with all terms and provisions of this ordinance, such $100.00 cash bond may be forfeited in addition to other penalties as may be provided for violations of this ordinance.

Section 820. Penalty for Violation of Sign Ordinance

Penalties for violating this ordinance are described in Section 2606 of The Code of the City of Clarkesville.

ARTICLE IX
R, SINGLE FAMILY RESIDENTIAL DISTRICT

Section 901. Purpose and Intent.

The R, Single Family Residential District is intended to establish and preserve quiet, stable single-family residential neighborhoods at low densities (up to approximately 1.45 units per acre) free from other uses except those which are compatible with and convenient to the residents of such a district.

The R district is generally located on the periphery of the city in the more remote, undivided areas of Clarkesville that are not necessarily served by public sanitary sewer. The R district is intended to help maintain the agricultural, larger lot, rural, park and open space character of these areas of Clarkesville. Through larger lot sizes, the R district is also intended to implement the city's resource protection strategies relative to the Soque River. Furthermore, the R district in some cases serves as a "holding" zone, and in the future areas zoned R may be justifiably rezoned to higher density residential and or non-residential categories.

Section 902. Permitted Uses.

1. Single-family detached dwellings not including mobile homes, manufactured homes, house trailers, modular homes, industrialized homes (as regulated under Georgia law in Title 8, Chapter2, Article 2 of the Code, as amended) or any home constructed off site for delivery and set up on site.
2. Accessory buildings and uses customarily incidental to the principal residential use of the property, including guest houses (not accessory apartments) home gardens, non-commercial greenhouses, and shelters or enclosures for household pets. Non-commercial livestock is a permitted accessory use on lots with a minimum area of two (2) acres, provided that any buildings or enclosures for the maintenance or shelter of animals shall be setback a minimum of one hundred fifty (150) feet from any property line.
3. Churches, temples, synagogues and places of worship, and their solely owned and operated customary accessory facilities, including cemeteries, provided such uses are located on a lot with a minimum area of two (2) acres, principal buildings are setback a minimum of fifty (50) feet from any property line, and parking areas are located outside of the required front yard and separated from any side or rear property line by a minimum six (6) foot high, opaque fence or wall, or a densely planted landscape strip of at least ten (10) feet in width.
4. Home occupations, as defined in Article III and limited in Section 713.
5. Parks, playgrounds, community centers, tennis courts, swimming pools, golf courses and other recreational facilities, operated on a non-profit basis.
6. Public and semi-public buildings and uses, as defined in Article III.
7. Schools, public elementary, middle and secondary.
8. Schools, parochial and private offering courses in general education substantially similar to that of a public school, not offered for profit.

Section 903. Conditional Uses.

Accessory apartments, as defined in Article III, subject to Section 718.

Personal Care Home, Family as defined in Article lll of this Ordinance.

Section 904. Area, Height, Density and Placement Requirements.

As specified in Article XXIII.

Section 905. Application of Preservation Corridor Overlay District.

For those properties zoned R, Single Family, and that lie within the boundaries of the Preservation Corridor Overlay District, additional standards and performance measures found in Article XXII shall apply.

ARTICLE X
R-1, SINGLE FAMILY RESIDENTIAL DISTRICT

Section 1001. Purpose and Intent.

The R-1 district is intended to establish and preserve quiet, stable single-family residential neighborhoods at low-medium densities (up to approximately 2.90 units per acre) free from other uses except those which are compatible with and convenient to the residents of such a district.

Section 1002. Permitted Uses.

Any use permitted in the R district, as specified in Section 902, and subject to the same limitations except as provided in Article XXII.

Section 1003. Conditional Uses.

Accessory apartments, as defined in Article III, subject to Section 718.

Personal Care Home, Family as defined in Article lll of this Ordinance.

Section 1004. Area, Height, Density and Placement Requirements.

As specified in Article XXIII.

Section 1005. Application of Preservation Corridor Overlay District.

For those properties zoned R-1, Single Family, and that lie within the boundaries of the Preservation Corridor Overlay District, additional standards and performance measures found in Article XXII shall apply.

ARTICLE XI
R-1A, SINGLE-FAMILY RESIDENTIAL DISTRICT

Section 1101. Purpose and Intent.

The R-1A district is intended to preserve and maintain single-family residential neighborhoods in areas served by public water and sanitary sewer that exist "in town", in close proximity to commercial areas of the city, at moderate densities (up to approximately 4.30 units per acre) free from other uses except those which are compatible with and convenient to the residents of such a district.

Section 1102. Permitted Uses.

Any use permitted in the R district, as specified in Section 902, and subject to the same limitations except as provided in Article XXII.

Section 1103. Conditional Uses.

Accessory apartments, as defined in Article III, subject to Section 718.

Personal Care Home, Family as defined in Article lll of this Ordinance.

Section 1104. Area, Height, Density and Placement Requirements.

As provided in Article XXIII.

Section 1105. Application of Preservation Corridor Overlay District.

For those properties zoned R-1A, Single Family, and that lie within the boundaries of the Preservation Corridor Overlay District, additional standards and performance measures found in Article XXII shall apply.

ARTICLE XII
R-1B, SINGLE-FAMILY RESIDENTIAL DISTRICT

Section 1201. Purpose and Intent.

The R-1B district is intended to establish, preserve and maintain "in town" neighborhoods that are served by public water and sewer services. R-1B neighborhoods are located within or in close proximity to commercial areas of the city and major thoroughfares. The R-1B district permits small single-family residential lots and moderate densities (up to approximately 4.30 units per acre).

Section 1202. Permitted Uses.

1. Any use permitted in the R district, as specified in Section 902, and subject to the same limitations except as provided in Article XXII.
2. Accessory apartments, as defined in Article III, subject to Section 718.
3. Single-family attached dwellings, (townhouses), subject to the requirements of Section 1203.
4. Two-family dwellings (duplexes), with a minimum lot size of 10,000 square feet.
5.

Section 1203. Conditional Uses.

Personal Care Home, Family as defined in Article lll of this Ordinance.

Section 1204. Townhouse Development Regulations.

All developments containing fee-simple townhouses shall conform to the following requirements:

1. Lots - Each townhouse shall be located on its own lot of record, and subdivision plat approval shall be required in accordance with the City of Clarkesville Subdivision Regulations.
2. Minimum Lot Size, Frontage, and Width - Each townhouse lot shall contain a minimum lot area of two thousand (2,000) square feet. The minimum lot width and frontage for each lot shall be eighteen (18) feet. The minimum lot area for a townhouse development shall be one (1) acre.
3. Setbacks - Townhouses shall conform to the setbacks established for the zoning district in which it is located; provided however that zero lot line (no side building setback) is permitted between individual townhouse units forming the same building. Between buildings, there shall be a side yard of not less than twenty-five (25) feet. The rear setback shall be a minimum of twenty-five (25) feet. Dwelling units which form a part of a single building shall have the front setbacks and rooflines varied/staggered by a minimum of two (2) feet.
4. Maximum Units Per Building - No more than six (6) townhouses shall be permitted to form any building.
5. Streets - All streets within a townhouse development shall be built to City specifications as provided in the City of Clarkesville Subdivision Regulations and dedicated to the City.
6. Maximum Density - Townhouse developments shall not exceed the maximum density permitted within the particular zoning district.
7. Parking - Off-street parking facilities shall be grouped in bays, either adjacent to streets or in the interior of blocks. No off-street parking space shall be more than one hundred

(100) feet by the most direct pedestrian route from a door of the dwelling unit it is intended to serve.

Section 1205. Area, Height, Density and Placement Requirements.

As specified in Article XXIII.

Section 1206. Application of Preservation Corridor Overlay District.

For those properties zoned R-1B, Single Family, and that lie within the boundaries of the Preservation Corridor Overlay District, additional standards and performance measures found in Article XXII shall apply.

ARTICLE XIII
R-2, MULTIPLE-FAMILY RESIDENTIAL DISTRICT

Section 1301. Purpose and Intent.

The R-2, Multiple-Family Residential District is intended to provide suitable land for a variety of dwelling types at high densities (up to 10.00 units per acre) in areas served by public water and sanitary sewer.

Section 1302. Permitted Uses.(Section 7 Added 02-02-2009)

1. Apartments, with a minimum lot size of two (2) acres for any apartment development and subject to the provisions of Section 1304.
2. Condominiums, with a minimum lot size of two (2) acres for any condominium development, and subject to the provisions of Section 1305.
3. Continuing care retirement communities, as defined in Article III, not to exceed accommodations for sixteen (16) residents.
4. Personal care homes, "family" and "group", as defined in Article III.
5. Single-Family attached dwellings (townhouses) subject to the townhouse regulations as specified in Section 1203.
6. Two-family dwellings (duplexes), with a minimum lot size of 10,000 square feet.
7. All permitted uses in the R-2 zoning district must be stick built on site and may not be constructed off site for delivery. This provision does not prohibit use of pre-constructed components for incorporation into any home constructed on site such as roof and floor trusses or pre-manufactured wall assemblies.

Section 1303. Area, Height, Density and Placement Requirements.

As specified in Article XXIII.

Section 1304. Apartment Development Standards.

1. Site plan approval by the Planning Commission shall be required.
2. Apartment buildings shall be constructed with a separation of at least twenty (20) feet if one (1) or more buildings contain two (2) stories, and a separation of at least thirty (30) feet if one (1) or more buildings contain three (3) or more stories.
3. No principal building shall be constructed less than forty (40) feet from any property line.
4. Each apartment development shall have a minimum of twenty percent (20%) of the development's total land area as landscaped open space.

Section 1305. Residential Condominium Development Regulations.

All developments containing residential condominiums shall conform to the following requirements:

1. Site plan approval by the Planning Commission shall be required.
2. Condominium developments shall meet all applicable state laws, including the Georgia Condominium Act.
3. Proposed condominium bylaws shall be submitted with the application for site plan approval. Residential condominiums shall conform to the setbacks established for the zoning district in which it is located; provided however that the rear setback for all residential condominium buildings shall be twenty-five (25) feet.
   Parking - Off-street parking facilities shall be grouped in bays, either adjacent to streets or in the interior of blocks. No off-street parking space shall be more than one hundred (100) feet by the most direct pedestrian route from a door of the dwelling unit it is intended to serve.

Section 1306. Application of Preservation Corridor Overlay District.

For those properties zoned R-2, Multiple Family, and that lie within the boundaries of the Preservation Corridor Overlay District, additional standards and performance measures found in Article XXII shall apply.

ARTICLE XIV
INS, INSTITUTIONAL DISTRICT

Section 1401. Purpose and Intent.

The Institutional district is intended to establish areas for the development and maintenance of public facilities, semi-public uses, institutionalized residential facilities and other similar uses in locations that are adjacent or reasonably accessible to major thoroughfares. It is characteristic of Institutional uses that a high percentage of the lot is covered with building(s).

Section 1402. Permitted Uses.

1. Accessory buildings, structures and uses customarily incidental to one or more permitted principal uses.
2. Assembly halls, auditoriums and meeting halls.
3. Churches, temples, synagogues and places of worship.
4. Clubs, lodges, fraternal institutions and other places of public assembly for non-profit membership groups.
5. Colleges, universities and technical schools.
6. Continuing care retirement communities.
7. Convalescent homes, nursing homes, group homes, rehabilitation centers, sanitariums and similar institutionalized residential facilities involving professional care and treatment, provided no buildings are located closer than one-hundred (100) feet to any property line, and provided copy of the approved state license or permit is filed with the Zoning Administrator prior to the issuance of a Certificate of Occupancy.
8. Day care centers, kindergartens and nursery schools.
9. Hospitals and clinics.
10. Institutional studios, such as music, dance, gymnastics, aerobics and martial arts.
11. Libraries, museums and art galleries.
12. Parking garages and parking lots.
13. Personal care homes, homes for the elderly, boarding homes, and dormitories, but not including hotels, motels and bed and breakfast inns.

14. Public and semi-public buildings, structures and uses.
15. Schools, public, parochial, private, vocational- technical, and business.
16. Single-family detached dwellings.

Section 1403. Conditional Uses.

1. Amphitheaters and stadiums.
2. Offices and facilities for electric, gas, cable television and other utility companies, but not Including unenclosed storage of materials.
3. Residences for a caretaker or night watchman.
4. Restaurants, retail shops, snack bars and personal service establishments, but only in conjunction with the operation of one or more permitted principal uses, and predominantly serving the residents or patrons of the facility on-site, as opposed to the general public.

Section 1404. Area, Height, Density and Placement Requirements.

In accordance with Article XXIII.

Section 1405. Application of Preservation Corridor Overlay District.

For those properties zoned INS, Institutional, and that lie within the boundaries of the Preservation Corridor Overlay District, additional standards and performance measures found in Article XXII shall apply.

ARTICLE XV
PRO, PROFESSIONAL DISTRICT

Section 1501. Purpose and Intent.

The Professional District is intended to establish and provide suitable areas for the development of offices and professional enterprises. This district is primarily intended to apply to properties along Washington Street where commercial development may be incompatible with adjacent or nearby residences but where existing residential dwellings may no longer be viable for residential use. The Professional district also may be suitable for transitional areas in other portions of the city, usually along major thoroughfares, where such permitted uses provide a buffer between commercial and residential districts.

Section 1502. Permitted Uses.

1. Accessory buildings, structures and uses customarily incidental to one or more permitted principal uses.
2. Finance, insurance and real estate establishments, but not including commercial banks.
3. Offices, medical, professional and general.
4. Public and semi-public buildings, structures and uses.
5. Services, health.
6. Single-family detached residences.

Section 1503. Conditional Uses.

1. Services, business.
2. Services, personal.

Section 1504. Area, Height, Density and Placement Requirements.

As specified in Article XXIII.

Section 1505. Application of Preservation Corridor Overlay District.

For those properties zoned PRO, Professional, and that lie within the boundaries of the Preservation Corridor Overlay District, additional standards and performance measures found in Article XXII shall apply.

ARTICLE XVI
DB, DOWNTOWN BUSINESS DISTRICT

Section 1601. Purpose and Intent.

The Downtown Business District is intended to establish and preserve the central areas of the City containing a variety of retail business and service establishments that are intended as pedestrian destinations. The DB district is intended to encourage pedestrian movement to, from and among the various establishments. Off-street parking may be in nearby public (or private) parking lots to facilitate pedestrian access to the area. The DB district can also support limited residential use with limited parking needs.

The DB district is not considered appropriate for areas outside the downtown area since this district permits buildings to open directly onto the public right-of-way and there is little or no space for landscaping on private property.

Section 1602. Permitted Uses.

1. Accessory uses and structures normally incidental to principal permitted uses and structures. Any use permitted in the INS, Institutional District, as enumerated in Section 1402.
2. Clubs, lodges, fraternal institutions and other places of public assembly for membership groups, non-profit or for profit.
3. Commercial recreation facilities, enclosed only.
4. Finance, insurance and real estate, establishments.
5. Offices, medical and professional.
6. Residences of all types, excluding mobile or manufactured homes.
7. Restaurants, including outside seating arrangements, but not including drive-in or drive-through facilities.
8. Services, business.
9. Services, personal.
10. Retail Trade establishments enclosed 12/07/2009
11. Services, Limited Lodging. 01/09/2012

Section 1603. Conditional Uses.

1. Night clubs and dance halls.
2. Day care centers.

Section 1604. Area, Height, Density and Placement Requirements.

As specified in Article XXIII.

Section 1605. Application of Preservation Corridor Overlay District.

For those properties zoned DB, Downtown Business District, and that lie within the boundaries of the Preservation Corridor Overlay District, additional standards and performance measures found in Article XXII shall apply.

ARTICLE XVII
CB, COMMUNITY BUSINESS DISTRICT

Section 1701. Purpose and Intent.

The Community Business District is intended to establish and preserve a central area in the city containing a broad range of retail businesses, service establishments, and other institutional/public uses. The Community Business District is not intended to accommodate automotive sales/service establishments and other businesses that normally cater to patrons in automobiles who are traveling to other destinations. Automobile-oriented uses are generally not appropriate in the CB district because they are not pedestrian destinations. The CB district is intended to encourage pedestrian movement to, from and among the various uses. The CB district also encourages the mixture of residential and commercial uses.

The CB district is also considered appropriate in certain areas outside of the central downtown as a more restricted, more compatible alternative to the highway business zoning district.

Section 1702. Permitted Uses.

1. Accessory uses and structures normally incidental to principal permitted uses and structures.
2. Any use permitted in the DB, Downtown Business District, as enumerated in Section 1602.
3. Clubs, lodges, fraternal institutions and other places of public assembly for membership groups, non-profit or for profit.
4. Commercial recreation facilities, enclosed only.
5. Finance, insurance and real estate establishments.
6. Offices, medical, professional and general.

7. Residences of all types, but not including mobile or manufactured homes. Home occupations are permitted as accessory uses, without being subject to the limitations of Section 713.
8. Restaurants, including outside seating arrangements, but not including drive-in or drive-through facilities.
9. Retail trade establishments, enclosed.
10. Services, business.
11. Services, health.
12. Services, miscellaneous.
13. Services, personal.
14. Temporary uses approved by the Zoning Administrator.

Section 1703. Conditional Uses.

1. Commercial recreation facilities, unenclosed.
2. Expansion of an existing non-conforming use.
3. Planned unit developments, with a minimum lot size of ten (10) acres.
4. Retail trade establishments, unenclosed, not including automotive related facilities.
5. Transportation, communication and utility facilities that necessarily require a location in the downtown area.
6. Service, Limited Lodging

Section 1704. Shopping Center Specifications

Shopping centers, as defined in Article III, shall be designed and developed in accordance with an approved site plan:

1. Shopping centers shall be subject to an architectural review for appropriate design.
2. Shopping centers shall submit a signage plan for compliance with the sign regulations.
3. Shopping centers shall provide for greenspace and impervious surface to the maximum extent possible; however such provision shall be not less than twelve percent (12%) of the total land area.
4. Shopping center site plans shall contain, as a minimum, the following provisions:
5. A graphic depiction of all structures, parking areas and appurtenances with setback distances, utility information, building dimensions and stormwater devices.
6. Construction plans for all structures.
7. A graphic depiction of the surrounding properties including the type and use of all structures.
8. Traffic impact projections, tree removal and landscaping projections.

Section 1705. Strip Mall Specifications.

Strip Malls, as defined in Article III, shall be designed and developed in accordance with an approved site plan:

1. Strip Malls shall be subject to an architectural review for appropriate design.
2. Strip Malls centers shall submit a signage plan for compliance with the sign regulations.
3. Strip Malls shall provide for greenspace and impervious surface to the maximum extent possible; however such provision shall be not less than ten percent (10%) of the total land area.
4. Structures within a strip mall development shall be separated by not less than twenty feet (20') between buildings.
5. Strip Malls site plans shall contain, as a minimum, the following provisions:
6. A graphic depiction of all structures, parking areas and appurtenances with setback distances, utility information, building dimensions and stormwater devices.
7. Construction plans for all structures.

8. A graphic depiction of the surrounding properties including the type and use of all structures.
9. Traffic impact projections, tree removal and landscaping projections.

Section 1706. Area, Height, Density and Placement Requirements.

As specified in Article XXIII.

Section 1707. Application of Washington Street Overlay District.

For those properties zoned CB, Community Business, and that lie within the boundaries of the Washington Street Overlay District, additional standards and performance measures found in Article XXII shall apply.

ARTICLE XVIII
HB, HIGHWAY BUSINESS DISTRICT

Section 1801. Purpose and Intent.

The Highway Business District is intended to provide adequate space for various types of general business uses that serve residents on a broader community level, including the retailing of major goods and services of large scale, automotive and other types of more intensive commercial activities and establishments that rely on highway-oriented traffic. The HB district is also distinguished from the CB, Community Business District, in that it permits unenclosed and "open air" business activities. The HB district is generally only appropriate along major thoroughfares.

Section 1802. Permitted Uses.

1. Any use permitted in the CB, Community Business District as enumerated in Sections 1702 and 1402.
2. Accessory uses and structures normally incidental to permitted principal uses.
3. Commercial recreation facilities, unenclosed.
4. Automobile sales lots, new and/or used.
5. Contractor's establishments, building, electrical and plumbing.
6. Mini-warehouses and mini-storage facilities, where no individual storage stall or compartment exceeds 500 square feet of total floor area.
7. Restaurants, including drive-in and drive-through facilities.
8. Retail trade establishments, unenclosed, and open air businesses.
9. Services, automotive.
10. Services, lodging.
11. Services, miscellaneous.
12. Warehousing and storage uses.
13. Wholesale and wholesale distribution.
14. Service, Limited Lodging

Section 1803. Conditional uses.

1. Planned Unit Developments, with a minimum development of ten (10) acres.
2. Transportation, communication and utility facilities.

Section 1804. Shopping Center Specifications

Shopping centers, as defined in Article III, shall be designed and developed in accordance with an approved site plan:

1. Shopping centers shall be subject to an architectural review for appropriate design.
2. Shopping centers shall submit a signage plan for compliance with the sign regulations.
3. Shopping centers shall provide for greenspace and impervious surface to the maximum extent possible; however such provision shall be not less than twelve percent (12%) of the total land area.
4. Shopping center site plans shall contain, as a minimum, the following provisions:

5. A graphic depiction of all structures, parking areas and appurtenances with setback distances, utility information, building dimensions and stormwater devices.
6. Construction plans for all structures.
7. A graphic depiction of the surrounding properties including the type and use of all structures.
8. Traffic impact projections, tree removal and landscaping projections.

Section 1805. Strip Mall Specifications.

Strip Malls, as defined in Article III, shall be designed and developed in accordance with an approved site plan:

1. Strip Malls shall be subject to an architectural review for appropriate design.
2. Strip Malls centers shall submit a signage plan for compliance with the sign regulations.
3. Strip Malls shall provide for greenspace and impervious surface to the maximum extent possible; however such provision shall be not less than ten percent (10%) of the total land area.
4. Structures within a strip mall development shall be separated by not less than twenty feet (20') between buildings.
5. Strip Malls site plans shall contain, as a minimum, the following provisions:
6. A graphic depiction of all structures, parking areas and appurtenances with setback distances, utility information, building dimensions and stormwater devices.
7. Construction plans for all structures.
8. A graphic depiction of the surrounding properties including the type and use of all structures.
9. Traffic impact projections, tree removal and landscaping projections.

Section 1806. Area, Height, Density and Placement Requirements .

As specified in Article XXIII.

Section 1807. Application of Preservation Corridor Overlay District.

For those properties zoned HB, Highway Business, and that lie within the boundaries of the Preservation Corridor Overlay District, additional standards and performance measures found in Article XXII shall apply.

ARTICLE XIX
M-1, LIGHT INDUSTRIAL DISTRICT

Section 1901. Purpose and Intent.

The Light Industrial District is established with the purpose of reserving certain areas with relatively level topography, adequate water and sewerage facilities, and access to arterial streets for industrial operations, but where the proximity of Light Industrial Districts to residential and other districts makes it desirable to limit industrial operations to those that are not objectionable by reason of the emission of noise, vibration, smoke, dust, gas, fumes, odors or radiation and that do not create fire or explosion hazards or other objectionable conditions. Such objectionable uses may be permitted as conditional uses. Uses permitted within this district do not require substantial quantities of water for manufacturing operations and do not necessarily require rail, air and water transportation. Certain commercial uses having an open storage characteristic, or which are most appropriately located as neighbors of industrial uses, are also included within this district.

Section 1902. Permitted Uses.

1. Accessory uses and structures normally incidental to permitted principal uses, including offices, showrooms and administrative facilities.
2. Contractor's establishments.
3. Distribution of products and merchandise.
4. Dry-cleaning plants.
5. Electronic equipment manufacturing.

6. Exterminators and pest control businesses.
7. Furniture and fixtures manufacturing.
8. Instruments and related products manufacturing.
9. Kennels.
10. Leather and leather products manufacturing.
11. Lumber yards, planning and sawmills.
12. Lumber and wood products manufacturing, but not including paper and allied products.
13. Machine shops.
14. Mini-warehouse and mini-storage facilities.
15. Parking garages and parking lots.
16. Public and semi-public buildings, structures and uses.
17. Radio and television broadcasting towers, and cellular phone antennas.
18. Repair of household appliances.
19. Recycling plants, including any processing activities.
20. Research and scientific laboratories.
21. Residences for caretaker or night watchman.
22. Service, automotive.
23. Sign fabrication and painting shops.
24. Storage buildings and storage yards, including unenclosed materials.
25. Soft drink bottling and distributing plants.
26. Transportation, communication and utility facilities.
27. Welding shops.
28. Wholesaling, wholesale distribution, and warehousing facilities.
29. Wrecked motor vehicle compounds and wrecker services, subject to screening requirements of Section 2208.

Section 1903. Conditional Uses.

1. Chemicals and allied products manufacturing.
2. Industrial machinery and equipment manufacturing.
3. Paper and allied products manufacturing.
4. Petroleum and coal products manufacturing.
5. Rubber and miscellaneous plastics products manufacturing.
6. Stone, clay and glass products manufacturing.
6. Transportation equipment manufacturing.

Section 1904. Area, Height, Density and Placement Requirements.

As specified in Article XXIII.

Section 1905. Application of Preservation Corridor Overlay District.

For those properties zoned M-1, Light Industrial, and that lie within the boundaries of the Preservation Corridor Overlay District, additional standards and performance measures found in Article XXII shall apply.

ARTICLE XX
CONSERVATION AND PRESERVATION DISTRICT
SECTION 2001.

RESERVED

ARTICLE XXI

AGRICULTURAL DISTRICT
SECTION 2101.

RESERVED

ARTICLE XXII (Amended 03/05/2012)
CLARKESVILLE PRESERVATION DISTRICT
(OVERLAY ZONE)

Section 2201. Definition, Purpose and Intent.
The purpose of the Clarkesville Preservation District overlay zone (CPD) is to preserve and protect the area's historic and scenic character and to effect changes such that, over time, the district's scenic quality and historic character are maintained or enhanced.
The CPD includes all that area identified by the Official CPD Map, a map available for public view, a copy of which is kept in the office of the Zoning Administrator of the City of Clarkesville. The CPD regulations are in addition to other regulations of the Clarkesville Zoning Ordinance. Where these regulations are in conflict with less restrictive regulations contained elsewhere in this ordinance, the CPD regulations apply.

Section 2202. Application.
The regulations contained in this section pertain to all properties located within the Clarkesville Preservation District (CPD).

Section 2203. District Boundary Map.
The Clarkesville Preservation District (CPD) regulations pertain to the following areas: area identified on the Official CPD Map and any parcel or portion of a parcel that is not located within the CPD but that in the future might be platted to join with a parcel that is located within the CPD.

Section 2204. Demolitions Review Required.
Any proposed demolition of structures located within the Preservation District shall be reviewed and approved by the Planning Commission according to the procedures outlined in the Preservation District Demolition Procedures and Regulations found in Article XXV.

Section 2205. Project Plan Review Required.

Any proposed construction affecting the exterior of structures and sites located within the Preservation District shall be reviewed by the Planning Commission for conformance with the Preservation District requirements, and for its appropriateness to that particular character area. Plans required for project reviews may include site plans and/or construction documents.

Site Plans shall include applicable elements from the following list:

Property dimensions
Location of structures with setback requirements
Location of parking areas with setback requirements
Location of signage with setback requirements
Description (Drawing) of Proposed Signage
Construction detail of signage
Location of light fixtures and average light levels for the site
Location of sidewalks
Location and details of fencing
Location and screening of waste containers
Landscape plan in conformance with the Landscape Buffer Guidelines and Parking Requirements
Construction/expansion of parking areas
Construction/expansion of signage
Land clearing and grading activities
Specimen trees (removal limited see Tree Ordinance Article XXIX)

Construction Documents shall include the following applicable documents:
Exterior elevation submittal should include architectural features which clearly indicate all of the proposed building materials and colors for each facade. Include all exterior changes to structures such as the painting or otherwise changing of exterior colors, changes to exterior building materials including roof structures and or coverings, windows or doors, or any other exterior changes.

Section 2206. Plan Review Procedure.
Meet with the Zoning Administrator to review the proposed project and scope of work as it relates to the Preservation Guidelines. Submit plans of the proposed project to Zoning Administrator. Plans should be of adequate detail in order that a thorough project review can be completed. Planning Commission will review plans for compliance with the Clarkesville Preservation district ordinance. Appeal of decisions of the Planning Commission may be made to Governing Body.

Section 2207. Character Areas.
Definition – A character area is an area within the Clarkesville Preservation District of similar prevailing and desired visual and architectural character and where compatible property uses exist. The character areas are as follows:

Old Town (OT) – This area of town is characterized by narrow shaded streets. Old homes, churches, several of which are listed on the National Registry of Historic Places, and the old Clarkesville cemetery.

Washington Street (WS) – This area is primarily residential in character and includes the primary traffic corridor through the City along Historic 441 highway. Many of the structures along this corridor depict some of the history of Clarkesville and include homes, churches and commercial buildings.

Downtown (DT) - This area includes the area known as “downtown Clarkesville” and includes the many of the buildings constructed on and adjacent to the square. It is characterized by zero lot lines and a mix of residential and commercial use. (Restaurants, retail stores, and service businesses).

