

CODE OF ORDINANCES

CITY OF CONCORD, GEORGIA

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**CODE OF THE
CITY OF CONCORD, GEORGIA**

**The General Ordinances of
the City of Concord, Georgia**

Ordained and Published

**By Order of the
Mayor and Council**

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THE CHARTER

Editorial Note: The Charter of the City of Concord is derived from GA.L. 1984, p. 4793. Any subsequent amendments to the 1984 act are indicated by historical notes at the end of sections. Severability and repealer clauses and the effective date section which appeared as the final sections of the charter have been omitted from this codification.

- Article 1 Creation, Incorporation, Powers
- Article 2 Government Structure
- Article 3 Administrative Affairs
- Article 4 Municipal Court
- Article 5 Elections and Removal
- Article 6 Finance
- Article 7 General Provisions

ARTICLE 1

Creation, Incorporation, Powers

- § 1.10 Incorporation
- § 1.11 Corporate boundaries
- § 1.12 Powers and construction
- § 1.13 Examples of powers
- § 1.14 Exercise of powers

Section 1.10 Incorporation

This act shall constitute the whole charter of the city of Concord, repealing and replacing the charter provided by an Act of General Assembly approved July 29, 1914 (GA L. 1914, p. 658), as amended. The City of Concord, Georgia, in the County of Pike, and the inhabitants thereof are constituted and declared a body politic and corporate under the same name and style of Concord, Georgia, and by that name shall have perpetual succession, may bring and defend any action, may plead and be impleaded in all courts and in all actions whatsoever, and may have and use a common seal and change it at pleasure.

Section 1.11 Corporate boundaries

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

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

Section 1.12 Powers and construction

- (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.
- (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

The corporate powers of this city may include but are not limited to the following:

- (1) Property taxes. To levy and to provide for the assessment, valuation, revaluation, and collection of taxes on all property subject to taxation;
- (2) Other taxes. To levy and collect such other taxes as may be allowed now or in the future by state law;
- (3) Business regulation and taxation. To levy and to provide for the collection of license fees and taxes on privileges, occupations, trades and professions; to license and regulate the same; to provide for the manner and method of payment of such licenses and taxes; and to revoke such licenses after due process for failure to pay any city taxes or fees;
- (4) 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;
- (5) 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;
- (6) Municipal property ownership. To acquire, dispose of, 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;
- (7) Gifts. To accept or refuse gifts, donations, bequests or grants from any source for any purpose related to the 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;

- (8) 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, under Title 22 of the O.C.G.A, relating to eminent domain, or under other applicable public acts as are or may be enacted;
- (9) Municipal utilities. To acquire, lease, construct, operate, maintain, sell and dispose of public utilities, including but not limited to a system of waterworks, sewers and drains, sewage disposal, gas works, electric light plants, transportation facilities, public airports, and any other public utility; to fix the taxes, charges, rates, fares, fees, assessments, regulations and penalties and withdrawal of service for refusal or failure to pay same and the manner in which such remedies shall be enforced;
- (10) Public utilities and services. To grant franchises or make contracts for public utilities and public service, 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 by the Public Service Commission;
- (11) 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, otherwise improve, maintain, repair, clean, prevent erosion of, and light 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;
- (12) 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 any other public improvements, inside or outside the corporate limits of the city; and to regulate the use thereof, and for such purposes, property may be acquired by condemnation under Title 22 of the O.C.G.A relating to eminent domain, or other applicable public acts, as are or may be enacted;
- (13) Sidewalk maintenance. To require real estate owners to repair and maintain in a safe condition the sidewalks adjoining their lots or lands; and to enact ordinances establishing the terms and conditions under which such repairs and maintenance shall be effected, including the penalties to be imposed for failure to do so;
- (14) Building regulation. To regulate the erection and construction of buildings and all other structures; to adopt building, housing, plumbing, electrical, gas, and heating and air conditioning codes and to regulate all housing, building, and building trades; to license the construction and erection of buildings and all other structures;

- (15) Planning and zoning. To provide such comprehensive city planning for development by zoning, subdivision regulation and the like as the city council deems necessary and reasonable to insure a safe, healthy, and aesthetically pleasing community;
- (16) Public peace. To provide for the prevention and punishment of drunkenness, riots, and public disturbances;
- (17) Special areas of public regulation. To regulate or prohibit junk dealers; pawn shops; the manufacture, sale or transportation of intoxicating liquors; the use and sale of firearms; 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 trades, theatrical performances, exhibitions, shows of any kind whatever, by taxation or otherwise; to license, tax, regulate, or prohibit professional fortune telling, palmistry, adult bookstores, and massage parlors;
- (18) 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;
- (19) Health and sanitation. To prescribe standards of health and sanitation and to provide for the enforcement of such standards;
- (20) Air and water pollution. To regulate the emission of smoke or other exhaust which pollutes the air and to prevent the pollution of natural streams which flow within the corporate limits of the city;
- (21) Fire regulations. To fix and establish fire limits and from time to time to extend, enlarge or restrict same; to prescribe fire safety regulations not inconsistent with general law, relating to both fire prevention and detection and to fire fighting, and to prescribe penalties and punishment for violation thereof;
- (22) 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;
- (23) 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;

- (24) 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;
- (25) 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 the users of sewers and the sewerage system a sewer service charge fee or sewer tax for the use of the sewers; and to provide for the manner and method of collecting such service charges and for enforcing payment of same; to charge, impose and collect a sewer connection fee or fees, and to charge the same from time to time; such fees to be levied on the users connecting with the sewerage system;
- (26) Nuisance. To define a nuisance and provide for its abatement whether on public or private property;
- (27) 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;
- (28) Jail sentences. To provide that persons given jail sentences in the municipal court shall work out such sentence in any public works or on the streets, roads, drains and squares in the city; or to provide for commitment of such persons to any county work camp or jail by agreement with the appropriate county officials;
- (29) Animal regulations. To regulate and license, or 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; also to provide for their disposition by sale, gift, or humane destruction, when not redeemed as provided by ordinance; to provide punishment for violation of ordinances enacted hereunder;
- (30) 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;
- (31) 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 and rent parking spaces in public ways for the use of such vehicles;

- (32) Pensions. To provide and maintain a system of pensions and retirement for officers and employees of the city;
- (33) Special assessments. To levy and provide for the collection of special assessments to cover the costs for any public improvements;
- (34) Contracts. To enter into contracts and agreements with other governmental entities and with private persons, firms and corporations providing for services to be made therefore;
- (35) City 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 same;
- (36) Penalties. To provide penalties for violations of any ordinance adopted pursuant to the authority of this charter and the laws of the State of Georgia;
- (37) Police and fire protection. To exercise the power of arrest through duly appointed police officers and to organize and operate a fire fighting agency;
- (38) 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;
- (39) Urban redevelopment. To organize and operate an urban redevelopment program;
- (40) Public transportation. To organize and operate such public transportation systems as are deemed beneficial;
- (41) 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;
- (42) 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 to carry into execution all powers granted in this charter as fully, and completely as if such powers were fully stated herein; and to exercise all powers now or in the future authorized to be exercised by other municipal governments under other laws of the State of Georgia. No listing of particular powers in this charter shall be held to be exclusive of others, nor restrictive of

general words and phrases granting powers; but shall be held to be in addition to such powers unless expressly prohibited to municipalities under the Constitution or applicable laws of the State of Georgia.

Section 1.14 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 shall be carried into execution as provided by ordinance or as provided by pertinent laws of the State of Georgia.

ARTICLE II
Government Structure

- § 2.10 City council creation; composition; number; election
- § 2.11 City council terms and qualification for office
- § 2.12 Vacancy; filling of vacancies
- § 2.13 Compensation and expenses
- § 2.14 Holding other office
- § 2.15 Conflict of interest; disclosure
- § 2.16 Inquiries and investigations
- § 2.17 General power and authority of the city council
- § 2.18 Organization meeting
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- § 2.26 Signing; authenticating; recording; codification; printing
- § 2.27 Powers and duties of the mayor
- § 2.28 Submission of ordinances to the mayor; veto power
- § 2.29 Mayor pro tempore; selection; duties

Section 2.10 City council creation; composition; number; election

The legislative authority of the government of this city except as otherwise specifically provided in this charter, shall be vested in a city council to be composed of a mayor and five (5) council members. The mayor and council members shall be elected in the manner provided by Article V of this charter.

Section 2.11 Mayor and city council; terms and qualification for 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 council member unless he meets the requirements of a qualified elector for members of the General Assembly as prescribed by state law, has been a resident of the city for three (3) months prior to the date of the election of mayor or members of the city council, and has no debts outstanding against him in favor of the city. The mayor and each council member shall continue to reside therein during his period of service; and shall be registered and qualified to vote in municipal elections of this city.

Section 2.12 Vacancy; filling of vacancies

- (a) The office of mayor or council member 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 general laws of the State of Georgia.
- (b) A vacancy in the office of mayor or council member shall be filled for the remainder of the unexpired term, if any, as provided for in Article V.

Section 2.13 Compensation and expenses

The mayor and council members shall receive compensation for their services in an amount set by ordinance, but any increase in compensation shall be subject to Section 36-35-4 of the O.C.G.A., or any similar law hereafter enacted. The mayor and council members shall be entitled to receive their actual and necessary expenses incurred in the performance of their duties of office.

Section 2.14 Holding other office

Except as authorized by general state law, neither the mayor nor any other council member shall hold any other city office or city employment during the term for which he was elected.

Section 2.15 Conflict of interest; disclosure

- (a) No elected official, appointed officer, or employee of the city or any agency or political entity to which this charter applies shall knowingly;
 - (1) Engage in any business or transaction or have a financial or other personal interest, direct or indirect, which is incompatible with the proper discharge of his/her official duties or which would tend to impair his/her independence of judgment or action in the performance of his/her official duties;
 - (2) Engage in or accept private employment or render services for private interest when such employment or service is incompatible with the proper discharge of his/her official duties or would tend to impair the independence of his/her judgment or action in the performance of his/her official duties.
 - (3) Disclose confidential information concerning the property, government, or affairs of the governmental body by which he/she is engaged without proper legal authorization, or use such information to advance the financial or other private interest of himself/herself or others ;
 - (4) Accept any valuable gift , whether in the form of service, loan, thing, or promise, from any person, firm or corporation which to his/her knowledge is interested, directly or indirectly, in any manner whatsoever in business dealings with the governmental body by which he/she is engaged; provided, however, that an elected

official who is a candidate for public office may accept campaign contributions and services in connection with any such campaign;

- (5) Represent other private interests in any action or proceeding against this city or any portion of its government;
 - (6) Vote or otherwise participate in the negotiation or the making of any contract with any business or entity in which he/she has a financial interest.
- (b) Any elected official, appointed officer, or employee who shall have any private financial interest, directly or indirectly, in any contract or matter pending before or within any department of the city shall disclose such private interest to the city council. The mayor or any council member who has a private interest in any matter pending before the city council shall disclose such private interest and such disclosure shall be entered on the records of the city council and he/she shall disqualify himself/herself from participating in any decision or vote relating thereto. Any elected official, appointed officer, or employee of any agency or political entity to which this charter applies who shall have any private financial interest, directly or indirectly, in any contract or matter pending before or within such entity shall disclose such private interest to the governing body of such agency or entity.
- (c) No elected official, appointed officer, or employee of the city or any agency or entity to which this charter applies shall use property owned by such government for personal benefit, convenience, or profit except in accordance with policies promulgated by the city council or the governing body of such agency or entity.
- (d) Any violation of this section which occurs with the knowledge, express or implied, of another party to a contract or sale shall render said contract or sale voidable as to that party, at the option of the city council.
- (e) Except where authorized by law, neither the mayor nor any council member shall hold any other elective or compensated appointive office in the city or otherwise be employed by said government or any agency thereof during the term for which he/she was elected. No former mayor and no former council member shall hold any compensated appointive office in the city until one (1) year after the expiration of the term for which he/she was elected.
- (f) No appointive officer and no employee of the city shall continue in such employment upon qualifying as a candidate for nomination or election to any public office.
- (g) Penalties for violation
- (1) Any city officer or employee who knowingly conceals such financial interest or knowingly violates any of the requirements of this section shall be guilty of malfeasance in office or position and shall be deemed to have forfeited his/her office or position.

- (2) Any officer or employee of the city who shall forfeit his/her office or position as described in (1) above, shall be ineligible for appointment or election to or employment in a position in the city government for a period of three (3) years thereafter.

Section 2.16 Inquiries and investigations

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

Section 2.17 General power and authority of the city council

- (a) Except as otherwise provided by this charter, the city council shall be vested with all the powers of government of this city as provided by Article I.
- (b) In addition to all other powers conferred upon it by law, the council shall have the authority to adopt and provide for the creation 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, property, health, welfare, sanitation, comfort, convenience, prosperity, or well-being of the inhabitants of this city. The council may enforce such ordinances by imposing penalties for the violation thereof.

Section 2.18 Organization meeting

The city council shall meet for organization on the first Tuesday following the final determination of election results in each year. The meeting shall be called to order by the city clerk and the oath of office shall be administered to the newly elected members as follows:

"I do solemnly swear (or affirm) that I will faithfully perform the duties of (mayor or council member as the case may be) of this city and that I will support and defend the charter thereof as well as the Constitution and laws of the State of Georgia and of the United States of America."

Section 2.19 Regular and special meetings

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

- (b) Special meetings of the city council may be held on call of the mayor or three (3) 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 council members shall not be required if the mayor and all council members are present when the special meeting is called. Such notice of any special meeting may be waived by a council member 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 council member's 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 general state law and notice to the public of all meetings shall be made as required by general state law.

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 keeping a journal of its proceedings, which shall be a public record.
- (b) All committees and committee chairpersons of the city council shall be appointed by the mayor. The mayor shall have the power to remove members of any committee and the power to appoint new members to any committee, at any time, within the mayor's discretion.

Section 2.21 Quorum; voting

Three (3) council members and the mayor or two council members plus the mayor pro tempore in the mayor's absence shall constitute a quorum and shall be authorized to transact business of the city council. Voting on the adoption of ordinances shall be taken by voice vote and the ayes and nays shall be recorded in the journal, but any member of the city council shall have the right to request a roll call vote. The affirmative vote of a majority of votes cast shall be required for the adoption of any ordinance, resolution, or motion except as otherwise provided in this charter. The mayor or mayor pro tempore if presiding, shall be entitled to vote only in the case of a tie.

Section 2.22 Action requiring an ordinance

In addition to other acts required by general state law or by specific provisions of this charter to be done by ordinance, acts of the city council which have the force and effect of law shall be done by ordinance.

Section 2.23 Ordinance form; procedure

- (a) Every 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 "The Council of the City of Concord hereby ordains ..." and

every ordinance shall so begin.

- (b) An ordinance may be introduced by any council member 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; provided, however, an ordinance shall not be adopted the same day it is introduced, except for emergency ordinances provided in Section 2.24. Upon introduction of any ordinance, the clerk shall as soon as possible distribute a copy to the mayor and to each council member and shall file a reasonable number of copies in the office of the clerk and at such other public places as the city council may designate.

Section 2.24 Emergencies

To meet a public emergency affecting life, health, property or public peace, the city council may convene on call of the mayor or three (3) council members 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 it in clear and specific terms. An emergency ordinance may be adopted with or without amendment or rejected at the meeting at which it is introduced, but the affirmative vote of at least three (3) council members or two (2) council members and the presiding officer in the event of a tie vote 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.