Park (P) – This area of town includes Pitts Park, Mary Street Park, and the Clarkesville Greenway and is bordered to the north by the Soque River. The area is mostly residential neighborhoods, recreational areas with a limited number of commercial buildings located along Historic 441.

The purpose of the character areas is to maintain and/or create the desired visual and architectural character of each area.

Section 2208. Clarkesville Preservation District Performance Standards.
All properties and land uses that lie within the Clarkesville Preservation District shall be subject to the performance standards established in Article XXII as well as other provisions of the Zoning Ordinance.

PERFORMANCE STANDARDS

Building Front Setback
For new buildings or additions, the front setback shall be in compliance with Section 2301. If lots on both sides are developed, the setback shall be the average setback of the adjacent lots.

Street Tree Requirements
For properties adjoining Highway 441, street trees shall be placed at the rate of one tree for every 30 feet of street frontage. Street trees shall be located behind (building side of) the sidewalk except in cases where there is a designed planting strip in the right-of-way, or the sidewalk is greater than 8 feet wide and designed to accept trees in tree wells. Trees limbs shall provide at least 8 feet of clearance above sidewalks. Existing trees that are determined to be healthy may be used in lieu of the planting of new trees. The tree species shall be an appropriate street tree selected from Clarkesville Native Plant List (section2214).

Tree Conservation
Existing specimen trees, including those of rare or historical significance, shall not be removed unless otherwise determined to present a hazard to life or property, by the designated representative of the City of Clarkesville (see Article XXIX for Definition of specimen tree).

Parking Lot Buffers
Parking areas shall incorporate a sight obscuring hedge screen. The screen shall grow to be at least 36 inches higher than the finished grade of the parking area, except for required vision clearance zones. The screen may be achieved by a combination of earth mounding and plant materials.

Parking Lot Lighting
Glare or light from any operation and all lighting for parking areas or for the external illumination of buildings or grounds shall be directed or located in such a manner that

direct or indirect illumination from the source of light shall not provide a hazard to the driving public, or present a nuisance to surrounding property owners.

Lighting Standards
All lighting installed should be non-glare, low intensity and should not provide a hazard to the driving public, nor present a nuisance to the surrounding property owners.

Signs
These requirements supplement and are in addition to the Clarkesville Sign Ordinance Article VIII. All signs must be approved and inspected by the Zoning Administrator. (See sections 2209, 2210, 2211 and 2212 Prohibited signs).

General
Signs in the Preservation District shall be designed and made by sign professionals. Signs shall be of quality workmanship and materials. Materials shall be of wood, metal, stone or other approved materials such as those found on turn-of-the-20th century commercial buildings.

Hanging/Projecting Signs
Projecting and hanging signs shall not exceed nine (9) square feet in area and shall have a clearance of at least eight (8) feet from bottom of the sign to walking surface.

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Fencing
Fences shall be constructed of wood, brick, stone, or iron. Chain link fencing is allowed in rear yards only. Barbed wire is not allowed. Front yard fencing shall be no taller than 42 inches and rear yard fences shall be no taller than 48 inches. Fencing will only be permitted if recommended by the Zoning Administrator and approved by the Planning Commission.

Section 2209. Clarkesville Preservation District Overlay Zone Old Town Performance Standards.

OT

Clarkesville Preservation District Overlay Zone: Old Town Character Area Guidelines Site and Architectural Standards for New Commercial, Multi-family Construction, and Exterior Renovation of Existing Structures and Facilities

OVERLAY REGULATIONS & EXTERIOR RENOVATION OF EXISTING STRUCTURES		**NOTES**
Minimum Building Setbacks (from ROW)		
Front (arterial – Corridor Street- Grant, Jefferson.)	40 ft. or the same setback of a pre-existing primary structure (if demolition of a pre-existing primary structure is involved), whichever is greater VARIANCE: Variance allowed when the prevailing setbacks of the two adjacent properties are the same and differ from above; in this case, proposed setback can conform to the prevailing.	40 ft. setback is less than that currently required for lots zoned INS, PRO, and HB (DB has no required minimum), but, since parking will be restricted to the rear, they will need more space to the rear thus a smaller setback is justified. Also, maximum building height for these properties will be lower thus accommodating a smaller setback.
Minimum Building Setbacks (from property line)		
Side	10 ft. or the basic zoning requirements, whichever is greater	Side setbacks range from none in DB to 30 ft. in HB where adjacent to certain residentially-zoned areas.
Rear	Basic zoning requirements	Basic zoning requirements for areas bordering residential districts already necessitate a minimum rear setback of 10 ft. or greater.
Street Tree Requirements	N/A	
Maximum Building Height (ft.)	35 ft. or the same height of a pre-existing primary structure (if	35 ft. is the basic zoning requirements for single-family residential districts.

	demolition of a pre-existing primary structure is involved), whichever is greater VARIANCE: Variance allowed when the prevailing heights of the two adjacent buildings are the same and differs from above; in this case, proposed height can conform to the prevailing.	Restrict to 35 ft. to prevent buildings taller than that on lots currently zoned DB, except in cases where the existing building exceeds 35 ft.

Section 2209. Clarkesville Preservation District Overlay Zone Old Town Performance Standards.

OT

Clarkesville Preservation District Overlay Zone: Old Town Character Area Guidelines Site and Architectural Standards for New Commercial, Multi-family Construction, and Exterior Renovation of Existing Structures and Facilities

Maximum Lot Coverage (%)	35%	Current regulations in this area range from 30% for R-1 to 100% of DB. The primary concern is to preserve the appearance of the front while avoiding large, warehouse type buildings. Controls on setbacks, building height and width, and minimum parking standards will help to control building size.
Off Street Parking Requirements		
Minimum Parking Space Size	Basic zoning requirements (160 square feet for all districts)	
Setback from Public ROW	Basic zoning requirements (10 ft. for all districts)	Note that parking is restricted to the rear and to the side, with the granting of a variance (see Off-Street Parking Location Requirements below).
Setback for Residential District	Basic zoning requirements (25 ft. for all districts)	This 25 ft. setback for properties adjacent (rear or side) to residential districts will limit business uses in the WS since some lots will not be able to accommodate this setback.
Minimum Parking Space Size	Basic zoning requirements (160 square feet for all districts)	
Setback from Public ROW	Basic zoning requirements (10 ft. for	Note that parking is restricted to the rear and to the side, with the granting of a variance (see Off-

	all districts)	Street Parking Location Requirements below).
Setback for Residential District	Basic zoning requirements (25 ft. for all districts)	This 25 ft. setback for properties adjacent (rear or side) to residential districts will limit business uses in the OT since some lots will not be able to accommodate this setback.

Section 2209. Clarkesville Preservation District Overlay Zone Old Town Performance Standards.

OT

Clarkesville Preservation District Overlay Zone: Old Town Character Area Guidelines Site and Architectural Standards for New Commercial, Multi-family Construction, and Exterior Renovation of Existing Structures and Facilities

Parking Lot Buffers	Parking shall incorporate a sight obscuring hedge screen. The screen shall grow to be at least 36 inches higher than the finished grade of the parking area, except for required vision clearance zones. The screen may be achieved by a combination of earth mounding and plant materials.	
Parking Lot Landscaping	Parking lot landscaping shall consist of a minimum of 7% of the total parking area plus a ratio of one tree for each seven parking spaces to create a canopy effect. (When possible, parking areas should incorporate existing trees whose DBH exceeds 8 inches.) The tree species shall be an appropriate large canopied shade tree and shall be selected from the Clarkesville Native Plant List (see Section 2214). The landscaped area shall be planted with shrubs and/or groundcover to assure 80% coverage of the ground within five years. Landscaped areas shall be evenly distributed throughout the parking area	

	and parking perimeter at the required ratio.	

Section 2209. Clarkesville Preservation District Overlay Zone Old Town Performance Standards.

OT

Clarkesville Preservation Disrtict Overlay Zone: Old Town Character Area Guidelines Site and Architectural Standards for New Commercial, Multi-family Construction, and Exterior Renovation of Existing Structures and Facilities

Off-Street Parking Lot Requirements	Parking in the OT shall be restricted to the rear of the buildings, i.e. not to project forward beyond the rear wall of the building. VARIANCE: Variances to allow parking in the side yards shall be considered when one or more of the following criteria are met: (1) slopes in rear yard exceed 25%, (2) rear parking requires clearing of specimen trees, or (3) rear parking requires the demolition of historic landscape or structural features. The front setback for side parking lots will be the same as the minimum front building set back.	
Lighting	Glare or light from any operation and all lighting for parking areas or for the external illumination of buildings or grounds shall be directed or located in such a manner such that direct or indirect illumination from the source of light shall not exceed one-half foot-candle measured at any lot line.	It is the intent of this section to prevent light from spilling over to adjacent properties in amounts that can create negative impacts. A fact sheet/diagram is provided to assist property owners (available at City Hall: Lighting Application Guide for Property Owners).

Curb Cuts		
Corridor Street – (Grant, Jefferson)	No new curb cuts onto corridor streets shall be allowed unless the following two criteria are met: (1) a lot does not currently have a curb cut and (2) the lot does not front a side street with direct access onto corridor streets. Curb cuts can be widened to a maximum width of 24 ft.	
Tree Preservation	See Tree Ordinance Article XXIX	

Section 2209. Clarkesville Preservation District Overlay Zone Old Town Performance Standards.

OT

Clarkesville Preservation District Overlay Zone: Old Town Character Area Guidelines Site and Architectural Standards for New Commercial, Multi-family Construction, and Exterior Renovation of Existing Structures and Facilities

Prohibited Signs	Balloons, strings of pennants; banners over 24 sq ft in addition to those already prohibited elsewhere in the ordinance	
Maintain Public ROW	Any proposed use requiring the addition of an accel/decel lane, according to GDOT standards, is not allowed in the OT.	
New Construction & Exterior Renovations-Architectural Guidelines	See Architectural Guidelines, Section 2213 and the Better Home town Design Guidelines	
Fences	Fences shall be constructed of wood, brick, stone, or iron. Wood fences shall be picket fences that are painted or stained, and are no taller than 42 inches front and spaced from 1.5-3.5 inches apart. Fencing in the rear yard of a structure with other materials, such as flat wood boards or chain link, may be allowed only at the recommendation of the Zoning Administrator and approval of the Planning Commission. Rear fencing shall be no taller than 48 inches. If chain link fencing is used	Fences

	then it shall be painted or coated with dark green or black and covered by some type of planting or vines. If a rear yard is on the corner lot, no chain link or flat board fencing shall be allowed.	

Section 2210. Clarkesville Preservation District Overlay Zone Washington Street Performance Standards

WS

Clarkesville Preservation District Overlay Zone: Washington Street Area Guidelines Site and Architectural Standards for New Commercial, Multi-family Construction and Exterior Renovation of Existing Structures and Facilities

OVERLAY REGULATIONS & EXTERIOR RENOVATION OF EXISTING STRUCTURES		**NOTES**
Minimum Building Setbacks (from ROW)		
Front (arterial – Corridor Street – Washington)	30 ft. w/ street tree requirement – see below	Basic zoning requirements are 0 ft. in DB and 60 ft. in HB
Minimum Building Setbacks (from property line)		
Side	10 ft. or the basic zoning requirements, whichever is greater	Basic zoning requirements for properties zoned DB is 0 ft. or HB 15 ft./30 ft. if adjacent to residential district. Need to establish a minimum to maintain some greenspace.
Rear	10 ft. or the basic zoning requirements, whichever is greater	Basic zoning requirements for properties zoned DB is 0 ft. or 15 ft. if adjacent to residential district; 10 or 30 ft. for HB. Need to establish a minimum to maintain some greenspace.
Street Tree Requirements	Street trees shall be placed between the sidewalk and property line at the rate of one tree for every 30 feet of street frontage. Street trees shall be located behind (building side) the sidewalk except in cases where there is a designed planting strip in the right-of-way, or the sidewalk is greater than 8 feet wide and designated to accept trees in tree wells. Trees shall not be planted closer than 2 ½ feet from the face of the curb. Trees shall provide at least 8 feet of clearance	

	above sidewalks and 12 feet above roadway surfaces. Existing trees may be used as street trees if there will be no damage from the development that will kill or weaken the tree. The tree species shall be an appropriate street tree and shall be selected from Clarkesville Native Plant List (see Section 2214).

Section 2210. Clarkesville Preservation District Overlay Zone Washington Street Performance Standards

WS

Clarkesville Preservation District Overlay Zone: Washington Street Area Guidelines Site and Architectural Standards for New Commercial, Multi-family Construction, and Exterior Renovation of Existing Structures and Facilities

OVERLAY REGULATIONS & EXTERIOR RENOVATION OF EXISTING STRUCTURES		**NOTES**
Maximum Building Height (ft.)	35 ft. or the same height of a pre-existing primary structure (if demolition of a pre-existing primary structure is involved) whichever is greater. VARIANCE: Variance allowed when the prevailing heights of adjacent buildings differ from above; in this case, proposed height can conform to the prevailing height of neighboring buildings basic zoning requirements at that time.	The basic zoning requirements for properties zoned CB, DB, or HB is 50 ft.
Maximum Lot Coverage (%)	60%	Basic zoning requirements are 100% for DB and 60% for CB and HB. We are mainly concerned with the appearance of the front but also want to avoid large, warehouse type buildings. Controls on setbacks, building height and width, and minimum parking standards will help to control building size.
Off-Street Parking Requirements		
Minimum Spaces	Not less than minimum parking	

	requirements specified in the basic zoning requirements.	
Minimum Loading Spaces	Not less than minimum loading space requirements specified in the basic zoning requirements.	

Section 2210. Clarkesville Preservation District Overlay Zone Washington Street Performance Standards

WS

Clarkesville Preservation District Overlay Zone: Washington Street Area Guidelines Site and Architectural Standards for New Commercial, Multi-family Construction, and Exterior Renovation of Existing Structures and Facilities

OVERLAY REGULATIONS & EXTERIOR RENOVATION OF EXISTING STRUCTURES		**NOTES**
Minimum Parking Space Size	Basic zoning requirements (160 sq. ft. for all districts)	
Setback for Public ROW	Same as building setbacks	
Setback from Residential District	Basic zoning requirements (25 ft. for all districts)	
Parking Lot Buffers	Parking shall incorporate a sight obscuring hedge screen. The screen shall grow to be at least 36 inches higher than the finished grade of the parking area, except for required vision clearance zones. The screen may be achieved by a combination of earth mounding and plant materials.	
Parking Lot Landscaping	Parking lot landscaping shall consist of a minimum of 7% of the total parking area plus the following ratios; one tree for each seven parking spaces for rear parking and one tree for each five parking spaces for side parking. The tree species shall be an appropriate large canopied shade tree and shall be selected from Clarkesville Native Plant List (see Section 2214). The landscaped area shall be planted with shrubs and/or groundcover to assure 80% coverage of the ground within five years. Landscaped areas shall be evenly distributed throughout the parking area and parking perimeter at the required ratio.	Parking Lot Landscaping

Section 2210. Clarkesville Preservation District Overlay Zone Washington Street Performance Standards

WS

Clarkesville Preservation District Overlay Zone: Washington Street Area Guidelines Site and Architectural Standards for New Commercial, Multi-family Construction, and Exterior Renovation of Existing Structures and Facilities

OVERLAY REGULATIONS & EXTERIOR RENOVATION OF EXISTING STRUCTURES		NOTES
Off Street Parking Location Requirements	All parking in this area shall be off-street and shall be located to the rear or side of the building according to the required setbacks.	A building could be set back 40 ft. from corridor streets (Washington, Grant & Bridge) and the parking could be setback only 30 ft. which is the minimum front setback for buildings and parking
Lighting	Glare or light from any operation and all lighting for parking areas or for the external illumination of buildings or grounds shall be directed or located in a manner such that direct or indirect illumination from the source of light shall not exceed one-half foot candle measured at any lot line.	It is the intent of this section to prevent light from spilling over to adjacent properties in amounts that can create negative impacts.
Parking Lots	.9 foot-candle average is recommended; do not exceed 1.2 foot-candle.	
Sidewalks	.5 foot-candle average is recommended; do not exceed .9 foot-candle.	
Curb-Cuts		
Side Streets	One 24 ft. wide two-way curb cut allowed per lot per side street	
Corridor Streets (Washington)	One 15 ft. wide curb cut (one-way entering traffic) allowed per lot. For lots without frontage onto a side street, two 15 ft., one-way curb cuts or one 24 ft. two-way curb cut shall be allowed.	

Section 2210. Clarkesville Preservation District Overlay Zone Washington Street Performance Standards

WS

Clarkesville Preservation District Overlay Zone: Washington Street Area Guidelines Site and Architectural Standards for New Commercial, Multi-family Construction, and Exterior Renovation of Existing Structures and Facilities

OVERLAY REGULATIONS & EXTERIOR RENOVATION OF EXISTING STRUCTURES		**NOTES**
Rear Streets	Curb cuts onto rear streets are not allowed unless they provide a lot's only public ROW access	We want to keep traffic off of these streets as, in most cases, they border residential neighborhoods.
Landscape Buffers for Driveways	N/A	
Tree Preservation	See Tree Ordinance Article XXIX	
Prohibited Signs	Balloons, strings of pennants; banners over 24 sq ft in addition to those already prohibited elsewhere in the ordinance.	
Signs – Attached or Hanging	Total size cannot exceed 25% of the window space or wall space	Only one sign per business whether attached, hanging or window.
Signs – Window	Total sign size cannot exceed 25% of window space	Only one sign per business whether attached, hanging or window.
Maintain Public ROW	Any proposed use requiring the addition of an accel/decel lane, according to GDOT standards, is allowed in the WS.	
New Construction and Exterior Renovation – Architectural Guidelines	See Architectural Guidelines, Section 2213 and Better Home Town Design Guidelines.	
Fences	Fences shall be constructed of wood, brick, stone or iron. Wood fences shall be picket fences that are painted or stained, and are no taller than 42 inches front and spaced from 1.5 to 3.5 inches apart. Fencing in the rear yard of a structure with other materials, such as flat wood boards or chain link, may be allowed only at the recommendation of the Zoning Administrator and approval of the Planning Commission. Rear fencing shall be not taller than 48 inches. If chain link fencing is used then it shall be painted or coated with dark green or black and covered by some type of planting or vines. If a rear yard is on a corner lot, no chain link or flat board fencing shall be allowed.	

Section 2211. Clarkesville Preservation District Overlay Zone Downtown Performance Standards.

DT

Clarkesville Preservation District Overlay Zone: Downtown Character Area Guidelines Site and Architectural Standards for New Commercial, Multi-family Construction, and Exterior Renovation of Existing Structures and Facilities

OVERLAY REGULATIONS AND EXTERIOR RENOVATION OF EXISTING STRUCTURES		**NOTES**
Building Setbacks (from ROW)	All setbacks should conform to the prevailing setbacks of existing buildings	Common walls between buildings are encouraged to maintain the historic commercial row character.
Front (arterial – Corridor Streets)		
Building Setbacks (from property line)		
Side		
Rear		
Street Tree Requirements	N/A	
Maximum Building Height (ft.)	The height of a new building shall conform to the height or range of heights that prevail in the block in which the building is located.	Current maximum building height is 35 feet in INS districts and 50 ft. CB and DB district.
Maximum Lot Coverage (%)	N/A	
Off-Street Parking Requirements	Does not apply to the Downtown Character Area; see requirements for parking lots listed for Parking Lot Buffers and Parking Lot Landscaping	
Minimum Spaces	N/A	
Minimum Loading Spaces	N/A	
Minimum Parking Space Size	N/A	
Setback from Public ROW	N/A	

DT

Clarkesville Preservation Corridor District Zone: Downtown Character Area Guidelines Site and Architectural Standards for New Commercial, Multi-family Construction, and Exterior Renovation of Existing Structures and Facilities

OVERLAY REGULATIONS AND EXTERIOR RENOVATION OF EXISTING STRUCTURES		NOTES
Setback from Residential District	N/A	
Parking Lot Buffers	Parking shall incorporate a sight obscuring hedge screen. This screen shall grow to be at least 36 inches higher than the finished grade of the parking area, except for required vision clearance zones. The screen may be achieved by a combination of earth mounding and plant materials.	
Parking Lot Landscaping	Parking lot landscaping shall consist of a minimum of 7% of the total parking area plus a ratio of one tree for each seven parking spaces to create a canopy effect. The tree species shall be an appropriate large canopied shade tree and shall be selected from Clarkesville Native Plant List (see Section 2214). The landscaped area shall be planted with shrubs and/or groundcover to assure 80% coverage of the ground within five years. Landscaped area shall be evenly distributed throughout the parking area and parking perimeter at the required ratio.	
Off-Street Parking Location Requirements	Does not apply to the Downtown Character Area.	

Section 2211. Clarkesville Preservation District Overlay Zone Downtown Performance Standards.

DT

Clarkesville Preservation District Overlay Zone: Downtown Character Area Guidelines Site and Architectural Standards for New Commercial, Multi-family Construction, and Exterior Renovation of Existing Structures and Facilities

OVERLAY REGULATIONS AND EXTERIOR RENOVATION OF EXISTING STRUCTURES		**NOTES**
Lighting	Outside lights for properties/uses must be made up of a light source and reflector so that acting together the light beam is controlled and not directed across an adjacent property.	It is the intent of this section to prevent light from spilling over to adjacent properties in amounts that can create negative impacts.
Parking Lots	.9 foot-candle average is recommended; do not exceed 1.2 foot-candle	
Sidewalks	.5 foot-candle average is recommended; do not exceed .9 foot-candle.	
Curb-cuts		N/A
Tree Preservation	See Tree Ordinance Article XXIX	
Prohibited Signs	Balloons, strings of pennants; banners over 16 sq ft in addition to those already prohibited elsewhere in the ordinance	
Signs – Attached or Hanging	New signs shall be attached to the building carefully to avoid damage to historic fabric for example; fittings should penetrate mortar joints rather than brick. New signs shall not obscure significant features of a building and shall respect the size, scale, and design of the building and not overwhelm it. Existing historic signs shall be retained.	
Signs – Window	Window signs shall be in the form of paint on window glass or internal hanging signs.	

Section 2211. Clarkesville Preservation District Overlay Zone Downtown Performance Standards.

DT

Clarkesville Preservation District Overlay Zone: Downtown Character Area Guidelines Site and Architectural Standards for New Commercial, Multi-family Construction, and Exterior Renovation of Existing Structures and Facilities

OVERLAY REGULATIONS AND EXTERIOR RENOVATION OF EXISTING STRUCTURES		**NOTES**
Maintain Public ROW	Any proposed use requiring the addition of an accel/decel lane, according to GDOT standards, is not allowed in the DT.	
New Construction and Exterior Renovation – Architectural Guidelines	See Architectural Guidelines, Section 2213 and Better Home Town Design Guidelines	
Fences	Fences shall not be allowed in the Downtown Character Area.	Except to screen Garbage/Trash Containers of all sizes. Screening of which is required.

Section 2212. Clarkesville Preservation District Overlay Zone Park Performance Standards.

P

Clarkesville Preservation District Overlay Zone: Park Character Area Guidelines Site and Architectural Standards for New Commercial, Multi-family Construction, and Exterior Renovation of Existing Structures and Facilities

OVERLAY REGULATIONS & EXTERIOR RENOVATION OF EXISTING STRUCTURES		NOTES
Minimum Building Setbacks (from ROW)		
Front (arterial – Corridor Streets – Washington, Grant, and Bridge)	60 ft.	Basic zoning requirements in this area range from 40 ft. for R and R-2 to 60 ft. for R-1 and M-1.
Minimum Building Setbacks (from property line)		
Side	10 ft. or the basic zoning requirements, whichever is greater	Basic zoning requirements in this area range from 10 ft. in R-2 to 5 ft. or 30 ft., if adjacent to a residential district, in M-1. Need to establish a minimum to maintain some greenspace.
Rear	10 ft. or the basic zoning requirements, whichever is greater	Basic zoning requirements in this area range from 10 ft. in R-2 to 10 ft. or 30 ft., if adjacent to a residential district, in M-1. Need to establish a minimum to maintain some greenspace.
Street Tree Requirements	Street trees shall be placed at the rate of one tree for every 30 feet of street frontage. Street trees shall be located behind the sidewalk except in cases where there is a designed planting strip in the right-of-way. Trees shall not be planted closer than 2 1/2 feet from the face of the curb. Trees shall provide at least 8 feet of clearance above sidewalks and 12 feet above roadway surfaces. Existing trees may be used as street trees if there will be no damage from the development that will kill or weaken the tree. The tree species shall be an appropriate street tree and shall be selected from Clarkesville Native Plant List (see Section 2214).	
Maximum Building Heights (ft).	50 ft. or basic zoning requirements, whichever is less	Basic zoning requirements in this area range from 35 ft. for R and R-1B to 50 ft. for R-2 to 100 ft. for M-1.
Maximum Lot Coverage (%)	Basic zoning requirements	Basic zoning requirements range from 25% in R to 35% in R-1B and R-2 to 60% in M-1. Controls on setbacks, building height and width, and minimum parking standards will help to control building site.

P

Clarkesville Preservation District Overlay Zone: Park Character Area Guidelines Site and Architectural Standards for New Commercial, Multi-family Construction, and Exterior Renovation of Existing Structures and Facilities

OVERLAY REGULATIONS & EXTERIOR RENOVATION OF EXISTING STRUCTURES		NOTES
Off-Street Parking Requirements		
Minimum Spaces	Not less than minimum parking requirements specified in the basic zoning requirements. VARIANCE: Variance should be allowed for fewer spaces when property owner can justify.	
Minimum Loading Spaces	Not less than minimum loading space requirements specified in the basic zoning requirements. VARIANCE: Variance should be allowed for fewer spaces when property owner can justify.	
Minimum Parking Space Size	Basic zoning requirements (160 sq. ft. for all districts)	
Setback from Public ROW	Same as building setbacks	
Setback from Residential District	Basic zoning requirements (25 ft. for all districts)	
Parking Lot Buffers	Parking shall incorporate a sight observing hedge screen. The screen shall grow to be at least 36 inches higher than the finished grade of the parking area, except for required vision clearance zones. The screen may be achieved by a combination of earth mounding and plant materials.	
Parking Lot Landscaping	Parking lot landscaping shall consist of a minimum of 7% of the total parking area plus the following ratios: one tree for each seven parking spaces for rear parking and one tree for each five parking spaces for side parking areas. The tree species shall be an appropriate large canopied shade tree and shall be selected from Clarkesville Native Plant List (see Section 2214). The landscaped area shall be planted with shrubs and/or groundcover to assure 80% coverage of the ground within five years. Landscaped areas shall be evenly distributed throughout the parking area and parking perimeter at the required ratio.	
Lighting	Any light and all lighting for parking areas or for the external illumination of buildings or ground shall be directed in a manner such that illumination shall not exceed one-half foot-candle measured at any lot line.	It is the intent of this section to prevent light from spilling over to adjacent properties in amounts that can create negative impacts.
Parking Lots	.9 foot-candle average is recommended; do not exceed 1.2 foot-candle	
Sidewalks	.5 foot-candle average is recommended; do not exceed .9 foot-candle	
Washington Street	One 24 ft. wide two-way curb cut allowed per lot.	

P

Section 2212. Clarkesville Preservation District Overlay Zone Park Performance Standards.

Clarkesville Preservation District Overlay Zone: Park Character Area Guidelines
Site and Architectural Standards for New Commercial, Multi-family Construction, and Exterior Renovation of Existing Structures and Facilities

OVERLAY REGULATIONS & EXTERIOR RENOVATION OF EXISTING STRUCTURES		**NOTES**
Rear Streets		
Landscape Buffers for Driveways		
Tree Preservation	See Tree Ordinance Article XXIX	
Prohibited Signs	Balloons, strings of pennant; banners over 24 sq. ft. in addition to those already prohibited elsewhere in the ordinance.	
Maintain Public ROW	Any proposed use requiring the addition of an accel/decel lane, according to GDOT standards, is not allowed in the OT.	
New Construction and Exterior Renovation – Architectural Guidelines	See Architectural Guidelines, Section 2213 and the Better Home Town Design Guidelines.	

Section 2213. Architectural Guidelines for New Construction and Renovations/Rehabilitations

(Amended 03/05/2012)

Architectural Guidelines for New Construction and Exterior Renovation of Existing Structures

The following are offered as guidelines, only, for reviewing new construction proposed within the Overlay Zone. A design that does not conform to these guidelines can be approved if the Commission determines that the design is in keeping with the overall intent of the Overlay Zone. The purpose of guidelines is to insure that new construction is compatible with the historic character of the City of Clarkesville.

Section 2213.1 Intent and Purpose

A. The purpose of this section is to provide information that will assist the community, property owners, design professionals and public officials in regards to proposed new buildings and the remodeling/renovation of existing buildings within the Clarkesville Preservation District (CPD).
B. It is intended to supplement the base zoning regulations, by establishing guidelines that address quality improvements in the form of new buildings and remodeling/renovation of existing buildings. Focus is on historic preservation while at the same time taking into account the more modern and up-to-date building codes and building materials. The goal is to maintain a sense of community and historic significance without putting an unreasonable burden upon a property owner/developer.
C. Reference is hereby made to the current edition of the Clarkesville Better Hometown Design Committee Design Guidelines as a further source of aid to building owners and design professionals.