Section 2.25 Codes of technical regulations

- (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:
 - (1) the requirements of Section 2.23 (b) for distribution and filing of copies of the ordinance shall be construed to include copies of any code of technical regulations, as well as the adopting ordinance; and
 - (2) a copy of each adopted code of technical regulations, as well as the adopting ordinance, shall be authenticated and recorded by the clerk pursuant to Section 2.26.
- (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 Signing; authenticating; recording; codification; printing

- (a) The clerk shall authenticate by his/her signature and record in full in a properly indexed book kept for the purpose all ordinances adopted by the council.
- (b) The city council shall provide for the preparation of a general codification of all of the ordinances of the city having the force and effect of law. The general codification shall be adopted by the city council by ordinance and shall be published promptly, together with all amendments thereto and such codes of technical regulations and other rules and regulations as the city council may specify. The compilation shall be known and cited officially as "The Code of the City of Concord, Georgia." Copies of the code shall be furnished to all officers, departments and agencies of the city, and made available for purchase by the public at a reasonable price as fixed by the city council.
- (c) The city council shall cause each ordinance and each amendment to this charter to be printed promptly following its adoption, and the printed ordinances and charter amendments shall be made available for purchase by the public at reasonable prices to be fixed by the city council. Following publication of the first code under this charter and at all times thereafter, the ordinances and charter amendments shall be printed in substantially the same style as the code currently in effect and shall be suitable in form for incorporation therein. The city council shall make such further arrangements as deemed desirable with respect to reproduction and distribution of any current changes in or additions to codes of technical regulations and other rules and regulations included in the code.

Section 2.27 Powers and duties of the mayor

The mayor shall:

- (1) see that all laws and ordinances of the city are faithfully executed;
- (2) preside at all meetings of the city council and have the right to take part in the deliberations of council, but refrain from voting on any question except in the case of a tie;
- (3) be the official head and spokes person for the city for service of process and ceremonial purposes;
- (4) sign as a matter of course all written contracts, ordinances and other instruments executed by the city which by law are required to be in writing;
- (5) prepare and submit to the city council a recommended annual operating budget and recommended capital budget;
- (6) be clothed with veto power as provided in section 2.28;

- (7) fulfill such other executive and administrative duties as city council shall by ordinance establish, or as may now or hereafter be required by general state law.

Section 2.28 Submission of ordinances to the mayor; veto power

- (a) Every ordinance adopted by the city council shall be presented promptly by the clerk to the mayor.
- (b) The mayor, within 10 calendar days of receipt of an ordinance, shall return it to the clerk with or without his approval, or with his 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 12:00 noon on the 10th 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 reasons for the veto. The clerk shall record upon the ordinance the date of its delivery to and receipt from the mayor.
- (c) 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 four (4) members, it shall become law.

Section 2.29 Mayor Pro tempore; selection; duties

At each organizational meeting under section 2.18, the city council shall elect by majority vote from among their members a mayor pro tempore who shall assume the duties and powers of the mayor upon the mayor's disability or absence. The city council shall elect an acting mayor pro tem from among their members for any period in which the mayor pro tem is disabled, absent or acting as mayor. Any such absence or disability shall be declared by majority vote of all the council members present.

ARTICLE III
Administrative Affairs

- § 3.10 Administrative and service departments
- § 3.11 Boards, commissions and authorities
- § 3.12 City attorney
- § 3.13 City clerk
- § 3.14 City treasurer
- § 3.15 Consolidation of functions
- § 3.16 Personnel policies

Section 3.10 Administrative and service departments

- (a) Except as otherwise provided in this charter, the city council, by ordinance, shall prescribe the functions or duties and establish, abolish, or alter all non-elective offices, positions of employment, departments and agencies of the city, as necessary for the proper administration of the affairs and government of this city.
- (b) Except as otherwise provided by this charter or general state law, the heads of departments and other appointed officers of the city shall be appointed solely on the basis of their respective administrative and professional qualifications.
- (c) All appointive officers and heads of departments shall receive such compensation as prescribed by ordinance.
- (d) There shall be a head of each department or agency who shall be its principal officer. Each department head shall, subject to the direction and supervision of the mayor, be responsible for the administration and direction of the affairs and operations of his/her department or agency.
- (e) All department heads under the supervision of the mayor shall be nominated by the mayor with confirmation of appointment by the city council. The mayor may suspend or remove department heads under his supervision but such shall not be effective for 21 calendar days following the mayor giving written notice of such action and the reasons therefore to the department head involved and the city council. The department head involved may appeal to the city council who, after a hearing, may override the mayor's action by a vote of three (3) council members.

Section 3.11 Boards, commissions and authorities

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

- (b) All members of boards, commissions and authorities of the city shall be appointed by the mayor, subject to approval by city council for such terms of office and in such manner as shall be provided by ordinance, except where other appointing authority, term of office or manner of appointment is prescribed by this charter or general state law.
- (c) The city council, by ordinance, may provide for the compensation and reimbursement for actual and necessary expenses of the members of any board, commission, or authority.
- (d) No member of any board, commission or authority shall hold any elective office in the city.
- (e) Any vacancy on 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 general state law.
- (f) No member of a board, commission or authority shall assume office until he has executed and filed with the clerk of the city an oath obligating himself/herself to faithfully and impartially perform the duties of his office, such oath to be prescribed by ordinance and administered by the mayor.
- (g) Any member of a board, commission or authority may be removed from office for cause by a vote of three (3) members of the city council.
- (h) Except as otherwise provided by this charter or by general state law, each board, commission or authority of the city shall elect one of its members as chairperson and one member as vice chairperson 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 by-laws, rules and regulations, not inconsistent with this charter, ordinances of the city, or general state law, as it deems appropriate and necessary for the fulfillment of its duties or 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 representing and defending 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 required of him/her by virtue of his/her position as city attorney.

Section 3.13 City clerk

The city council shall appoint a city clerk who shall not be a council member. The city clerk shall be custodian of the official city seal; maintain city council records required by this charter; and perform such other duties as may be required by the city council.

Section 3.14 City treasurer

The city council may appoint a city treasurer to perform the duties of a treasurer and fiscal officer.

Section 3.15 Consolidation of functions

The city council may consolidate the positions of city clerk, city treasurer or any other positions or may assign the functions of any one or more of such positions to the holder or holders of any other positions.

Section 3.16 Personnel policies

The city council may adopt rules and regulations consistent with this charter concerning:

- (1) the method of employee selection and probationary periods of employment;
- (2) the administration of a position classification and pay plan, 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;
- (4) such dismissal hearings as due process may require; and
- (5) such other personnel policies as may be necessary to provide for adequate and systematic handling of personnel affairs.

ARTICLE IV
Municipal Court

- § 4.10 Creation; name
- § 4.11 Chief judge, associate judge
- § 4.12 Convening
- § 4.13 Jurisdiction; powers
- § 4.14 Certiorari
- § 4.15 Rules for court

Section 4.10 Creation; name

There shall be a court to be known as the Municipal Court of the City of Concord.

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 associate 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 he/she shall have attained the age of 21 years and shall be a member of the State Bar of Georgia. All judges shall be appointed by the city council.
- (c) Compensation of the judges shall be fixed by ordinance.
- (d) Judges may be removed for cause by a vote of three (3) members of the city council.
- (e) Before entering on duties of his/her office, each judge shall take an oath given by the mayor, that he/she will honestly and faithfully discharge the duties of his/her office to the best of his/her ability without fear, favor, or partiality. The oath shall be entered upon the minutes of the city council.

Section 4.12 Convening

The municipal court shall be convened at regular intervals as designated by ordinance or as provided by ordinance.

Section 4.13 Jurisdiction; powers

- (a) The municipal court shall try and punish violations of all city ordinances.
- (b) The municipal court shall have authority to punish those in its presence for contempt, provided that such punishment shall not exceed \$100 or 10 days in jail.

- (c) The municipal court may fix punishment for offenses within its jurisdiction not exceeding a fine of \$1,000 or imprisonment for 12 months or both, or to sentence any offender upon conviction to labor in a city work gang or on the streets, sidewalks, squares, or other public works for a period not exceeding 12 months.
- (d) The municipal court shall have authority to establish a schedule of fees to defray the cost of operation and shall be entitled to reimbursement of the cost of meals, transportation and caretaking of prisoners bound over to superior courts for violations of state law.
- (e) The municipal court shall have authority to establish bail and recognizance to insure the presence of those charged with violations before said court, and shall have discretionary authority to accept cash or personal or real property as surety for the appearance of persons charged with violations. Whenever any person shall give bail for their appearance and shall fail to appear at the time fixed for trial, bond shall be forfeited by the judge presiding at such time, and an execution issued thereon by serving the defendant and his/her 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, 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.
- (f) 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.
- (g) 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.
- (h) The municipal court may compel the presence of all parties necessary to a proper disposal of each case by the issuance of summons, subpoenas and warrants which may be served as executed by any officer as authorized by this charter or by general state law.
- (i) The municipal court is specifically vested with all of the jurisdiction and powers throughout the entire area of this city granted by general state laws to mayor's, recorder's and police courts, and particularly by such laws as authorize the abatement of nuisances and prosecution of traffic violations.

Section 4.14 Certiorari

The right of certiorari from the decision and judgment of the municipal court shall exist in all criminal cases, and such certiorari shall be obtained under the sanction of a judge of the Superior Court of Pike 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 toto the rules and regulations for procedure in the superior court under the general laws of the State of Georgia. 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.

ARTICLE V
Elections and Removal

- § 5.10 Applicability of general law
- § 5.11 Regular elections; time for holding
- § 5.12 Special elections; vacancies
- § 5.13 Other provisions
- § 5.14 Non-partisan elections
- § 5.15 Election by plurality.

Section 5.10 Applicability of general law

All primaries and elections shall be held and conducted in accordance with Title 21, Chapter 3 of the O.C.G.A., the Georgia Municipal Election Code, as now or hereafter amended.

Section 5.11 Regular elections; time for holding

- (a) On the first Saturday in August, 1984, and on that day annually thereafter, there shall be an election for successors to the council members and mayor, if applicable, whose terms will expire the following September. The terms of office shall begin at the time of taking the oath of office as provided in section 2.18 of this charter.
- (b) The mayor and the council members from Posts 1 and 2 shall be elected in 1984 and in every even-numbered year thereafter.
- (c) The council members from Posts 3, 4, and 5 shall be elected in 1985 and in every odd-numbered year thereafter.
- (d) The mayor and council members in office on the effective date of this charter shall remain in office until their successors are elected and take office as provided in this charter.

Section 5.12 Special elections; vacancies

In the event that the office of mayor or council member shall become vacant for any cause whatsoever, the city council or those remaining shall order a special election to fill the balance of the unexpired term of such office; provided, however, if such vacancy occurs within six (6) 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, other respects, the special election shall be held and conducted in accordance with Chapter 3 of Title 21 of the O.C.G.A. "Georgia Municipal Election Code", 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 Chapter 3 of Title 21 of the O.C.G.A., the “Georgia Municipal Election Code”, as now or hereafter amended.

Section 5.14 Non-partisan elections

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

Section 5.15 Election by plurality

The person receiving a plurality of the votes cast for any city office shall be elected.

ARTICLE VI
Finance

- § 6.10 Property tax
- § 6.11 Millage rate, due dates, payment methods
- § 6.12 Occupation and business taxes
- § 6.13 Licenses, permits, fees
- § 6.14 Franchises
- § 6.15 Service charges
- § 6.16 Special assignments
- § 6.17 Construction other taxes
- § 6.18 Collection of delinquent taxes and fees
- § 6.19 General obligation bonds
- § 6.20 Revenue bonds
- § 6.21 Short term notes
- § 6.22 Fiscal year
- § 6.23 Budget and audit
- § 6.24 Tax levies
- § 6.25 Changes in appropriations
- § 6.26 Contracting procedures
- § 6.27 Centralized purchasing
- § 6.28 Sale of city property

Section 6.10 Property tax

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 6.11 Millage rate, due date, payment methods

The city council, by ordinance, shall establish a millage rate for the city property taxes, a due date, and in what length of time these taxes must be paid. The city council, by ordinance, may provide for the payment of these taxes by installments or in one lump sum, as well as authorize the voluntary payment of taxes prior to the time when due.

Section 6.12 Occupation and business taxes

The city council by ordinance shall have the power to levy such occupation or business taxes as are not denied by general state law. Such taxes may be levied on both individuals and corporations who transact business in this city or who practice or offer to practice any profession or calling therein to the extent such persons have a constitutionally sufficient nexus to this city

to be so taxed. The city council may classify businesses, occupations, professions or callings for the purpose of such taxation in any way which may be lawful and compel the payment of such taxes as provided in section 6.18.

Section 6.13 Licenses, permits, fees

The city council by ordinance shall have the power to require any individuals or corporations who transact business in this city or who practice or offer to practice any profession or calling therein to obtain a license or permit for such activity from the city and pay a reasonable fee for such license or permit where such activities are not now regulated by general state law in such a way as to preclude city regulation. Such fees may reflect the total cost to the city of regulating the activity and if unpaid shall be collected as provided in section 6.18. The city council by ordinance may establish reasonable requirements for obtaining or keeping such licenses as the public health, safety, and welfare necessitate.

Section 6.14 Franchises

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, cable television, gas companies, transportation companies and other similar organizations. The city council shall determine the duration, provisions, terms, whether the same shall be exclusive or nonexclusive, and the consideration for such franchises. No franchise shall be granted unless the city receives just and adequate compensation therefore. The city council shall provide for the registration of all franchises with the city clerk in a registration book to be kept by him/her. The city council may provide by ordinance for the registration within a reasonable time of all franchises previously granted.

Section 6.15 Service charges

The city council by ordinance shall have the power to assess and collect fees, charges, and tolls for sewer, sanitary, health services, or any other services rendered within and without the corporate limits of the city for the total cost to the city of providing such services. If unpaid, such charges shall be collected as provided in section 6.18.

Section 6.16 Special assessments

The city council by ordinance shall have the power to assess and collect the cost of constructing, reconstructing, widening or improving any public way, street, sidewalk, curbing, gutters, sewers, or other utility mains and appurtenances from the abutting property owners under such terms and conditions as are reasonable. If unpaid, such charges shall be collected as provided in section 6.18.

Section 6.17 Construction; other taxes

This city shall be empowered to levy any other tax allowed now or hereafter 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 this city to govern its local affairs.

Section 6.18 Collection of delinquent taxes and fees

The city council by ordinance may provide generally for the collection of delinquent taxes, fees, or other revenue due the city under sections 6.10 through 6.17 by whatever reasonable means as are not precluded by general state law. This shall include providing for the dates when the taxes or fees are due; late penalties or interest; issuance and execution of fi.fa's.; creation and priority of liens; making delinquent taxes and fees personal debts of the persons required to pay the taxes or fees imposed; revoking city licenses for failure to pay any city taxes or fees; allowing exceptions for hardship; and providing for the assignment or transfer of tax executions.

Section 6.19 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 6.20 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 6.21 Short term notes

The city must obtain and repay any short-term loans between January 1 and December 31 of the calendar year in which the loan was obtained or as is otherwise provided by present or future state law.

Section 6.22 Fiscal year

The city council shall set the fiscal year by ordinance. The fiscal year shall constitute the budget year and the year for financial accounting and reporting of each and every office, department, agency and activity of the city government, unless otherwise provided by general state or federal law.

Section 6.23 Budget and audit

The city shall conform to those budget and audit requirements established pursuant to chapter 81 of title 36 of the O.C.G.A., relating to budgets and audits for local governments. For such purposes the mayor shall be the budget officer of the city.

Section 6.24 Tax levies

Following adoption of the operating budget, the city council shall levy by ordinance such taxes as are necessary, The taxes and tax rates set by such ordinance 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 the city.

Section 6.25 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 inappropriate surplus in the fund to which it applies or on a revised estimate of revenue.