Section 2213.2 Interpretation and Applications

A. The Clarkesville Preservation District is as defined in Article XXII, section 2201.
B. Review Procedure: In addition to the submittal guidelines as set forth in article XXII, Section 2206, elevation drawings of the proposed building are to be included. The elevation drawings are to clearly delineate all materials and colors that are being proposed. The developers and/or design professional shall schedule a meeting with the Zoning Administrator to review the guidelines and to determine a date to review the submittal with the Planning Commission. Plans will not be reviewed for a building permit until the Planning Commission has approved the proposal.

Section 2213.3 Architectural Standards within the Clarkesville Preservation District

(A) Materials

1. Generally.
   a. Exterior building materials for buildings within the CPD shall be composed of one dominant veneer material on the first level and one or two additional materials as accents. The dominant veneer shall include the materials permitted by subsection (2), below. Accent materials include glazing, wood, or masonry. The dominant (i.e. primary) materials shall comprise a minimum of sixty percent (60%) of first floor elevation.

2. Exterior Building Materials.
   a. Primary materials. The primary materials for exterior wall surfaces shall be brick, stone, hardy plank, wood siding or glass.
   b. Secondary materials. Secondary materials may be used for up to 40% of the exterior wall surfaces and can be used to account for 100% of the exterior wall that is not considered to be a façade per the requirements of this ordinance. Acceptable secondary materials include all allowed primary materials identified above, as well as stucco, textured block, and wood or hardy plank shingles.
   c. Prohibited materials. Exposed concrete block (untextured), corrugated metal, plywood, precast concrete "T's," synthetic stucco and vinyl or aluminum siding are prohibited.

(B) Architectural Features

1. Height & Square Footage.
   a. Building heights shall be a minimum of 18 feet and a maximum of 50 feet above the adjacent primary road grade. Floor to floor heights shall be a minimum of ten (10) feet and a maximum of eighteen (18) feet. Square footage (allowable floor area) shall be as permitted by the applicable building codes and section 2302.
2. Windows.
   a. Windows shall have a minimum proportion of horizontal length to vertical height of 1:2, and maximum proportions of 1:3.
   b. Storefront windows shall not be located closer than 16 inches from the ground (sill height). The maximum sill height for new construction is 36 inches.
   c. All glazed materials must be in compliance with the International Code Council (ICC) and National Fire Protection Association (NFPA) standards.
   d. The minimum percentage of front façade elevations that shall be in glazed materials is as established below:

	Ground Floor	Upper Floors
Commercial Uses	30%	30%
Residential Uses	Per existing Building codes	

3. Blank Walls Doors, windows, and other architectural features shall embellish a minimum of 30% of the front façade and be used to break large wall planes into smaller components, thereby creating a more pedestrian friendly scale and mass.

4. Architectural Lighting
   a. Architectural lighting is permitted. (Amended 03/05/2012)
   b. Mercury vapor lighting sources and general flood lighting of building exteriors is prohibited.
   c. Existing fixtures of historical significance, if present, shall be preserved and repaired whenever possible.

5. Doors
   a. Maintain and preserve historic doors and surrounding features.
   b. Repair historic doors if feasible. Historic doors that are damaged beyond repair should be replaced with doors that match the original design.
   c. Existing sidelights transoms or other door features need to be preserved or replaced with a design matching the original.
   d. Sidelights, transoms or other door features may be added to an existing building provided the design is complementary to the original.
   e. Doors at the façade of new buildings shall reflect the intent of the Historic District and the Clarkesville Better Home Town guidelines.
   f. 1st Floor/Storefront - Entries/Doorways, the primary entry to a building, leading to a lobby, stair or central corridor shall be emphasized at the street level to announce a point of arrival in one or more of the following ways:
      (1) Flanked columns, decorative fixtures or other details;
      (2) Recesses within a larger arched or cased decorative opening;
      (3) Covered by means of a portico (formal porch) projecting from or set into the building face.
      (4) Punctuated by means of a change in roofline, a tower, or a break in the surface subject wall.
      (5) Distinctions achieved through changes in materials, color and addition of awnings.

6. Awnings
    a. Awnings shall have a durable, commercial grade fabric, canvas, standing metal seam or similar material having a matte finish. Glossy or shiny plastic or similar awning materials are prohibited.
    b. Awnings shall have a single color or two-color stripes. Bright and/or contrasting colors are not permitted. The awning colors shall complement the colors of the building they are intended to serve and the proposed street furnishings.
    c. When there are several businesses in one building, awnings of a compatible color may be used with signs on the valance flap that may vary in type style and color to differentiate the individual businesses within the building.
    d. Where the façade is divided into distinct structural bays, awnings shall be placed within the vertical elements rather than overlapping them.
    e. Closed sided awnings that cover the awning frames are permitted. If open sided awnings are used, the frames and supports shall be of painted or coated metal or other non-corroding material.
    f. Internally illuminated awnings that glow are prohibited.
    g. The awning shape at the front elevation shall relate to the window or door opening. Barrel-shaped awnings shall be used to complement arched windows while square awnings shall be used on rectangular windows.
    h. Awnings shall be well maintained, washed regularly and replaced when faded or torn.
    i. Acceptable awning shapes allowed are:
        1. Standard
        2. Convex
        3. Dome
        4. Concave

7. Grillwork/Metalwork and Other Details.

The following details are permitted on the first floor at ground level:

    a. Light fixtures that are wall-mounted or hung with decorative metal brackets.
    b. Metal grillwork at vent openings or as decorative features at windows, doorways or gates.
    c. Decorative scuppers, catches and down-spouts.
    d. Balconies, rails, finials, corbels, plaques or similar items.
    e. Flag or banner pole brackets.
    f. Fire Sprinkler stand pipe enclosures and hose bib covers.
    g. Security Devices.

8. The Upper Façade

The following standards apply to floors that lie above the first floor at ground level:

    a. Cornice and Fascia:
    Cornices or fascias shall not exceed six (6) feet in their vertical dimensions or twenty percent (20%) of the vertical length of the façade, whichever is less. For purposes of this subsection, the vertical length of the façade is measured from the finished grade to the top of the cornice or eave.
    b. Windows:
    For existing buildings, the proportions of restored windows and the rhythm of the window pattern shall replicate the original façade design as closely as possible.
    c. Balconies and Roof Terraces:
    Balconies and roof terraces are permitted. If these elements are used, the elevations that incorporate the balconies shall be presented as part of an application for approval of a site plan, special exception, building permit or certificate of appropriateness.

d. Chimney Placement: (new construction)
Chimneys are not required for commercial or residential structures. If chimneys are used, they shall be placed only at either end of a side-gable or symmetrically located toward the center of the building. If the structure is symmetrical, the chimneys shall also be placed symmetrically. If the overall form is irregular, then the chimneys shall be placed where a balance with the overall massing of the structure will be achieved.
Unless the overall design is certified as part of a Leadership in Environmental and Energy Design (LEED) development, skylights shall be located only on secondary elevations that are not visible from street level, pedestrian pathways, or the public right-of-ways and shall be integrated into the overall roof form.

9. Roofs.

Roof design and construction within the CPD shall be in conformance with the following:
Roof Form and Materials

a. Permitted styles and forms include gable, mansard, shed, hip, flat, or complex roofs. Parapets and cornices shall be allowed.
b. Secondary roof forms created by dormers, porches, entries, bays and projections shall not comprise more than fifty percent (50%) of the roof area.
c. Permitted roofing materials include:
    - Tile, slate or stone
    - Wood shake
    - Textured composite shingles with a shake, slate or tile appearance.
    - Standard composition shingles
d. Rubber roofing and Modified Bitumen systems can be used on roofs that are not visible.

Roof pitches that create overly prominent or out-of-character buildings (e.g., A-frames, or geodesic domes) are prohibited.

Architectural Guidelines for New Construction and Exterior Renovation of Existing Structures

	OT	WS	DT	Park
Orientation	All new construction should face and have primary entrance on the thoroughfare on which it is located.			
Prohibited Primary Exterior Wall Materials	Dryvit, vinyl, metal siding			
Maximum Width/Height Building Ratio (front façade) (Regulations specify a maximum building height; concern is directed at the overall proportion of buildings.)	2/1	3/1	1/1 ** See note below	4/1
Roof Types and Pitches	The traditional roof types in these areas are gable and hip pyramidal.	N/A	The traditional roof type in this area is a flat roof.	N/A
Maximum % of Total Wall Surface That Can Be Solid				

Architectural Guidelines for New Construction and Exterior Renovation of Existing Structures

	OT	WS	DT	Park
Front Façade	70%	70%	(see below)	70%
Side Facades Facing Public ROW or Public Parking	70%	80%	100%	80%
Rear Facade Facing Public ROW or Public Parking	70%	80%	100%	80%
Side and Rear Facades Facing Private Property	N/A	N/A	N/A	N/A
First Story – Front Façade	N/A	N/A	55%	N/A
Upper Stories – Front Façade	N/A	N/A	70%	N/A

** This ratio can be applied per storefront if there are multiple businesses in a building or multiple entrances to the same business; it can also be applied per floor. In other words, a building's front façade can be visually subdivided, either horizontally or vertically, for the purposes of complying with this guideline.

Section 2214. Native Plant List

CITY OF CLARKESVILLE NATIVE PLANT LIST

This list is intended to promote the planting of indigenous species of trees, shrubs and other plants to reestablish and maintain the natural environment of Clarkesville, Georgia. The list below includes, but is not inclusive of all species of trees, shrubs and plants in Georgia. Users of this list may include other items not shown on this list, however, users must be prepared to provide verifiable information that confirms the use of non-listed items as also native to Northeast Georgia.

TREES

Note: The species with an "x" are appropriate for Street Tree and planting within Parking areas. Those species with an "#" are appropriate for Street Trees and Parking areas when required to plant under Power Lines. Those Shrubs with an "*" are appropriate to plant under Power Lines.

LD – Large Deciduous SD – Small Deciduous LE – Large Evergreen
SE – Small Evergreen E – Evergreen Shrub

Common Names	Botanical Names		
American smoke tree	Cotinus obovatus	SD	#
Apple Serviceberry	Amelanchier x grandiflora	SD	#
Ash, Green	Fraxinus pennsylvanica	LD	x
Ash, White	Fraximus americanus	LD	
Bald Cypress	Taxodium distichum	LE	
Basswood	Tilia Americana	LD	
Beech, American	Fagus grandifolia	LD	x
Black Tupelo or Black Gum	Nyssa syvatica	LD	#
Blackgum	Nyssa sylvatica	LD	x
Carolina silverbell	Halesia Carolina	SD	#
Cucumbertree	Magnolia acuminate	SD	
Dogwood	Cornus florida	SD	x
Downy Serviceberry	Amelanchier arborea	SD	#
Eastern Persimmon	Diopyros virginiana	SD	
Eastern Redbud	Cercis Canadensis	SD	#
Elm	Ulmus americanus	LD	
Fever Bark or Maiden's Blushes	Pinckneya bracteata	SD	#
Fringetree	Chionanthus virginicus	SD	
Hemlock, Eastern	Tsuga Canadensis	LE	
Hickory, Bitternut	Carya cordiformis	LD	
Hickory, Mockernut	Carya tomemtosa	LD	
Hickory, Pignut	Carya glabra	LD	
Hickory, Shagbark	Carya ovate	LD	
Holly, American	Ilex Americana	LE	
Holly, Deciduous	Ilex deciduas	SD	
Hophornbeam	Ostrya virginana	LD	
Ironwood	Carpinus caroliniana	LD	x
Magnolia large-flowered	Magnolia grandiflora	LE	#
Magnolia, Sweetbay	Magnolia virginiana	SE	

Maple, Red	Acer rubrum	LD		x
Musclewood	Carpinus caroliniana	LD		x
Oak, Post	Quercus stellata	LD		
Oak, Red	Quercus rubra	LD		x
Oak, Southern Red	Quercus falcate	LD		x
Oak, Water	Quercus nigra	LD		x
Oak, White	Quercus alba	LD		x
Oak, Willow	Quercus phellos	LD		x
Pine, Loblolly	Pinus taeda	LE		
Pine, Virginia	Pinus virginiana	LE		
Redbud	Cercis reniformits	SD		#
Red Buckeye	Aesculus pavia	SD		#
Red-osier Dogwood	Cornus stolonifera	SD		
Riverbirch	Betula nigra	LD		x
Sassafras	Sassafras albidum	SD		
Serviceberry	Amelanchier arborea	SD		
Sourwood	Oxydendrum arboretum	SD		#
Sweetgum	Liquidamber styraciflua	LD		
Sycamore	Platanus occidentalis	LD		x
Texas Redbud	Cercis reniformis	SD		#
Tulip Poplar	Liriodendron tulipfera	LD		x
Two Wing Silverbell	Halesia dipteral	SD		#
Umbrella Tree	Magnolia macrophylla	LD		
Willow	Salix sp	LD		

SHRUBS

American Beautyberry (purple)	Callicarpa Americana			
American Snow Bell	Styrax americanus		*	
Arrow-wood	Viburnum acerifolium			
Bottlebrush Buckeye	Aesculus parviflora		*	
Clethra or Sweet Pepper Bush	Clethra alnifolia			
Common Winterberry	Ilex verticillata		*	
Dwarf Eastern Red Cedar	Juniperis virginana ‘grey owl’	E		
Dwarf Fothergillia	Fothergillia gardenia		*	
Dwarf Yaupon Holly	Ilex vomitoria ‘nana’	E		
Doghobble	Agarista (Leucothoe) axillaris	E		
Huckleberry	Gaylussacia sp			
Hydrangea	Hydrangea arborescens			
Inkberry	Ilex glabra’shamrock	E		
Mountain Laurel	Kalmia latifolia	E	*	
Mountain Stewartia	Stewartia ovate		*	
Nannyberry	Viburnum prunifolium			
New Jersey Tea	Ceanothus americanus			
Piedmont Azalea	Rhododendron canascens			
Possumhaw	Ilex deciduas			
Small Anise	Illicium parviflorum	E	*	
Sparkleberry	Vaccinium arboreum			
Spicebush	Lindera benzoin			

Strawberry Bush	Euyonmus americanus	
Sweetshrub	Calycanthus florida	
Viburnum, Maple-leaf	Viburnum acerifolium	
Virginia Sweetspire	Itea virginiana	
White Fringetree or Granny Gray Beard	Chionanthus virginicus	#
Witch-hazel	Hamamelis virginiana	

HERBACEOUS SPECIES

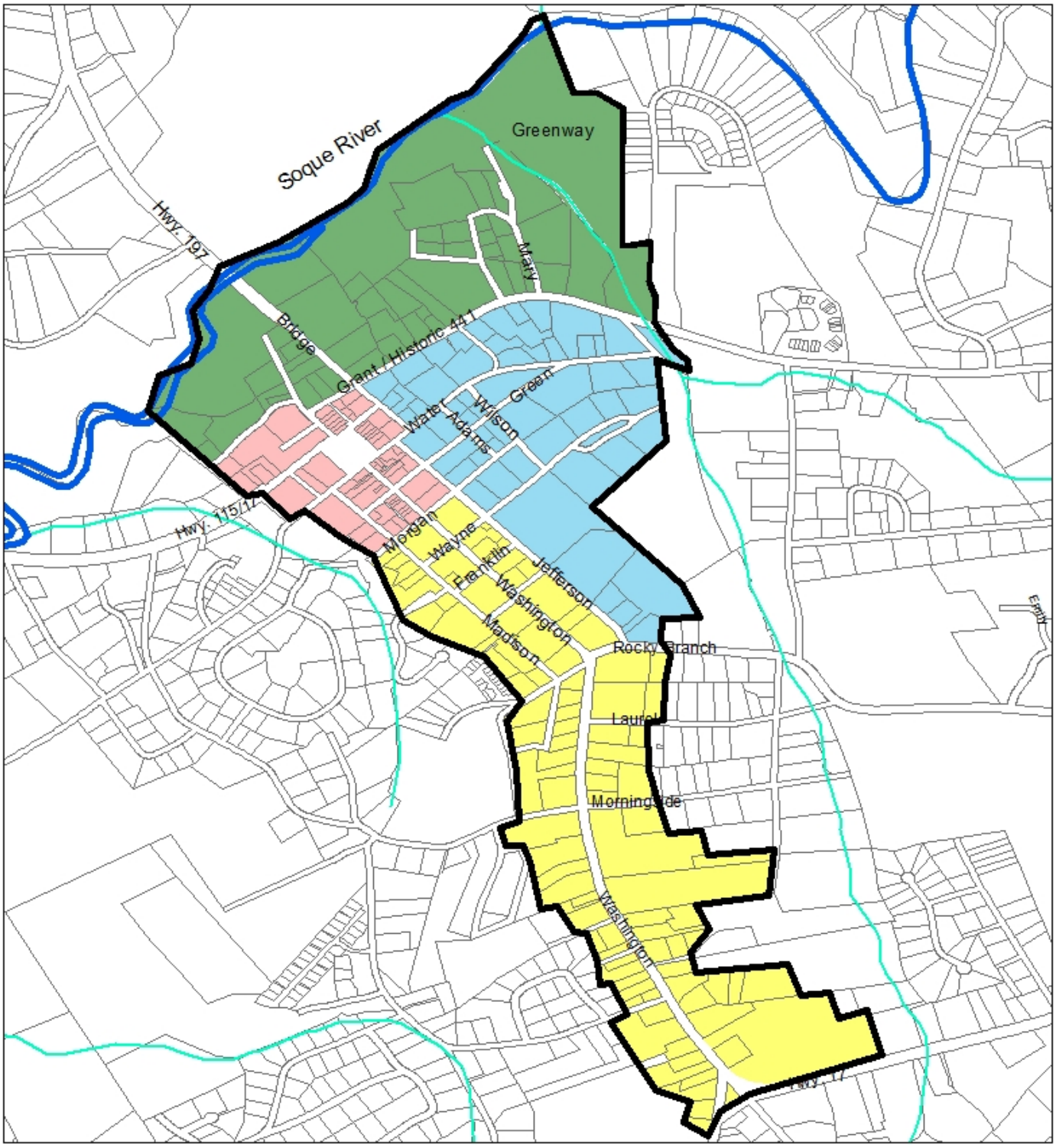
Aromatic Aster	Aster oblongifolius
Aster	Aster shortii
Aster	Aster novae-angliae
Blue Flag Iris	Iris virginica
Blue-eyed Grass	Sisyrinchium angustifolium
Boltonia	Boltonia asteroides
Boneset	Eupatorium perfoliatum
Butterflyweed	Asclepias tuberose
Cardinal Flower	Lobelia cardinalis
Carolina Jessamine	Gelsemium sempervirens
Cat-tail	Typha latifolia
Cinnamon Fern	Osmunda cinnamomea
Columbine	Aquilegia canadensis
Coneflower	Echinacea purpurea
Coral Honeysuckle	Lonicera sempervirens
Dwarf Joe Pye Weed	Eupatorium ‘little joe’
Fern, Christmas	Polystichum acrostichoides
Fern, Southern Shield	Thelypteris kunthii
Foam Flower	Tiarella cordifolia
Fragant Waterlily	Nymphaea odorata
Goldenrod	Solidago speciosa
Harlequin Blueflag	Iris versicolor
Hayscented Fern	Dennstaedtia punctilobula
Hepatica	Heuchera Americana
Horsetail	Eqisetum hyemale
Jack in the Pulpit	Arisaema triphyllum
Jewelweed	Impatiens pallida
Joepyeweed	Eupatorium fistulosum
Lizard’s Tail	Saururus cernuus
Mayapple	Podophyllum peltatum
Milkweed	Asclepias incarnata
Mountain Mint	Pycnanthemum tenuifolium
Obedient Plant	Physostegia virginiana
Partridge Berry	Mitchella repens
Phlox	Phlox divaricata
Pickerelweed	Pontederia cordata
Pink Coreopsis	Coreopsis rosea
Primrose, Evening	Oenothera speciosa
Rudbeckias	R. Fulgida, R. hirta
Sensitive Fern	Onoclea sensibilis

Spiderlily	Hymenocallis liriosme
Spiderwort (Blue)	Tradescantia virginiana
Stokes Aster	Stokesia laevis
Sundrops	Oenothera tetragona
Swamp Sunflower	Helianthus angustifolius
Tuckahoe	Peltandra virginica
Turtlehead	Chelone lyonii
Violets	Viola species
Wild Ageratum	Eupatorium coelestinum
Wild Geranium	Geranium maculatum
Wild Indigo	Baptisia australis
Yellow Flag Iris	Iris pseudocarpus
Yellow Wood Poppy	Stylphorum diphyllum

NATIVE GRASSES

Little Bluestem	Schizachyricum scoparium
Plume Grass	Ericanthus giganticus
River Oats	Chasmanthium latifolium
Soft Rush	Juncus effesus var. pacificus

Clarkesville Preservation District



ARTICLE XXIII
MINIMUM DIMENSIONAL REQUIREMENTS

Section 2301. Minimum Setback and Buffer Requirements by Zoning District.

PRINCIPAL BUILDING SETBACKS (feet)

DISTRICT	FRONT, ARTERIAL OR COLLECTOR STREETS	FRONT, OTHER STREETS	SIDE	REAR
R	60	40	20	30
R-1	40	25	10	20
R-1A	40	25	10	10
R-1B	40	25	10[3]	10
R-2	40	25	10	10
INS	40	25	20	20
PRO	40	25	20	20
DB	0	0	0 (A)	0 (A)
CB	40	25	10 (A)	10 (A)
HB	60	40	10(B)	10(B)
M-1	60	40	5(B)	10(B)

NOTE: Additional setbacks may be required for specific uses as provided in permitted uses sections of particular zoning districts.

(A) When development in this district abuts an R, R-1, R-1A, R-1B or R-2 zoning district boundary, a buffer with a minimum width of fifteen (15) feet shall be provided along the entire property line abutting said zoning district.

(B) When development in this district abuts an R, R-1, R-1A, R-1B or R-2 zoning district boundary, a buffer with a minimum width of thirty (30) feet shall be provided along the entire property line abutting said district. A fifteen (15) foot wide buffer shall be required when this district abuts a PRO zoning district.

Section 2302. Minimum Lot Width, Lot Size, Floor Area and Density Requirements.

DISTRICT	MINIMUM LOT SIZE (SQ. FEET)	MINIMUM LOT WIDTH (FEET)	MAXIMUM HEIGHT (FEET)	MAXIMUM LOT COVERAGE (PERCENT)	MAXIMUM DENSITY (UNITS PER ACRE)	MINIMUM HEATED FLOOR AREA PER UNIT (SQ FT)
R	30,000	100	35	25	1.45	1,500
R-1		75	35	30	2.90	1,000

	15,000					
R-1A	10,000	60	35	35	4.30	1,000
R-1B[4]	10,000	60	35	35	4.30	1,000
R-2	5,000	50	50	35	10.00	550
INS	5,000	50	35	60	8.70	750
PRO	5,000	50	35	40	8.70	750
DB	2,000	30	50	100	N/A	750
CB	4,000	50	50	75	10.00	550
HB	4,000	50	50	60	10.00	550
M-1	21,780	50	100	60	N/A	550

ARTICLE XXIV
CLEAN COMMUNITY REGULATIONS

Section 2401. Nuisances.

It is hereby declared to be an offense for any owner, occupant, tenant, lessee, proprietor, agent or person in charge to maintain or allow a nuisance to exist in the City. Each day a nuisance is continued shall constitute a separate offence. In addition to the remedies expressed in this Article, violations may be punishable in accordance with all law enforcement ordinances of the City.

Section 2402. Nuisance Activities and Conditions.

The following conditions or activities, among others which may be so declared from time to time, are declared to be nuisances:

1. Grass or other vegetation in a developed residential or commercial area of the city, except for undeveloped islands, which exceeds an average of twelve inches (12”) in height, excluding trees, ornamental shrubbery or crops.
2. Any trash, debris, garbage or unkempt premises which could be an attraction to or harborage for rats or other rodents.
3. Stagnant water which could be a breeding ground for mosquitoes or otherwise detrimental or annoying to the inhabitance of the city.
4. Dead or decaying matter, animal, weeds, vegetation or any fruit, vegetable or living animal which is odorous or capable of causing disease or annoyance to the inhabitants of the city.
5. The generation of dust, smoke or fumes in sufficient amount to cause odor or annoyance to the inhabitance of the city.
6. The pollution of public water or the injection of matter or rainwater into the public sewage system, which would be damaging thereto.
7. Maintaining a dangerous or diseased animal or fowl.
8. Obstructing a public street, public access area, highway, or sidewalk without a permit from the city. Public access as used in this ordinance is defined to include all city parking places, either owned by the city or patrolled by the city pursuant to an agreement with the city and private owner, all public parks and all public recreation facilities.

9. Loud or unusual noises, such as loud music, or recreational or commercial activities, which are detrimental or annoying to the public.
10. Loud or excessive noises created by domestic animals or fowl in a residentially zoned or commercial area of the city.
11. All walls, trees, and buildings that may endanger persons or property.
12. Any business, building or property where illegal activities are conducted.
13. Unused motor vehicles, boats, trailers, appliances or other mechanical devices or parts thereof, or discarded building materials, furniture or other debris which are left outside within plain view of adjoining property or public right-of-way.
14. Any trees, shrubbery, signs, plants or parts thereof, which obstruct clear, safe vision on roadways and intersections of the city.
15. Any building which is in violation of city, county or state building, housing or health codes or regulations.
16. Any other condition constituting a nuisance under state law.
17. Unsecured vacant buildings, commercial or residential.
18. Any premises which shall not be maintained so as to prevent the accumulation of stagnant water thereon, or within any building, structure, swimming pool or other recessed are located thereon.
19. Any premises which shall not be graded and maintained so as to prevent soil erosion which may damage the building, structures, or premises and adjoining buildings, structures or premises.

Every owner of a building, structure or premises shall be responsible for the extermination of insects, rodents, vermin or other pests in all exterior areas of the premises, except that the occupant shall be responsible for such extermination on the exterior area of the premises of a single family dwelling. Whenever infestation exists in the shared or public portions of the premises of other than a single family dwelling, extermination shall be the responsibility of the owner.

Section 2403. Proper Maintenance of Private Property Required.

Every building, residential, commercial, or industrial, located within the City shall comply with the requirements of this Article and any other ordinance of the City, including, but not limited to the following:

1. *Generally.* Every foundation, exterior wall, roof and all other exterior surfaces shall be maintained in a workmanlike state of maintenance and repair and shall be kept in such condition as to exclude rodents and other vermin.
2. *Foundations.* The foundation elements shall adequately support the building at all points.
3. *Wall; wood surfaces*. Every exterior wall shall be free of holes, breaks, loose or rotting boards or timber, and any other conditions which might admit rain, or dampness to the interior portions of he walls or to the occupied spaces of the building. All exterior wood surfaces, other than decay resistant wood, but not limited to walls, shall be made impervious to adverse effects of weather by periodic application of paint or a similar protective covering or treatment. All exterior surfaces which exhibit defects such as scaling, peeling or loose paint over more than fifty percent (50%) of the surface of any exterior wall or wood surface shall be considered a violation of this Article and shall require repair and maintenance by the owner, occupant, lessee, proprietor, agent, tenant, or person in charge.

Section 2403.1. Stairs, Porches, Walks and Parking Areas.

1. Stairs and other exit facilities shall be adequate for safety as provided in the building code.

2. Every outside stair, every porch, every walkway, every driveway, and every appurtenances attached thereto, shall be so constructed as to be safe to use and capable of supporting the loads to which it is subjected as required by the building code, and shall be kept in sound condition and good repair.

Section 2403.2. Windows, Doors, and Hatchways.

1. Every window, exterior door and basement hatchway shall be substantially tight and shall be kept in sound condition and repair.
2. Every window sash shall be fully supplied with glass window panes or an approved substitute.
3. Every window sash shall be in good condition and fit reasonable tight within its frame.
4. Every window, other than a fixed window, shall be capable of being easily opened.
5. Every exterior door shall be equipped with hinges and door latch and shall be maintained in good condition.
6. Every exterior door, when closed, shall fit well within its frame.
7. Every window, door and frame shall be constructed and maintained as to prevent the entrance of rodents, rain, and surface drainage water into the structure.

Section 2403.3. Maintenance of Accessory Structures

All accessory structures, including detached buildings and fences, shall be maintained structurally sound and in good repair.

Section 2403.4. Open Wells to be Filled.

It shall be the duty of any person owning property in the City on which is located an open well which is not in use and which has been abandoned and not kept properly closed to fill the well so as to render it safe to persons or animals using or going upon the premises.

Section 2404. Compliance with this Article.

No person shall own, occupy, offer for sale, or allow to remain unoccupied any residential, commercial, or industrial building, structure, or premises or portion thereof, which does not comply with the requirements of this Article and other ordinances of the City or portion thereof. The City shall cause periodic inspections to be made of all premises to secure compliance with these requirements.

Conducting Business with Non-Complying Structures.

The City shall not conduct any business with any commercial establishment that does not comply with this Article. No business license shall be granted to any business operating out of or occupying any building not in compliance with this Article or any other provision of this Zoning Ordinance.