Section 6.26 Contracting procedures

No contract with the city shall be binding on the city unless:

- (1) it is in writing;
- (2) it is drawn by or submitted and reviewed by the city attorney and as a matter of course is signed by him to indicate such drafting or review; and
- (3) it is made or authorized by the city council and such approval is entered in the council minutes.

Section 6.27 Centralized purchasing

The city council may prescribe procedures for a system of centralized purchasing for the city.

Section 6.28 Sale of city property

- (a) The city council may sell and convey any real or personal property, except a public utility, owned or held by the city for governmental or other purposes as provided by chapter 37 of title 36 of the O.C.G.A., relating to acquisition and disposition of property. A public utility held or owned by the city may not be sold or conveyed unless the sale or conveyance is approved by a majority of the qualified voters of the city voting in a special election which shall be called for that purpose.

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

- (c) Whenever in opening, extending or widening any street, avenue, alley or public place of the city, a small parcel or tract of land is cut off or separated by such work from a larger tract or boundary of land owned by the city the city council may authorize the mayor to execute and deliver in the name of the city a deed conveying said cut off or separated parcel or tract of land to an abutting or adjoining property owner or owners in exchange for rights of way of said street, avenue, alley or public place or in settlement of any alleged damages sustained by said abutting or adjoining property owner. 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

- § 7.10 Official bonds
- § 7.11 Prior ordinances
- § 7.12 Pending matters
- § 7.13 Penalties
- § 7.14 Construction

Section 7.10 Official bonds

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

Section 7.11 Prior ordinances

All ordinances, bylaws, rules and regulations now in force in the city not inconsistent with this charter, are hereby declared valid and of full effect and force until amended or repealed by the city council.

Section 7.12 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 dealt with by such city agencies, personnel or offices as may be provided by the city council.

Section 7.13 Penalties

The violation of any provisions 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 \$500 or by imprisonment not to exceed 90 days or both such fine and imprisonment.

Section 7.14 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 intended to be mandatory and the word "may" is discretionary.
- (c) The singular shall include the plural and the masculine the feminine and vice versa.

TITLE 1
General Provisions

Chapter 1 Use of Code and Penalties

- § 1-1-1 How code designated and cited
- § 1-1-2 Rules of construction
- § 1-1-3 Catchlines of sections
- § 1-1-4 Severability of parts of code
- § 1-1-5 General penalty; continuing violations
- § 1-1-6 Amendments to code; effect of new ordinances; amendatory language
- § 1-1-7 Altering code

Section 1-1-1 How code designated and cited

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

Section 1-1-2 Rules of construction

In the construction of this code and of all ordinances, the following rules shall be observed, unless such construction would be inconsistent with the manifest intent of the mayor and council:

- (1) City. The words "the city" or "this city" shall be construed as if the words "of Concord" followed.
- (2) Computation of time. When a number of days is prescribed for the exercise of any privilege, or the discharge of any duty, only the first or last day shall be counted; and if the last day shall fall on Saturday or Sunday, the party having that privilege or duty, shall have through the following Monday to exercise that privilege or to discharge such duty.
- (3) Council. The word "council" shall mean the Council of the City of Concord.
- (4) County. The words "the county" or "this county" shall mean the County of Pike.
- (5) Gender. A word importing the masculine gender only shall extend and be applied to females and to firms, partnerships and corporations as well as to males.
- (6) 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 this code imposes greater restrictions upon the subject matter than the general provision imposed by this code, the provision imposing the greater restriction or regulation shall be deemed to be controlling.

- (7) Joint authority. All words giving a joint authority to three (3) or more persons or officers shall be construed as giving that authority to a majority of those persons or officers.
- (8) Keeper and proprietor. The words "keeper" and "proprietor" shall mean and include persons, firms, associations, corporations, clubs and copartnerships, whether acting by themselves or as a servant, agent or employee.
- (9) Limits or corporation. The words "limits" or "corporation," shall mean the corporate limits (legal boundary) of the city.
- (10) Mayor. Whenever the word "mayor" is used it shall mean the Mayor of the City of Concord.
- (11) Month. The word "month" shall mean a calendar month.
- (12) Municipality. Wherever the word "municipality" appears in this code, it shall mean the City of Concord, Georgia.
- (13) Name of officer. Whenever the name of an officer is given, it shall be construed as though the words "of the City of Concord" were added.
- (14) Nontechnical and technical words. Words and phrases shall be construed according to the common and approved usage of the language; but technical words and phrases and any others as may have acquired a peculiar and appropriate meaning in law shall be construed and understood according to that meaning.
- (15) Number. A word importing the singular number only may extend and be applied to several persons and things as well as to one (1) person and thing.
- (16) Oath. The word "oath" includes affirmation. When an oath is required or authorized by law, an affirmation in lieu thereof may be taken. An affirmation has the same force and effect as an oath.
- (17) Or, and. "Or" may be read "and" and "and" may be read "or" if the sense requires it.
- (18) Owner. The word "owner," applied to a building or land, shall include any part owner, joint owner, tenant in common, tenant in partnership or joint tenant of the whole or of a part of such building or land.
- (19) Person. The word "person" shall extend and be applied to associations, firms, partnerships and bodies politic and corporate as well as to individuals.
- (20) Personal property. "Personal property" includes every species of property except real property, as herein defined.

- (21) Preceding, following. The words "preceding" and "following" mean next before and next after, respectively.
- (22) Property. "Property" includes real, personal and mixed estates and interests.
- (23) Public place shall mean any place including, but not limited to, buildings or conveyances to which the public has, or is permitted to have access, including restaurants, soda fountains, hotel dining rooms, lobbies and corridors of hotels, and any highway, street, lane, park or place of public resort or amusement.
- (24) Real property. "Real property" shall include lands, tenements and hereditaments.
- (25) Sidewalk. The word "sidewalk" shall mean any portion of a street between the curb line and the adjacent property line, intended for the use of pedestrians, excluding parkways.
- (26) Signature or subscription. "Signature" or "subscription" includes a mark when the person cannot write.
- (27) State. The words "the state" or "this state" shall be construed to mean the State of Georgia.
- (28) Street. The word "street" shall be construed to embrace streets, avenues, boulevards, roads, public alleys, lanes, viaducts and all other public highways in the city.
- (29) Tenant or occupant. The words "tenant" or "occupant," applied to a building or land, shall include any person holding a written or oral lease of, or who occupies the whole or a part of, that building or land, either alone or with others.
- (30) Time. Words used in the past or present tense include the future as well as the past and present.
- (31) Week. The word "week" shall be construed to mean seven (7) days.
- (32) Written, in writing. "Written" or "in writing" shall be construed to include any representation of words, letters or figures, whether by printing or otherwise.
- (33) Year. The word "year" shall mean a calendar year.

State Law Reference: Construction of statutes generally, OCGA, Secs. 1-3-1, 1-3-2.

Section 1-1-3 Catchlines of sections.

The catchlines of the several sections of this code are intended as mere catchwords to indicate the contents of the section and shall not be deemed or taken to be titles of those 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.

Section 1-1-4 Severability of parts of code.

It is hereby declared to be the intention of the mayor and council that the sections, paragraphs, sentences, clauses and phrases of this code are severable, and if any phrase, clause, sentence, paragraph or section of this code shall be declared unconstitutional by the valid judgment or decree of any court of competent jurisdiction, that unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs and sections of this code, since the same would have been enacted by the mayor and council without the incorporation in this code of any such unconstitutional phrase, clause, sentence, paragraph or section.

Section 1-1-5 General penalty; continuing violations.

- (a) Whenever in this code or in any ordinance of the city any act is prohibited or is made or declared to be unlawful or an offense, or whenever in this code or in any ordinance the doing of any act is required or the failure to do any act is declared to be unlawful, where no specific penalty is provided therefore, the violation of that provision of this code or that ordinance shall be punished by a fine not to exceed \$1,000 or imprisonment for a term not exceeding 12 months, or work on the public streets or public works of the city for a term not exceeding 12 months, subject to all limitations contained in the charter of the city. Each day any violation of this code or of any ordinance shall continue shall constitute a separate offense.
- (b) The infliction of a penalty under the provisions of this section shall not prevent the revocation of any permit or license or the taking of other punitive or remedial action where called for or permitted under the provisions of the city's charter or code.

Section 1-1-6 Amendments to code; effect of new ordinances; amendatory language.

- (a) All ordinances passed subsequent to this code which amend, repeal or in any way affect this code may be numbered in accordance with the numbering system of this code and printed for inclusion herein. Chapters, sections and subsections or any part thereof, repealed by subsequent ordinances, may be excluded from the code by omission from reprinted pages affected thereby, subsequent ordinances as numbered and printed, or omitted in the case of repeal, shall be prima facie evidence of these subsequent ordinances until such time that the code and subsequent ordinances numbered or omitted are readopted as a new code by the mayor and council.
- (b) All sections, articles, chapters or provisions desired to be repealed shall be specifically repealed by section, article or chapter number, as the case may be.

- (c) When necessary, sections and subsections to the code may be renumbered by the official codifier for the city to fulfill the intent of the governing body but all such changes shall be approved in advance by the city attorney.

Section 1-1-7 Altering code.

It shall be unlawful for any person in the city 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 this code in any manner except by ordinance or other official act of the mayor and council which will cause the law of the city to be misrepresented thereby. Any person violating this section shall be punished as provided in Section 1-1-5.

Cross Reference: Offenses, generally, Title 9.

TITLE 2
General Government

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- Chapter 2 Elections
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Chapter 1 Mayor and Council

Article A General Provisions

- § 2-1-1 Compensation
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Article B Meetings

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Article A General Provisions

Section 2-1-1 Compensation.

- (a) The mayor shall be paid in the amount of \$50 for each scheduled council meeting attended. If two meetings are scheduled on the same day the mayor will receive a maximum of \$50 for that day. The mayor must not be more than 15 minutes late to be considered present for the meeting.
- (b) Each council member shall be paid in the amount of \$25 for scheduled council meetings that he or she attends. If two meetings are scheduled on the same day each council member will receive a maximum of \$25 for that day. The council member must not be more than 15 minutes late to be considered present for the meeting.
- (c) Upon approval by the governing body, the mayor and individual council members may be reimbursed for actual expenses incurred in the performance of their duties. Regulations governing such reimbursements shall be as established from time to time by the mayor and council.

Section 2-1-2 through 2-1-10 reserved.

Section 2-1-11 Regular Meetings.

Regular meetings of the mayor and council are held at the city hall or at such other place as may be designated, on the second Tuesday of each month at 7:00 p.m.

Section 2-1-12 Adjourned Meetings.

If a quorum shall fail to attend any regular or special meeting of the mayor and council or if for any reason any meeting shall fail to complete transaction of the business before the meeting, the meeting may be adjourned to any date prior to the next regular meeting agreed upon by a majority of the members present.

Section 2-1-13 Order of business.

- (a) The order of business at all regular meetings shall be as follows:
 - (1) approval of minutes of last meeting;
 - (2) approval of invoices;
 - (3) corrections, if any, to be made in same;
 - (4) reports of committees;
 - (5) unfinished business;
 - (6) reading by the clerk of any communications; and
 - (7) new business.
- (b) If the mayor and council directs any matter to be the special business of a future meeting, that matter shall have precedence over all other business at that future meeting.
- (c) No proposition shall be entertained by the mayor and council until it has been seconded, and every proposition shall, when required by the mayor or any member, be reduced to writing.

Section 2-1-14 Rules of procedure.

Except as otherwise provided by ordinance, the procedures of the mayor and council shall be governed by Robert 's Rules of Order.

Section 2-1-15 Previous questions.

The previous questions may be called at any time by a majority of the members present. The ayes and nays may be called for by any member.

Section 2-1-16 Motions having precedence.

(a) When a question is under consideration no motion shall be received except as follows:

(1) to lay on the table;

(2) to postpone to a time certain;

(3) to postpone indefinitely;

(4) to refer to a committee;

(5) to amend;

(6) to strike out or insert; or

(7) to divide.

(b) Motions for any of these purposes shall have precedence in the order named.

Section 2-1-17 Motion to adjourn.

A motion to adjourn shall always be in order and shall be decided without debate.

Chapter 2 Elections

State Law Reference; Georgia Municipal Elections, OCGA, Title 21, Chapter 3.

§ 2-2-1 Election officials.

§ 2-2-2 Voter registration deadline.

§ 2-2-3 Notice of candidacy; filing dates.

§ 2-2-4 Qualification fees.

§ 2-2-5 Polling place.

Section 2-2-1 Election officials.

The mayor and council shall by resolution annually appoint a municipal election superintendent, election managers, registrars, absentee ballot clerk and any other officials as are necessary, all of whom shall exercise those powers and duties set forth in the Georgia Municipal Election Code (OCGA, Title 21, Chapter 3), as now or hereafter amended.

State Law Reference: Municipal powers, etc., OCGA, Sections 21-3-8, 21-3-31, 21-3-32, 21-3-120, 21-3-227(b), 21-3-251 and 21-3-283.

Section 2-2-2 Voter registration deadline.

The deadline for registration of voters in city elections shall be at 5:00 p.m. on the day 30 days prior to the date of the election.

State Law Reference: Registration, OCGA, Section 21-3-126.

Section 2-2-3 Notice of candidacy; filing dates.

Notices of candidacy shall be filed by candidates for offices of the governing authority not sooner than 45 days prior to the election in the case of a general election and not sooner than 30 days prior to the election in the case of a special election. The deadline for filing the foregoing notices of candidacy shall be 22 days prior to the election in the case of a general election; and 15 days prior to the election in the case of a special election. Notices of candidacy shall be filed in the office of the municipal election superintendent during normal business hours.

State Law Reference: Filing notice of candidacy, OCGA, Section 21-3-91.

Section 2-2-4 Qualification fees.

Qualification fees for candidates filing a notice of candidacy in any general or special election for the office of mayor or city council member shall be no more or less than 3% of the total gross salary of the office paid in the preceding calendar year including all supplements, except as provided otherwise by OCGA Section 21-2-131 (B).

State Law Reference: Qualification fees, OCGA, Section 21-3-90.

Section 2-2-5 Polling Place

The polling place shall be as fixed from time to time by resolution of the mayor and council.

State Law Reference: Polling places, OCGA, Section 21-3-163.

Chapter 3 Municipal Court

Cross Reference: Municipal court, establishment, organization and powers, Article IV of City Charter.

(Reserved)

Chapter 4 Administration

§ 2-4-1 City clerk; duties.

§ 2-4-2 City attorney; duties.

§ 2-4-3 Departments established.

§ 2-4-4 Surety bonds required of certain officers.

§ 2-4-5 Holidays.

§ 2-4-6 Water/Wastewater Maintenance Operator.

Section 2-4-1 City clerk; duties.

In addition to the duties of the city clerk under the city charter, the city clerk shall perform the following duties:

- (1) be the custodian of the city seal and affix its impression on documents whenever required;
- (2) preserve the codes, records and documents belonging to the city and maintain a proper index to all records and documents; receive all money due the city, licenses and fees, and pay out the same only upon orders of the mayor and council; and
- (3) including taxes,
- (4) perform any other duties as may be required by the mayor and council.

Section 2-4-2 City attorney; duties.

The city attorney shall be the legal advisor and representative of the city and in that capacity shall:

- (1) prepare ordinances when so requested by the mayor and council;
- (2) prepare for execution all contracts and instruments to which the city is a party when so requested and approve, as to form, all ordinances, bonds and city contracts; and
- (3) render any other legal services as may be required by the mayor and council.

Section 2-4-3 Departments established.

The following departments of the city are hereby established:

- (1) police;
- (2) fire; and
- (3) water.

Section 2-4-4 Surety bonds required of certain officers.

The city clerk and the chief of police shall give a surety bond in such sum as fixed by the mayor and council, each to be signed by some surety company qualified to do business in the State of Georgia, before entering upon their respective duties as city clerk or chief of police. (Ord. of 11/1/43).