Utility Service to Non-complying Structures.

No city utility service will be provided to any structure that does not comply with this Article.

Section 2405. Littering of Public and Private Properties Prohibited.

It shall be unlawful for any person to:

2405.1. Sweep, throw or deposit any garbage, trash, brush, stagnant water, dead animals, discarded items or other debris into, upon or along a drain, gutter, street, sidewalk, vacant lot or upon any public or private premises within the City: provided, however, that nothing in this section shall prevent the placing of such items on private property at or near the front property line thereof for routine pickup in accordance with the policies of the City; or

2405.2. Place, store, dump, park or broadcast any junk, metal, brickbats, stones, plaster, lumber, trash, garbage, litter, paper or similar rubbish and junk upon any public street or sidewalk in the City of Clarkesville; or

2405.3. Keep on the streets or sidewalks in the City any crates, boxes, or similar containers except authorized trash receptacles other than when loading, unloading, packing or unpacking merchandise; or

2405.4. Throw or spit hulls, peelings, gum, or other litter upon the sidewalk or in or upon the floors of churches, public buildings, theaters, auditoriums, and other similar public places; or

2405.5. Place or to throw, leave or abandon on any street in the City any glass bottle or can or the fragments thereof, or any broken glass or crockery of any kind, or nails, tacks, bricks, or any article of object likely to injure barefoot persons using such streets or sidewalks or to injure or puncture the tires of vehicles.

2405.6. Transport any garbage, trash, refuse, or other cargo upon the public thoroughfares in the City if the same is of character or substance which is likely to be deposited from the motor vehicle onto the public rights-of-way unless the same is secured by containers, tarpaulin, or other devise in such fashion as to effectively prevent such deposit on the public rights-of-way. The duties and responsibilities herein imposed shall be applicable alike to the owner of the motor vehicle and the operator thereof.

Section 2406. Cleanliness of Private Properties Required.

Every owner, occupant, tenant, lessee, proprietor, and person in charge of every house, building, business, commercial establishment, institution, and industrial establishment shall, jointly and severally, be required to comply with the following:

2406.1. Keep driveways, yards, parking, loading, work areas and areas adjacent thereto and under his control reasonably clean at all times and to place sweepings in a container to prevent re-scattering; and

2406.2. Provide litter containers of such size, number and type as may be specified by the City Manager to be reasonably required to hold litter generated by operations on the premises; and

2406.3. Maintain garbage storage areas in a clean condition and to insure that all garbage is properly containerized; and

2406.4. Furnish containers for construction debris and litter, and to containerize all such litter by the end of each work day; and

2406.5. Maintain surveillance of the subject property to insure that all litter is placed in the proper container and that the subject areas are kept clean.

Section 2407. Control of Vegetation.

No owner of any lot, place or area within the City, or the agent of such owner, shall permit, on such lot, place or area, or upon any sidewalk abutting the same, any weeds, grass, or deleterious, unhealthful growths, unsightly and/or unsafe, uncontrolled growth of shrubs and trees, or other noxious matter, that may be growing, lying or located thereon.

Section 2408. Enforcement, Abatement and Cost Recovery by City.

2408.1 Notification.

The City Manager is authorized and empowered to notify, in writing by registered or certified mail, the owner of any lot, place or area within the City or the agent of such owner, to cut, trim, destroy and/or remove any litter, weeds, grass, unsafe, growing

shrubs and/or trees, or deleterious, unhealthful growths, or other noxious matter found growing, lying or located on such owner' property, or upon the sidewalk abutting same.

2408.2. Action upon Non-Compliance.

Upon the failure, neglect, or refusal of any owner or agent so notified, to cut, trim, destroy and/or remove litter, weeds, grass, unsafe trees and shrubs, or deleterious, unhealthful growths, or other noxious matter, growing, lying, or located upon such owner's property, or upon sidewalk abutting same, or otherwise comply in all respects with any term or condition of this Ordinance within thirty (30) days after receipt of the written notice provided for in Section 2404.1. above or within thirty-five (35) days after the date of such notice, in the event the same is returned to the City 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 City Manager is hereby authorized and empowered to pay for the cutting, trimming, destroying and/or removal of such litter, weeds, grass, unsafe trees and/or shrubs, or deleterious, unhealthful growths or other noxious matter or to order the removal by the City.

2408.3. Charge Included in Tax Bill.

When the City has effected the removal of such litter or obnoxious growth or has paid for its removal or other cost to bring the property in compliance with this Ordinance, the actual cost thereof, plus accrued interest at the rate of Twelve (12%) 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 said owner at the time of payment of such tax bill.

2408.4. Recorded Statement Constitutes Lien.

Where the full amount due the City is not paid by such owner within thirty (30) days after the cutting, trimming, destroying and/or removal of such litter, weeds, grass, unsafely growing trees and/or shrubs or deleterious, unhealthful growths, or other noxious matter, as set forth in sub-sections above, then, and in that case, the City Manager shall cause to be recorded in the office of the Clerk of Superior Court a sworn statement showing the cost and expense incurred for the work and the date, place or property on which said work was done, and the recordation of such sworn statement shall constitute a lien and privilege 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 One (1%) 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 the work has been done properly and satisfactorily done, 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 collectible as provided by law. Action by the City under this section shall not preclude prosecution for a violation of this article or pursuit of any other remedy allowed by law.

Section 2409. Burning Restrictions. This section is new Ordinance adopted 12-06-2010

Section 2409. Open Burning Restrictions

Unless otherwise specified by this section, no person shall kindle an open fire in any public or private place outside any building. Fires started in Violation of This Ordinance shall be promptly extinguished by the person responsible for same upon notice by the city manager, or Fire Department Chief or their duly designated agents.

2409.1. *Exception for open burning without a permit.*

Open burning may be done without a permit for: in performance of an official duty by any public officer if necessary to prevent a fire hazard, to instruct public or private employees under the Fire Department's supervision, or to protect public health; on private property in an unaltered, commercially manufactured or professionally installed outdoor fireplace or similar appliance or structure designed for outdoor entertaining where a nuisance or public safety hazard is not created; for the cooking of food where no nuisance or public safety hazard is created.

2409.2. *Exception for open burning with a permit from Fire Department.*

An open burning permit may be issued by the Fire Department between the dates of October 1 and April 30 if: in the opinion of the issuing officer, atmospheric conditions on the day of burning are suitable for outdoor burning; a permit number issued by the Fire Department is obtained on the same day of burning; material to be burned is natural, untreated, unprocessed material such as fallen brush and leaves only; accelerants of any form are not used to kindle fire; area of burning does not exceed ten(10) feet in diameter and is not in excess of three(3) feet in height; Area of burning is at least fifty (50) feet from any structure and twenty (20) feet from any live tree, shrub or overhanging foliage; Area of burning is accompanied at all times by an adult, eighteen (18) years or older, until completely extinguished; A water source, adequate enough to quickly extinguish fire if needed, is available at all times at the burning area; Any and all products of combustion, including embers and / or smoke are completely extinguished prior to sunset; fire shall not be kindled prior to sunrise on the day of burn.

An extended open burning permit may also be issued by the Chief of the Fire Department if in the issuing officer's opinion; there is no other practical alternative disposal method, if no hazardous condition will be created, and if no public collection of such materials to be burned is provided; for heating by construction workers, other workers, or citizens exposed to the outdoors where no practical heat source is available and where no nuisance or public safety hazard is provided; for special community events where the outdoor burn can be deemed, by the issuing officer not to pose a nuisance or public safety hazard. Any permit issued may be limited by the imposition of additional conditions to protect property and the health, safety and comfort of persons from the effects of the burning. Any permit issued can be revoked for breach of ordinance or in the opinion of the issuing officer, a change in conditions that may pose an unreasonable nuisance or threat to public safety has occurred.

Section 2410. Abandonment of Motor Vehicles.

It shall be unlawful for any person to abandon any motor vehicle on public or private property. Every day after a vehicle is deemed to be an abandoned motor vehicle, as defined by this ordinance, shall constitute a new and separate violation for which the titled owner may be prosecuted.

Section 2411. Junk Motor Vehicles Prohibited.

Except on properties that meet the definition of a wrecked motor vehicle compound and such uses are permitted in the zoning district in which they are located, no person owning real estate within the City limits of Clarkesville shall allow or keep any junk motor vehicle or parts thereon on said property. The City Clerk shall give the property owner ten (10) days written notice by certified mail to his last known address to remove or dispose of said vehicles or parts thereof. Failure of the property owner to remedy the situation within said ten (10) days shall constitute a violation of this section and every day thereafter that such a motor vehicle or part thereof remains on said owner's property shall constitute a new and separate offense.

Section 2412. Screening of Wrecked Motor Vehicle Compounds Required.

Any person who owns, operates or maintains a wrecked motor vehicle compound, automobile repair garage, automobile body shop, or other permitted use involving junk or junk motor vehicles outdoors shall provide a solid vertical wall or fence of a minimum height of six (6) feet, measured along the ground level along the entire perimeter of the subject yard, compound or area, including entrance and exit gates, such that screening is provided on all sides from the view from public streets and adjacent properties.

ARTICLE XXV
DEMOLITION REGULATIONS

Section 2501. Procedures.

An owner seeking demolition of a structure in the Historic Preservation District shall submit a complete application to the building official. The building official shall immediately forward the application to the commission.

Section 2502. Applications.

An application to demolish a structure must be signed by the owner of the property and be accompanied by the following documentation before it is considered to be complete:

2502.1 An affidavit in which the owner swears or affirms that all information submitted with the application is true and correct.

2502.1 An indication that the demolition is sought for one or more of the following reasons:

1. The proposed replacement structure is more appropriate and compatible with the historic character of the district than the structure proposed for demolition.
2. No economically viable use of the property will exist unless the application is approved.
3. The structure poses an imminent threat to public health or safety.

2502.3 For an application to demolish a structure and replace with a new structure:

1. Records depicting the original construction of the structure, including drawings, pictures, or written descriptions.
2. Records, depicting the current condition of the structure, including drawings, pictures, or written descriptions.
3. Any conditions proposed to be placed voluntarily on new development that would mitigate the loss of the contributing structure.
4. Drawings that adequately convey the design of the new structure that is proposed to replace the structure to be demolished.
5. A guarantee agreement between the owner and the city that demonstrates the owner's intent and financial ability to construct the proposed structure. The agreement must:
6. Contain a covenant to construct the proposed structure within a one year period unless an extension is approved in accordance with drawings approved by the city.
7. *(Items ii, iii, and iv only pertain to commercial construction.)*
8. Require the construction contractor to post a performance and payment bond for 100 percent of the estimated construction cost amount;

9. Be secured by an adequate performance bond, a letter of credit, an escrow agreement, a cash deposit, or other arrangement, acceptable in each instance to the Zoning Administrator; and
10. Be approved as to form by the city attorney.

2502.4 For an application of no economically viable use (applies only to commercially zoned Property): The following should be considered in determining economic viability:

1. The past and current uses of the structure and property.
2. The name and federal income tax bracket of the owner.
3. If the owner is a legal entity, the type of entity and states in which it is registered.
4. The date and price of purchase or other acquisition of the structure and property, and the party from whom it was acquired.
5. The relationship, if any, between the owner and the party from whom the structure and property were acquired. If one or both parties to the transaction were legal entities, any relationships between the officers and the board of directors of the entities must be specified.
6. The assessed value of the structure and property according to the two most recent tax assessments.
7. The current fair market value of the structure and property as determined by a licensed appraiser.
8. All appraisals obtained by the owner or prospective purchasers within the previous two years in connection with the potential or actual purchase, financing, or ownership of the structure and property.
9. All listings of the structure and property for sale or rent within the previous two years, prices asked, and offers received.
10. A profit and loss statement for the property and structure containing:
11. The annual gross income for the previous two years.
12. Itemized expenses (including operating and maintenance costs) for the previous two years, including proof that adequate and competent management procedures were followed.
13. The annual cash flow for the previous two years.
14. Proof that the owner has made reasonable efforts to obtain a reasonable rate of return on the owner's investment and labor.
15. A mortgage history of the property during the previous five years, including the principal balances and interest rates on the mortgages and the annual debt services on the structure and property.
16. All capital expenditures during the current ownership.
17. Records depicting the current condition of the structure and property, including drawings, pictures, or written descriptions.
18. A study regarding both the cost of restoration of the structure or property and the feasibility (including architectural and engineering analyses) of adaptive use or restoration of the structure and property, as performed by a licensed architect or engineer.
19. Any consideration given by the owner to profitable adaptive uses for the structure and property.
20. Plans, if any, for proposed improvements on the site.
21. Any conditions proposed to be placed voluntarily on new development that would mitigate the loss of the landmark.
22. Any other evidence that shows that the affirmative obligation to maintain the structure or property makes it impossible to realize a reasonable rate of return.

2502.5 For an application to demolish a structure that poses an imminent threat to public health or safety (applies only to commercially zoned property):

1. Records depicting the current condition of the structure, including drawings, pictures, or written descriptions.
2. The city may require further information regarding other items such as: the nature, imminence, and severity of the threat, as performed by licensed architect or engineer.
3. The city may require further information regarding the cost of restoration of the structure and the feasibility of restoration of the structure, as performed by a licensed architect or engineer.
4. The city has the right to inspect property.

2502.6 Cumulative.

If the owner seeks to demolish a structure for more than one reason, he shall provide all documentation required for each reason.

2502.7 Other evidence.

The owner may submit other evidence to support his application.

City departments and private persons and organizations may submit evidence.

Section 2503. Decision of the Commission.

2503.1 Form of decision.

Upon the filing of a complete application, the commission shall approve or deny the application within 60 days of the filing date. If the commission does not make a final decision within that time, the building official shall issue a demolition permit to the owner.

1. Incomplete applications.

The time periods in this section do not begin to run until the owner provides all the information required in Section 2302.

2. Burden of proof.

The owner has the burden of proof to establish by clear and convincing evidence the necessary facts to warrant favorable action by the commission.

2503.4 If the application is one to replace a demolished structure with a new structure, the commission must first approve the certificate of appropriateness for the proposed new structure and the guarantee agreement to construct the new structure before it may consider the demolition application.

2503.5 Demolition standards.

Replacement structures. The commission shall deny an application to replace a demolished structure with a new structure unless it finds:

1. the proposed replacement structure is more appropriate and compatible with the district than the structure proposed for demolition;
2. the owner intends to build the replacement structure; and
3. the owner has the financial ability to build the replacement structure.
4. Viable use. The commission shall deny an application of no economically viable unless it finds:
5. the owner cannot realize a reasonable rate of return on the property unless the demolition is allowed, regardless of whether the return realized in the most profitable return;
6. the structure cannot be adapted for any other use, whether by the owner or by a purchaser, which would result in a reasonable rate of return on the property; and
7. the owner has failed during the last two years to find one or more purchasers or tenants for the property that would enable the owner to realize a reasonable rate of return on the property, despite having made substantial ongoing efforts to do so.

8. Public health or safety. The commission shall deny an application to demolish a structure that poses an imminent threat to public health or safety unless in finds:
9. the structure constitutes an imminent threat to public health or safety; and
10. there is no reasonable way, other than demolition, to eliminate the threat in a timely manner.

2503.6 Independent bases for demolition.

The commission shall approve the application if the owner meets the burden of proof for any of the subparagraphs of Paragraph (5).

Section 2504. Appeals.

2504.1 Any aggrieved person may appeal the decision of the commission to the city council by filing a written notice with the Zoning Administrator within 10 days of the decision. If no appeal is made of a decision to approve the demolition within the 10-day period, the building official shall issue the demolition permit. If an appeal is filed the city council shall hear and decide the appeal within 45 days of its filing. In considering an appeal, the sole issue before the city council shall be whether the commission erred in its decision. The council shall consider the same standards and evidence that the commission was required to consider in making the decision.

Section 2505. Clarkesville Preservation Corridor Fund.

Monies forfeited to the city because of an owner's failure to construct a replacement structure in a timely manner in accordance with a guarantee agreement and a certificate of appropriateness shall be place in an account, to be known as the Clarkesville Preservation Corridor Fund," for the enhancement of this district.

ARTICLE XXVI
ADMINISTRATION, INTERPRETATION, ENFORCEMENT, PENALTIES AND REMEDIES

Section 2601. Administration and Interpretation.

The provisions of this ordinance shall be administered by the Zoning Administrator who shall be appointed by the Governing Body and serve at its pleasure. The Zoning Administrator shall be responsible for interpretation of the provisions of these regulations and for maintenance of the official zoning map.

Section 2602. Enforcement.

The provisions of these regulations shall be enforced by the Zoning Administrator.

Section 2603. Development Permit Required.

A development permit shall be required for any proposed use of land(s) or building(s) to indicate and insure compliance with all provisions of these regulations before any building permit is issued or any improvement, grading, land disturbing activity or alteration of land(s) or building(s) commences; provided, however, that development permits for individual structures within approved single-family residential subdivisions or for single-family dwelling units on individual lots shall not be required. If a land disturbance permit is required pursuant to the city's soil erosion and sediment control ordinance, the development permit and land disturbance permit shall be considered one and the same. Approval of a preliminary plat in accordance with all applicable provisions of the Subdivision Regulations shall constitute approval of the development permit for each subdivision, and plan approval of a planned unit development, manufactured home park, or condominium development as specified in these regulations shall constitute approval of a development permit. All development permits shall be issued by the Zoning Administrator, who shall in no case approve a development permit for the use, construction, or alteration of any land or building if the land or building as proposed to be used, constructed or altered would be in violation of any of the provisions of these regulations or any other codes and laws. Development permits shall be valid for two (2) years from its issuance. If work described in any development permit has not begun within sixty (60) days from the date of issuance thereof, said permit shall expire, and further work shall not proceed until a new development permit has been obtained.

Section 2604. Building Permit Required.

No building, structure or sign, except as specifically exempted by these regulations, shall be erected, moved, extended, enlarged or structurally altered, nor shall any excavation or filling of any lot for the construction of any building be commenced until the Zoning Administrator has issued a building permit for such work in conformity with the provisions of these regulations.

All building permits shall be issued by the Zoning Administrator. In cases of uncertainty regarding whether a proposed building or structure conforms to any provisions within these regulations, the Planning Director shall make the determination. Building permits shall become invalid unless the work authorized by it shall have been commenced within sixty (60) days of its date of issue, or if the work authorized by it is suspended or abandoned for a period of six (6) months or more.

Section 2605. Certificate of Occupancy Required.

A Certificate of Occupancy issued by the Zoning Administrator is required in advance of occupancy or use of any lot or change or extension in the use of any lot; any building or structure hereafter erected; or any change in the use of an existing building or structure. All Certificates of Occupancy shall be issued by the Zoning Administrator, and no such Certificate shall be issued unless the proposed use of a building or land conforms to the applicable provisions of these regulations. Business licenses shall not be issued until the business conforms to the regulations of the district in which it is located and a valid Certificate of Occupancy is issued.

Section 2606. Penalties for Violation.

Any person, firm or corporation violating, neglecting or refusing to comply with any of the provisions of these regulations shall be guilty of a misdemeanor and, upon conviction, shall be fined not less than fifty ($50) dollars nor more than two hundred ($200) dollars for each offense, or as determined by the court of proper jurisdiction. Each day such violation continues shall constitute a separate offense.

Section 2607. Remedies.

In case any building or structure is or is proposed to be erected, constructed, reconstructed, altered, converted or maintained, or any building structure or land is or is proposed to be used in violation of any provision of these regulations, the Zoning Administrator or any other appropriate authority may, in addition to other remedies, and after due notice to the owner of the violation, issue a citation for violation of these regulations requiring the presence of the violator in the court of proper jurisdiction; institute injunction, or other appropriate action or proceeding to prevent such unlawful erection, construction, reconstruction, alteration, conversion, maintenance or use to correct or abate such violation or to prevent the occupancy of such building, structure or land. Where a violation of these regulations exists with respect to a structure or land, the Zoning Administrator may, in addition to other remedies, require that utility service be withheld therefrom until such time as the structure or premises is no longer in violation of these regulations.

ARTICLE XXVII
LEGAL STATUS PROVISIONS

Section 2701. Conflict with Other Laws.

Whenever the provisions of these regulations impose more restrictive standards than are required in or under any other statute, the provisions of these regulations shall govern. Whenever the provisions of any other statute require more restrictive standards than are required by these regulations, the provisions of such statute shall govern.

Section 2702. Separability.

Should any Article, Section or provision of these regulations be declared invalid or unconstitutional by any court of competent jurisdiction, such declarations shall not affect the validity of these regulations as a whole or any part thereof which is not specifically declared to be invalid or unconstitutional.

Section 2703. Repeal of Conflicting Ordinances.

All ordinances and resolutions and parts thereof in conflict herewith are repealed.

Section 2704. Effective Date.

These regulations shall take effect and be in force from and after adoption, the public welfare demanding it.

Effective Date: April 7, 2008

ARTICLE XXVIII
SUBDIVISION REGULATIONS

Section 2801. Short title.

This section shall be known and may be cited as the "Subdivision Regulations of Clarkesville, Georgia."

Section 2802. Application, platting jurisdiction and enforcement.

(A) *Plats required:* Since subdivisions require land disturbances and infrastructure development that affects the residents of the county, financially, aesthetically and generally, any subdivider proposing to subdivide land shall submit plats of the proposed subdivision as set forth in Section 2808 and/or 2812.

(B) *New work:* No subdivider shall proceed with any construction work on a proposed subdivision before obtaining preliminary plat approval from the planning commission.

(C) *Platting authority is as follows:*

1. An exemption plat, as defined by Section 301 shall be reviewed, approved and marked for recording by the designated representatives of the planning department.

2. A preliminary plat, as defined in Section 301 shall be reviewed, approved and marked by the planning commission.

3. A final plat, as defined in Section 301, shall be reviewed, approved and marked by the planning commission.

Section 2803. Use of plat.

(A) No final plat of a subdivision as set forth in Sections 2804 and 2812 shall be recorded in the office of the clerk of the Superior Court of Habersham County unless it shall have the approval of the planning commission written on said plat.

(B) No person shall sell or transfer or agree to sell any land by reference to or exhibition of or other use of a plat of a subdivision before that plat has been approved and marked in accordance with this appendix and recorded in the office of the clerk of the Superior Court of Habersham County. The description by metes and bounds in the instrument of transfer or other documents shall not exempt the transaction from such penalties.

(C) The filing or recording of a plat of a subdivision without the approval as required by this appendix shall be a misdemeanor. The planning commission and the governing body are authorized to levy charges for certain actions, inspections, and to cover certain direct costs. Such fees are to be used only to defray costs incurred by the planning commission and the governing body when enforcing the provisions of Article XXVIII.

Section 2804. Administrative plat approval.

The following types of land subdivisions, transfers, and sales are specifically exempted from the preliminary and final plat approval requirements of these regulations but shall be required to file an exemption plat meeting the requirements of Section 2812 with the planning department.

(A) The combination of portions of previously platted lots in an approved subdivision where the total number of lots is not increased and the resultant lots are equal to the standards of the county and no new roads or road location changes are involved;

(B) The creation and sale of cemetery plots;

(C) The creation of leaseholds for space within a multiple-occupancy building or the division of property into leaseholds (but not for sale) for commercial, industrial, or institutional use;

(D) Subdivision of land defined as*:* The dividing of a parcel or tract of land into two or more lots, all of which have the required frontage on an existing public road or private street and complies with the dimensions and minimum acreage requirements of the Zoning Ordinance of the City of Clarkesville. Such divisions may be accomplished on existing lots of record not fronting on a public street or private road may be divided into a maximum of four lots by use of an easement as defined in this section for the purpose of access;

(E) Subdivision, family defined as: The subdivision of land for legacy or inheritance with principal means of ingress/egress as described in section 708 of this ordinance.

Section 2805. Subdivision of land and family subdivisions.

(A) Subdivision of land as defined in Section 301 is allowed and can be approved administratively if the following requirements are met:

1. Panhandle or flag lots shall be designed as specified in Section 2817 of this article unless terrain or geometry makes standard design or frontage impossible or impractical.

2. Minimum lot size is equal to that required by the district or minimum required by environmental health for septic tank.

3. Plats shall meet the applicable specifications for a final plat required in Section 2812.

(B) Family subdivisions are allowed and can be approved administratively if the following requirements are met:

1. Does not involve the creation of any new streets, public or private, or parcels intended to utilize any community water or sewer system.

(a) Up to four lots or dwellings may use a shared driveway as defined in section 301. When shared driveways are used the following statement shall be placed on the approved plat(s): "SOME DRIVES IN THIS SUBDIVISION ARE DESIGNATED PRIVATE AND WILL NOT BE ACCEPTED FOR MAINTENANCE BY THE CITY OF CLARKESVILLE."

(b) Five lots or more must comply with the requirements stipulated in Section 708.

(c) Panhandles of 600 feet maximum may be allowed where terrain or geometry makes standard design or frontage impossible or impractical.

(d) Minimum one acre lot or minimum required by environmental health for septic tank.

(e) A minimum setback of 35 feet from any easement or shared driveway on the front of the lot. Side and rear setbacks are determined by district requirements.

(f) Plats shall meet the applicable specifications for a final plat required in Section 2812.

2. Ownership is limited to property transfers to immediate family members related by blood, by virtue of marriage and/or adoption. Transfer of property to immediate family members includes but is not limited to: spouse to spouse, parent to children, sibling to sibling, grand-parent to grand-children.

Whenever a family subdivision is proposed, appropriate deeds and/or plats must be submitted to the planning department clearly stating the transfer of property from family member(s) to family member(s) so as not to circumvent any portion of this appendix.

If the plat complies with all applicable regulations, the administrative officer shall mark the plat as an approved family subdivision plat. If the exemption plat does not comply, the administrative officer shall not approve the plat unless it is modified to conform.

Provided, however, that such exemptions shall not require the county to issue permits if the resulting lot(s) fail(s) to meet any applicable provisions for lot size, lot width, access, or other dimensional requirements of this appendix, or any applicable provisions of this section.

Further subdivision of property for sale to or transfer to or development by other than a family member will subject this property to the requirements of Section 1207 and referenced sections.

Section 2806. Special Subdivisions.

I. *Conservation subdivision design option.*

A. *Purpose and intent.* This section is intended to allow for the development of conservation subdivisions that cluster development and provide for preservation of open space, as an alternative to conventional subdivision development. This section is specifically intended:

1. To provide for the preservation of greenspace as a nonstructural stormwater runoff and watershed protection measure;
2. To provide a residential development option that permits flexibility of design in order to promote environmentally sensitive and efficient uses of the land;

3. To preserve in perpetuity unique or sensitive natural resources such as groundwater, floodplains, wetlands, streams, steep slopes, woodlands and wildlife habitat;

4. To permit clustering of houses and structures on less environmentally sensitive soils which will reduce the amount of infrastructure, including paved surfaces and utility easements, necessary for residential development;

5. To reduce erosion and sedimentation by minimizing land disturbance and removal of vegetation in residential development;

6. To promote interconnected greenways and corridors throughout the community;

7. To promote contiguous greenspace with adjacent jurisdictions;

8. To encourage interaction in the community by clustering houses and orienting them closer to the street, providing public gathering places and encouraging use of parks and community facilities as focal points in the neighborhood;

9. To encourage street designs that reduces traffic speeds and reliance on main arteries;

10. To promote construction of convenient landscaped walking trails and bike paths both within the subdivision and connected to neighboring communities, businesses, and facilities to reduce reliance on automobiles;

11. To conserve scenic views and reduce perceived density by maximizing the number of houses with direct access to and views of open space; and
12. To preserve important historic and archaeological sites.

B. *General regulations.*

1. *Applicability of regulations.* This design option is available as an alternative for the development of subdivisions that are served by public sewer or an approved private sewer system, as permitted by right in the LI, MI and HI districts. The applicant shall comply with all other provisions of the comprehensive land development resolution and all other applicable laws.

2. *Ownership of development site.* The tract of land to be subdivided may be held in single and separate ownership or in multiple ownership. If held in multiple ownership, however, the site shall be developed according to a single plan with common authority and common responsibility.

3. *Housing density determination.* The maximum number of lots in the conservation subdivision shall be determined by development of a "Yield Plan". In a "Yield Plan", a conventional subdivision design plan is prepared by the applicant, in which the tract of land is subdivided in a manner intended to yield the highest number of lots possible. The plan does not have to meet formal requirements for a site plan, but the design must be capable of being constructed given site features and the comprehensive land development resolution and all other applicable laws.

4. *Minimum lot size.* Once the maximum number of lots is determined through development of the "Yield Plan", a conservation subdivision layout is developed by meeting the requirements of this section. The minimum lot size in a conservation subdivision shall be 10,000 square feet or the area necessary to accommodate required water and waste disposal systems.