Section 2-4-5 Holidays.

The following days shall be observed as official city holidays:

- (1) Thanksgiving Day;
- (2) Christmas Day;
- (3) All other days observed as state holidays.

Section 2-4-6 Water/Wastewater and Maintenance Operator.

There is hereby deleted the office of City Superintendent and in its place created a Water/Waste Water and Maintenance Operator who shall:

- (1) Report directly to the mayor as designated by the City Charter; Assure that the policies and procedures of the City Water/Waste Water systems are complied with;
- (2) Perform the day-to-day activities of the Water/Waste Water Systems which consist of management and utilities repair;
- (3) Supervise one employee assigned under his supervision by the mayor to assist in performing Water/Waste Water maintenance of utilities when needed, and;
- (4) perform such other services as may be required by the mayor and council.

Chapter 5 Finance and Taxation

Article A General Provisions

- § 2-5-1 Fiscal year.
- § 2-5-2 Annual budget; appropriations.
- § 2-5-3 Purchasing.
- §§2-5-4 through 2-5-10 reserved.

Article B Property Taxes

- § 2-5-11 Tax rate.
- § 2-5-12 Tax due and payable.
- § 2-5-13 Collection of delinquent taxes, fees or other revenue; interest.
- §§2-5-14 through 2-5-20 reserved.

Article C Occupation, Profession and Business Taxes

- § 2-5-21 Definitions.
- § 2-5-22 Levy of tax.
- § 2-5-23 Separate businesses.
- § 2-5-24 Registration required.
- § 2-5-25 Payment of tax.
- § 2-5-26 Issuance of tax certificate.
- § 2-5-27 Certificate to be displayed.
- § 2-5-28 Change of address.
- § 2-5-29 Change of ownership; transfers.
- § 2-5-30 Special provisions for insurance companies.
- § 2-5-31 Financial institutions tax.
- § 2-5-32 Enforcement.
- § 2-5-33 Penalties.
- § 2-5-34 Criminal penalties; license revoked.
- § 2-5-35 Occupational tax
- § 2-5-36 Fees
- § §2-5-37 through 2-5-42 Reserved.

Article D Alcoholic Beverage Excise Taxes

- § 2-5-41 Alcoholic beverage excise tax; imposition; collection.
- § 2-5-42 Same; penalty for failure to make report and remittance; false and fraudulent report.

Article A General Provisions

Section 2-5-1 Fiscal Year

The fiscal year of the city shall commence on August 1 and end on July 31 of the following year.

Section 2-5-2 Annual budget; appropriations.

An annual budget and an appropriations ordinance shall be adopted by the mayor and council prior to the first day of the fiscal year. However, if for good and sufficient reasons the budget cannot be adopted by the first day of the fiscal year, the budget shall be adopted not later than 45 days subsequent to the beginning of the fiscal year, appropriations ordinance are not adopted prior to the beginning of the fiscal year this section automatically authorizes the continuation of necessary and essential expenditures to operate the city. The budget as adopted shall be balanced budget with anticipated revenues (including appropriated unencumbered surplus) equal to appropriated expenditures. All funds within the budget shall also be balanced.

State Law Reference: Local government financial management standards and procedures, OCGA, Sec. 36-81-1 et seq.

Section 2-5-3 Purchasing

The mayor shall be the purchasing agent of the city, and shall:

- (1) arrange and negotiate the purchase or contract for all equipment, supplies and contractual services for the city, and sell or otherwise dispose of all surplus city equipment and supplies; and
- (2) maintain an inventory of all materials, supplies or equipment owned by the city.

Sections 2-5-4 through 2-5-10 reserved.

Article B Property Taxes

Section 2-5-11 Tax rate.

An annual ad valorem tax upon all real and personal property within the city is hereby levied. The millage rate therefor shall be established each year by resolution of the mayor and council.

Section 2-5-12 Tax due and payable.

- (a) All ad valorem taxes due the city shall be billed and paid in one (1) payment.
- (b) Ad valorem tax bills, as adjusted to conform to the tax digest of the county shall be payable on or before December 20, but in the event of adjustment by the state revenue

commissioner, the city shall, within a reasonable time thereafter as may be determined by resolution of the mayor and council, after receipt from the county of the adjustment information, refund any overpayments or bill for any underpayments.

State Law Reference: Installments, OCGA, Section 48-5-23.

Section 2-5-13 Collection of delinquent taxes, fees or other revenue; interest.

- (a) For the collection of delinquent taxes, a fi. fa. shall be issued by the city clerk and executed by the chief of police under the procedure provided by the laws of the State of Georgia governing execution of process from the superior court, or by use of any other available process and remedies.
- (b) A lien shall exist against all property on which city property taxes are levied, as of the assessment day of January 1 of each year, which shall be superior to all other liens except that it shall have equal dignity with those for federal, state or county taxes.
- (c) The amount due on all delinquent fi. fa. issued under subsection (a) hereof as well as any interest or penalty thereon shall be listed as a part of and in addition to the annual ad valorem tax bill.
- (d) Any license, privilege or permit granted by the city shall be revoked by the city clerk for the failure to pay any money due the city for taxes, fees, penalties, interests, fines or other revenue, within three (3) calendar months and 10 days after any payment is due; provided, that any person aggrieved by the order may, within 10 days thereof, appeal to the mayor and council, who, after a hearing thereon, may approve or modify the order or restore the license privilege or permit by adopting a motion to that effect but only upon finding that the city clerk's action was not factually or legally correct.
- (e) Unless otherwise provided in this code, all fi. fas. issued hereunder shall earn interest at the maximum rate allowed by state law and no penalty shall be charged except in lieu of interest.

State Law Reference: Interest on past due taxes, OCGA, Section 48-2-40; executions, OCGA, Title 9, Chapter 13 and Title 48, Chapter 3; tax sales, OCGA, Title 48, Chapter 4.

Sections 2-5-14 through. 2-5-20 reserved.

Article C Occupation, Profession and Business Taxes

Cross Reference: Business and occupation licenses, Section 7-1-1 et seq.

Section 2-5-21: Definitions.

The following words were used in this article, unless the context requires otherwise, shall be deemed to have the following meanings:

- (1) Business. Any business, trade, occupation, profession, avocation, or calling of any kind for gain or profit, directly or indirectly.
- (2) Engaged in business. Any person shall be deemed to be engaged in business and thus subject to the requirements of this article when he performs any act of selling any goods or service or solicits business or offers goods or services for sale for payment in an attempt to make a profit, including the sales or services of the character as made by a wholesaler or retailer or involved in any of the functions performed as a manufacturer, either as an owner, operator or agent in any business, trade, profession or occupation within this city.
- (3) Manufacturer. A person who, either directly or by contracting with others for the necessary labor or mechanical services, manufactures for sale or commercial use any articles, substances or commodities; including all the activities of a commercial nature wherein labor or skill is applied by hand or machinery, to materials so that as a result thereof a new, different, or useful article of tangible personal property or substance of trade or commerce is produced; and including the production or fabrication of specially or custom made articles; and including the making, fabricating, processing, refining, mixing, slaughtering, packing, aging, curing, preserving, canning and preparing and freezing of fresh foods, fruits, vegetables and meats.
- (4) Person. Any person, firm, partnership, corporation, association or group of individuals, or their representatives, acting as a unit.
- (5) Retailer. A person who sells to the consumer or any other person for any purpose other than for resale in the form of tangible personal property.
- (6) Services. The accommodating or performing a duty or work by a person utilizing time or talents for direct or indirect remuneration.
- (7) Wholesaler. A person who sells to jobbers or to another person other than the consumer anything in the form of tangible personal property.

Section 2-5-22 Levy of tax.

- (a) Except as otherwise provided in this chapter, there is hereby levied and assessed a business tax, as set forth in a schedule entitled, "Business, Profession and Occupation Tax Schedule," on all occupations and businesses in the city which, under the laws of the State of Georgia, the city has the authority to collect a tax therefor.
- (b) The business, profession and occupation tax schedule for the city is hereby adopted and incorporated by reference herein and copies thereof shall be maintained on file in the office of the city clerk.

Section 2-5-23 Separate businesses.

Where a person conducts a business at more than one (1) store, location or place, each store, location or place shall be considered a separate business under the terms of this article and a separate tax shall be levied and paid; and should more than one (1) business on which a tax is levied by this article be conducted in or in conjunction with one (1) place or kind of business, each such business shall be subject to a separate tax under this article unless such a combination is listed in the tax schedule.

Section 2-5-24 Registration required.

Every person engaged in any business, occupation or profession within the city upon which a tax is imposed or levied by this article, shall register that business, occupation or profession with the city clerk on or before January 1 of each year, or within 10 days of the opening of a new business or the sale of any established business; upon forms to be supplied by the city clerk, giving the name, address and type of business, occupation and profession and any other information as may be required by the city clerk for the purpose of determining the amount of tax to be imposed or assessed by this article. A city business license application shall be sufficient to meet the requirements of this section.

Section 2-5-25 Payment of tax.

All taxes imposed and assessed in this article shall be due and payable on or before January 1 of each year. Except in the case of any business commenced or under new ownership after that date, the taxes shall be due and payable within 10 days of when the business is commenced or reopened under new ownership. Payment of the tax may be made personally to the city clerk in cash, or by company check, money order, bank draft, certified check or cashier's check made payable to the city. The tax shall be payable in a single installment.

Section 2-5-26 Issuance of tax certificate.

Upon the payment of the taxes assessed in this article, it shall be the duty of the city clerk to issue to each person a business or occupational tax receipt and certificate. A city business license shall be sufficient for this section.

Section 2-5-27 Certificate to be displayed.

All persons shall exhibit and display the city tax certificate or city license in some conspicuous place in their business establishment. Any transient or nonresident person, firm or corporation doing business within the city shall carry the certificate or license either upon his or her person or on any vehicle or other conveyance which is used in the business, and the person shall exhibit the same to any authorized enforcement officer of the city when requested to do so.

Section 2-5-28 Change of address.

Any person moving a non-transient business from one (1) location to another shall notify the city clerk of the move and the new address in writing, no later than 10 days after moving. The same tax certificate shall be valid at the new location.

Section 2-5-29 Change of ownership; transfers.

No tax certificate may be transferred from one (1) person to another. Additions to or deletions from the ownership of a business, which do not affect the liability and the principal ownership of a business for which the certificate is issued, may be made without canceling the old business or occupational tax certificate and applying for a new certificate. Whenever any person shall lease, operate or control the business franchise or property of other persons, they shall obtain a separate business tax certificate for each such business; provided no business shall pay the tax more than once under such an arrangement.

Section 2-5-30 Special provisions for insurance companies.

- (a) Life insurers license fees. There is hereby levied for the year 1996 and for each year thereafter an annual license fee upon each life insurer doing business within the city in the amount of \$15. For each separate business location of one not covered by Section 2 which is operating on behalf of such insurers within the City of Concord, Georgia, there is hereby levied a license fee in the amount of fifteen (\$15.00). For the purposes of this section, the term "insurer" means a company which is authorized to transact business in the class of insurance designated in OCGA, section 33-3-5.
- (b) License fee for life insurers insuring certain risks at additional business locations. For each separate business location, not otherwise subject to a license fee hereunder, operated and maintained by a business organization which is engaged in the business of lending money or transacting sales involving term financing and in connection with such loans or sales, offers, solicits, or takes application for insurance through a licensed agent of a life insurer for life insurance said insurer shall pay an additional license fee of ten dollars (\$10.00) per location for the year 1996 and for each year thereafter.
- (c) Gross premiums tax imposed on life insurers. There is hereby levied for the year 1996 and for each year thereafter an annual tax based solely upon gross direct premiums upon each insurer writing life, accident and sickness insurance within the State of Georgia in an amount equal to one percent (1%) of the gross direct premiums received during the

calendar year in accordance with OCGA, Section 33-8-8.1. "Gross direct premiums" as used in this section shall mean gross direct premiums as used in OCGA, Section 33-8-4. The premium tax levied by this section is in addition to the license fees imposed by subsection (a) of this section.

- (d) Gross premium tax, all other insurers. There is hereby levied for the year 1996 and for each year thereafter an annual tax based solely upon gross direct premiums upon each insurer, other than an insurer transacting business in the class of insurance designated in subsection (1) of OCGA, Section 33-3-5, doing business within the State of Georgia in an amount equal to two and one-half percent (2.5%) of the gross direct premiums received during the calendar year, in accordance with OCGA, Section 33-8-8.2. Gross direct premiums as used in this section shall mean gross direct premiums as used in OCGA, Section 33-8-4. The premium tax levied by this section is in addition to the license fees imposed by Section (a) of this ordinance.
- (e) Due date for license fees. License fees imposed in subsections (a), (b) of this section shall be due and payable on the first day of 1996 and on the first day of each subsequent year.
- (f) Administrative provisions. The city clerk is hereby directed to forward a duly certified copy of this section to the Insurance Commissioner of the State of Georgia within 45 days of its enactment.
- (g) Effective Date. This ordinance shall become effective January 1, 1996.
- (h) Severability. In the event any portion of this ordinance shall be declared or adjudged invalid or unconstitutional, it is the intention of the City County of the City of Concord, Georgia, that such adjudication shall in no manner affect the other sections, sentences, clauses or phrases of this ordinance which shall remain in full force and effect, as if the invalid or unconstitutional section, sentence, clause or phrase were not originally a part of the ordinance.
- (i) Repealer. All ordinances and part of ordinances in conflict with this ordinance are hereby repealed. Ordained this 12th day of December, 1995 by the Mayor and Council of the City of Concord, Georgia.

Section 2-5-31 Financial institutions tax.

- (a) Levy; rate. Pursuant to OCGA, section 48-6-93 there is hereby levied for the year 1984, and for each year thereafter, an annual business license tax upon state and national banking associations, federal savings and loan associations and state building and loan associations a business license tax at the rate of one-fourth of one percent (.25%) of the gross receipts of said institutions. "Gross receipts" shall mean gross receipts as defined in OCGA, Section 48-6-93. Notwithstanding any other provisions of this section, the minimum amount of business license tax due from any depository financial institution pursuant to this section shall be \$1,000 per year.

(b) Due date; filing of return.

- (1) Each depository financial institution within the city shall file a return of its gross receipts with the city on March 1 of the year following the year in which such gross receipts were measured. Said returns shall be in the manner and in the form prescribed by the Commissioner of the Department of Banking and shall be based upon the allocation method set forth in subsection (d) of code Section 48-6-93 of the Official Code of Georgia Annotated. The tax levied pursuant to this section shall be assessed and collected based upon the information provided in said return.
- (2) The due date of taxes levied by this section shall be April 1, 1984 and April 1 of each subsequent year. (Ord. of 12/6/83)

Section 2-5-32 Enforcement.

The city clerk shall issue executions for the collection of all outstanding and unpaid taxes imposed and assessed by this article. The unpaid taxes and executions shall be collected in the manner provided by law for the collection of other taxes due the city.

Section 2-5-33 Penalties.

Any person failing to register on or before January 1 of each year or in the case of a new business or new owner, within 10 days of commencing business, or failing to pay the tax due under the terms of this article by the due date, shall be subject to a penalty of 10 percent of the business or occupational tax when due per month for each month or fractional part thereof for which the tax is due or unpaid.

Section 2-5-34 Criminal penalties; licenses revoked.

Any person, firm or corporation including the officers, agents or employees of same, violating the provisions of this article, upon conviction thereof shall be punished as provided in Section 1-1-5 of this code. Each day in violation hereof shall be a separate offense hereunder. Any person so convicted shall be subject to the revocation of any city business license.

Section 2-5-35 There is hereby levied an occupation tax on all persons, partnerships, corporations, or other entities for engaging in an occupation, profession, or business in accordance with OCGA Section 48-13-6, based upon the number of employees as follows;

<u>Employees</u>	<u>Tax Liability</u>
Each Location Per OCGA Section 48-13-5(3)	\$25
For each employee Per OCGA Section 48-13-5(1.1)	\$5 (per employee)

Sections 2-5-36 The payment date, penalty amounts, interest amounts and prorated taxes due specified in OCGA Section 48-13-20, 21 and 22 are hereby incorporated by reference.

(a) Effective Date. This ordinance shall become effective January 1, 1996

(b) Repealer. All ordinances in conflict with this ordinance are hereby repealed.

Sections 2-5-37 through 2-5-42 (Reserved)

Article D Alcoholic Beverage Excise Taxes

Section 2-5-41 Alcoholic beverage excise tax; imposition; collection.

(1) Taxes on Wine

There is hereby levied an excise tax computed at the rate of \$.22/liter which shall be paid to the Governing Authority on all wine sold, displayed or stored in the City. Said tax shall be paid to the Governing Authority by the wholesale distributor on all wine sold to the licensees for the sale of wine, as follows: Each wholesale distributor selling, distributing or in any way delivering wine to any such licensee shall collect the tax at the time of delivery and shall remit the same together with a summary of all deliveries to each licensee on or before the tenth day of the month following. The \$.22/liter shall be pro-rated so that each bottle or each individual sized container shall be taxed on the basis of \$.22/liter. It shall be unlawful and a violation of this division for any such licensee to possess, own, hold, store, display, or sell any wine on which such tax has not been paid.

(2) Taxes on Malt Beverages

There is hereby levied an excise tax computed at the rate of \$.05 per twelve ounces which shall be paid to the Governing Authority on all malt beverages sold, displayed or stored in the City. Said tax shall be paid to the Governing Authority by the wholesale distributor on all malt beverages sold to the licensees for the sale of malt beverages, as follows: Each wholesale distributor selling, distributing or in any way delivering malt beverages to any such licensee shall collect the tax at the time of delivery and shall remit the same together with a summary of all deliveries to each licensee on or before the tenth day of the month following. The \$.05 per twelve ounces shall be pro-rated so that each bottle or each individual sized container shall be based on \$.05 per twelve ounces. It shall be unlawful and a violation of this division for any such licensee to possess, own, hold, store, display, or sell any malt beverages on which such tax has not been paid.

Where malt beverages, commonly known as tap or draft beer, are sold in or from a barrel or bulk container, a tax of \$6.00 of each container sold containing not more than 15 ½ gallons and a proportionate tax at the same rate on all fractional parts of 15 ½ gallons.

(3) Taxes on Distilled Spirits by the Drink

There is imposed an excise tax upon the sale of distilled spirits by the drink, which tax shall be three percent (3%) of the charge to the public, members or guests for the beverages. Each licensee shall collect, report and remit the tax in the manner described in Section 2.

(4) Excise tax for private clubs

An excise tax of three percent (3%) is hereby imposed of private clubs pursuant to O.C.G.A. § 3-7-61.

Section 2-5-42 Failure to make timely reports and/or false or fraudulent reports

The failure of any wholesale dealer in distilled spirits, wine and/or malt beverages to make a timely report or remittance as provided in this article shall render a wholesaler dealer liable for a penalty equal to ten (10) percent of the total amount due during the first thirty-day period following the date such report and remittance were due and further penalty of twenty-five (25) percent of the amount of such remittance for each successive thirty-day period or any portion thereof during which such report and remittance are not filed. The filing of a false or fraudulent report shall render the wholesale dealer making such report liable for a penalty equal to fifty (50) percent of the amount of the remittance which would be required under an accurate and truthful report.

TITLE 3
Public Safety

- Chapter 1 Law Enforcement
- Chapter 2 Fire Prevention and Protection
- Chapter 3 Emergency Powers of Mayor

Chapter 1 Law Enforcement

- § 3-1-1 Composition of police department.
- § 3-1-2 Responsibilities.

Section 3-1-1 Composition of police department.

The police department shall consist of those officers and employees of those ranks and positions as approved by the mayor and council.

Section 3-1-2 Responsibilities.

The department shall be responsible for patrol, traffic control, investigation of accidents, investigation of crimes, apprehension of offenders, court appearances, security of business establishments and for any other matters of public safety and law enforcement as directed by the mayor and council.

Chapter 2 Fire Prevention and Protection

Article A Fire Department

- § 3-2-1 Volunteer fire department established.
- § 3-2-2 Officers
- § 3-2-3 Chief's duties.
- § 3-2-4 Duties of other officers.
- § 3-2-5 Removal of members.
- § 3-2-6 Interfering with equipment.
- § 3-2-7 Enforcement.
- § 3-2-8 Tampering with alarm system,
- § §3-2-9 through 3-2-20 reserved.

Article B Fire Prevention Code (Reserved)

Article A Fire Department

State Law Reference: Crossing over fire hose, OCGA, Section 40-6-248; turning in false alarm of fire, OCGA, Section 16-10-27.

Section 3-2-1 Volunteer fire department established.

- (a) There is hereby established an organization to be known as the Concord Volunteer Fire Department. The department's object shall be the preservation and protection of life and property from and during such fires as may occur in the city.
- (b) The personnel of the department shall consist of a chief, an assistant chief, a captain, a lieutenant, as many drivers as may be needed, and a personnel force which includes the above officers and not less than 25 persons.
- (c) Any person between the ages of 18 and 45 years and who is physically and mentally capable and of good character, shall be eligible for membership in the department. (Ord. of 11/1/43)

Section 3-2-2 Officers.

- (a) The chief and the assistant chief shall be elected by the members of the department subject to the approval of mayor and council. The other officers and men shall be appointed by the chief.
- (b) All officers and men shall hold their office indefinitely, subject to efficiency and good behavior, until the office is vacated by death or resignation. (Ord. of 11/1/43)

Section 3-2-3 Chief's duties.

- (a) It shall be the chief's duty to be present at all fires, to plan the attack, and direct the action of the company on their arrival. He shall keep or cause to be kept a record of all fires as to their location, date, value of building and contents involved, and a record of the fire loss concerning each fire.
- (b) It shall be the chief's duty to cause and direct company practice drills in the use of apparatus, laying out hose line, etc.
- (c) The chief shall have the authority to draw up a set of rules and regulations governing the operation and discipline of the department. (Ord. of 11/1/43)

Section 3-2-4 Duties of other officers.

- (a) It shall be the duty of the assistant chief to perform the duties of the chief in case of his absence.

- (b) The duties of the captain, lieutenant, drivers and other personnel shall be designated in rules and regulations governing the department. (Ord. of 11/1/43).

Section 3-2-5 Removal of members.

Any member charged with neglect of duty or misbehavior shall be presented with written charges, specifying rules violated, and shall be entitled to a hearing before a committee of council. (Ord. of 11/1/43)

Section 3-2-6 Interfering with equipment.

No person other than a duly enrolled member of the fire department shall ride upon the fire trucks of the city at any time, nor use, borrow or interfere with any fire department equipment, or attempt to use the equipment at the scene of a fire unless authorized to do so by the fire chief.

Section 3-2-7 Enforcement.

Whenever the fire department is answering an alarm or operating at the scene of a fire or other emergency every enrolled member of the department is hereby empowered and authorized to control and direct motor vehicle traffic, stop or move vehicles, and enforce all provisions of this article and any other code provisions the enforcement of which is deemed necessary to assist in the control of the fire or other emergency.

Section 3-2-8 Tampering with alarm system.

It shall be unlawful for any person or persons to willfully, maliciously or mischievously interfere or tamper with any fire alarm box or any of the appliances or apparatus connected therewith, located within the corporate limits.

Sections 3-2-9 through 3-2-20 reserved.

Article B Fire Prevention Code

(Reserved)

Chapter 3 Emergency Powers of Mayor

§ 3-3-1 Power of mayor to declare the existence of emergency conditions.

§ 3-3-2 Powers of mayor after declaration of emergency conditions.

§ 3-3-3 Limitation of emergency powers.

§ 3-3-4 Memorandums of understanding.

Section 3-3-1 Power of mayor to declare the existence of emergency conditions.

In the event the mayor, as the chief executive officer of the city, determines that an emergency condition or emergency conditions exist, he shall issue a declaration and proclamation declaring the emergency. He may proclaim and declare an emergency when in his opinion there is reasonable danger to life or property due to the presence or likelihood of unusual weather conditions, fire, civil unrest, unforeseen disaster or the stoppage or loss of utility service or services in the city.

Section 3-3-2 Powers of mayor after declaration of emergency conditions.

After the mayor has declared the existence of an emergency as set forth above, he shall have the power in all or a portion of the city to:

- (1) direct the work, actions, and activity of city employees to assist in preserving life, limb, and property;
- (2) close streets and sidewalks to vehicular and pedestrian movement;
- (3) impose curfews;
- (4) close business establishments;
- (5) close public buildings and other public facilities;
- (6) cooperate with and assist personnel of the United States of America, the State of Georgia, Pike County, and other municipalities to the end of preserving life, limb and property in Concord.

Section 3-3-3 Limitation of emergency powers.

The mayor shall have the authority to exercise the powers set forth above only for a period of 72 hours after the declaration of emergency or until the next regular or called meeting of council, whichever occurs first. However, should emergency conditions exist at the expiration of 72 hours after the initial declaration and no council meeting has occurred he shall exercise emergency powers until the emergency no longer exists or until council meets, whichever is first.

Section 3-3-4 Memorandums of understanding.

The mayor shall have the power to enter into "Memorandums of Understanding" with the proper authorities of the United States of America, the State of Georgia, Pike County, and other municipalities in order to effectively carry out the intent and purpose of this chapter. Such memorandums shall first be reviewed by the city council and receive the approval of same.

TITLE 4
Public Works

Editorial Note: A bond issue for construction of a new city hall was approved by an ordinance of 10/12/81.

- Chapter 1 Streets and Sidewalks
- Chapter 2 Solid Waste Collection and Disposal
- Chapter 3 Parks

Chapter 1 Streets and Sidewalks

State Law Reference: Constitutional powers regarding streets, Constitution of 1983, Article IX, Section II, Para. 111(4); authority of municipalities to own, operate and maintain streets, OCGA, Section 36-34-3; street obstructions, OCGA, Section 36-30-10; municipal street administration, OCGA, Section 32-4-90 et seq.; assessments for improvements, OCGA, Title 36, Ch. 39.

- § 4-1-1 Permit to dig in streets.
- § 4-1-2 Same; application for permit.
- § 4-1-3 Same; city indemnified.
- § 4-1-4 Street repair.
- § 4-1-5 Excavations; leaving unprotected.
- S 4-1-6 Sidewalk construction.
- § 4-1-7 Streets and sidewalks not to be damaged.
- § 4-1-8 Obstructions in streets and sidewalks.
- § 4-1-9 Violation

Section 4-1-1 Permit to dig in streets.

No person, firm or corporation shall make any excavations or openings or dig any ditch, trench, tunnel or hole in, along, across or under any street, sidewalk or other public place for the purpose of laying or placing therein any pipe, wires, poles or for any other purposes, unless a written permit therefor has been issued by the city clerk. A permit shall not be required where the work is performed under a contract with the city but in the event that work requires a sidewalk or street to be wholly or partially obstructed, the person shall notify the city clerk and the police department at least two (2) hours before obstructing the sidewalk or street, unless prevented by sudden emergency.

Section 4-1-2 Same; application for permit.

All persons desiring a permit in order to make an opening in any street or sidewalk, as set forth in section 4-1-1, shall make written application therefor, which application shall show the location of the proposed opening, the purpose therefor and the approximate number of square yards of surface to be cut.

Section 4-1-3 Same; city indemnified.

Any person, firm or corporation obtaining a permit as provided for in sections 4-1-1 and 4-1-2 agrees, as a condition of the issuance of the permit to indemnify and hold harmless the city against any claims or expenses, including attorney's fees for bodily injury or property damage for accidents or occurrences arising out of the person's operations.

Section 4-1-4 Street repair.

When any part of any street, sidewalk, alley or other public place of the city shall be torn or dug up for any purpose, the person, firm or corporation making that excavation or opening shall have the duty of refilling the excavation or opening so as to restore it to essentially the same condition that existed prior to the excavation or opening. Any person, firm or corporation, neglecting, refusing or failing to comply with any provisions of this section shall be guilty of a violation thereof; and where any neglect, refusal or failure is continued, after notice from the city clerk, every day's continuance thereafter shall constitute a separate and distinct offense.

Section 4-1-5 Excavations; leaving unprotected.

It shall be unlawful for any person, firm or corporation who obtains a permit under the sections of this chapter to do any excavation of any kind which may create or cause a dangerous condition in or near any street, alley, sidewalk or public place of the city without placing and maintaining proper guard rails and signal lights or other warnings at, in or around the work, sufficient to warn the public of any excavation or work, and to protect all persons using reasonable care from injuries on account of work.

Section 4-1-6 Sidewalk construction.

No sidewalk of any description shall be built by any individual, firm or corporation, of any brick, wood or other material without a written permit from the city.

Section 4-1-7 Streets and sidewalks not to be damaged.

It shall be unlawful for any person, firm or corporation to drag or run, or cause to be dragged or run any harrow or other implement, engine, machine or tool upon any asphalt, bituminous, warrenite or other type of permanently paved street or sidewalk of the city which shall be liable in any way to injure or cut the surface thereof. It shall also be unlawful to injure any dirt street in the same manner.

Section 4-1-8 Obstructions in streets and sidewalks.

It shall be unlawful for any person to obstruct any street, alley, lane, road or any other public property belonging to the city by planting gardens, shrubbery, flowers or crops, by digging ditches or wells, by erecting posts, signs, fences or buildings or by any other obstruction whatsoever. Any person violating this section shall be punished as provided in Section 1-1-5 of this code. (Ord. of 11/1/43)

Section 4-1-9 Violation.

All persons found guilty of a violation of this chapter shall be punished as provided in Section 1-1-5 of this code.

Chapter 2 Solid Waste Collection and Disposal

State Law Reference: Authority of municipalities to provide for garbage and solid waste collection and disposal, Constitution, of 1983, Art. IX, Section II, Para. 111(2).

- § 4-2-1 Definitions.
- § 4-2-2 Waste acceptable for collection.
- § 4-2-3 Waste unacceptable for collection.
- § 4-2-4 Preparation and storage of acceptable waste.
- § 4-2-5 (deleted)
- § 4-2-6 Unauthorized accumulation of solid waste; nuisance.
- § 4-2-7 Scavenging.
- § 4-2-8 Littering.
- § 4-2-9 Penalties.

Section 4-2-1 Definitions.

For the purposes of this Chapter the following words and phrases shall have the meanings ascribed to them in this section:

- (1) Ashes means and includes the waste products from coal, wood and other fuels used for cooking and heating from all public and private residences and establishments.
- (2) Building rubbish means waste material resulting from construction, remodeling, repairs and demolition operations on houses, commercial buildings and other structures, including driveways and walks, and it comprises waste and rejected matter such as excavated earth, stones, bricks, plaster, wallpaper, sheetrock and lathes, lumber, shingles, tile, concrete and waste parts occasioned by the installation or replacement of plumbing, heating systems, electrical work and roofing.
- (3) Garbage means waste accumulation of animal or vegetable matter used for or intended for food or that attends the preparation, use, cooking, dealing in or storing of meat, fish, fowl, fruit or vegetables.
- (4) Industrial waste means solid waste materials from factories, processing plants, wholesale establishments, assembling food processing wastes, cinders and ashes, lumber scraps, sawdust, excelsior, shavings, floor sweepings, metal scrap and shavings, glass and other waste products.
- (5) Rubbish means a variety of combustible and noncombustible waste not subject to rapid decomposition derived from places of residence, commercial areas and institutions and shall include paper, rags, plastics, cartons, boxes, cans, bottles, glass, crockery, excelsior, rubber, discarded clothing and similar materials.