C. *Application requirements.*

1. *Site analysis map required.* Concurrent with the submission of a preliminary plat, the applicant shall prepare and submit a site analysis map. The purpose of the site analysis map is to ensure that the important site features have been adequately identified prior to the creation of the site design and that the proposed open space will meet the requirements of this section. The site analysis map shall include the following features:

(a) Property boundaries;

(b) All streams, rivers, lakes, wetlands and other hydrologic features;

(c) Topographic contours of no less than five-feet intervals for hilly terrain (slopes greater than ten percent), two feet intervals for rolling terrain (two percent to ten percent), and one foot for flat terrain (slopes less than two percent) as referenced in the comprehensive land development resolution;

(d) All primary and secondary conservation areas labeled by type, as described in this section;

(e) General vegetation characteristics;

(f) General soil types;

(g) The planned location of protected open space;

(h) Existing roads and structures; and

(i) Potential connections with existing greenspace and trails.

2. *Open space management plan required.* An open space management plan, as described in this section shall be prepared and submitted prior to the issuance of a land disturbance permit.

3. *Instrument of permanent protection required.* An instrument of permanent protection, such as a conservation easement or permanent restrictive covenant, as described in this section shall be placed on the open space concurrent with the issuance of a land disturbance permit.

4. *Other requirements.* The applicant shall adhere to all other applicable requirements of the underlying zoning, the land development resolution, and all other applicable provisions of the Zoning Ordinance of the City of Clarkesville, Georgia.

5. The configuration and location of the subdivision and the proposed open space are subject to approval of the planning commission and the governing body, to ensure that the purposes and intent of this section are met by the application.

D. *Open space.*

1. *Definition.* Open space is the portion of the conservation subdivision that has been set aside for permanent protection. Activities within the open space are restricted in perpetuity through the use of an approved legal instrument.

2. *Standards to determine open space.*

(a) The minimum restricted open space shall comprise at least 40 percent of the gross tract area.

(b) The following are considered primary conservation areas and are required to be included within the open space, unless the applicant demonstrates that this provision would constitute an unusual hardship and be counter to the purposes of this section:

i. The regulatory 100-year floodplain;
ii. Buffer zones of at least 75-foot width along all perennial and intermittent streams;
iii. Slopes above 25 percent of at least 5,000 square feet contiguous area;
iv. Wetlands that meet the definition used by the Army Corps of Engineers pursuant to the Clean Water Act;
v. Populations of endangered or threatened species, or habitat for such species; and,
vi. Archaeological sites, cemeteries and burial grounds.

(c) The following are considered secondary conservation areas and should be included within the open space to the maximum extent feasible:

i. Important historic sites;
ii. Existing healthy, native forests of at least one acre contiguous area:
iii. Individual existing healthy trees greater than eight inches caliper, as measured at DBH;
iv. Other significant natural features and scenic viewsheds such as ridge lines, peaks and rock outcroppings, particularly those that can be seen from public roads;
v. Prime agricultural lands of at least five acres contiguous area; and
vi. Existing trails that connect the tract to neighboring areas.

(d) Above-ground utility right-of-ways and small areas of impervious surface may be included within the protected open space but cannot be counted towards the 40 percent minimum area requirement (exception: historic structures and existing trails may be counted.) Large areas of impervious surface shall be excluded from the open space.

(e) At least 75 percent of the open space shall be in a contiguous tract. The open space should adjoin any neighboring areas of open space, other protected areas, and non-protected natural areas that would be candidates for inclusion as part of a future area of protected open space.

(f) The open space shall be directly accessible to the largest practicable number of lots within the subdivision. Non-adjoining lots shall be provided with safe, convenient access to the open space.

3. *Permitted uses of open space.* Uses of open space may include the following:

(a) Conservation of natural, archeological or historical resources;

(b) Meadows, woodlands, wetlands, wildlife corridors, game preserves, or similar conservation-oriented areas;

(c) Walking or bicycle trails, provided they are constructed of porous paving materials;

(d) Active recreation areas, provided that they are limited to no more than ten percent of the total open space and are not located within primary conservation areas. Active recreation areas may include impervious surfaces. Active recreation areas in excess of this limit must be located outside of the protected open space;

(e) Agriculture, horticulture, silviculture or pasture uses, provided that all applicable best management practices are used to minimize environmental impacts, and such activities are not conducted within primary conservation areas;

(f) Nonstructural stormwater management practices;

(g) Easements for drainage, access, and underground utility lines; or

(h) Other conservation-oriented uses compatible with the purposes of this chapter.

4. *Prohibited uses of open space.*

(a) Golf courses;

(b) Roads, parking lots and impervious surfaces, except as specifically authorized in the comprehensive land development resolution;

(c) Agricultural and forestry activities not conducted according to accepted best management practices; and,

(d) Other activities as determined by the applicant and recorded on the legal instrument provided for permanent protection.

E. *Ownership and management of open space.*

1. *Ownership of open space.* The applicant must identify the owner of the open space who is responsible for maintaining the open space and facilities located thereon. If a Homeowners' Association is the owner, membership in the association shall be mandatory and automatic for all homeowners of the subdivision and their successors. If a Homeowners' Association is the owner, the Homeowners'

Association shall have lien authority to ensure the collection of dues from all members. The responsibility for maintaining the open space and any facilities located thereon shall be borne by the owner.

2. *Management plan.* Applicant shall submit a plan for management of open space and common facilities ("plan") that:

(a) Allocates responsibility and guidelines for the maintenance and operation of the open space and any facilities located thereon, including provisions for ongoing maintenance and for long-term capital improvements;

(b) Estimates the costs and staffing requirements needed for maintenance and operation of and insurance for, the open space and outlines the means by which such funding will be obtained or provided;

(c) Provides that any changes to the plan be approved by the planning commissioners; and,

(d) Provides for enforcement of the plan.

3. In the event the party responsible for maintenance of the open space fails to maintain all or any portion in reasonable order and condition, the City of Clarkesville, Georgia may assume responsibility for its maintenance and may enter the premises and take corrective action, including the provision of extended maintenance. The costs of such maintenance shall be charged to the owner, Homeowners' Association, or to the individual property owners that make up the Homeowners' Association, and may include administrative costs and penalties. Such costs shall become a lien on all subdivision properties.

F. *Legal instrument for permanent protection.*

1. The open space shall be protected in perpetuity by a binding legal instrument that is recorded with the deed. The instrument shall be one of the following:

(a) A permanent conservation easement in favor of either:

i. A land trust or similar conservation-oriented non profit organization with legal authority to accept such easements. The organization shall be bona fide and in perpetual existence and the conveyance instruments shall contain an appropriate provision for retransfer in the event the organization becomes unable to carry out its functions; or

ii A governmental entity with an interest in pursuing goals compatible with the purposes of this section.

If the entity accepting the easement is not the City of Clarkesville, Georgia, then a right of enforcement favoring the City of Clarkesville, Georgia, shall be included in the easement;

(b) A permanent restrictive covenant for conservation purposes in favor of a governmental entity; or,

(c) An equivalent legal tool that provides permanent protection, if approved by the City of Clarkesville, Georgia.

2. The instrument for permanent protection shall include clear restrictions on the use of the open space. These restrictions shall include all restrictions contained in this ordinance, as well as any further restrictions the applicant chooses to place on the use of the open space.

II. *Planned developments* (Reserved).

Section 2807. Procedures and requirements for approval of subdivision plats.

A. *Pre-application conference:* Whenever a subdivision is proposed within the City of Clarkesville, the developer is urged to consult early with the administrative officer, their designee and/or the review committee. The developer may present sketch plans and data showing existing conditions within the site and in its vicinity and the proposed layout and development of the subdivision and request advice and guidance concerning the project and the administrative procedures involved.

B. *Sequence of administrative procedures:* Listed below in normal sequential order are the generally occurring steps required to successfully complete development of a subdivision:

1. Pre-application conference with the administrative officer. For projects of unique design, a conceptual site drawing would aid in the conference.

2. Purchase the Zoning Ordinance of the City of Clarkesville, Georgia for guidance in design.

3. Determine the public school district(s) and school(s) that will be necessarily impacted by the proposed subdivision.

4. Request the board of education determine the current student load and maximum capacity in each public school to be necessarily impacted by the proposed subdivision.

5. Consult with The City of Clarkesville Public Works Department and the Habersham County Health Department to identify any possible water or sewage problems associated with the land proposed for subdividing.

6. Consult FIRM maps, historical flood data, county review staff and design professionals to ensure that land being developed does not propose building sites in flood plains, flood hazard areas and that natural waterways will not be interrupted.

7. Have land surveyed to obtain required data for plat submittal and to determine and detail natural features, such as topography and geometry, establish lot lines and other specifications required in this appendix. Submit the preliminary plat to the planning department at least 30 days prior to the next regular meeting of the planning commission with the following:

(a) A letter requesting review and approval of a preliminary plat and giving the name and address of a person to whom the notice of the hearing by the Planning Commission on the preliminary plat shall be sent.

(b) Ten copies of the preliminary plat and other documents, as may be specified.

(c) A preliminary plat filing fee shall be assessed as established in the fee schedule approved by the City of Clarkesville Mayor and Council.

(d) A department of transportation letter is required at the preliminary plat stage if any new road or street is created that abuts/joins a state route.

(e) A traffic study is required at the preliminary plat stage when any new road or street is created that abuts or joins a public street and serves one of the following:

i. A residential development of 25 lots or more or

ii. A commercial/industrial project creating more than 50 trips per day.

Note to staff: Upon review of the preliminary plat by the planning department, all comments that need to be addressed shall be given to the applicant no later than three working days prior to the advertising deadline of next scheduled planning commission meeting. Each comment is to be referenced to the applicable section of code being commented upon.

9. Be prepared to accompany the planning department staff or a planning commission member to the development site prior to the next public hearing of the planning commission meeting.

10. Attend planning commission meeting at which preliminary plat approval is sought, or send competent representative with written authorization who can answer questions in your name. No action will be taken by the planning commission when no representative is present.

11. The planning commission shall review the preliminary plat at its public hearing. After staff presentation, the applicant shall have ten minutes to make a presentation and any opponents shall have ten minutes to speak. The planning commission may grant more time as necessary.

12. Submit to planning department within 90 days of preliminary plat approval an approved land disturbance permit.

13. Begin initial subdivision work.

14. Request inspection of earthwork and utility work, by planning department prior to applying road surface material such as gravel or pavement and before covering any utility work and before seeding required by conditions of grading permit.

15. Complete survey work as needed.

16. Develop final plat for submission to CPC.

17. Complete road, utility, and soil erosion work.

18. Request final planning department on-site inspection of completed required improvement work.

19. Submit final plat to planning department 30 days before meeting at which approval is sought. Plat must bear all required certificates noted in the appendix as well as all notations or changes specified by the planning commission when the preliminary plat was tentatively approved and the following:

(a) A letter requesting review and approval of a final plat and giving the name and address of the person to whom the notice of the hearing by the planning commission on the final plat shall be sent.

(b) The required number of paper copies of the final plat and other documents, as may be specified; and reproducible(s) which are to be returned to the subdivider for filing.

(c) A final plat fee shall be assessed as established in the fee schedule approved by the City of Clarkesville Mayor and Council.

(d) A complete disclosure on how all utilities, roads and amenities are to be maintained, (including department of housing and urban development property report where appropriate) plus information requested as a result of findings during preliminary review.

(e) A copy of all recorded covenants associated with the subdivision.

20. Attend planning commission meeting or send a competent representative with written authorization who can answer questions in your name. No action will be taken by the CPC when no representative is present.

Section 2808. Preliminary plat specifications and improvement guarantees.

The preliminary plat shall conform to the specifications contained in Appendix B.

1. IMPROVEMENT GUARANTEES. In order to protect the City and prospective purchasers of and residents in a subdivision, the Developer shall provide to the City one of the following financial securities to guarantee the installation of infrastructure and public improvements.
    a. An irrevocable letter of commitment or credit upon which the City can draw;
    b. A performance bond for the benefit of the City upon which the City can collect;
    c. A Certificate of Deposit with assignment letter to the City; or
    d. Any other form of guarantee approved by the City that will satisfy the objectives of this section.

   The guarantee shall be in an amount to secure the full costs of completion of the infrastructure improvements as prepared by a professional engineer licensed as such in the State of Georgia, retained by Developer, certified by such engineer to be a fair and reasonable estimate of such cost and agreed upon as such by the City's engineer. Irrespective of the above, the City may establish the amount of financial guarantee required based upon the recommendation of the City engineer.

2. PROJECT COMPLETION. Construction of infrastructure and public improvements must begin within sixty (60) days of issuance of the Building Permit and must be completed within twelve (12) months of issuance of the Building Permit. Failure to meet theses dates will render the Building Permit null and void and no construction activity may commence until Developer obtains a new Building Permit.

3. STORM WATER MANAGEMENT. Developer agrees and promises to comply with all regulations, approvals, and specifications and Acts promulgated by the United States of America, the State of Georgia and the City with regard to storm water management.

4. EROSION AND SEDIMENTATION CONTROLS. All erosion and sedimentation controls will be installed in accordance with the approved plan as attached in Exhibit A prior to any other construction activities occurring at the Development. The erosion and sedimentation controls will be properly maintained throughout the duration of the development until all disturbed areas have been stabilized to the satisfaction of the City.

5. CONSTRUCTION OF IMPROVEMENTS. Developer will in accordance with appropriate subdivision and land development ordinances and regulations install all utilities including sewer, water, gas, electric, telephone, cable TV, if available and such other utilities to service the development. Developer agrees to build, construct, and install all improvements including, but not limited to, paving, grading, roads, storm water facilities, sidewalks, landscaping and lighting in accordance with the provisions adopted by Resolution and Ordinance or accepted as commonly used guidelines or provisions of the City in effect at the time of preliminary plat approval. All improvements in the development will be constructed and installed in accordance with City specifications and Ordinances and must be certified as such by the City.

6. INFILTRATION OF SEWER SYSTEM. Developer agrees that no storm water, roof run-off, drainage or the like will infiltrate the sanitary sewer system servicing the development. Violation of this agreement will result in the immediate automatic revocation of any and all approvals and permits covering the development. Reinstatement of said permits and approvals may be granted by the City when Developer has sufficient guarantee to protect City from any and all fines for infiltration of storm water.

7. HOURS OF OPERATION. Developer will not permit any grading, construction or other physical work to be conducted on the site between the hours of 7:00 p.m. and 6:00 a.m. without written permission from the City.

8. POLICE AREA. During construction Developer will police the construction area daily keeping the area fee and clear of all rubbish, refuse, brush, debris, and discarded building materials so as not to create a public nuisance. Developer ma accumulate such materials in the area approved by the City until such time as

accumulated matters are removed from site by Developer, provided that the City, in its sole discretion, may require removal of any such material by written communication indicating the reasons therefore at any time during development. Developer will remove from site and dispose all rubbish, refuse, brush, debris, and discarded building materials leaving the development free and clear of the same prior to the release of any financial security or final acceptance of any public improvements.

9. INSPECTIONS. Developer hereby specifically grants permission to the City of Clarkesville, its supervisors, employees, agents, contractors, or consultants to conduct inspections on its property. These inspections may take place at any time and with any frequency as the City deems appropriate and necessary under the circumstances.

10. INSURANCE. Developer will cause its contractors and/or subcontractors to obtain and maintain liability and other insurance coverage and agrees to furnish certificates of such insurance as may be reasonably required from time to time by the City. The City states that its current requirements for insurance are $1,000,000.00 for liability or casualty per occurrence, and $2,000,000.00 in the aggregate.

11. INDEMNIFICATION. Developer shall indemnify and hold the City harmless from and against any and all losses, costs, damages, expenses, or claims (including, without limitation, and all reasonable attorney's fees and expenses of litigation actually incurred) arising from or out of Developer's: 1) construction or maintenance of the Development or any portion thereof; 2) failure to construct or maintain the Development or any portion thereof; or 3) improper construction or maintenance of the Development or any portion thereof.

Section 2809. Preliminary plat review.

(a) The administrative officer or their designee shall check the plat for compliance with these and other relevant county regulations and ordinances and report findings and recommendations to the CPC in public session.

(b) No preliminary plat shall be reviewed by CPC except in public session and advertised as required by Section 2807. Such sessions or hearings must be held at least monthly and are generally held on the second Tuesday of each month. The administrative officer is not empowered to act or speak for the CPC in approving or disapproving preliminary plat requests. Not less than five days before the public hearing a notice of the time and place of the hearing shall be sent by the administrative officer via registered or certified mail to the person designated in the letter requesting preliminary plat review. If personal telephone contact between these parties can be made before the five-day requirement, only regular mail follow-up is required.

(c) CPC shall not review the preliminary plat or hear public comments unless the applicant or a designated representative with written authorization is present at the hearing. If the applicant or approved representative is not in attendance, the 60 day requirement in subsection (f) below is automatically waived for an additional 61 days.

(d) After conducting the public hearing as specified in subsection 2807(b) (11), the CPC shall make one of the following decisions which shall be recorded in the minutes:

1. Approve the preliminary plat.

2. Approve the preliminary plat on condition that necessary modifications be made. Such required modifications must be recorded on the plat and in the minutes.

3. Disapprove the preliminary plat.

(e) If the CPC approves the preliminary plat, it shall be noted by a certificate of preliminary plat approval (See Appendix A, Form 1) inscribed on two copies of the preliminary plat and distributed as follows:

1. One annotated copy of the plat shall be returned to the subdivider or agent;

2. One copy permanently filed in CPC records.

(f) Plats not acted on by CPC within 60 days of request for approval shall be deemed approved by the CPC. If, however, CPC determines that additional time is required to study a preliminary plat, an extension of time shall be requested in writing from the subdivider, who may agree to a specific time extension in lieu of a denial.

Section 2810. Parameters of preliminary plat approval.

(a) All preliminary plat approvals shall be limited by these qualifications:

1. The approval is a tentative approval only, pending submission of a final plat.

2. The preliminary plat approval is valid for one year from the date of approval and shall be null and void after that date.

3. If final plat approval is not received before the expiration of the preliminary plat approval a new preliminary plat application shall be required. *Exception:* One extension of the preliminary plat approval may be granted when requested as follows:

i. In writing prior to the expiration of the preliminary plat approval and
ii. Must be filed with the planning department.
iii. The developer shall have the burden of proof and/or justification of a need for the extension.

(b) Preliminary plat approval does not constitute authorization for subdivider to begin physical improvement to the property being subdivided, but rather the authority to:

1. Prepare and submit road and infrastructure construction plans and

2. Erosion and sedimentation plans for approval and

3. To request land disturbance permit(s) and

4. Prepare and submit stormwater management plans for approval.

(c) Major changes to preliminary plats necessitate that the plat be resubmitted to the planning commission for review and approval. No final plat will be approved that does not substantially comply to the approved preliminary plat. Major changes would be changing the street configuration, location of uses, number of lots, and similar changes.

Section 2811. Land disturbance permit application.

The land disturbance permit application shall conform to and meet the specifications contained in Article XXVIII of this ordinance.

Section 2812. Final plat specifications.

The final plat shall conform to and meet the specifications contained in appendix B and contain the following:

(a) A surveyor's certification, directly on the final plat. See appendix A, Form 4.

(b) An owner's certification, directly on the final plat. See appendix A, Form 5.

(c) Certificate of dedication. See appendix B.

(d) A certificate of approval of the final plat by the planning commission, directly on the plat, see appendix A, Form 3.

(e) *Copy of official action of governing body.* A copy of the resolution adopted by the governing body accepting the streets, improvements, easements and any other property dedicated by the owner for public use as indicated on the final plat, shall be attached to the final plat within 45 days after action by the governing body.

Section 2813. Final plat review and approval.

(a) The planning department staff shall check the plat for conformance with the approved/conditionally approved preliminary plat and for compliance with this and other relevant county regulations and ordinances and report their findings with their recommendation to the Clarkesville Planning Commission in public session. The planning department, upon review of the final plat, shall notify the applicant of any comment that needs to be addressed no later than ten working days prior to the next scheduled planning commission meeting. Each comment shall be referenced to the applicable section of code being commented upon.

(b) No final plat shall be acted upon by the Clarkesville Planning Commission except in public session. Such sessions or hearings must be held at least monthly and are generally held on the second Tuesday of each month. The administrative officer is not empowered to act or speak for the Clarkesville Planning Commission in approving or disapproving final plat requests.

(c) Not less than five days before the public hearing, notice of the time and place of the hearing shall be sent by the administrative officer via registered or certified mail to the person designated in the request for final plat approval or if personal contact between these parties can be made by telephone before the five-day requirement, only regular mail follow-up is required.

(d) The City of Clarkesville Planning Commission shall take no action on a final plat if the applicant or a designated representative is not present at the hearing, in which case the 45-day requirement in subsection (g) below is automatically waived for 46 days.

(e) At a public hearing, conducted under the procedures of subsection 2807(B) (11), within 45 days of request for final plat approval, the Clarkesville Planning Commission shall take one of the following actions which shall be recorded, with reasons for disapproval where appropriate, in the minutes:

1. Approve the final plat.

2. Disapprove the final plat and further notify the subdivider in writing of the specific reasons for disapproval within five days.

(f) In order for the Clarkesville Planning Commission to approve a final plat, all requirements of these regulations must have been satisfied, and all improvements required must have been completed not less than five workdays prior to the scheduled hearing at which final plat approval is requested. All improvements shall be inspected by CPC. No final plat will be approved that does not substantially comply to the approved preliminary plat.

(g) Plats not acted on by the Clarkesville Planning Commission within 45 days of a request for approval, shall be deemed approved and a certificate of final plat approval shall be issued on request of the subdivider. If, however, the The City of Clarkesville Planning Commission determines that additional time is required to study a final plat, an extension of time shall be requested in writing from the, applicant or their duly authorized agent who may agree to a specific time extension in lieu of a plat disapproval.

(h) If final plat approval is requested two times and is denied both times because required improvements have not been made, the Clarkesville Planning Commission shall not further consider that plat for 90 days following date of the second disapproval.

(i) When all conditions for approval of the final plat have been met and such approval has been granted, the Clarkesville Planning Commission shall endorse and date the certificate of final plat approval on the original copy of the final plat. Such approval and endorsement convey the authority to record the plat and to sell lots shown on the plat.

(j) Upon approval of a final plat, the chairman of the planning commission or a designated representative shall have the final plat recorded in the office of the Clerk of the Superior Court of Habersham County. The subdivider shall be responsible for the payment of the recording fee at the time of submitting the final plat.

Section 2814. Reserved.

Section 2815. General design and other requirements.

(a) *Suitability of the land.* Land subject to flooding, improper drainage, or erosion or that is for topographical or other reasons unsuitable for residential use that will contribute to danger to health, safety, or property destruction, unless the hazards can be and are corrected. No land determined to fall in a 25-year flood plain identified by state or federal authority shall be approved for any building site. All land falling into the 100-year flood zone must be so identified on the preliminary and final plats.

(b) *Name of subdivision.* The name of the subdivision must have approval of the planning commission. The name shall not duplicate or closely approximate the name of an existing subdivision in the county.

(c) *Conformance to adopted major thoroughfare and other plans.* All streets and other features of the major thoroughfare plan of Habersham County, Georgia, shall be platted by the subdivider in the location and to the dimension indicated on the major thoroughfare plan. When features of other plans such as schools or public building sites, parks, or other land for public uses are located in whole or in part in a land subdivision, such features shall be either dedicated or reserved by the subdivider for acceptance or acquisition within a reasonable time by the appropriate public agency. Whenever a plat proposes the dedication of land to public use that the planning commission finds not required or suitable for such public use, the planning commission shall refuse to approve the plat, and shall notify the governing body of the reasons for such action.

(d) *Special easements.* Easements having a minimum width of 12 feet and located along the side or rear lot lines shall be provided, as required for utility lines, underground mains, and cables. Where a watercourse, drainageway, channel or stream traverses a subdivision, there shall be provided a storm-water or drainage right-of-way of adequate width, parallel to streets. When suitable road shoulder slopes cannot be obtained within prescribed road right-of-way widths, slope easements shall be required on abutting lots.

Section 2816. Reservation of public sites and open spaces.

(a) Where the features of the comprehensive plan, such as school sites, parks, playgrounds and other public spaces are located in whole or in part in a proposed subdivision, such features shall be reserved by the subdivider, provided, however, that no more than ten percent of the total area of the subdivision shall be required for reservation to fulfill the requirements of this section. Whenever the land required for such planned features is not dedicated to and accepted, purchased, acquired, optioned, or condemned by the appropriate public agency within a two-year period from the date of recording the subdivision plat or by the time that at least 75 percent of the lots are built on and occupied, whichever is sooner, the subdivider may claim the original reservation and cause it to be subdivided in a manner suitable to the subdivider, subject to the provisions of this appendix. Whenever the public body responsible for land acquisition executes a written release stating that the reserved land is not to be acquired, the planning commission shall waive the reservation requirements. When a development is of such size or of a nature which will have a significant impact on community facilities, the dedication of an appropriate amount of land to meet such needs may be required by the planning commission.

(b) Whenever the planning commission finds that proposed reservation of land or dedication of land for public use is not required or suitable for such public use it may require the rearrangement of lots to include such land.

(c) In all subdivisions due regard shall be shown for all natural features such as large trees, and water courses, as well as for historical sites and similar community assets. These, when preserved, will add attractiveness and value to the property or community.

Section 2817. Design standards for blocks and lots.

(a) *Block lengths and widths.* Block lengths and widths shall be as follows:

1. Blocks shall be no greater than 1,800 feet nor less than 600 feet in length, except in unusual circumstances.
2. Blocks shall be wide enough to allow two tiers of lots, except where fronting on arterial, limited access highways, or railroads, or prevented by topographical conditions or size of property. In these cases the planning commission may approve a single tier of lots of minimum depth (see section 2819) to include a buffer zone.

(b) *Lot sizes and proportions.*

1. Residential lots shall meet the lot width and lot area requirements in Articles X through XIII as applied to the zoning of the subdivision.

(c) Commercial and industrial lots shall be adequate to provide service areas and off-street parking suitable to use intended.

(d) Residential corner lots shall have adequate width to meet building setback requirements from both abutting streets.

(e) *Adequate building sites.* Each lot shall contain an adequate building site not subject to flooding and outside the limits of any existing easements, buffers or building setback lines required by this appendix.

(f) *Lot line arrangements.* When practical, side lot lines shall be at right angles to straight street lines or radial to curved street lines.

(g) *Panhandle or flag lots.* "Panhandle" or "flag" lots, of required width and area may be allowed where terrain or geometry makes standard design or frontage impossible or impractical. Where such lots are allowed, the street frontage of each panhandle access shall not be less than 60 feet wide, and

the panhandle access shall be not more than 200 feet long. The lot shall conform to all other lot standards of this appendix. Not more than two such panhandle access points shall abut each other. All such access points or combinations thereof shall be separated from each other by the frontage of a standard lot required under the other provisions of this appendix.

(h) *Building setback lines.*

1. Building setback lines shall be indicated on each plat as set forth in Articles X through XIII of this Ordinance. Corner lot setbacks shall conform to each right-of-way on which the lot fronts.

2. In the case of electric transmission lines where easement widths are not definitely established there shall be a minimum building setback line from the center of the transmission line as follows:

Voltage of Line	Minimum Building Setback
46KV - 115 KV	50 feet
116KV and over	75 feet

(i) *Double frontage lots.* Double frontage lots should be avoided except where essential to provide separation of residential development from major traffic arteries or to overcome specific disadvantages of topography and orientation. A planting screen easement of at least ten feet, and across which there shall be no right of access, shall be provided along the line of lots abutting such a traffic artery or other disadvantageous use.

Section 2818. Requirements for streets and other rights-of-way.

(a) *Continuation of existing streets.* Existing streets shall be continued at the same or greater width, but in no case less than the required width.

(b) *Street names.* Proposed streets that are obviously in alignment with others already existing and named, shall bear the names of existing streets. In no case shall the name for proposed streets duplicate existing street names, regardless of the use of the suffix street, avenue, boulevard, drive, place, way, or court. Through its index list of street names on file the planning commission can assist the subdivider in avoiding duplication.

(c) *Street jogs.* Street jogs with centerline offsets of less than 125 feet shall not be permitted.

(d) *Cul-de-sacs or dead-end streets.*

1. Minor streets or courts designed to have one end permanently closed shall serve no more than 25 lots per block and have a turn-around or cross street every 1,000 feet unless necessitated by topography. They shall be provided with a turnaround at the closed end.

2. Where in the opinion of the platting authorities, it is desirable to provide street access to adjoining property, streets shall be extended to the boundary of such property and provided with a temporary turnaround.

(e) *Single entry road restriction.* In no case shall more than 50 lots in any subdivision be dependent on a single road or interval of road for entry/exit to/from the subdivision.

Section 2819. Development along major thoroughfares, limited access highway or railroad right-of-way.

(a) Lots shall have no access to an arterial road or limited access highway but only to rural minor access or residential streets. Where a subdivision abuts or contains an arterial, a limited access highway or a railroad right-of-way, the platting authorities shall require street approximately parallel to and on each side of such right-of-way either as a marginal access street or at a distance suitable for an appropriate use of the intervening land, with a ten-foot non-access reservation suitably planted. Due regard should be given requirements for approach grades and future grade separations in determining distances

(b) *Alleys.* Alleys may be required at the rear of all lots used for multi-family, commercial, or industrial developments but shall not be provided in one and two family residential developments unless the subdivider provides evidence satisfactory to the platting authorities of the need for alleys.