- (6) Scavenge means uncontrolled picking from discarded solid waste materials.
- (7) Solid waste means putrescible and nonputrescible waste, except human body waste, and includes garbage, rubbish, paper, cartons, boxes, wood, tree branches, yard trimmings, furniture, appliances, metals, tin cans, glass, crockery, ashes, street refuse, dead animals, waste materials generated in industrial operations, residue incineration, food processing wastes, demolition wastes, construction wastes and any other wastes in a solid or semi-solid state, not otherwise defined in this section.
- (8) Standard container means and includes a 96 gallon capacity durable, rust resistant, nonabsorbent, rodent proof, watertight plastic or metal container with handles or bails, having a tight-fitting cover.
- (9) Waste means unwanted or discarded material, except human body waste.
- (10) Yard rubbish means tree branches, stumps, twigs, grass and shrub trimmings, bushes, weeds, leaves and general yard and garden waste materials and includes stone and dirt rakings and any waste materials resulting from landscaping.

Section 4-2-2 Waste acceptable for collection.

Garbage and rubbish constitute waste acceptable for collection by the city.

Section 4-2-3 Waste unacceptable for collection.

- (a) The following items constitute waste unacceptable for collection by the city:
 - (1) dangerous materials or substances such as poisons, acids, caustics and explosives;
 - (2) building rubbish;
 - (3) ashes;
 - (4) yard rubbish except as hereinafter provided;
 - (5) furniture and appliances;
 - (6) automobile and motor vehicle tires; and
 - (7) all other solid waste not specifically authorized herein.
- (b) Any person responsible for waste not acceptable for collection by the city shall make any arrangements as may be necessary for the collection and disposal of the unacceptable waste.

Section 4-2-4 Preparation and storage of acceptable waste.

- (a) The owner or occupant of each residence or business or commercial establishment shall store acceptable waste in standard container(s) which shall be provided by the sanitation company contracted with the city. Each owner or occupant shall prevent the continued, excessive and unsightly accumulation of waste upon the property occupied.

- (b) Any acceptable waste must be placed inside a garbage bag and placed inside the garbage container provided.

Section 4-2-5 (deleted)

Section 4-2-6 Unauthorized accumulation of solid waste; nuisance.

Any unauthorized accumulation of solid waste on any premises is hereby declared to be a nuisance and is prohibited, to remove any existing accumulation of solid waste within a reasonable time as may be fixed by written notice from the city shall be deemed a violation of this code.

Section 4-2-7 Scavenging.

No person other than the owner thereof shall interfere with any container placed for the purpose of storing solid waste pending collection, or remove or take any of the contents thereof, or remove any container from the location where the container has been placed by the owner thereof.

Section 4-2-8 Littering.

It shall be unlawful for any person to throw, dump, cast or deposit upon any street, alley, sidewalk, or any yard or premises, public or private, any filth of any kind, or cans, paper, trash, paper containers, rubbish, bottles, wood shavings, brush, tree trimmings or any other form of litter or waste matter.

State Law Reference: Authority to prohibit littering, OCGA, Section 16-7-48.

Section 4-2-9 Penalties.

Any person convicted of violating any of the provisions of this chapter shall be punished as provided in Section 1-1-5 of this code.

Chapter 3 Parks

§ 4-3-1 Driving motor vehicles in parks.

§ 4-3-2 Closing hours.

§ 4-3-3 Throwing missiles.

Section 4-3-1 Driving motor vehicles in parks.

It shall be unlawful for any person to drive a vehicle upon or across any part of any public park of the city except upon roadways laid out and maintained for vehicular travel. This section shall not apply to park employees whose duties require them to drive maintenance equipment over parks.

Section 4-3-2 Closing hours.

Every public park in the city shall be closed to all persons at 11:00 p.m. and shall not be reopened until 6:00 a.m. of the following day. It shall be unlawful for any person to remain in any public park between the hours of 11:00 p.m. and 6:00 am except with the express authorization of the mayor and council.

Section 4-3-3 Throwing missiles.

It shall be unlawful for any person in any park to throw bottles, cans, stones, sticks or other missiles.

TITLE 5
Municipal Utilities

- Chapter 1 Water Supply
- Chapter 2 Sewerage System
- Chapter 3 Wellhead Protection

Chapter 1 Water Supply

§ 5-1-1 Meters.

§ 5-1-2 Schedule of water rates.

§ 5-1-3 Deposit required; discontinuance of service for nonpayment; reinstatement of service.

§ 5-1-4 Must connect to water before occupying any building.

§ 5-1-5 Unlawful to tamper with meter or any parts thereof.

§ 5-1-6 Only authorized persons to use water for public hydrants.

Section 5-1-1 Meters.

- (a) Every regular consumer of water shall be supplied with a meter by the city, which meter shall be under the exclusive control of the city, for which the consumer shall deposit an amount as determined by the mayor and council and filed in the city clerk's office; this amount shall be refunded by the city in the event that any consumer discontinues the use of city water, less all charges which may stand against that consumer.
- (b) Water meters shall be located at the property line adjacent to a street or alleyway or at any other location as determined by the city. The person in whose name the service is rendered shall be responsible for water rents.
- (c) Each dwelling, building, or other structure shall be provided a separate water meter. Provided however, that out buildings not used as permanent dwellings or for business purposes are excluded.

Section 5-1-2 Schedule of water rates.

The schedule of water rates and connection fees, as set from time to time by the mayor and council, shall be kept current and maintained in the office of the city clerk.

Section 5-1-3 Deposit required; discontinuance of service for nonpayment; reinstatement of service

- (a) Each user of water supplied by the city waterworks system shall deposit with the city clerk an amount determined by the mayor and council as a water deposit. This amount shall remain on deposit in the city treasury as a guarantee for water rent. In the event that the customer fails to pay the water rent, then the city clerk shall apply the deposit towards liquidation of the amount due by the customer, and the water supply to his

premises shall be disconnected. The city is required to give the water user three (3) days' notice before discontinuing service for nonpayment of bills. Service shall be reinstated following discontinuance only when the delinquent account has been paid in full and upon payment to the city of a reinstatement fee as fixed from time to time by the mayor and council.

- (b) The deposits specified in this Code Section shall not be accepted by the city clerk unless all license fees required by Code Section 7-1-2 in the construction or remodeling of the dwelling, building or other structure have been paid.

Section 5-1-4 Must connect to water before occupying any building.

- (a) It shall be unlawful for any person to occupy any building of any kind unless the same is connected with the water system of the city.
- (b) It shall be unlawful for any person except an authorized employee of the city to connect with or tap any water main of the city, except with the specific authorization of the employee and under his supervision.

Section 5-1-5 Unlawful to tamper with meter or any parts thereof.

It shall be unlawful for any person to remove, tamper or in any way meddle with any water meter box, rim cover thereto, or any part of any water meter box.

Section 5-1-6 Only authorized persons to use water from public hydrants.

No person, except authorized city officers and employees, shall take water from any public hydrant, plug, street washer or drain cock.

Chapter 2 Sewerage System

- § 5-2-1 Sewer connection required if available.
- § 5-2-2 City to make taps, charge therefor.
- § 5-2-3 Department to supervise repairs.
- § 5-2-4 Unsanitary, offensive deposits on property generally.
- § 5-2-5 Discharging wastes to natural outlets.
- § 5-2-6 Private disposal prohibited unless expressly permitted.
- § 5-2-7 Conditions for using existing private sewage disposal systems.
- § 5-2-8 Requirements for private systems where public sanitary service is not available.
- § 5-2-9 Building sewers.
- § 5-2-10 Schedule of sewer rates.
- § 5-2-11 Protection from damage.
- § 5-2-12 Discharging materials in sewer prohibited.

Section 5-2-1 Sewer connection required if available.

The owners of all houses, buildings or properties used for human occupancy, employment, recreation, or other purpose, situated within the city and abutting on any street, alley or right-of way in which there is now located or may in the future be located a public sanitary or combined sewer of the city, is hereby required at his own expense to install suitable toilet facilities therein, and to connect such facilities directly with the proper public sewer in accordance with the provisions of this section within 90 days after date of official notice to do so; provided however that any house or building which is presently served by a private sewage disposal system meeting the standards set forth in section 5-2-7 may continue to use such private sewage system so long as it continues to meet such standards, but no new private sewage disposal systems shall be permitted on any property which is adjacent to a city sewer line. (Ord. of 8/6/69)

Section 5-2-2 City to make taps, charge therefor.

- (a) All sewer taps leading from the main sewer lines of the city wherever located to the property lines of property owners shall be installed by the city. The city shall make such charges for said sewer taps as the mayor and council shall prescribe, (Ord. of 8/6/69)
- (b) The director may authorize licensed master plumbers to install connections to water or wastewater facilities upon written application. Water meters shall be supplied to authorized licensed master plumbers at cost; all other related accessories for water or sewer connections may be supplied to authorized licensed master plumbers. The director shall require payment of installation fees as listed herein or reimbursement of actual costs for any installations not specifically covered. All work done by other than city personnel shall be done only under the supervision of licensed master plumbers or licensed utility contractors authorized to perform such work. The director shall require that all installation is performed in accordance with specifications and/or standards conforming to sound engineering practices; in the event that such installation is not made in accordance with specifications and/or standards, the director may require the installation to be corrected or removed and reinstalled as necessary.

- (c) Installations that involve cutting the road will incur an additional fee. Expenses will be determined by city water/wastewater supervisor prior to commencement.
- (d) Sewer installation fees for making connections to the city sewerage system and installing service lines for licensed plumber or licensed utility contractors shall be charged on the basis of reimbursement to the city for all actual costs incurred in making such connections.
- (e) An inspection fee for each sewer connection shall be charged when a licensed master plumber makes such connections. Installation fees for installations requiring additional facilities including but not limited to manholes or flow metering installations shall be charged on the basis of reimbursement to the city for all actual costs incurred in making the installation.

Section 5-2-3 Department to supervise repairs.

All repairs to sewer taps to the sewer lines of the city shall be done under the supervision of the water department of the city. The department shall also be given a reasonable time, not less than two (2) business days, to inspect sewer lines from the tap point to the premises being served before the ditch is closed. (Ord. of 8/6/69)

Section 5-2-4 Unsanitary, offensive deposits on property generally.

It shall be unlawful for any person to place, deposit, or permit to be deposited in an insanitary manner upon public or private property within the city, or in any area under the jurisdiction of the city, any human excrement, garbage, or other objectionable waste. (Ord. of 8/6/69)

Section 5-2-5 Discharging wastes to natural outlets.

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 subsequent provisions of this Chapter. (Ord. of 8/6/69)

Section 5-2-6 Private disposal prohibited unless expressly permitted.

Except as hereinafter provided, it shall be unlawful to construct or maintain any privy, privy vault, septic tank, cesspool, or other facility intended or used for the disposal of sewage. (Ord. of 8/6/69)

Section 5-2-7 Conditions for using existing private sewage disposal systems.

The owner of any house or building presently served by a private sewage disposal system who desires to continue using such system shall apply to the superintendent of the city water department on a form to be provided by the city. Such form shall show the name and residence address of the property owner, the address of the property being served by such private sewage

disposal system, the date when such system was installed, and the name and address of the contractor who made the installation. Such application shall be accompanied by a scaled drawing of the lot to which the application applies which accurately locates all buildings on such lot as well as the septic tank, drain field and other facilities comprising such private sewage disposal system and an inspection fee as fixed from time to time by the mayor and council. Within 30 days after receiving such application the superintendent shall inspect all plumbing facilities within such house or building and the private sewage disposal system to which the application applies. If the superintendent finds that such private sewage disposal system is in good repair, free from leaks, and adequate in design and construction, according to the standards of the state department of human resources and the Federal Housing Administration (FHA) he shall issue a permit to such owner to continue using such private sewage disposal system for a period of 12 months from the date of such application. It shall be necessary to file a new application and have a reinspection each 12 months during the continued use of such private sewage disposal system. No such private sewage disposal system shall be rebuilt, replaced, or repaired. Whenever such private sewage disposal system shall fail to function satisfactorily, the same shall be abandoned and filled and the owner shall be required to tap on to the city sewage disposal system. (Ord. of 8/6/69)

Section 5-2-8 Requirements for private systems where public sanitary service is not available.

Where a public sanitary sewer is not available, the building sewer shall be connected to a private sewage disposal system complying with the provisions of this section.

- (1) Permit required; application; fee. Before commencement of construction of a private sewage disposal system the owner shall first obtain a written permit signed by the superintendent of the water department. The application for such permit shall be made on a form furnished by the city which the applicant shall supplement by any plans, specifications and other information as are deemed necessary by the superintendent. A permit and inspection fee as fixed from time to time by the mayor and council shall be paid to the city at the time the application is filed.
- (2) Approval of installation. A permit for a private sewage disposal system shall not become effective until the installation is completed to the satisfaction of the superintendent of the water department, who shall be allowed to inspect the work at any stage of construction. In any event, the applicant shall notify the superintendent when the work is ready for final inspection, and before any underground portions are covered. The inspection shall be made within two (2) business days of the receipt of such notice.
- (3) Type, capacity, location, layout. The type, capacity, location, and layout of a private sewage disposal system shall comply with all recommendations of the state department of human resources and of the Federal Housing Administration. No septic tank or cesspool shall be permitted to discharge to any public sewer or natural outlet.
- (4) Discontinuing use. At such times as a public sewer becomes available to a property served by a private sewage disposal system, the owner may continue using such private sewage disposal system, but only by complying with the provisions of Section 5- 2-7

above. Whenever such private sewage disposal system ceases to function properly, the same shall be abandoned and filled and the owner shall cause the plumbing facilities of such property to be directly connected to the public sewer. (Ord. of 8/6/69)

Section 5-2-9 Building sewers.

- (a) 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 public sewer is available. The building sewer from the front building may be extended to the rear building and the whole considered as one building sewer.
- (b) Old building sewers may be used in connection with new buildings only when they are found, on examination and test by the superintendent of the water department, to meet all requirements of this Chapter. (Ord. of 8/6/69)

Section 5-2-10 Schedule of sewer rates.

The schedule of sewer use rates and connection fees, as set from time to time by the mayor and council, shall be kept current and maintained in the office of the city clerk.

Section 5-2-11 Protection from damage.

No unauthorized person shall maliciously, willfully, or negligently break, damage, destroy, uncover, deface, obstruct or tamper with any structure, appurtenance, or equipment which is a part of the sewage works.

Section 5-2-12 Discharging materials in sewer prohibited.

No person shall discharge into any sanitary or storm sewer in the city any substance likely to obstruct, cause undue injury to or interfere materially with the sewer drainage system in the city.

Section 5-2-13 Each dwelling, building or other structure.

Each dwelling, building or other structure which provides water for use therein other than water provided by the city, shall install a meter on the sewer line on of such dwelling, building or other structure.

Chapter 3 Wellhead Protection

Section 1 Short title and purpose

- (a) This ordinance shall be known as the “Wellhead Protection Ordinance.”
- (b) The purpose of this ordinance is to insure the provisions of a safe and sanitary drinking water supply for the city by establishment of wellhead protection zones surrounding the wellheads for all wells or springs which are the supply sources for the City of Concord water system and by the designation and regulation of property uses and conditions which may be maintained within such zones.

Section 2 Definitions.

When used in this ordinance the following words and phrases shall be the meaning given in this section.

- (a) Hazardous waste or material. Any waste or material which because its quantity, concentration or physical, chemical or infectious characteristics may:
 - (1) cause or significantly contribute to an increase in mortality or an increase in serious irreversible or incapacitation reversible illness; or
 - (2) pose a substantial present or potential hazard to human health or to the environment when improperly treated, stored, transported, disposed or otherwise managed.
- (b) Sanitary landfill. A disposal site where solid wastes, including putrescible wastes, or hazardous wastes, is disposed of on land by placing earth cover thereon.
- (c) Wellhead. The upper terminal of a well, including adapters, ports, seals, valves and other attachments.

Section 3 Establishment of wellhead protection zone.

There is hereby established a use district to be known as a wellhead protection zone, identified and described as all the area within a circle the center of which is the center of the Concord water supply (wellhead/spring area) and the radius of which is 250 feet.

Section 4 Permitted Use.

The following uses shall be permitted within wellhead/spring protection zones:

- (a) Any use permitted within existing agricultural or single family residential districts, except that the minimum residential lot size for a lot any portion of which lies with the wellhead/spring protection zone shall be less than one acre; and

- (b) Any other open land use where any building located on the property is incidental and accessory to the primary open land use.

Section 5 Prohibited uses.

The following uses or conditions shall be and are hereby prohibited within wellhead/spring protection zones, whether or not such use or condition may otherwise be ordinarily included as part of a use permitted under Section 4 of this ordinance:

- (a) Surface use of storage of hazardous material, expressly including commercial use of agricultural pesticides;
- (b) Septic tanks or drain fields appurtenant thereto;
- (c) Impervious surfaces other than roofs or buildings, and streets, driveways and walks serving buildings permitted under Section 4 of this ordinance;
- (d) Sanitary landfills;
- (e) Hazardous waste disposal sites;
- (f) Storm water infiltration basins;
- (g) Underground storage tanks;
- (h) Sanitary sewer lines 150 feet of a wellhead/spring.

Section 6 Administration.

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

TITLE 6
Planning and Development

- Chapter 1 General Provisions
- Chapter 2 Building Regulation and Code Enforcement
- Chapter 3 Subdivisions
- Chapter 4 Zoning

Chapter 1 General Provisions
(Reserved)

Chapter 2 Building Regulation and Code Enforcement

Article A Administration

§ §6-2-1 through 6-2-10 reserved.

Article B Building

§ 6-2-11 Building code adopted.

§ 6-2-12 Additions, insertions, deletions and changes.

Article A Administration

Editorial Note: Building inspections are currently performed by the county under contract with the city.

Sections 6-2-1 through 6-2-10 (reserved).

Article B Building

Section 6-2-11 Building code adopted.

For the purpose of establishing rules and regulations for the construction, alteration, use, demolition and removal of buildings or other structures, or any appurtenances connected or attached thereto, there is hereby adopted the Standard Building Code, being particular the 1982 edition and subsequent editions and revision thereof, as published by the Southern Building Code Congress International, Inc., and the whole thereof, except the portions as are hereafter deleted, modified or amended, a copy of which has been and is now filed in the office of the city clerk and which is hereby adopted and incorporated by reference as fully as if set out at length herein, and the provisions thereof shall be controlling as to all subjects therein contained, within the corporate limits, except that in the event that any of the provisions are in conflict with other provisions of this code, state law or ordinances, rules or regulations, the provisions of this code, state law or ordinances, rules or regulations shall prevail and be controlling.

Section 6-2-12 Additions, insertions, deletions and changes.

- (a) Section III of the Standard Building Code is deleted.
- (b) In Section 114 of the Standard Building Code, which provides for penalties for violations, the words “state laws” in the last sentence of this section shall mean “city ordinances”.
- (c) In interpretation of the building code the following definitions shall apply:
 - 1. Building official shall mean the county building inspector.
 - 2. Chief appointing authority shall mean the mayor and council.
- (d) The mayor and council shall exercise the powers and perform the duties of the board of adjustments and appeals.

Chapter 3 Subdivisions

(Reserved)

Chapter 4 Zoning

§ 6-4-1 Ordinance incorporated by reference.

Section 6-4-1 Ordinance incorporated by reference.

The zoning ordinance of the city, is hereby adopted as an ordinance of the city and is hereby incorporated into this section by reference. Copies of the zoning ordinance shall be maintained on file in the office of the city clerk and shall be available for public inspection.

TITLE 7
Licensing and Regulation

- Chapter 1 General Provisions
- Chapter 2 Peddling, Soliciting and Canvassing
- Chapter 3 Alcoholic Beverages
- Chapter 4 Miscellaneous Regulations

Chapter 1 General Provisions

Cross Reference: Business and occupation taxes, Section 2-5-21et seq.

- § 7-1-1 Definitions.
- § 7-1-2 License required. .
- § 7-1-3 Separate businesses.
- § 7-1-4 Application; fee; temporary business.
- § 7-1-5 Administration of Chapter.
- § 7-1-6 Duties of administrator.
- § 7-1-7 Duration of license.
- § 7-1-8 Casual and isolated activity.
- § 7-1-9 Special daily business license.
- § 7-1-10 Procedure for issuance.
- § 7-1-11 Display of licenses and registrations.
- § 7-1-12 Renewal of licenses.
- § 7-1-13 Revocation; suspension.
- § 7-1-14 Change of address.
- § 7-1-15 Transfer of licenses.
- § 7-1-16 Issuance of replacement licenses.
- § 7-1-17 Special provisions for disabled veterans.
- § 7-1-18 Violations and penalties.
- § 7-1-19 Defense to prosecution.
- § 7-1-20 Owner and manager both punishable for violations.
- § 7-1-21 Subsequent amendments; other fees.

Section 7-1-1 Definitions.

The following words where used in this Chapter, unless the context requires otherwise, shall be deemed to have the following meanings:

- (1) Administrator. The city clerk shall be the administrator for the licensing of businesses under this Chapter and may be assisted by employees of the clerk's office.
- (2) Business. Any business, trade, occupation, profession, avocation or calling of any kind for gain or profit, directly or indirectly; provided that this shall not include any business, trade, profession and the like licensed by the state unless city licensing is allowed by

state law, nor shall it include any business operating solely under a franchise granted by the city.

- (3) Engaged in business. Any person shall be deemed to be engaged in business and thus subject to the requirements of this Chapter when he performs any act of selling any goods or services or solicits business or offers goods or services for sale for payment in an attempt to make a profit, including the sales or services of the character as made by a wholesaler or retailer or involved in any of the functions performed as a manufacturer, either as an owner, operator or agent in any business within the city.
- (4) Person. Any person, firm, partnership, corporation, association or group of individuals, or their representatives, acting as a unit.

Section 7-1-2 License required.

Every business in this city or person doing business or engaged in business within the city is hereby required to have a business license from the city for the privilege of engaging in a business, profession or occupation within the corporate limits, unless city licensing is prohibited under state law or the activity is exempted by this code. Until the fees required by this section are paid, the city clerk shall not be authorized to accept deposits for water meters.

Section 7-1-3 Separate businesses.

Where a person conducts a business at more than one (1) store, location or place, each store, location or place shall be considered a separate business under the terms of this Chapter and a separate license shall be required. Should more than one (1) business on which a business tax is levied by this code be conducted in or in conjunction with one (1) place or kind of business, each business shall be separately licensed under this Chapter.

Section 7-1-4 Application; fee; temporary business.

Every person required to procure a license under the provisions of this code shall submit an application for the license to the administrator, which application shall conform to the requirements of this section in addition to any other provisions of this code.

- (1) Unless otherwise provided in this code, each application shall be a written statement upon forms provided by the city and submitted before January 1 of each year or within 10 days of opening a new business or reopening of a business under a new ownership.
- (2) Each application shall contain the following information:
 - a. name and home address of the applicant if an individual, or home office address if a corporation or partnership;
 - b. place where the proposed business is to be located;

- c. kind and class of business to be carried on;
 - d. names and home addresses of the partners, if a partnership;
 - e. names and home addresses of the officers and directors, if a corporation;
 - f. any information as may be required by the administrator for the purpose of determining the amount of any business taxes to be collected under this code; and
 - g. any additional information which the administrator may find reasonably necessary to the fair administration of this Chapter of the code which may include a complete record of all arrests and convictions against the applicant and every partner, officer or director of the applicant for violations of any and all laws and ordinances of the city, state or federal government other than minor traffic violations.
- (3) Each application shall be signed and sworn to by the applicant if an individual, or by a partner if a partnership, or by an officer if a corporation.
 - (4) All information furnished or secured under the authority of this Chapter of the code shall be kept in strict confidence by the city; shall not be subject to public inspection; and shall be utilized solely by the officers of the city responsible for administering the provisions of this Chapter and the city's business taxes.
 - (5) False statements on any application for a license shall be grounds for immediate revocation of the license or denial of the application.
 - (6) Any application, license and registration fees as fixed from time to time by the mayor and council or business taxes required under this code shall accompany the application.
 - (7) Transient and temporary businesses shall pay any fees or taxes provided for in this code. No license granted these businesses shall be valid after 180 days.

Section 7-1-5 Administration of Chapter.

The administrator shall administer and enforce the provisions of this Chapter for the application for and issuance of business licenses under this Chapter of the code.

Section 7-1-6 Duties of administrator.

The administrator, or an authorized representative, shall have, among others, the following duties:

- (1) To prepare and provide the necessary forms for the registration and application for a business license and for the submission of any required information as may be necessary to properly administer and enforce the provisions of this Chapter.

- (2) To issue to each person a business license within a reasonable time after the payment of the license fee assessed and any business taxes, property or other city taxes levied in this code; provided, however, where under other portions of this code, permits, certifications and compliance with enumerated conditions are required for the operation of the business, the administrator shall not issue a business license until the applicant exhibits to the administrator the obtained permits, certification and compliance.

Section 7-1-7 Duration of license.

Any license referred to in this Chapter shall automatically expire on December 31 of the year of its issuance.

Section 7-1-8 Casual and isolated activity.

Except as otherwise provided in this title, nothing herein contained shall be interpreted so as to require any person who may engage in casual or isolated activity and commercial transactions, where they involve personal assets only and are not the principal occupation of the individual, to obtain a business license and pay a fee therefor.

Section 7-1-9 Special daily business license.

In lieu of obtaining a business license as provided in this Chapter, a person not maintaining a fixed place of business in the city may obtain from the administrator a special daily business license which shall expire at 12 midnight of the day for which it is issued. A new license shall be obtained for each day on which any type of business is to be conducted. Any person desiring to engage in a business licensed under this section shall obtain a license prior to engaging in business on the day for which the license is issued and pay all license fees and business taxes required under this code.

Section 7-1-10 Procedure for issuance.

- (a) If any provision of this code provides for the review of an application for a license by a city officer designated therein, the administrator shall forward a copy of the application to that officer. The officer charged with the duty of reviewing the application shall make a recommendation thereon, favorable or otherwise, and shall return the recommendation to the administrator after receiving a copy of the application.
- (b) Upon the receipt of the recommendation of the reviewing officer as herein above provided, or upon the receipt of the application if no reviewing officer is designated, the administrator shall forward the recommendation and application to the mayor and council for consideration and action at its next regularly scheduled public meeting, if approval by the mayor and council is required.
- (c) No license shall be issued to any applicant whose place of business is not in full compliance with all minimum standard building codes adopted by the city.

- (d) No license shall be issued to any applicant who has any outstanding indebtedness to the city, including but not limited to property taxes, business license fees, business taxes, utility bills and any other taxes or assessments.
- (e) Upon the express approval of the mayor and council, when so required, or otherwise upon a determination by the administrator that the application is in order and all requirements have been met, the administrator shall issue a business license to the applicant therefor, which license shall state the nature of the business authorized and bear the date of issuance and the signature of the administrator.
- (f) If the administrator determines that the application is not in order or any requirements for the license have not been met then the administrator shall deny the application and immediately provide written notice of the denial and the grounds therefor to the applicant. The applicant may appeal the denial to the mayor and council within 10 days of the denial notice being issued. The mayor and council shall hold a public hearing on the appeal within 10 days of the appeal being filed with the city clerk. The mayor and council within 10 days of the hearing, may order the license granted with or without conditions or may affirm the denial of the application. The decision shall be based only upon a finding by the mayor and council that the administrator was correct or erred in the interpretation of the regulations involved or the facts of the case.
- (g) Unless otherwise provided in this Chapter, all license applications shall be approved or disapproved within 10 days of filing with the administrator.
- (h) Nothing herein contained shall be construed as granting any person whose business is subject to municipal regulation any legal right to engage in that business.

Section 7-1-11 Display of licenses and registrations.

All persons shall exhibit and display all licenses and registrations issued to them under this code in some conspicuous place in their business establishment at which address the license or registration was issued. Any transient or nonresident person, firm or corporation doing business within the city shall carry the license or registration either upon his or her person or in any vehicle or other conveyance which is used in the business and the person shall exhibit the same to any authorized enforcement officer of the city when so requested.

Section 7-1-12 Renewal of licenses.

Each licensee shall make a written application for renewal on forms supplied by the administrator no later than January 1 of each calendar year, which application may require substantially the same information as the initial application.

Section 7-1-13 Revocation; suspension.

The mayor and council after affording the licensee a five (5) day notice of the charges and opportunity to be heard with respect to any revocation proceedings, may, if it finds this code

to have been violated by the licensee, his or her agent, or employee in the operation of the business, revoke any and all city licenses in their entirety, suspend the same for a specified period of time, place the licensee on probation or place other conditions thereon as the mayor and council may deem necessary after a hearing thereon.

Section 7-1-14 Change of address.

Any person licensed hereunder moving from one location to another shall notify the administrator of the move and the new address in writing on a form provided by the administrator no later than the day of moving, valid at the new location if the new location conforms to the zoning and building regulations of the city and any other location transfer requirements of this code.

Section 7-1-15 Transfer of licenses.

Business licenses shall not be transferable except as provided in this section. In the event that the owner of a business holding a currently valid paid up business license should sell or transfer the business to another person, the purchaser of the business shall obtain free of charge a new license in his name for the balance of the current term of the seller's business license, upon making application to the administrator, and the purchaser shall be punishable for violation of this Chapter if the transfer of the business license provided for in this section is not made before the transferee begins to engage in the business. At the date of renewal of the seller's business license, the buyer must obtain a new annual business license and pay all license fees and business taxes required by this code and comply with all applicable provisions of this code and all ordinances in the same manner as if he had been the original owner of the business.

Section 7-1-16 Issuance of replacement licenses.

In the event that the administrator is notified that the licensee has lost his copy of the license, he shall make a new copy, upon showing by the licensee that the required fees have been paid. In addition, the licensee shall be charged a replacement fee as fixed from time to time by the mayor and council. Replacement licenses shall be signed by the administrator and shall indicate the time and date upon which issued. The possession of a replacement license shall not be a defense to any charge of violation of this Chapter except a charge made after the time of the issuance of the replacement license.

Section 7-1-17 Special provisions for disabled veterans.

All disabled veterans desiring to enter business without paying city license fees or business taxes must present a state disability license to the administrator whereupon a city license will be issued and marked "FREE" on the face of the same.

Section 7-1-18 Violations and penalties.

- (a) It shall be a violation of this Chapter for any person, whether based in the city or elsewhere, to transact any business of a type for which this Chapter requires a license, or to carry on any business for which a license is required however briefly or however transitorily, without first obtaining a license to do so, under the provisions of this Chapter.
- (b) It shall be a violation of this Chapter for any person, whether based in the city or elsewhere, made liable for obtaining a business license under this Chapter, to fail to show the license or a copy thereof to any police officer within a reasonable time after the making of a demand therefor by the police officer.
- (c) It shall be a violation of this Chapter to fail to pay the license fees required by this Chapter by the date on which such payments are due.
- (d) Any person violating any of the provisions of this Chapter shall, upon conviction in the municipal court of the city, be punished as provided in Section 1-1-5 of this code.