(c) *Street right-of-way and roadway pavement widths.* The right-of-way width shall be the distance across a street from property line to property line. All subdivision streets, public or private, shall be platted as right-of-way streets. Lots shall not include any portion of the right-of-way. All streets shall be evaluated according to performance within specific site requirements or limitations. No street shall be platted on the basis of a private easement.

(d) Minimum street right-of-way widths shall be as follows:

1. *Rural minor and urban residential.*

Right-of-way	Minimum of 60 feet
Turnarounds (Cul-de-sacs)	100 feet in diameter (50-foot radius)
Roadbed	Minimum of 28 feet (pavement width plus shoulder width)
Turnarounds (Cul-de-sacs)	88 feet in diameter (Pavement width plus shoulder width)
Pavement	Minimum of 20 feet
Turnarounds (Cul-de-sacs)	80 feet in diameter (40-foot radius)

2. *Within curb and gutter subdivisions.*

Right-of-way	Minimum of 60 feet
Turnarounds (Cul-de-sacs)	100 feet in diameter (50-foot radius)
Roadbed	Minimum of 24 feet (pavement width plus shoulder width)
Turnarounds (Cul-de-sacs)	84 feet in diameter (Pavement width plus shoulder width)
Pavement	Minimum of 20 feet
Turnarounds (Cul-de-sacs)	80 feet in diameter (40-foot radius)

3. Collectors and rural major.

Right-of-way	Minimum of 80 feet
Roadbed	Minimum of 30 feet (Pavement plus shoulder width)
Pavement	Minimum of 22 feet

4. Rural arterial system.

Right-of-way	Minimum of 80--150 feet, depending on traffic conditions to be reviewed at time of development application

Roadbed	Minimum of 38 feet (Pavement plus shoulder width)
Pavement	Minimum of 28 feet

5. *Alleys, 16 feet right-of-way.*

6. *One-way streets.*

Right-of-way	30 feet
Roadbed	22 feet
Pavement	Width 14 feet

(e) *Additional width on existing streets.* Subdivisions that adjoin existing streets shall dedicate or reserve right-of-way to meet the above minimum street width requirements.

1. The entire right-of-way shall be provided where any part of the subdivision is on both sides of the street.

2. When the subdivision is located on one side of an existing street, one-half of the required right-of-way, measured from the centerline of the existing roadway, shall be provided.

(f) *Street grades.* Maximum and minimum street grades shall be as follows:

1. Rural arterial, not in excess of ten percent.

2. Rural major and collector streets, not in excess of 12 percent.

3. Rural minor routes, residential streets and alleys, not in excess of 16 percent.

4. No more than 25 percent of the total square feet of pavement within a subdivision may be applied to a grade of 12 to 16 percent.

5. No street grade shall be less than one-half of one percent in cases where streets are curbed and guttered.

6. In meeting these grade and slope requirements on steep terrain, the planning commission suggests wherever feasible that the developer utilize a divided roadway in which the lanes for travel in opposite directions are cut at different levels of elevation. Under certain conditions, this method of giving separate treatment to each travel lane would lessen cut and fill requirements. Median cuts would be used at points where both lanes have the same roadway grade. The median cuts would shorten distance of traveling any one direction and facilitate access to lots served by each lane.

(g) *Horizontal curvature.* The minimum radii of centerline curvature shall be as follows:

1. Arterial streets, as indicated on the road classification map, but in no case less than 800 feet.

2. Collector and rural major streets, 300 feet.

3. Rural minor and residential streets and alleys and other lower classification rural roads (industrial/commercial access, agricultural access, recreation and scenic, resource recovery), 100 feet.

4. Exceptions may be granted based on proven performance for special site requirements.

(h) *Tangents.* Between reverse curves, there shall be tangent having a length not less than the following:

1. Minor arterial streets, not less than 200 feet.

2. Collector and rural major streets, 100 feet.
3. Rural minor, residential streets and alleys and other lower classification rural roads (industrial/commercial access, agricultural access, recreation and scenic, and resource recovery), 25 feet.

(i) *Vertical alignment.* Vertical alignment shall be such that the following requirements are met:

1. Rural arterial streets shall have a sight distance of at least 500 feet at four feet above ground level. (10 × the speed limit or 10 × the algebraic distance, per DOT/AASHTO.)

2. Rural major and collector streets shall have a sight distance of at least 200 feet at four feet above ground level.

3. Rural minor, residential streets and alleys and other lower classification rural roads (industrial/commercial access, agricultural access, recreation and scenic, and resource recovery) shall have a sight distance of at least 100 feet at four feet above ground level.

4. Rural arterial streets shall have a sight distance of at least 500 feet at four feet above ground level.

5. Local rural routes, 75 feet at four feet above ground level.

(j) *Street intersections.* Street intersections shall be as nearly at right angles as possible. No street inter-section shall be at an angle of less than 75 degrees, unless required by unusual circumstances.

(k) *Curb-line radii.* Property lines at street intersections shall be rounded with a curb radius of 20 feet. Where the angle of intersection is less than 75 degrees, the platting authorities may require a greater radius. The platting authorities also may permit comparable cut-offs or chords in place of rounded corners.

(l) *Steep slope development.* Street alignments are subject to performance standards as are appropriate to the City of Clarkesville and state construction requirements as may be adjusted to any given site limitations. Driveways and roads coming into a city road shall observe at a minimum a 25-foot deep area, with a slope of no more than two percent, at the intersection with the county right-of-way. No storm water shall run out onto the city road from a subdivision or individual lot or parcel. Stormwater runoff coming from driveways shall be diverted into ditches and away from the city road.

Section 2820. Development/project access improvements.

Single-family detached, single-family attached, duplex residential subdivisions, multi-family and non-residential development.

When property that abuts upon an existing or proposed city or county road is to be developed or redeveloped as a single-family detached or duplex subdivision, multi-family and non-residential development and the city or county road will provide access to the property, access improvements to the city or county road (turn lanes, etc.) shall be provided by the developer as provided herein:

1. Design criteria shall be in accordance with the requirements of this document or the latest edition of the Georgia Department of Transportation's "Regulations for Driveway and Encroachment Control",

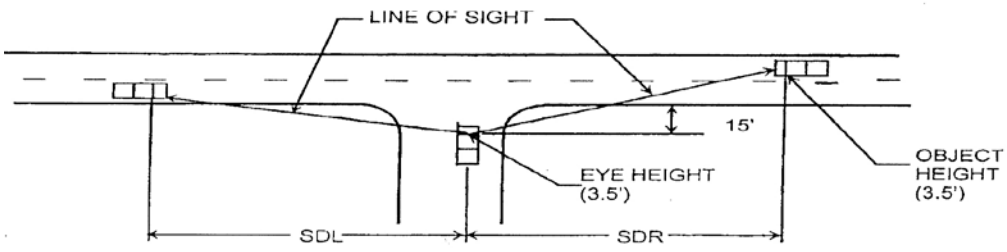
2. A right turn deceleration lane shall be required at each subdivision of 25 lots or more and commercial or private industrial project creating more than 50 trips per day with a road/street intersecting with a public road. Right turn deceleration lanes shall have a minimum length of 150 feet with an additional 50 feet taper length. Pavement width shall be 12 feet (exclusive of curb and gutter) if curb and gutter is required. The design thickness of the base and pavement structure shall include eight-inch compacted graded aggregate base course, four-inch compacted asphalt concrete binder and two-inch compacted asphalt concrete "E" of "F" surface course. Additional right-of-way, if required, to accommodate the right turn deceleration lane and shoulder width to match the existing county road (in no case less than a four-foot wide shoulder) shall be acquired and dedicated by the developer to the City of Clarkesville at no cost. Associated drainage improvements as deemed necessary by the construction of the right turn deceleration lane shall be required.

3. In the event a developer desires to construct a median break to serve the subdivision, a left turn lane leading to the median break shall be required to be provided by the developer and shall meet the standards contained in the GDOT" standards specifications manual" and "Regulations for Driveway and Encroachment Control", current editions.

4. Other access improvements may be required by the county upon the recommendation of either GDOT or the county engineer in order to ensure adequate site access, pedestrian access, convenience and safety to the motoring public.

5. The developer shall be responsible for the relocation of public or private utilities and drainage structures as may be occasioned by the required access improvements.

6. Subdivision street intersections with county maintained roads shall be located to provide adequate sight distance. Minimum intersection sight distances are criteria provided in Table (A). The line of sight establishes the boundary of a sight triangle within which there should be no sight obstruction between the heights of 30 inches and 108 inches. No plants or shrubs shall be planted in this area that grows to a height greater than 30 inches. The sight distance criteria are based on the average time required for a vehicle to make a left or right turn from a stop controlled approach to the public road (AASHTO Case B1 and B2). The time to execute the maneuver is based on recommendations contained in NCHPR Report 383, Intersection Sight Distance. The sight distances, for a two lane road are the distance traveled at the posted speed limit during the average of 6.5 and 7.5 seconds. See ASSHTO Green Book, chapter 9 Intersections, for adjustments due to grades greater than three percent and design vehicle other than passenger cars. The developer's engineer shall certify that sight distance requirements are in accordance with table (A), and so state on the preliminary plans at the time of submittal.



COUNTY RD. SPEED, MPH	SIGHT DISTANCE, Ft. 2 Lane (SDL=SDR)
25	260
30	310
35	360
40	415
45	465
50	515
55	570

TABLE (A)
INTERSECTION SITE DISTANCE REQUIREMENTS

7. A traffic impact study, by the developer's engineer at the preliminary stage when any new road or street is created that abuts/adjoins a public road/street for all developments creating more than 50 trips per day.

Section 2821. Structures on right-of-way.

Right-of-way encroachment--Mailboxes and other structures: This section applies to all arterial, collector and minor roads as defined by the Zoning Ordinance of the City of Clarkesville, Georgia.

A. *Mailboxes, city right-of-way.*

1. A mailbox that does not conform to the following provisions is an encroachment and shall be removed within 60 days of notification of the violation.

(a) For noncompliance mailbox structures not moved within the 60-day notification period, such removal shall be performed by the City of Clarkesville at the expense of the structure owner.

(b) The City of Clarkesville will assume no liability for damage that may occur in normal maintenance operations for any mailbox not conforming to the standards stated in subsections 1 through 3.

2. No mailbox support shall be allowed to exist on the City of Clarkesville's right-of-way that interferes with the safety of the traveling public on the county road system. The mailbox shall be located in accordance with the rules and regulations set forth by the Highway Safety Administration.

(a) The support or post shall not be made of a masonry nature or by any other material that will not readily yield upon impact;

(b) Nor shall any other construction which could be classified as a hazardous fixed object be allowed; either as a support or as an encasement or housing for the box itself.

(c) When using wood, the size shall be a maximum nominal four inch by four inch or if round, the size will be a maximum of four inches in diameter.

(d) If a metal post is to be used, no larger than three inches in diameter or equivalent shall be allowed and such posts shall be hollow.

(e) When using other materials, the maximum size and configuration shall be determined and approved by the administrative officer prior to installation.

(f) The face of the mailbox shall be no closer than three feet to the edge of the pavement on high-speed (establish threshold speed) routes.

3. Multiple mailbox installations shall meet the same criteria as single mailbox installations. Multiple support installations should have their supports separated a minimum distance equal to three-fourths of their heights above ground. This will reduce interaction between adjacent mailboxes and supports.

B. *Mailboxes--Subdivision roads with low traffic volume and speed.* A mailbox that does not conform to the following provisions is an encroachment and shall be removed within 60 days of notification of the violation

1. Subdivision roads with low traffic volume and speed, shall comply with the following standard:

(a) The supporting structure shall be as described in subsection 2821(A)2 above.

(b) The face of the mailbox shall be no closer than two feet to the edge of the pavement or one foot from the back of the curb.

2. In the event that a request is made to place a subdivision road in the county maintenance system all existing structures on right-of-way shall be brought into compliance with section 2821 of this appendix.

C. *Mailboxes--Existing structures on city or county maintained roads:* Single-entrance subdivision roads with a rural minor road classification that have existing brick or masonry mailbox structures will be allowed so long as they meet the following requirements:

1. No portion of the mailbox or its structure shall be closer than two feet to the edge of pavement or one foot from the back of the curb.

2. The planning commission reserves the right to review all existing mailbox structures on a case-by-case basis as requested.

3. All undeveloped lots within a subdivision on a single entrance, low volume and low speed road shall conform to the specifications for mailbox structures defined in subsection 2821(A)2 above.

D. *Other structures.*

1. Masonry or other type vertical walls that create a hazard will not be allowed on county rights-of-way. Existing masonry or other type walls built on driveways in the right-of-way will comply with the following regulation:

(a) Single entrance subdivision roads with a rural minor road classification that have existing brick, rubble, or masonry driveway headwalls will be allowed so long as they meet the following requirements:

i. The wall shall not come within four and one-half feet of the edge of pavement.

ii. The wall shall not extend above the existing driveway height without having adequate drain holes through the wall.

iii. The overall height shall not exceed 12 inches above the driveway surface.

iv. All undeveloped lots within a subdivision on a single entrance, low volume, low speed road shall conform to these same specifications.

(b) Subdivision entrances with elaborate cosmetic structures of brick, masonry or other materials forming an island shall conform to the following:

i. No structure shall extend beyond the right-of-way line of the adjoining street.
ii. No structure shall extend vertically to a height that would impair visibility of adjacent vehicle traffic.
iii. Structure walls must not lean or protrude over the adjacent pavement so as to hinder resurfacing or maintenance of the surface.
iv. No structure shall be placed in conflict with utility facilities.
v. Structures placed in the middle of the cul-de-sac shall conform to all of the above specifications.
vi. All structures must have some type of approved reflective device or be lit.
vii. Any damage to existing structures during routine maintenance of the street will be the liability of the property owner.

(c) *Exemption for new construction.* Masonry or other type vertical walls may be built on driveways that are located in a platted subdivision on a "rural minor" road, defined herein and classified as a low volume, low speed, residential road that primarily serves the residents of the subdivision. A subdivision road or street that may be used as a cut through or connector road to a main road may not be considered a "minor" road. These structures must conform to the regulations as stated in this section. The City of Clarkesville does not accept maintenance responsibility for these vertical wall structures. The planning commissioners reserve the right to review all structures on a case-by-case basis as requested.

E. *Enforcement.*

1. *Existing structures.* It shall be the responsibility of the public works director to enforce the provisions of this section as it relates to existing structures. The public works director shall notify, in writing, property owners found to be in violation of this section. If the property owners fail to remove the structures(s) in violation within the time allowed by this section, the public works director is authorized to issue a citation to the property owner stating the nature of the violation, the cost to the property owner for removal and the time and date the matter will be reviewed by the board of commissioners. A copy of the citation shall be sent to the chief building inspector. The public works director shall refer the citation to the board of commissioners at its earliest regularly scheduled meeting. The board shall review the facts and if the property owner is found in violation, the public works director shall be authorized and directed to remove structures in violation and to bill the property owner the cost of removal.

2. *Enforcement (new construction).* It shall be the responsibility of the building inspector to enforce the provisions of this section as it relates to all new construction. In addition, the chief building inspector is directed and authorized to deny any and all construction permits for any property or to any property owner with a structure(s) in violation of this section as cited by the public works director.

Section 2822. Required improvements.

A. *Performance and specifications.* Every subdivider shall be required to make the improvements outlined in this article in accordance with the specifications herein or otherwise adopted by the City of Clarkesville. The necessity for storm drainage on each site will be determined by inspection.

B. *Monuments.* Monumentation shall be done as required by Georgia State Rules Section 108-7-05.

C. *Grading.* All streets, roads, and alleys shall be graded by the subdivider so that pavements and sidewalks, where required, can be constructed to the required cross section. The minimum width of grading shall be the pavement width as specified in section 2819, plus eight feet on each side. Deviation from the above will be allowed only when due to special topographical conditions.

1. *Preparation:* Before grading is started, that part of the right-of-way consisting of the area to be paved plus the shoulders shall be first cleared of all stumps, roots, brush and other objectionable materials and all trees not intended for preservation.

2. *Cuts:* All boulders and other obstructions shall be removed to a depth of two feet below the subgrade. Rock, when encountered, shall be scarified to a depth of 18 inches below the subgrade. All vegetative debris, to include tree stumps and roots must be removed from the site or may be burned in its entirety on site if burning complies with state rules and regulations.

3. *Fill:* All suitable material from roadway cuts may be used in the construction of fills, approaches, or at other places as needed. Excess materials, including organic materials, soft clays, etc., shall be removed from the roadway. The fill shall be spread in layers not to exceed six inches loose and compacted by a sheepsfoot roller. The filling of utility trenches and other places not accessible to the roller shall be mechanically tamped.

4. *Subgrade:* The subgrade shall be properly shaped, rolled and uniformly compacted to conform to the lines, grades, and typical cross-sections as shown on drawings approved by the planning commission. Unsuitable materials shall be excavated and replaced with acceptable compacted material.

D. *Stormwater management plan.* This section is to formulate a plan to manage stormwater runoff so that stormwater hazards are not created and existing runoff-related problems are not exacerbated, either upstream or downstream from or within the boundaries of the development. The stormwater management plan will consist of a stormwater report and construction documents (if applicable) to meet the minimum requirements set forth in this section.

1. A stormwater management plan shall be submitted with the request for land disturbance permit stage and shall contain the following information:

a. Location of proposed drainage-ways, streams and sediment ponds within the development.

b. Location, size, and invert elevations of proposed drainage structure including culverts, bridges, pipes, drop inlets and top elevations of headwalls, diversion ditches, etc.

c. Entire area of land contributing runoff to each drainage feature whether land is inside the development or outside the development.

d. Location of easements and right-of-way for drainage ways and maintenance accesses therefore.

e. Typical improvement around drainage features and culverts, if any.

f. Direction of waterflow throughout the subdivision and computed velocities at those points deemed necessary by the review agency staff.

g. Detailed engineering drawings on all impoundment structures, dams, sediment ponds, etc.

2. A stormwater management plan must be prepared for new development or redevelopment to any site that meets one or more of the following criteria:

a) A new development in which 5,000 square feet or greater of new impervious area is created or that involves the land disturbing activity of one acre of land or greater.

b) Land development activity on a redevelopment site that constitutes more than 50 percent of the site area for the entire site or increases the impervious area on site by more than 5,000 square feet.

c) Any commercial or industrial development. (All commercial and industrial developments must have at least one storm water management facility).

3. The following development activities may be exempt from a stormwater management plan:

a) Developments that do not create the addition of 5,000 square feet of impervious surfaces or disturb more than one acre of land.

b) Individual single-family residential lots. (Single-family lots that are part of a subdivision or phased development project are not exempt.)

c) Additions or modifications to existing single-family structures.

d) Agricultural and silvicultural construction is exempt.

E. Stormwater report: A storm water hydrology report shall be provided to ensure that the requirements and criteria in these regulations are being complied with and that opportunities are being taken to minimize post-development stormwater runoff impacts from the development. The stormwater hydrology report shall identify the locations and quantities of stormwater runoff entering and exiting the site for both existing and developed conditions. The report at a minimum shall consist of pre and post developed topographic drainage maps delineating study points, drainage basins, soil types, runoff coefficients/curve numbers and land cover. In addition the report shall contain: a brief narrative, a vicinity map, a chart summarizing the water runoff associated with the proposed development and supporting design calculations for any proposed stormwater management facility (such as and including stage-storage or outlet rating curves and inflow and outflow hydrographs, pre and post developed hydrographs). Pond discharge locations shall be in defined drainage ditches or piped systems. If this is not possible the hydrology report shall address the creation of concentrated flows where none had occurred previously. The design professional shall ensure that the addition of any stormwater management facility within its watershed basin does not adversely affect down stream property owners or storm water drainage systems and structures. Stormwater hydrology reports shall be conducted in accordance with the criteria established in this section and must be submitted with the stamp and signature of a professional engineer (PE) licensed in the State of Georgia.

F. Stormwater management facilities: Stormwater management facilities shall be implemented to control post-developed stormwater runoff. The facility shall be designed so that the peak release rates (when combined with all detention bypass areas) are equal to or less than the pre developed runoff rates at the same location. The facility will be designed to control the two to 50-year storm events. The facility shall also provide the safe passage of the 100-year storm event while providing one foot of free board between the 100-year pond elevation and the top of the dam. A proposed storm water management facility must be accompanied by a set of construction documents, signed by a design professional, depicting the location and layout of the proposed facility and provide details for the construction of the facility (ex. outlet structures, dams, positive drainage other structural controls, etc.) All stormwater facilities shall be enclosed by fencing and an access gate where the sides of the facility adjacent to the water are steeper than 3:1 and the depth of the water in the pond is greater than three feet. The owner of the property on which the facility is located shall be responsible for maintaining all stormwater management facilities. A clean-out marker showing two-thirds volume level of the pond shall be designated on the outlet structure to facilitate in inspection of the facility. If it is determined that the facility is not hydraulically functioning as designed, due to inadequate maintenance, the city may conduct inspections and maintenance on the facility and the owner will be responsible for all expenses involved. A 25-foot easement

measured from the elevation of the 100-year storm event within the facility and a 25-foot access easement to the facility shall be provided to the county. The county shall notify the owner 24 hours prior to any inspection or maintenance work which involves accessing the easement. All stormwater management facilities shall be designed in accordance with the criteria established in this section and plans and reports must be submitted with the stamp and signature of a professional engineer (PE) licensed in the State of Georgia.

1. Stormwater conveyance pipes: All culverts, cross drain, storm sewers or other drainage facilities under the county's jurisdiction shall be designed to accommodate all runoff from its entire upstream drainage area and be based upon the 25-year storm event.

2. An adequate drainage system, including necessary open ditches, pipes, culverts, intersectional drains, drop inlets, bridges, etc., shall be provided for the proper drainage of all surface water. Cross-drains shall be provided to accommodate all natural waterflow, and shall be of sufficient length to permit full width roadway (roadway is defined as the portion of a road or street within the limits of construction) and the required slopes. The culvert pipe size to be provided shall be determined based on an engineering study. In no case shall the pipe diameter for cross drain pipe be less than 18 inches. Side drain pipe (driveway, etc.) shall not be less than 15 inches in diameter.

a. All pipe used for cross drains shall consist of one of the following:

i. Reinforced concrete pipe.

ii. Metal pipe with paved invert and coated with bituminous material.

iii. Aluminized coated pipe meeting ASSHTO Standard M274 and M36.

iv. Smooth interior corrugated polyethylene pipe not to exceed 36 inches in diameter meeting ASSHTO Standard M294.

b. Certificate executed as shown in appendix A, Form 6.

E. *Installation of utilities and driveways.* After grading is completed and approved and before any base is applied, all of the underground work, water mains, gas mains, etc., and all service connections shall be installed completely and approved throughout the length of the road and across the flat section. All driveways for houses as they are built shall be cut and drained from the right-of-way.

F. *Water supply system.* Water mains within the subdivision must be provided with connections to each lot from a community water system controlled by EPD or public water system. Minimum diameter of water pipes shall normally be six inches. Fire hydrants must be provided at not more than 1,000 feet intervals whenever community or public water system is used. Required fire hydrants shall be served with adequate water volume and pressure as required by the fire chief and the governing body of The City of Clarkesville.

G. *Sanitary sewers.* If the sewage disposal facilities cannot be connected to a trunk line sewer at the time of the development of the subdivision; septic tanks, or another approved method of treatment of sanitary sewerage shall be installed by and at the expense of the subdivider or lot purchaser for interim use, in conformity with the requirements of the county health department. Plans shall be reviewed by the appropriate municipality or county facility accepting the waste. Further, approved sanitary sewage methods other than septic tanks shall include the maintenance and ownership agreements and requirements explained in detail. In addition, once the proposed plans are approved by a municipality the building and planning department shall review and approve the plans for installation on county right-of-way. A sanitary sewer plan shall be provided for those developments offering such service. See Appendix A, Form 2.

I *Street and alley improvements.*

1. Required streets shall be either public streets or private streets, all platted with right-of-way specified in section 2818. All streets must be paved to meet specifications in sections 2819 and 2822 below in order to qualify for final plat approval by the planning commission or acceptance for maintenance by the city governing body as public streets.

2. *Asphalt paving and curb and gutter required.* All streets within subdivisions with any lot 1.5 acre or less in size or slope of five percent or shall be paved with asphalt per subsection (K) below and provided with curbs and gutters constructed with either pre-cast concrete curb, or integral concrete curb and gutter conforming to the dimensions and standards in the adopted standard drawings. Driveways shall require curb cuts.

3. *Street name markers required.* Each street, at each street intersection, shall be marked with street name markers of single pole design being a two inches diameter metal post or U channel post standing no shorter than six feet or taller than nine feet. Marker plates shall be a standard grade metal with green reflectorized sheeting at least six inches high and lettered with four-inch high or larger letters and attached not lower than ten inches from top of pole. Letters are to be white on green plates.

J. *Base.* The base course shall consist of compacted and graded aggregated crushed stone or other approved material having a minimum thickness, after being thoroughly compacted, of six inches on all rural minor and residential streets regardless of the type pavement wearing surface used.

1. Base and pavement structure for collectors, rural major, other rural roads, arterial roads, and streets shall be designed based on projected traffic and use. Commercial and/or industrial streets and roads shall be designed by a registered engineer according to the projected loads and weight capacities for the project but in no case shall be no less than eight inches compacted base course and two inches asphaltic concrete surface binder with an one and one-half inch asphalt concrete surface course. Residential streets and roads shall also consist of no less than six inches of compacted base course and two inches of asphaltic concrete surface course.

2. All materials shall be secured from an approved source and shall generally conform to minimum acceptable standards of the Georgia Department of Transportation.

3. All materials shall be mixed to the extent necessary to produce a thoroughly pulverized and homogeneous mixture.

4. As soon as the base material has been spread and mixed, the base shall be brought to approximate line, grade and cross-section and then rolled with a sheepsfoot or other approved roller until full thickness of the base course has been compacted thoroughly. Defects shall be remedied as soon as they are discovered.

5. The base course shall be maintained under traffic and kept free from ruts, ridge and dusting, true to grade and cross-section until it is primed.

6. No base material shall be deposited or shaped when the subgrade is frozen or thawing or during unfavorable weather conditions.

K. *Pavement.* Wearing surface shall conform to mixes found suitable by the Georgia Department of Transportation, Highway Division, or an independent testing laboratory and shall be applied after prime coat. Unless otherwise approved by the platting authority, pavement shall be constructed as follows:

1. Bituminous material used for prime coat shall be in accordance with the current edition of the Georgia Department of Transportation Standard Specifications Manual and shall be applied on clean slightly damp surface in the amounts of from 0.15 to 0.30 gallons/square yard, depending on the nature and condition of the surface.

2. Wearing surface shall consist of either an approved plant mix prepared in accordance with the standards in the current edition of the Georgia Department of Transportation Standard Specifications Manual and shall have a completed minimum compacted thickness of two inches, or a triple surface treatment constructed in accordance with section 424 of the current edition of the Georgia Department of Transportation Standard Specifications Manual.

3. *Weather limitations.* Comply with the current edition of the Georgia Department of Transportation Standard Specifications Manual.

4. Care and precaution shall be taken that all joints between the surface mixture and such structures as manholes and curbs are well sealed.

5. Materials and installation of traffic control devices, such as striping or required signal devices and signage, shall be at the developers expense and comply with Manual for Uniform Traffic Control Devices.

L. *Guarantee against faulty material and workmanship.*

1. *Final approval.* Public streets to be accepted by the county will be at the discretion of the governing body. Road acceptance, and acceptance of any other dedicated easement to the county, shall only be accomplished by written resolution, adopted by the governing body at a public meeting; approval of the final plat does not indicate acceptance of roads or easements by the county. Final approval will be considered upon separate written request by the developer, subdivider or any person or persons who own all fee simple interest in the subject road to the governing body and in accordance with one of the following:

   (a) The subdivider shall post with the city a guaranty bond or other approved surety in an amount equal to 25 percent of the street and utility improvement cost, verified by the city engineer, and approved by the governing body for the street for which acceptance is sought. Said bond will guarantee the city that the street and utility improvements have been installed in a workmanlike manner, that they are free from defects caused by faulty materials or workmanship and that the street and utility improvements will remain in acceptable condition for a period of at least 18 months. This bond shall be effective for a period of at least 18 months. At the end of this period, if the street or utility improvements are found to have settled or be otherwise unacceptable because of faulty workmanship or material.

   (b) The defective street or utility shall be repaired at the expense of the subdivider up to the amount of the bond. Upon his failure or refusal to do so within 90 days after demand is made upon him by the governing body, the city shall make such repairs as are reasonably necessary and recover the cost thereof from the bond issuer.

2. *Certificate of development conformance required.* A certificate of development conformance is required for final approval of road system. The certificate will not be issued until all requirements of these and other applicable regulations have been met. It is also required that the building and planning department receive a completed request for approval of development conformance, an executed development performance and maintenance agreement, and a final inspection report has been done. Approval will be determined by published procedures entitled procedures for development conformance, to be given to applicant at time of request for final approval prior to final inspection.

3. *Process of road inspection/acceptance.* All roads will be inspected at time of construction pursuant to the published procedures as set forth by the building and planning department. Published procedures will be included with the development application.

4. *Warranty deed required.* A warranty deed must be provided by the developer, subdivider, or any person or persons who own all fee simple interest in the subject road.

M. *Private roads.*

1. Private roads may, upon application, be permitted by the planning commission within subdivisions, subject to the requirements of this section. The planning commission may impose conditions on the approval of private roads to ensure various public purposes and to mitigate potential problems with private roads. No final plat involving a private road shall be approved unless said final plat conforms to the requirements of this section.

2. It shall be unlawful for any person, firm, or corporation to construct a new private road or alter an existing private road or to cause the same to be done without complying with this section; provided, however, that this shall not be construed to apply to logging roads (trails) and roads (trails) serving agricultural purposes

3. All private roads shall at minimum be constructed to all standards specified in this article except Section 2822.

4. Rights-of-ways for private roads shall be designated on final plats as general purpose public access and utility rights-of-ways, along with the name of said private road. Rights-of-ways for private roads shall not be included in any calculation of minimum lot size established by this appendix. Private road right-of-ways shall be shown on the final plat as a discrete parcel to be dedicated to a private homeowners association or other appropriate group (i.e., not shown to be a part of any lot).

5. The City of Clarkesville shall have no responsibility to maintain, repair, resurface, rebuild, or otherwise improve private roads, signs, drainage improvements or any other appurtenances within general purpose public access and utility rights-of-ways established for private roads. A private maintenance covenant recorded with the office of the clerk of the Superior Court of Habersham County shall be required for any private road and other improvements within general purpose public access and utility rights-of-ways established for private roads. The covenants shall set out the distribution of expenses, remedies for noncompliance with the terms of the agreement, and other pertinent considerations.

6. The covenant shall specifically include the following terms:

   (a) The covenant shall establish minimum annual assessments in an amount adequate to defray costs of ordinary maintenance and procedures for approval of additional needed assessments. The covenant shall also specify that the funds from such assessments will be held by a homeowners or property owners association, or other appropriate group.

   (b) The covenant shall include a periodic maintenance schedule.

   (c) The covenant for maintenance shall be enforceable by any property owner served by the private road.

   (d) The covenant shall establish a formula for assessing maintenance and repair costs equitably to property owners served by private road.

   (e) The covenant shall run with the land.

   (f) The planning commission may, at its discretion, as a condition of approving private roads, require a performance bond and/or maintenance bond be submitted by the subdivider and held by a homeowners or property owners association, or the planning commission may require that the subdivider pay an amount of money as recommended by the county engineer into an escrow account or other suitable account for the maintenance and repair of private roads and stormwater management improvements, to be drawn from by the homeowners or property owners association as maintenance and repair needs may arise.

N. No final plat involving a private road shall be approved by the Planning Commission for recording unless and until it shall contain the following on the face of the plat:

1. Deed book and page reference to the recorded covenant required by this section.

2. "Warning, The City of Clarkesville has no responsibility to build, improve, maintain, or otherwise service the private roads, drainage improvements, and other appurtenances contained within the general public purpose access and utility right-of-way or rights-of-ways for private roads shown on this plat."

3. Grant of right-of-way as displayed in Appendix A, Form 7.

Section 2823. Opening and improving public streets.

The governing body of the City of Clarkesville shall not accept, lay out, open, improve, grade, pave or light any street or lay any utility lines in any street, which had not attained the status of a public street prior to the effective date of this appendix, unless such street corresponds to the street location shown on an approved subdivision plat or on an official street map adopted by the planning commission.

ARTICLE XXIX
TREE CONSERVATION

Section 2901 Intent.

This article shall apply to all properties or portions hereof located within the corporate boundaries of the City. The Mayor and Council of the city find that: the conservation and protection of trees; the planting of new trees of the species and quality recommended herein; and the protection of stream buffers as a part of the land development process serve the public interest and promote public health and general welfare.

Section 2902 Purpose, Terms and Provisions.

a) *Purpose*. The purpose of this article is to conserve and enhance the City's natural environment through tree conservation, protection, and/or replacement. This article regulates the planting and removal of trees and landscape material, as well as other land disturbing activities. This article is further intended to provide for penalties for violations hereof, to provide for the protection of trees from abuse and mutilation, to repeal conflicting ordinances, and for other purposes set forth herein.
b) *Terms and provisions*. This section applies to all real property located within the city, except as excluded in other sections in this article. Article XXII of the Zoning Ordinance addresses specific tree, buffer and landscaping requirements for properties located within the specially recognized areas.

Section 2903 Appeals and Variances.

a) Any person who disagrees with a decision regarding the enforcement and/or interpretation of this Chapter XXIX may appeal such decision in accordance with Appendix D of the Zoning Procedures.

Section 2904 Penalties for the Violation of this Ordinance.

a) Any property owner or other person, landscape contractor or other firm or corporation violating the provisions of this Ordinance or who fails to comply with any notice issued pursuant to the provision of this Ordinance, upon conviction or plea of guilty, shall be subject to a fine of not less than $100 nor to exceed $1,000 for each separate offense, and in addition hereto may be enjoined from continuing the violation. Each tree cut, damaged or poisoned and each violation of this ordinance shall constitute a separate offense.
b) The City may withhold the issuance of a Certificate of Occupancy, permits or inspections for any construction activity until the provision of this Ordinance have been fully met.

Section 2905 Definitions.

In construing the provisions hereof and the meaning of each and every word, term, phrase, or part thereof where the context will permit, the definition of terms as contained in this Code, supplemented by the following, shall apply:

Berm – An earthen ledge or shoulder sometimes located along the edge of a road or sidewalk.

Buffer – A landscaped open space and/or screen located between incompatible land uses for the purpose of visibly separating uses through distance and to shield or block noise, light, glare, visual or other nuisances; that portion of a given lot, not covered by buildings, pavement, parking, access and service areas, established for the purpose of screening and separating properties with incompatible land uses, the width of which is measured from the common property line and extending the developed portion of the common property line. A buffer consists of trees, shrubs and other natural vegetation undisturbed by grading or site development and replanted where sparsely vegetated or where disturbed for approved access and utility crossings.

Caliper – American Association of Nurserymen standard for trunk measurement of the outside diameter of nursery stock. Caliper of the trunk shall be taken 6 inches above the ground for up to and including 4 inch caliper size and 12 inches above the ground for larger sizes.

Canopy Tree – A tree that, under normal conditions, will compose the upper most layer of vegetation and generally will reach mature height of greater than 40 feet.

Certified Arborist – An individual certified as an Arborist by the International Society of Arboriculture.

City – City of Clarkesville, Georgia.

Clearing – The removal of vegetation from a property that is being developed, whether by clear cutting or other means.

Conservation – The protection, preservation, management, or restoration of natural resources to prevent exploitation, destruction or neglect.

County – Habersham County.

Critical Root Zone (CRZ) – The minimum area beneath a tree that must be left undisturbed in order to preserve a sufficient root mass to give the tree a reasonable chance to survive. The CRZ will typically be represented by a concentric circle centered on the trunk of the tree with a radius equal in feet to 1.5 times the number of inches of the diameter of the trunk. For example: The CRZ radius of a 20 inch tree is 30 feet.

Development Regulations – The ordinances regulating the development and subdivision of real property within the City.

Diameter at Breast Height (DBH) – A standard measure of tree size – a tree trunk, measured in inches at a height of 4 feet 6 inches above the forest floor on the uphill side of the tree. If a tree splits into multiple trunks below 4 feet 6 inches, then the DBH is measurement of the largest trunk plus 60% of the sum total of remaining trunks.

Drip Line – A vertical line extending from the outermost portion of a tree canopy or a tree's branch tips down to the ground.

Floodplain, 100 year – Lands subject to flooding, which have at least a one percent probability of a flooding occurrence in any calendar year and which is shown on the flood boundary and floodway map as prepared by the Federal Emergency Management agency (FEMA).

Grading – The placement, removal, or movement of earth by use of mechanical equipment on a property.

Grubbing – The removal of tree stumps and roots.

Hedge – A row of closely planted shrubs or plants that produce a dense continuous vegetative screen or barrier.

Land Disturbance – Clearing, grading or grubbing activities on a site or portion of a site.
Land Disturbance Permit (LDP) – A permit issued by the City that authorizes clearing, grading or grubbing activities on a site or portion of a site. A development permit may include activities as defined by a LDP.
Landscape – The visible features of an area of land, including physical elements such as landforms, living elements of flora and fauna, and abstract elements such as light, weather conditions and human elements.
Landscape Strip – Land area located within the boundary of a lot and designated to be used for landscape.
Ordinance Enforcement Officer (OEO) – An employee or designee of the City properly designated and charged with the responsibility of enforcing ordinances within the corporate limits of the City.
Public – A word describing government owned or government operated such as Public Park, public right-of-way, or public property.
Radial Trunk Dieback – Progressive death of the tree tissue from the extremities inward.
Screening – A method of shielding or obscuring one abutting or nearby structure or property from another by means of opaque fencing, walls berms, densely planted vegetation or other means.
Shrub – A woody plant of relatively low height, typically distinguished from a tree by having multiple stems and being of lower height.
Significant Tree – Any existing, healthy, living tree (8) inches DBH or greater in size.
Specimen Tree or Specimen Tree Stand – Any tree or group of trees which has been determined to be of high value because of its species, size, age or other definable criteria and so designated by the City. General criteria for the determination of specimen trees or stands of trees are provided in Section 2908.
Stream Buffer – An undisturbed buffer on each side of the stream, the minimum width of which is determined by the Georgia Environmental Protection Division or by local ordinance or condition of zoning, whichever is greater.
Structure – Anything constructed or erected, the use of which requires more or less a permanent or semi-permanent location on the ground, or attached to something having a location on the ground.
Surety Bond – A bond given to ensure the timely performance of a contract or compliance with a provision of this article.
Tree – Any self supporting woody perennial plant, usually having a single woody trunk of 2 inches or more when measured at a point 6 inches above ground level and which normally grows at maturity to an overall height of a minimum of fifteen (15) feet.
Tree Damage – Destruction caused, either intentionally or unintentionally to a tree.
Tree Density Unit (TDU) – A credit assigned to a tree, based on the diameter of the tree, in accordance with the tables contained in this article.
Tree protection/Tree Replacement Plan – A plan that identifies tree protection areas and shows existing trees to be retained and proposed trees to be planted on a project site or property to meet minimum requirements as well as methods of tree preservation to be undertaken on the site.
Tree Survey – A site survey and documentation of existing trees within a proposed area to be developed.
Understory Tree – A tree that, under normal forest conditions, grows to maturity beneath canopy trees and will generally reach a mature height of ten to forty feet.
Undisturbed Buffer – An area of land on public or private property that has been designated on a plat as a do not disturb, undisturbed or natural buffer.
Xeriscaping – A method of landscaping using planting materials that are efficient in the use of water.
Zoning Buffer – A buffer or stream buffer that is required by the Zoning Ordinance.
Zoning Ordinance – The Zoning Ordinance as adopted by the City of Clarkesville, Georgia.

Section 2906 Tree Care and Maintenance.

All property owners and occupants shall be responsible for the normal and ordinary care of trees located on their property. No person shall willfully damage healthy trees including but not limited to the following:

a) Pouring of harmful materials on trees which could harm them;
b) Causing or encouraging a fire or burning near trees;
c) Causing serious damage to the trunks, limbs or roots of trees.

Section 2907 Specimen Tree Removal Limitations.

Existing specimen trees, including those of rare or historical significance, shall not be removed without a permit. A permit shall not be denied if the removal will enhance the value of the property, the tree is determined to be diseased, dead or to present a hazard to life or property.

Section 2908 Determination of Specimen Trees.

A specimen tree is any tree in fair or better condition which equal or exceeds the following diameter sizes:

a) Large Deciduous (LD) of 30" DBH or greater, e.g. oaks, hickories, yellow poplars, sweet gums, etc.
b) Large Evergreens (LE) of 36" DBH or greater, e.g. pines, cedars, hemlocks, etc.
c) Small tree species (small deciduous (SD) and small evergreen (SE)) of 12" DBH or greater, e.g. dogwoods, redbuds, sourwoods, etc.

A tree in fair or better condition must meet the following guidelines:

a) A life expectancy of 15 years or longer from the time of determination.
b) A relatively sound and solid trunk with no extensive decay or hollows and less than 20 percent radial trunk dieback.
c) No more than one major and several minor dead limbs (hardwoods only).

Section 2909 Removal of Obscuring or Hazardous Limbs and Trees.

The City shall removal all branches that obscure the light from City owned streets or that obstruct the view of any intersection. The City shall maintain a fourteen foot clear space above all City owned streets and an eight foot clear space above the surface of the City owned sidewalks. Property owners shall remove trees or limbs on their property that are hazardous to people or other property.

Upon notification by the City to property owners to remove trees or limbs which are hazardous to people or others property, the property owner shall have 60 days to remove the hazardous trees or limbs. If the owner fails to comply, the City may have the tree or limbs removed at the property owner's expense.

If a tree or limb poses an immediate safety hazard to persons or property, the City may have the hazard removed as deemed necessary.

Section 2910 Land Disturbance Requirements.

The provisions of sections 2912, 2913, 2914, 2915, 2916 and 2921 of this Article shall apply to any activity on real property which requires the issuance of a Development Permit or Land Disturbance Permit within the incorporated City of Clarkesville.

Section 2911 Exemptions.

a) Development permits and land disturbance permits are not required on lots that are to be developed with a single family dwelling or related accessory buildings and are less than one acre in area.
b) A tree protection and replacement plan is not required for the removal of dead, hazardous or dangerous trees.

Section 2912 Tree Replacement Guarantee & Maintenance.

In order to protect the City, residents, and prospective purchases in a subdivision, the Developer shall provide to the City one of the financial securities as set forth in Section 2808 of the Subdivision Regulations in order to guarantee compliance with the tree protection plan and the installation of replacement trees and buffers.

The guarantee shall be an amount to secure the full costs of installation of completion of landscaping and tree replacement requirements and improvements per the approved tree protection plan. Irrespective of the above, the City may establish the amount of financial guarantee required based upon landscaping estimates.

All replacement trees and landscaping shall be maintained in a healthy condition for a minimum of two (2) years from the date of project completion. Any replacement trees that die or become damaged or diseased within the two (2) year period shall be replaced by the property owner or developer.

Section 2913 Tree Retention Priorities.

The retention of existing healthy trees is the highest priority and shall take precedence over the removal of trees and replacement with smaller trees. Emphasis shall be given to the conservation of specimen and significant trees over the retention of others. Tree protection and replacement plans shall be reviewed for compliance with the following provisions:

a) Existing trees in required landscape strips and buffers shall be retained as much as practical while meeting the overall goals of the strips and buffers.
b) Existing trees between building and streets shall be retained to the maximum extent possible.
c) Where existing trees are located on land proposed for parking areas, such trees shall be integrated into the design of the parking lot planting islands to the maximum extent practical and where there is a good chance for tree survival.
d) All other existing trees located on site shall be retained to the maximum extent practical.

Noncompliance with this Section may be grounds for the disapproval of tree protection and replacement plans.

Section 2914 Tree Protection Plan Requirements and Specifications.

Tree protection and replacement plans shall be prepared by a professional landscape architect, urban forester, certified arborist, engineer or other professional designee. The plan shall be dawn to scale and may be combined with the buffer, landscape and parking plans.

The tree preservation and/or replacement plan shall contain the following, as a minimum:

1) Project name, land district, land lot and parcel number, north arrow and scale;

2) Owner and Developer's name, address and telephone number;
3) Name, address and telephone number of the professional landscape architect, urban forester, certified arborist or person responsible for preparation of the plan and the seal or statement of professional's qualifications;
4) Delineation of all minimum yard areas and landscape areas as required by the zoning ordinance or conditions of zoning approval;
5) Total acreage of site and total acreage exclusive of all zoning buffer areas;
6) Designation of required landscape, stream buffers and tree protection zones;
7) Survey of all trees to be retained in tree protection area with tree location and DBH shown.
8) Location of all overhead and underground utilities.
9) Location of all easements.
10) Tree protection details:
    a. A detail or description of the protective tree fencing to be installed and the location of such measures. The details shall include the CRZ an, as a minimum, shall follow the drip line of all trees to be retained. Proposed type and location of tree save area signs.
    b. Measures to be taken to avoid soil sedimentation into tree protection areas.
    c. Proposed location of temporary construction equipment, parking locations, material storage, etc.
11) A summary table of the number of existing trees to remain and the new trees to be planted, including species and DBH, and the total TDUs proposed on site.

Section 2915 Tree Protection Fencing.

a) Prior to the commencement of land disturbance or development, each tree or stands of trees located within a project site's tree protection zone shall be protected against damage to the bark, roots, and branches with no less than the required fencing.
b) Fencing shall be either plastic construction area fencing, chain link, hog wire or other approved fencing no less than four (4) feet in height. The fencing shall be secured in such a manner that more than minimum effort is required to alter or remove it.
c) Tree save area signage with language similar to "Tree Protection Area – Do Not Disturb" shall be required to designate tree protection areas.

Section 2916 Tree Protection Requirements.

a) Compaction prohibited. All building materials, vehicles, construction equipment, dirt, debris or other objects likely to cause soil compaction or above-ground damage shall be kept outside the critical root zone of trees within tree protection zones or other trees to be protected. Where a limited amount of encroachment is unavoidable and is approved by the City, the critical root zone shall first be mulched with a 4" layer of processed bark or wood chips.
b) Grade change prohibited. There shall be no raising or lowering of the ground level within the critical root zone of the trees within tree protection zones or other trees to be protected. Removal of topsoil within critical root zones shall not be permitted. The deposit of sediment in critical root zones shall be prevented by the placement of wire reinforced (Type C) sediment barriers.
c) Ditches prohibited. No person shall excavate any ditch or trench within the critical root zone of trees within tree protection zones or other trees to be protected. Limited boring may be permitted, when deemed necessary, as approved by the City.

d) Paving prohibited. No person shall pave with concrete, asphalt, or other impervious material within any critical root zone, tree protection zones or other trees to be protected.
e) Encroachment in critical root zones. Encroachment on the critical root zone of a tree is permitted where necessary to the development (e.g. construction of a driveway), provided the tree is not counted toward the required minimum tree units per acre of development site.

Section 2917 Minimum Tree Units Required.
The tree protection and/or replacement plan shall provide for a minimum of 16 TDUs (tree density units) for each acre of development. All specimen trees and their critical root zones shall be protected and remain on site unless removal is approved by the City. Mandatory street trees may be included in the minimum 16 TDU requirement. **Existing trees located within required buffers shall not be counted toward meeting this requirement for any given site.**
Flowering ornamental trees shall not be counted in terms of compliance with minimum tree unit requirements, unless listed in Article XXII, Section 2214, Native Plant List.

Section 2918 Determining Tree Units of Existing Trees.
The diameter of an existing tree trunk will be measured at breast height and assigned a diameter at breast height (DBH). The tree unit values assigned to the corresponding DBH is listed in Table 29-01. When an existing tree meets the definition of "specimen tree" as provided in this Article, the value assigned is 1.5 times the value shown in Table 29-10.

TABLE 29-01
TREE VALUES FOR EXISTING TREES

DBH (inches)	Tree Units	DBH (inches)	Tree Units
3 to 4	.2	28	4.3
5 to 6	.4	29	4.6
7	.7	30	4.9
8	.8	31	5.2
9	.9	32	5.6
10	1.0	33	5.9
11	1.1	34	6.3
12	1.2	35	6.7
13	1.3	36	7.1
14	1.4	37	7.5
15	1.5	38	7.9
16	1.6	39	8.3
17	1.7	40	8.7
18	1.8	41	9.1
19	1.9	42	9.6
20	2.0	43	10.1
21	2.4	44	10.6
22	2.6	45	11.0

23	2.9	46	11.5
24	3.1	47	12.0
25	3.4	48	12.6
26	3.7	49	13.1
27	4.0	50	13.6

Section 2919 Determining Tree Units of Replacement Trees.
The caliper of the trunk of a replaced tree will be measured and a value assigned in tree units in accordance with Table 29-02.

TABLE 29-02
TREE UNIT VALUES FOR REPLACEMENT TREES

Caliper	Tree Units	Caliper	Tree Units
		8	1.3
2	.5	9	1.5
3	.6	10	1.7
4	.7	11	1.9
5	.9	12	2.1
6	1.0	13	2.3
7	1.2	14	2.5

Section 2920 Criteria for Replacement Trees.

a) A minimum caliper size of two shall be used for replacement trees.
b) The spacing and potential size of species chosen shall be compatible with the spatial and other limitations of the site. The Arbor Day Foundation guidelines shall be used as a guide when determining the distance between trees planted and their proximity to overhead utility lines, buildings and structures.
c) The species shall not be flowering ornamental trees, unless listed in Article XXII, Section 2214, Native Plant List. Selected species shall be compatible and reasonably able to thrive with limited care in the chosen planting location.
d) The trees shall have the potential to reach the same or greater size and quality of those removed.
e) The trees shall have crowns and root systems at maturity that not disrupt utilities, sidewalks or public right-of-way infrastructure.
f) Where trees must be added to achieve the minimum required tree units per acre of development site, the following shall apply:
    1. Pines may only be used where replacing removed pines and shall not compromise more than 25 percent of the required tree units.
    2. Where existing pines already comprise 25 percent or more of the required units, no more pines may be credited toward the required tree units.
    3. No more than 30 percent of the required tree units can consist of a single tree species.
    4. At least 25 percent of the replacement tree units must be canopy trees.

Section 2921 Landscape Regulations for Parking Lots.
Minimum Tree and Shrub Densities

Parking lot landscaping and deciduous shade trees shall be provided in accordance with this section within any parking lot designated to accommodate five (5) cars or more, with the exception of properties zoned single family residential (R).

a) Trees required within parking lots by this Section may be included in determining compliance with the minimum tree density units specified in Section 2917.
b) Parking lot landscaping shall consist of a minimum of 5% of the total parking area plus a ratio of one tree for each fifteen (15) parking spaces, or portions thereof. When possible, parking areas should incorporate existing trees.
c) Each tree shall be located within the parking lot in reasonable proximity to the parking spaces.
d) Selected tree species shall be appropriate large canopied shade trees with a minimum caliper of 2 inches and shall be selected from the Clarkesville Native Plant List (see section 2214).
e) The landscaped area shall be planted with shrubs and/or groundcover to assure 80% coverage of the ground within five years. Landscaped areas shall be evenly distributed throughout the parking area and parking perimeter at the required ratio.
f) All replacement trees and landscaping shall be maintained in a healthy condition for a minimum of two (2) years from the date of the project completion. Any replacement trees that die or become damaged or diseased within the two (2) year period shall be replaced by the property owner.

Properties located within the Clarkesville Perseveration District corridor overlay zone shall comply with the landscaping requirements in Article XXII.

Section 2922 Street Tree Requirements.
Street Trees shall be planted in accordance with Article XXII of Zoning Ordinance.

Fee Schedule Regarding Buffers, Trees and Landscape

Plan Review for project area up to 5 acres:	$200
Re-inspection when Final Inspection has failed for project area up to 4 acres:	$75
Plan Review for project area over 5 acres:	$350
Re-inspection when Final Inspection has failed for project area over 5 acres:	$125
Tree Removal Permit Application not requiring a plan review:	No Fee
Tree Removal Permit Application requiring a plan review:	$50

APPENDIX A. SPECIAL CERTIFICATES WHICH MAY BE REQUESTED

FORM 1 PRELIMINARY PLAT APPROVAL

"Pursuant to the Zoning Ordinance of the City of Clarkesville, Georgia, all the requirements of preliminary plat approval having been fulfilled, this preliminary plat was given approval by the Clarkesville Planning Commission. on _____, 20_____.

This approval does not constitute approval of a final plat. No property can be sold by use of this preliminary plat. This Certificate of Approval shall expire and be null and void on _____, 20_____.
Date: Clarkesville Planning Commission

FORM 2 - Environmental Health Statement:
The lots shown have been reviewed by the Habersham County Health Department and the City of Clarkesville Public Works Department and are approved for subdivision development as noted. Each lot must be reviewed and approved for on-site sewage management system placement prior to the issuance of a construction permit.
Dated this _____ day of _____ 20_____
By: _____
Title: _____

FORM 3: CERTIFICATE OF APPROVAL OF THE FINAL PLAT
"Pursuant to the Zoning Ordinance of the City of Clarkesville, Georgia, all requirements of approval having been fulfilled, this final plat was given final approval by the Clarkesville Planning Commission on _____, 20_____, and said plat is released for recording and for use in sale of land described hereon
Date: Clarkesville Planning Commission

FORM 4: SURVEYOR CERTIFICATION
"It is hereby certified that the plat is true and correct and was prepared from an actual survey of the property by me or under my supervision; that all monuments shown hereon actually exist or are marked as 'future', and their location, size, type and material are correctly shown and that all engineering requirements of the Subdivision Regulations of the City of Clarkesville, Georgia, have been fully complied with".
Registered Georgia Land Surveyor_____
Number_____

FORM 5: OWNER'S CERTIFICATION:
Owner's Certification:
State of Georgia, County of Habersham.
"The owner of the land shown on this plat and whose name is subscribed hereto, in person or through a duly authorized agent, certifies that this plat was made from an actual survey."
Agent_____ Owner_____
Date_____ Date_____

FORM 6: STORM DRAINAGE SYSTEM CERTIFICATION
STORM DRAINAGE SYSTEM CERTIFICATION
"I, (Developer's Engineer), a Registered Civil Engineer, certify that the storm drainage system shown on this drawing is properly designed to serve the subdivision shown thereon, as well as being adequate both in size and design to serve the entire drainage area (on or off site), above each structure or feature, whose storm drainage waters would normally be carried through this subdivision on a 25-year flood frequency (rational method). It is further certified that the information shown hereon is true and correct and all data has been checked in the field. All drainage easements have been provided, where necessary". (If no detention ponds are required, so state in this statement)
Date _____ (Developer's Engineer) _____
Registration No._____

FORM 7: GRANT OF RIGHT-OF-WAY
"Grant of Right-of-Way. The general purpose public access and utility right-of-way shown on this plat for private road(s) is hereby granted and said grant of rights shall be liberally construed to provide all necessary authority to Habersham County, and to the public or private utility companies serving the subdivision, for the provision of emergency services and the installation and maintenance of utilities, including, but not limited to electric lines, gas lines, telephone lines, water lines, sewer lines, cable television lines, and fiber optic cables, together with the right of ingress and egress for installation, maintenance, and replacement of such lines.

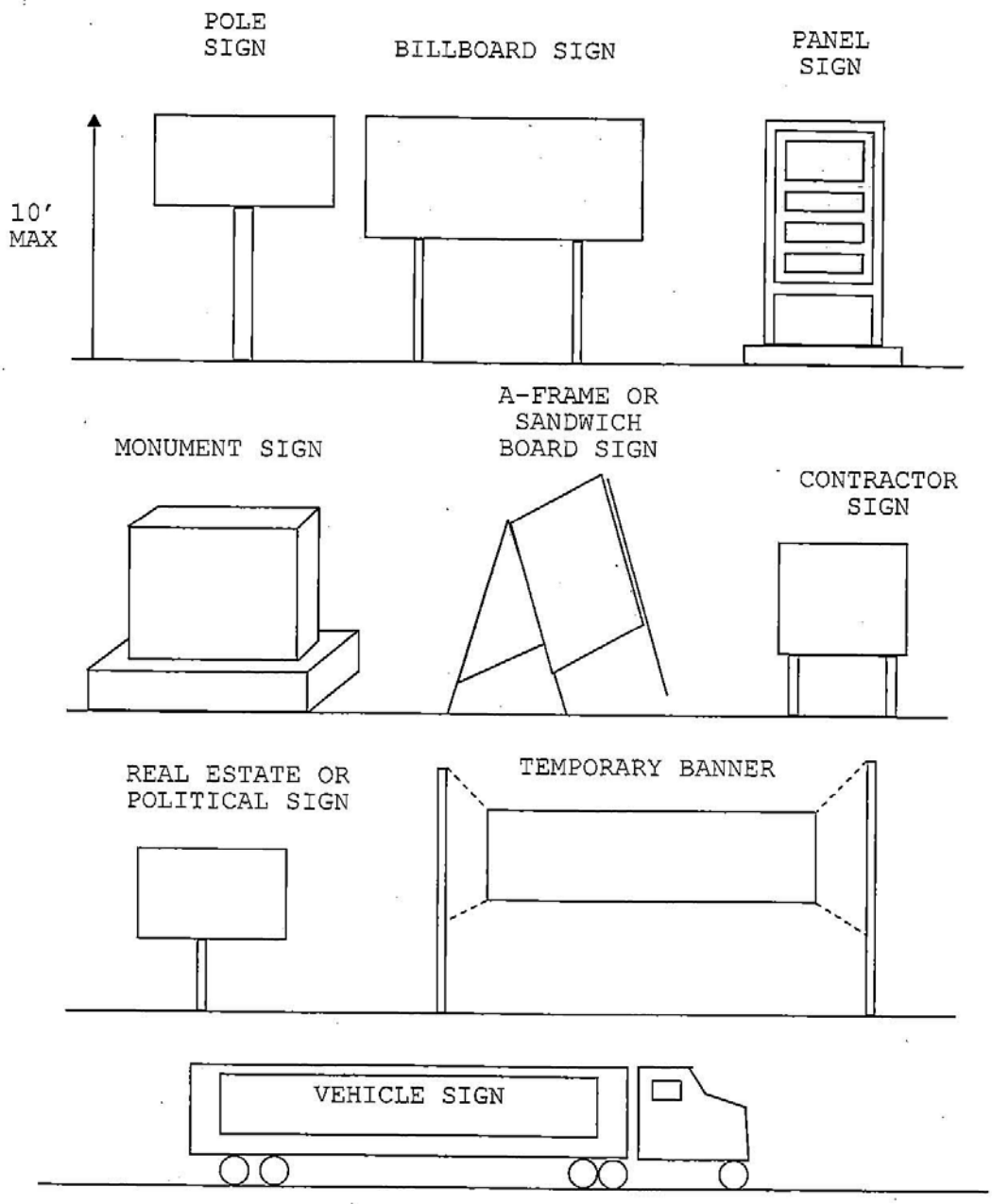
_____
Signature of Property Owner

APPENDIX B. APPLICATION FORMS and CHECKLISTS

The application forms and checklists can be obtained at Clarkesville City Hall.

APPENDIX C. GROUOND SIGN GUIDELINES-

City of Clarkesville Sign Regulations
Appendix C: Ground Signs



APPENDIX D – ZONING PROCEDURES

AN ORDINANCE ADOPTING STANDARDS GOVERNING THE EXERCISE OF ZONING POWER, PROCEDURES FOR THE CALLING AND CONDUCTING OF PUBLIC HEARINGS AND FOR OTHER PURPOSES.

Section 1 Zoning Ordinance Amendments.

1.1 Authority. The Council may amend the text of this Ordinance from time to time. Such amendments require a public hearing by the Planning Commission and Council.

1.2 Initiation of Zoning Amendments. An application to amend this Ordinance may be initiated by the Council, by the owner of the subject property, or by the owner's designee.

1.3 Frequency of Applications. After an application for a text amendment has been considered, no application pertaining to the same or similar use requested shall be accepted within twelve (12) months from the date of the application. A text amendment may be initiated by the City at any time.

1.4 Application Procedure.

(1) Pre-application Conference. All applicants must meet with the Building and Zoning Administrator to discuss the application procedures, the public hearing process, and any other information which may be pertinent to the proposed request. Applications will not be accepted until a pre-application conference has been held.

(2) Application Contents. Each application for a rezoning must be submitted to the Building and Zoning Administrator at least forty-five (45) days before any hearing by the Planning Commission. Unless waived by the Building & Zoning Administrator, each application submitted by a person other than the City shall include all the following information about the subject property:

(a) a statement of intent explaining in detail the requested change, the proposed use, and any special or unusual parts of the request;

(b) a statement explaining why the subject property is not suitable for development under existing zoning as well as an explanation of the hardship which will result if the amendment is not granted;

(c) any other information as may be reasonably required by the Building & Zoning Administrator, Planning Commission or Council.

(3) Filing Fee. All applications for zoning amendment shall be accompanied by payment of a non-refundable fee as established by the ***City of Clarkesville***.

(4) Disclosure Report. The requirements of Section 7 apply.

(5) Withdrawal of Amendment Application. Any application may be withdrawn at any time at the discretion of the applicant without prejudice, upon written notice to the Zoning & Planning Official, prior to a decision by the Council.

(6) Procedure Relative to Ex Parte Contact With Mayor and Council. The Planning Commission is not subject hereto. To maintain transparency and to avoid any appearance of impropriety in the decision-making process,

there shall be no unsolicited substantive ex parte (individual) communication with the Mayor or Council members by an applicant or his/her representative(s) or by supporters of or opposition to the rezoning, unless the Mayor or Councilperson agrees to such. Unsolicited E-mails, letters and faxes to the Mayor and Council as a whole, copied to the Building and Zoning Administrator and City Clerk, are permissible. They will be made a part of the record. The applicant and his/her representative(s) and supporters and opponents are to limit their unsolicited verbal contacts with City officials and employees to the Zoning Administrator, City Manager, and to the City Attorney if the proposed contact is from legal counsel. Mayor and Council members will accept verbal presentations in the advertised public hearings and meetings, and via express solicitation or agreement in other instances. If an individual

Mayor or Council member received unsolicited, unwanted substantive verbal communication by an applicant or his/her representative(s) or by supporters or opposition, said Mayor or Council member shall direct that person to the Zoning Administrator, City Manager and City Attorney and advise the person of upcoming public hearings, and disclose such to the Mayor and Council at the public hearing.

1.5 Notice Procedure. The requirements of Section 5 apply.

1.6 Planning Commission Hearing and Recommendation. The Planning Commission shall consider the standards in Section 1.8 prior to any recommendation. Hearings shall comply with Section 6.

1.7 City Council Hearing and Decision. Before taking action on a zoning amendment application, the Council shall hold a hearing in accordance with Section 6, and shall consider the standards in Section 1.8. At the conclusion of the public hearing, the Council may approve or deny the application, approve with modifications or conditions, or defer a decision until a specified meeting date.

1.8 Standards for Zoning Amendment Application Decisions. The Planning Commission and the Council shall consider the following:

(1) the location, present use and zoning classification of the subject property, and its suitability and economic viability for use as currently zoned;

(2) the proposed use and zoning classification of the subject property;

(3) the existing land uses and zoning classification of nearby property, whether the zoning proposal seeks a use consistent with the use and development of adjacent and nearby property, and to what extent the zoning proposal will adversely affect adjacent or nearby property;

(4) whether the zoning proposal will result in a use which could adversely affect existing infrastructure including without limitation streets, transportation facilities, utilities, schools, police and fire protection, and municipal personnel;

(5) whether the zoning proposal is consistent with the Comprehensive Plan; and,

(6) whether there are other factors or existing or changing conditions regarding the use and development of the property which give supporting grounds for either approval or disapproval of the zoning proposal.

Section 2 Zoning Map Amendments.

2.1 Authority. The Council may amend the Official Zoning Map from time to time. Such amendments require a public hearing by the Planning Commission and Council.

2.2 Initiation of Zoning Map Amendments. An application to amend the Official Zoning Map may be initiated by the Council, by the owner of the subject property, or by the owner's designee.

2.3 Frequency of Applications. After an application for map amendment has been considered, no application pertaining to the same or similar use requested shall be accepted within twelve (12) months from the date of the application. A map amendment may be initiated by the City at any time.

2.4 Application Procedure for Zoning Map Amendments.

(1) Pre-application Conference. All applicants must meet with the Zoning Administrator to discuss the application procedures, the public hearing process, and any other information which may be pertinent to the proposed request. Applications will not be accepted until a pre-application conference has been held. Conferences may be handled via telephone at the discretion of Staff.

(2) Application Contents. Each application for a rezoning must be submitted to the Zoning Administrator at least forty-five (45) days before any hearing by the Planning Commission. Unless waived by the Building and Zoning Administrator, each application submitted by a person other than the City shall include all the following information about the subject property:

(a) legal description;

(b) survey plat showing acreage and abutting property owners;

(c) current zoning of the subject property and abutting properties and description of all existing uses of abutting properties;

(d) a statement of intent explaining the requested zoning change, the proposed use, and any special or unusual parts of the rezoning request;

(e) a description of suitability for development under existing and proposed zoning and a description of all existing uses and structures;
(f) the duration of vacancy or non-use if the property is vacant and unused at the time the application is submitted;
(g) a site plan drawn to scale showing the proposed use, including at a minimum information on proposed improvements, including parking and traffic circulation areas of required landscaping, stormwater, detention structures, amenities, buildings, and buffers;
(h) for any applications for commercial or industrial uses , the site plan shall also identify the maximum gross square footage of structures, the minimum square footage of landscaped area, the maximum height of any structure, the minimum square footage of parking and drive areas, and the proposed number of parking spaces, landscaping and buffers, stormwater retention structures;
(i) for any application for single-family residential uses, the site plan shall also identify the maximum number of residential dwelling units, the maximum height of any structure, the minimum square footage of landscaped area, the maximum gross square footage of structures, and the proposed number of parking spaces;
(j) for any application for multi-family residential uses, the site plan shall also identify the maximum height of any structure, location of amenities, and buffer areas; and,
(k) any other information as may be reasonably required by the Building & Zoning Administrator, Planning Commission or Council.

(2) Filing Fee. All applications for zoning amendment shall be accompanied by payment of a non-refundable fee as established by the ***City of Clarkesville***.

(3) Disclosure Report. The requirements of Section 7 apply.

(4) Withdrawal of Amendment Application. Any application may be withdrawn at any time at the discretion of the applicant without prejudice, upon written notice to the Zoning & Planning Official, prior to a decision by the Council.

(5) Procedure Relative to Ex Parte Contact With Mayor and Council. The Planning Commission is not subject hereto. To maintain transparency and to avoid and appearance of impropriety in the decision-making process, there shall be no unsolicited substantive ex parte (individual) communication with the Mayor or Council members by an applicant or his/her representative(s) or by supporters of or opposition to the rezoning, unless the Mayor or Councilperson agrees to such. Unsolicited E-mails, letters and faxes to the Mayor and Council as a whole, copied to the City Planner and City Clerk, are permissible. They will be made a part of the record. The applicant and his/her representative(s) and supporters and opponents are to limit their unsolicited verbal contacts with City officials and employees to the City Planner, City Manager, and to the City Attorney if the proposed contact is from legal counsel. Mayor and Council members will accept verbal presentations in the advertised public hearings and meetings, and via express solicitation or agreement in other instances. If an individual Mayor or Council member received unsolicited, unwanted substantive verbal communication by an applicant or his/her representative(s) or by supporters or opposition, said Mayor or Council member shall direct that person to the City Planner, City Manager and City Attorney and advise the person of upcoming public hearings, and disclose such to the Mayor and Council at the public hearing.

2.5 Notice Procedure. The requirements of Section 5 apply.

2.6 Planning Commission Hearing and Recommendation. The Planning Commission shall consider the standards in Section 2.8 prior to any recommendation. Hearings shall comply with Section 6.

2.7 City Council Hearing and Decision. Before taking action on a zoning map amendment application, the Council shall hold a hearing in accordance with Section 6, and shall consider the standards in Section 2.8. At the conclusion of the
public hearing, the Council may approve or deny the application, approve with modifications or conditions, or defer a decision until a specified meeting date.

2.8 Standards for Zoning Map Amendment Application Decisions. The Planning Commission and the Council shall consider the following:

(1) the location, present use and zoning classification of the subject property, and its suitability and economic viability for use as currently zoned;

(2) the proposed use and zoning classification of the subject property;

(3) the existing land uses and zoning classification of nearby property, whether the zoning proposal seeks a use consistent with the use and development of adjacent and nearby property, and to what extent the zoning proposal will adversely affect adjacent or nearby property;

(4) whether the zoning proposal will result in a use which could adversely affect existing infrastructure including without limitation streets, transportation facilities, utilities, schools, police and fire protection, and municipal personnel;

(5) whether the zoning proposal is consistent with the Comprehensive Plan; and,

(6) whether there are other factors or existing or changing conditions regarding the use and development of the property which give supporting grounds for either approval or disapproval of the zoning proposal.

Section 3 Conditional Uses.

Certain uses are not generally allowed in a zoning district, but may be allowed under certain conditions. A conditional use permit does not constitute a permanent change in zoning or use, and may be lost if it does not continue to meet the required conditions. A conditional use must be made compatible with the applicable zoning district by imposition of appropriate conditions. Conditional uses require Council approval after public hearings by the Planning Commission and Council in accordance with this article.

3.1 Application Procedure.

(1) Application Contents. Each application for a conditional use must be submitted to the Zoning Administrator at least forty-five (45) days before any hearing by the Planning Commission. Unless waived by the Zoning Administrator, each application shall include all the following information about the subject property:

(a) name and address of applicant, and name and address of the owner or operator of the proposed structure or use, if different from the applicant;

(b) nature of the proposed use, including without limitation type of activity proposed, manner of operation, number of occupants and/or employees, hours of operation, number of vehicle trips, water and sewer use, and similar matters;

(c) vicinity map, location of the proposed use or structure, and its relationship to existing adjacent uses or structures, and use of adjacent property;

(d) area, dimensions and details of the proposed structure(s) or use(s), including without limitation, existing and proposed parking, landscaped areas, height and setbacks of any proposed buildings, and location and number of proposed parking/loading spaces and access ways;

(e) identification and location of all existing or proposed utilities; and,

(f) any other pertinent information that the Building & Zoning Administrator, Planning Commission or Council may require, including without limitation, the application contents required by Section 2.4(1).

(2) Filing Fee. All applications for conditional use shall be accompanied by payment of a non-refundable fee as established by the ***City of Clarkesville.***

(3) Disclosure Report. The requirements of Section 7 apply.

(4) Withdrawal of Conditional Use Application. Any application may be withdrawn at any time at the discretion of the applicant without prejudice, upon written notice to the Zoning & Planning Official, prior to a decision by the Council.

(5) Procedure Relative to Ex Parte Contact With Mayor and Council. The Planning Commission is not subject hereto. To maintain transparency and to avoid any appearance of impropriety in the decision-making process, there shall be no unsolicited substantive ex parte (individual) communication with the Mayor or Council members by an applicant or his/her representative(s) or by supporters of or

opposition to the rezoning, unless the Mayor or Councilperson agrees to such. Unsolicited E-mails, letters and faxes to the Mayor and Council as a whole, copied to the City Planner and City Clerk, are permissible. They will be made a part of the record. The applicant and his/her representative(s) and supporters and opponents are to limit their unsolicited verbal contacts with City officials and employees to the Zoning Administrator, City Manager, and to the City Attorney if the proposed contact is from legal counsel. Mayor and Council members will accept verbal presentations in the advertised public hearings and meetings, and via express solicitation or agreement in other instances. If an individual Mayor or Council member received unsolicited, unwanted substantive verbal communication by an applicant or his/her representative(s) or by supporters or opposition, said Mayor or Council member shall direct that person to the Zoning Administrator, City Manager and City Attorney and advise the person of upcoming public hearings, and disclose such to the Mayor and Council at the public hearing.

3.2 Notice Procedure. The requirements of Section 5 apply.

3.3 Planning Commission Hearing and Recommendation. The Planning Commission shall consider the standard in Section 3.5 prior to making any recommendation. Hearings shall comply with Section 6.

3.4 City Council Hearing and Decision. Before taking action on a conditional use application, the Council shall hold a hearing in accordance with Section 6, and shall consider the standards in Section 3.5. At the conclusion of the public hearing, the Council may approve or deny the application, delete conditions and/or impose additional conditions, or defer a decision until a specified meeting date.

3.5 Standards for Conditional Use Application Decisions. A conditional use shall be approved only when it is determined based on the evidence presented at the public hearing that all of the following conditions have been met:

(1) the proposed use will not be detrimental to adjacent properties or the general neighborhood, the proposed use will not significantly adversely affect public health, safety, morality and welfare, and the proposed use as designed will minimize adverse effects on the surrounding neighborhood;

(2) applicable standards in Article VIII have been met;

(3) the proposed use is consistent with the Comprehensive Plan, and the conditional use is compatible with the community development pattern;

(4) a rezoning to allow the requested use as a permitted use would not be appropriate;

(5) the proposed use will not be injurious to the natural environment or the other property in the immediate vicinity, or unconstitutionally diminish property values within the surrounding neighborhood;

(6) off-street parking and loading, and access thereto, will be adequate;

(7) public facilities and utilities are capable of adequately serving the proposed use, and the use would not lead to a major negative change in existing levels of public service, or fiscal stability;

(8) the use will not be an extension of a use which will cause a damaging volume of (a) agricultural, (b) commercial,(c) industrial, or (d) higher density residential use into a stable neighborhood of well-maintained single-family homes, nor likely lead to decreasing surrounding property values, neighborhood deterioration, spreading of blight, or additional requests of a similar nature which would expand the problem;

(9) the use would not significantly increase congestion, noise, or traffic hazards; and,

(10) granting this request would not have a “domino effect,” in that it becomes the opening wedge for further rapid growth, urbanization or other land-use change beyond what is indicated in the Comprehensive Plan.

Section 4 Variances.

The City Council may in specific cases approve such variance from the terms of this Ordinance as will not be contrary to the public interest where, due to special circumstances, a literal enforcement of the Ordinance in an individual case, will

result in unnecessary hardship, so that the spirit of the Ordinance shall be observed, public safety and welfare secured, and substantial justice done. A non-conforming use of neighboring land, buildings, or structures in the

same district or permitted or non-conforming uses in other districts shall not constitute a reason for the requested variance.

4.1 Use Variance Prohibited. No variance may be granted that would permit a use not permitted by right or as a conditional use in the district.

4.2 Application Procedure.

(1) Application Contents. Each application for a variance must be submitted to the Zoning & Planning Official at least forty-five (45) days before any hearing by the Planning Commission. Each application shall include all the following information about the subject property:

(a) name and address of applicant;

(b) location of structure and/or use for which the variance is sought, as shown on a plat by a licensed surveyor;

(c) relationship of structure and/or use to existing structures and uses on adjacent lots;

(d) specific sections of this Ordinance which would cause hardship;

(e) characteristics of property relating to its size, shape or topography that prevent compliance with this Ordinance;

(f) the particular hardship that would result from strict application of this Ordinance;

(g) for any application for an overlay district, a Certificate of Appropriateness or a letter of support from the Better Hometown Design Committee; and,

(h) any other pertinent information that the Building & Zoning Administrator, Planning Commission or Council may require, including without limitation the application contents required by 2.4(1).

(2) Filing Fee. All applications for variance shall be accompanied by payment of a non-refundable fee as established by the ***City of Clarkesville***.

(3) Disclosure Report. The requirements of Section 7 apply.

(4) Withdrawal of Variance Application. Any application may be withdrawn at any time at the discretion of the applicant without prejudice, upon written notice to Zoning Administrator, prior to a decision by the Council.

(5) Procedure Relative to Ex Parte Contact With Mayor and Council. The Planning Commission is not subject hereto. To maintain transparency and to avoid any appearance of impropriety in the decision-making process, there shall be no unsolicited substantive ex parte (individual) communication with the Mayor or Council members by an applicant or his/her representative(s) or by supporters of or opposition to the rezoning, unless the Mayor or Councilperson agrees to such. Unsolicited E-mails, letters and faxes to the Mayor and Council as a whole, copied to the City Planner and City Clerk, are permissible. They will be made a part of the record. The applicant and his/her representative(s) and supporters and opponents are to limit their unsolicited verbal contacts with City officials and employees to the Zoning Administrator, City Manager, and to the City Attorney if the proposed contact is from legal counsel. Mayor and Council members will accept verbal presentations in the advertised public hearings and meetings, and via express solicitation or agreement in other instances. If an individual Mayor or Council member received unsolicited, unwanted substantive verbal communication by an applicant or his/her representative(s) or by supporters or opposition, said Mayor or Council member shall direct that person to the City Planner, City Manager and City Attorney and advise the person of upcoming public hearings, and disclose such to the Mayor and Council at the public hearing.

4.3 Notice Procedure. The requirements of Section 4 apply.

4.4 Planning Commission Hearing and Recommendations. The Planning Commission shall consider the standards in Section 4.6 prior to making any recommendation. Hearings shall comply with Section 6.

4.5 City Council Hearing and Decision. Before taking action on a variance application, the Council shall hold a hearing in accordance with Section 6, and shall consider the standards in Section 4.6. At the conclusion of the public hearing,

the Council may approve or deny the application, approve with modifications or conditions, or defer a decision until a specified meeting date.

4.6 Required Findings for Variance Approval.

(1) there are extraordinary and exceptional conditions pertaining to the property because of size, shape, or topography;

(2) the literal application of this Ordinance would create an unnecessary hardship;

(3) variance would not cause substantial detriment to public good or impair the purposes or intent of this Ordinance;

(4) a variance will not confer upon the property of the applicant any special privilege denied to other properties in the district;

(5) the special circumstances surrounding the request for the variance are not the result of acts by the applicant;

(6) the variance is not a request to permit a use of land, buildings, or structures which is not permitted by right or by conditional use in the district;

(7) the zoning proposal is consistent with the construction and design standards and design criteria adopted by the City of Clarkesville; and,

(8) the variance is the minimum variance that will make possible an economically viable use of the land, building, or structure.

Section 5 - Notice Provision

Whenever a public hearing is required, posted and published notice shall be given as provided for in this Section.

5.1 Published Notice.

(1) Planning Commission Hearing. A public notice shall be published in the official legal organ of Habersham County, Georgia, or in a newspaper of general circulation in Clarkesville at least fifteen (15) days and not more than forty-five (45) days prior to the scheduled meeting of the Clarkesville Planning Commission, stating that the Planning Commission will hold a hearing and stating the purpose, time, date, and location of the hearing, the tax parcel number of the property, the present zoning classification, and a brief description of the nature of the zoning action proposed.

(2) City Council Hearing. A public notice shall be published in the official legal organ of Habersham County, Georgia, or in a newspaper of general circulation in Clarkesville at least fifteen (15) days and not more than forty-five (45) days prior to the scheduled meeting of the Council, stating that the Council will hold a hearing and stating the purpose, time, date, and location of the hearing, the tax parcel number of the property, the present zoning classification, and a brief description of the nature of the zoning action proposed.

5.2 Notice Posted on Property. Upon the filing of an application for any zoning action, the applicant shall cause to be erected in a conspicuous place on the subject property, no less than fifteen (15) days prior to the scheduled hearings, one (1) or more sign(s) furnished by the City, each of which shall contain information as to the proposed change and the date and time of the public hearings before the Council and Planning Commission. No such public hearing shall take place until said signs have been posted for at least fifteen (15) days. The sign shall read more or less as follows:

NOTICE TO PUBLIC

An application has been filed regarding this property requesting (FILL IN THE ZONING ACTION REQUESTED, for example: “a rezoning from [insert present zone] to [insert zone requested]”; or “application for a conditional use to use the property as
(insert proposed use)”; or “application for a variance to allow [insert proposed use]”, or “application for a text amendment to allow (insert proposed use]”). A public hearing will be held by the Clarkesville Planning Commission to review and consider a recommendation to the Clarkesville City Council at [LOCATION] , on [DATE], at [TIME]. The Clarkesville City Council will hold a public hearing and a decision will be made at [LOCATION] on [DATE], at [TIME]. All persons having an interest in this application should be at both of these public hearings to voice their interest. Call 706-754-4216, for more details. Such posting of the property is not required when the City enacts a new zoning map or initiates a text amendment. Nor is it necessary for the City to give actual written notice directly to the individual property owner. In such cases of City initiated

zoning actions, the notice published pursuant to Section 5.1 shall make express reference to "adoption of official zoning district map for Clarkesville, Georgia" or "amendment to the text of the City of Clarkesville Zoning Ordinance at section _____",
as the case may be. No further detail as to the new zoning district map will be necessary.

Section 6 - Public Hearing Procedure

Whenever a public hearing is required by this Ordinance or by state law to be held by the Planning Commission or Council prior to a proposed zoning action, such hearing, whether conducted by the Planning Commission or the Council, shall be governed by this Section, which is adopted pursuant to O.C.G.A. Section 36-66-5(a).

6.1 Administrative Record. Minutes of the meeting will be taken by a secretary to the Planning Commission or the City Clerk. A complete tape recording of a public hearing may be requested and will be available at the expense of a party making a timely request.

6.2 Presiding Officer to Call the Meeting to Order. The public hearing shall be called to order by the presiding officer, who shall summarize the requirements as to speakers' conduct and time limits, and other matters of procedure.

6.3 Staff Report. The Zoning Administrator, or his/her designee, shall report on the following:

(1) location of the property, present zoning classification, and description of requested zoning action;
(2) any report, investigation, or recommendations of the Zoning Administrator or his/her designee;
(3) for hearings before the Council, the recommendation of the Clarkesville Planning Commission and any additional information designated by the Planning Commission to be presented to the Council; and,
(4) any other information as may be reasonably required by Zoning Administrator, Planning Commission or Council.

6.4 Speakers' Conduct. All speakers shall speak only from the podium, shall address only the merits of the pending application, and shall address remarks only to the Planning Commission or Council. Each speaker shall refrain from personal attacks on any other speaker, any discussion irrelevant to the pending application, or any other inappropriate behavior. No debate or argument between speakers or with Commission or Council members will be allowed. Speakers shall not repeat previous comments, as repetition deprives other speakers of valuable time to provide new information.

The presiding officer or his/her designee shall refuse a speaker the right to continue, if the speaker, after once being cautioned, continues to violate any section of this Ordinance. Speakers should provide supporting documentation prior to the date of the hearing. Speakers shall sign the speaker list prior to the hearing.

6.5 Applicant's Initial Presentation. The applicant or applicant's representative shall present and explain the application after being permitted to proceed. The applicant will be allowed not less than ten (10) minutes combined total to make an initial presentation and subsequent rebuttal, but the applicant and all supporters shall have a combined time limit of no more than fifteen (15) minutes.

6.6 Other Interested Parties. After the applicant's presentation, interested persons who support the application, after being permitted to speak by the presiding officer, may address the proposed application by standing and stating their name, address, and interest and any comments on the pending application. Persons other than the applicant who support the application are allowed to speak in support of the pending application for no more than two (2) minutes each, and are also subject to the fifteen (15) minute combined total time limit. Persons opposing an application are allowed at least ten (10) minutes total as a group (and in no event less than the combined time used by the applicant and supporters), to address their opposition to the application. The opponents shall have a combined total time limit of no more than fifteen (15) minutes. It is suggested that supporters and opponents each obtain one (1) spokesperson to present their views. No individual except the applicant, or an attorney, or a designated
representative of a group, shall speak longer than two (2) minutes or more than one time.

6.7 Applicant's Summary. The applicant may make brief summary remarks using any reserved time, after which the presiding officer shall close the public hearing.

6.8 Deliberation and Action by the Planning Commission or City Council; Appeal. At the close of the public hearing, the Planning Commission or Council shall deliberate and take action. Deliberation may include questions to applicants, supporters and/or opponents. Actions shall be by majority vote. The Chairman and

Mayor may vote only in the event of a tie. Any person aggrieved by a decision of the Council shall have the right of appeal to a court of law if such appeal is filed within thirty (30) days of the decision of the Council.

Section 7 Disclosure of Campaign Contributions and/or Gifts.

When any applicant for any zoning action, or any supporter or opponent of any zoning action who has contacted the City to express an opinion or who wishes to speak at a public hearing or submit written opinion, has made within two (2) years immediately preceding the filing of that application campaign contributions totaling two hundred and fifty dollars ($250.00) or more to an official of the City of Clarkesville, it shall be the duty of said person to file a disclosure report with the City. In the case of the applicant, filing shall be within ten (10) days after the application is made, and in the case of a supporter or opponent, filing shall be at least five (5) days before the first public hearing. Such disclosure report shall include the name and official position of the official to whom the campaign contribution and/or gift was made, and the dollar amount, date, and description of each campaign contribution and/or gift made during the two (2) years immediately preceding the filing of the application.

Section 8 Conflict of Interest In Zoning Decisions.

Any City Official who has a property interest in any real property affected by a zoning action which the City will consider, or has a financial interest in any business entity which has a property interest in any real property affected by a zoning action which the City will consider, or has a member of the family having any such interest, shall immediately disclose the nature and extent of such interest, in writing, to the Council. Such City Official shall disqualify himself from attending, participating in or voting on the zoning action. Disclosures made in accordance with this Section shall be public record and available for public inspection during normal business hours. Terms used herein are defined below.

(1) BUSINESS INTEREST: Any corporation, partnership, limited liability company, limited partnership, limited liability partnership, firm, enterprise, franchise, association, or trust.

(2) FINANCIAL INTEREST: All direct ownership interests of total assets or capital stock of a business entity of ten percent (10%) or more.

(3) CITY OFFICIAL. The Mayor, Council member, or any member of the Planning Commission.

(4) MEMBER OF THE FAMILY. The spouse, parent, sibling, or child of a City Official.

(5) PROPERTY INTEREST: The direct ownership of real property, including any percentage of ownership.

Section 9: LEGAL PROVISIONS

Section 9.1 Conflict with Other Laws.

When the regulations of this Ordinance impose more restrictive standards than under other laws, this Ordinance shall govern. When the provisions of any other law impose more restrictive standards than this Ordinance, such other law shall govern.

Section 9.2 Severability.

If any part of this Ordinance is found invalid, such invalidity shall not affect the validity of the Ordinance as a whole or any part thereof other than the part declared invalid.

Section 9.3 Repeal of Conflicting Ordinances.

All ordinances and resolutions and parts thereof in conflict with this Ordinance are hereby repealed.

Section 9.4 Effective Date.

This Ordinance shall take effect and be in force from and after its adoption, the public welfare demanding it. Read and approved this __3rd__ day of October, 2011, after public notice and a public hearing.

CITY OF Clarkesville, GEORGIA Attest: _____
[AFFIX CITY SEAL] Elizabeth Kemp, City Clerk

_____J. Terry Greene, Mayor