Section 7-1-19 Defense to prosecution.

It shall be a defense to any prosecution under this Chapter for failing to obtain a business license before engaging in business, that a license has in fact been issued in the manner provided by law. It shall be presumed that no license has been issued unless at trial, the accused produces in court current valid business license or a certified copy thereof. In no event shall the claim by the accused that he/she has been issued a currently valid business license which has been lost be sustained unless that person shall have first reported the alleged loss to the administrator and made demand for the issuance of a new license. The report of loss or demand for issuance of a replacement license must have been made prior to the arrest for the violation for which the accused is charged.

Section 7-1-20 Owner and manager both punishable for violations.

In the event that a business is being conducted without a license, both the person owning the business and the person in charge of the management of the business in the city may be held liable for the violation of the provisions of this Chapter, and upon conviction, either or both may be punished as provided for in Section 7-1-18.

Section 7-1-21 Subsequent amendments; other fees.

This Chapter shall be subject to amendment or repeal, in whole or in part, at any time, and no amendment or repeal shall be construed to deny the right of the city to assess, levy and collect any of the license fees prescribed. The payment of any license fee herein provided for shall not be construed as prohibiting the assessment, levy or collection of additional license or permit fees upon the same person, firm or corporation.

Chapter 2 Peddling, Soliciting and Canvassing

State Law Reference: County licensing of peddlers, OCGA, Section 43-32-1 et seq.

§ 7-2-1 Registration required.

§ 7-2-2 Registration; fee; application for identification card.

§ 7-2-3 Exhibition of registration card.

§ 7-2-4 Unlawful acts.

Section 7-2-1 Registration required.

Any person peddling, soliciting or canvassing within the city shall be required to register and obtain an identification card as provided by this Chapter.

Section 7-2-2 Registration; fee; application for identification card.

Any person desiring to peddle, solicit or canvass within the city shall pay to the city clerk or designated representative a registration fee as fixed from time to time by the mayor and council and shall make application with the chief of police for an identification card which shall show payment of the registration fee and the days that the registrant has registered to peddle, solicit or canvass within the city.

Section 7-2-3 Exhibition of registration card.

Each registrant shall at all times while in the city have upon their person the registration card and shall exhibit the same when requested to do so by any law enforcement officer or by any municipal authority and by any person being solicited. Possession of this registration card shall not in any way represent an endorsement or approval of any products or project by the city.

Section 7-2-4 Unlawful acts.

- (a) It shall be unlawful for any person to peddle, canvass or solicit after sundown.
- (b) It shall be unlawful for any person to peddle within the city.
- (c) It shall be unlawful for any person to peddle, canvass or solicit without having registered with the city clerk in accordance with this Chapter or to peddle, solicit or canvass without having on their person and in possession an identification card issued in accordance with this Chapter.

Chapter 3 Alcoholic Beverages

State law Reference: Alcoholic beverages code, OCGA, Title 3.

Cross Reference: Alcoholic beverage excise tax; imposition; collection, Section 2-5-41.

Article I Purpose; Definitions; Compliance
Article II Application
Article III Grounds for Denial
Article IV License
Article V Restrictions and Requirements
Article VI Taxes on Malt Beverages, Wine and Distilled Spirits
Article VII Revocation or Suspension

§ 7-3-1 Purpose
§ 7-3-2 Definitions
§ 7-3-3 License Required
§ 7-3-4 Compliance with Chapter
§ 7-3-5 Knowledge of Chapter
§ 7-3-6 Compliance with State and Federal Laws
§ 7-3-7 Filing of Application
§ 7-3-8 Specification of license applied for
§ 7-3-9 Fingerprints
§ 7-3-10 Other information needed
§ 7-3-11 Posting of Notice
§ 7-3-12 Application Fee
§ 7-3-13 Application Review by the Governing Authority
§ 7-3-14 Age and Residency Requirements
§ 7-3-15 False Statements on Application
§ 7-3-16 Character
§ 7-3-17 Zoning Requirements
§ 7-3-18 Payment of Taxes
§ 7-3-19 Location
§ 7-3-20 Written statement of denial
§ 7-3-21 Hearing
§ 7-3-22 License Fee
§ 7-3-23 Transferability
§ 7-3-24 License to be Displayed
§ 7-3-25 Term
§ 7-3-26 Renewals
§ 7-3-27 Failure to open or operate
§ 7-3-28 Hours of Operation
§ 7-3-29 Sales on Election Days
§ 7-3-30 Sale to Minors
§ 7-3-31 Furnishing to certain other persons prohibited

- § 7-3-32 Employment of Persons under the age of 18
- § 7-3-33 Consumption on Premises
- § 7-3-34 Requirements Regarding Premises
- § 7-3-35 State Law Location Restrictions
- § 7-3-36 Adult Entertainment Establishments
- § 7-3-37 Taxes on Wine
- § 7-3-38 Taxes on Malt Beverages
- § 7-3-39 Taxes on Distilled Spirits by the Drink
- § 7-3-40 Excise tax for private clubs
- § 7-3-41 Failure to make timely reports and/or false or fraudulent reports
- § 7-3-42 Grounds for Revocation or Suspension
- § 7-3-43 Suspension or Revocation of License
- § 7-3-44 Rehearing
- § 7-3-45 Time Limitations on New Licenses

Chapter 3 Alcoholic Beverages

Article I Purpose; Definitions; Compliance

Section 7-3-1 Purpose

This Chapter is enacted in furtherance of the police powers of the City to promote the health and general welfare of its citizens; to regulate and control the licensing and sale of alcoholic beverages; to establish reasonable regulations and ascertainable standards for licensees which will ensure the public peace; to protect schools, churches, and residential areas from the negative secondary effects attributable to establishments that sell alcoholic beverages; and to ensure that only qualified persons obtain licenses for the sale, manufacture or distribution of alcoholic beverages.

Section 7-3-2 Definitions

The following words, terms and phrases, when used in this Chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning. The definitions contained in O.C.G.A. §§ 3-1-2, 3-4-1, 3-5-1, 3-6-1, and 3-11-1, as amended, are hereby incorporated by reference.

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

Alcoholic Beverages means all alcohol, distilled spirits, malt beverage, wine, or fortified wine.

Authorized catered function means an event at a location not otherwise licensed for consumption of alcoholic beverages by the drink at which alcoholic beverages are furnished, for consideration, and sold, dispensed or provided free of charge to persons present at the event, by the drink, pursuant to a permit obtained under this ordinance.

Business Entity means a duly incorporated business registered to do business in the State of Georgia, or a firm, partnership, joint venture or similar entity that can document to the satisfaction of the Governing Authority its existence as a tax-paying entity for a period of at least one (1) year prior to obtaining a license.

Brewer (*see manufacturer*)

Brewpub means any eating establishment in which 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 solely in draft form. As used in this definition, the term “eating establishment” means an establishment that derives at least 50% of its total annual gross food and beverage sales from the sale of prepared meals or food.

Church means any permanent building which houses the main sanctuary in which persons regularly assemble for religious worship and which is publicly designated as a church and which is either owned or held under a lease of at least five years by or on behalf of such persons, but shall not include a residence also used for religious purposes. The term “church” shall not include the temporary housing of a religious group in an otherwise commercial center.

City means the incorporated area of the City of Concord, Georgia.

County means Pike County, Georgia.

Distiller (*see manufacturer*)

Distilled Spirits means the product of the distillation of any liquid, whether rectified or diluted, whatever may be the origin thereof, and shall include synthetic ethyl alcohol, brandy, rum, whiskey, gin, cordials, or other spirituous liquors by whatever name called, to include fortified wines as defined by the Federal Alcohol Administration.

Employee means any person who performs any service for a licensee at the business location of the licensee whether for compensation or otherwise when the services performed directly relate to the sale of alcoholic beverages.

Farm Winery Tasting Room shall have the same meaning as defined in O.C.G.A. §3-6-21.1.

Governing Authority means the Mayor and City Council of the City of Concord.

License means the official authorization of the governing authority to sell by package or by drink distilled spirits, alcoholic beverages.

Licensed alcoholic beverage caterer means any person licensed for the sale of alcoholic beverages by the state and who possesses a license by a local government in the state authorizing such person to sell or dispense alcoholic beverages by the drink off the licensed premises and in connection with an authorized catered function.

Licensee means any person, firm or corporation duly authorized by the governing authority to sell by package or by drink distilled spirits, alcoholic beverages.

Malt Beverage means any alcoholic beverage obtained by the fermentation of any infusion or decoction of barley, malt, hops, or any other similar product, or any combination of such products in water, containing not more than six (6) percent alcohol by volume and including ale, porter, brown, stout, lager beer, small beer and strong beer. The term does not include sake, known as Japanese rice wine.

Managing Agent means an individual designated by resolution of a corporation, LLC or other business entity (other than a sole proprietorship) to apply for a license as provided herein and to manage the day to day operations of the premises.

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

- A. In the case of distilled spirits, any person engaged in distilling, rectifying, or blending any distilled spirits;
- B. In the case of malt beverages, any brewer; and
- C. In the case of wine, any vintner.

Minor means any person under the age of twenty-one (21) years as provided by state law.

Package Store License means a license issued to a retail dealer for the sale of malt beverages and/or wine in sealed containers for consumption off the premises, generally known as the sale of malt beverages or wine “to go”.

Premises means the definite location, whether a room, shop or building, wherein a license has been granted to sell by package or by drink malt beverages, and/or wine.

Private Club means any nonprofit association organized under the laws of the State of Georgia which:

1. Has been in existence at least one (1) year prior to filing of its application for a license hereunder;
2. Has at least seventy-five (75) regular dues paying members;
3. Owns, hires or leases a building or space within a building for the reasonable use of its members, which building or space has suitable kitchen and dining room space and equipment, and is staffed with a sufficient number of employees for cooking, preparing, and serving meals for its members and guests; and

4. Has 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 the amount of such salary as may be fixed by the members of the private club at any annual meeting or by its governing board out of the general revenue of the club.

Pouring License means a license issued by the governing authority to authorize the sale of alcoholic beverages by the drink for consumption on the premises. The sale of distilled spirits by the drink for consumption on the premises is only permitted at restaurants.

Restaurant means any public place kept, used, maintained, advertised and held out to the public as a place where meals are actually and regularly served, such place being provided with adequate and sanitary kitchen and dining room equipment and having employed therein a sufficient number and kind of employees to prepare cook and serve suitable food for its guests. A restaurant shall derive at least fifty percent (50%) of its total annual gross food and beverages sales from the sale of prepared meals or food.

Retail Dealer means any person selling malt beverages and/or wine directly to the consumers.

Specified Anatomical areas shall mean any of the following:

1. Less than completely and opaquely covered human genitals or pubic region; cleft of the buttocks, or any portion of the female breast encompassed within an area falling below the horizontal line one would have to draw to intercept a point above the top of the areola, or any portion of the areola, or any simulation thereof. This definition shall include the entire lower portion of the human female breast, but shall not include any portion of the cleavage of the human female breast exhibited by a dress, blouse, shirt, leotard, bathing suit, or other wearing apparel, provided the areola is not so exposed; or
2. Human male genitalia in a discernibly turgid state, even if completely and opaquely covered.

Specified sexual activities shall mean and include any of the following:

1. The fondling or other erotic touching of human genitals, pubic region, buttocks, anus or female breasts; or
2. Sex acts, normal or perverted, actual or simulated, including intercourse, oral copulation or sodomy; or
3. Masturbation, actual or simulated; or
4. The displaying of the male or female pubic hair, anus, vulva or genitals; or
5. Excretory functions as part of or in connection with any of the activities set forth in 1 through 4 above.

Wholesale Dealer means any person selling alcoholic beverages to retailers and not to consumers.

Wine means any alcoholic beverage containing not more than twenty-one (21) percent alcohol by volume made from fruits, berries or grapes, either by natural fermentation or by natural fermentation with brandy added. The term includes, but is not limited to, all sparkling beverages, vermouths, special natural wines, rectified wines and like products. The term does not include cooking wine mixed with salt or other ingredients so as to render it unfit for human consumption as a beverage. A liquid shall first be deemed to be a wine at that point in the manufacturing process when it conforms to this definition of “wine”.

Section 7-3-3 License Required

No alcoholic beverages shall be sold in the City except under a license granted by both the State of Georgia and the City. The sale of distilled spirits by the package is prohibited in the City at this time.

Section 7-3-4 Compliance with Chapter

No application for a license shall be approved until all applicable provisions of this Chapter shall have been fully and completely complied with.

Section 7-3-5 Knowledge of Chapter

All holders of a license for the sale of alcoholic beverages shall keep a copy of this Chapter on the premises and shall be familiar with the terms of this Chapter and shall instruct any person working there to be familiar with the terms of this Chapter. It shall be unlawful to sell alcoholic beverages without compliance with this Chapter.

Section 7-3-6 Compliance with State and Federal Laws

All applicable provisions of O.C.G.A. Title.3, Alcoholic Beverages, are hereby adopted by reference. No licensee under this Chapter shall engage in the sale of alcoholic beverages in violation of any state or federal laws. No license for the sale of alcoholic beverages shall be granted for any premises if such location is prohibited by O.C.G.A. § 3-3-21, or any subsequent amendment thereof.

Article II Application

Section 7-3-7 Filing of Application

All applications for licenses for the sale or distribution of alcoholic beverages shall be filed in person by the applicant at City Hall and shall consist of a completed form or forms furnished for application purposes by the City and fully in compliance with the criteria hereinafter set out. All applications shall be filed at least ten (10) days prior to the next regular meeting of the Governing Authority to be considered at that meeting. All applications shall be fully executed by

the applicant. Where the applicant is not the owner of the premises, a copy of applicant's lease with the owner must be submitted. Each question on the form(s) shall be answered accurately and under oath. The willful making of any false statement as to a material matter on any application for a license to sell wine and malt beverages shall constitute grounds for denying such license and/or for revocation of any license issued.

- (1) If the applicant is a partnership, LLC, or other business entity, other than a sole proprietorship, applicant must submit a copy of its organizational documents and all members of the business entity shall execute it and meet the requirements of an applicant under this Chapter at the time application is made and at all times during which the license is in effect.
- (2) If the applicant is a corporation, it must submit a copy of the articles of incorporation, certificate of incorporation, by-laws, and other organizational documents, and the president and secretary must in all respects meet the minimum requirements to qualify for the issuance of a license. In the case of business entity applicant whose primary business is the operation of an alcoholic beverage establishment, the majority stockholder must meet the requirements of an applicant under this Chapter at the time application is made and at all times during which the license is in effect. Where the applicant is a business entity whose primary business is other than the operation of an alcoholic beverage establishment, a managing agent of such business entity involved or to be involved in the active management of the business to be licensed, must apply for the license and meet the requirements of an applicant under this Chapter at the time application is made and at all times during which the license is in effect.
- (3) Any person, firm or business entity who or which owns property leased to an applicant, which lease provides for payment based upon the level of alcoholic beverage derived income, shall be considered a co-applicant and must meet all qualifications contained herein.

Section 7-3-8 Specification of license applied for

An applicant may apply for more than one license on the same application for the same location, nevertheless, each individual license shall be approved or denied separately by the Governing Authority.

Classification

The following licenses are available for the sale alcoholic beverages:

Malt Beverage Package: permits the retail sale of closed containers of malt beverages directly to consumers

Malt Beverage Pouring: permits the retail sale of open containers of malt beverages directly to consumers

Wine Package: permits the retail sale of closed containers of wine directly to consumers

Wine Pouring: permits the retail sale of open containers of wine directly to consumers

Distilled Spirits Pouring: permits the retail sale of open containers of distilled spirits directly to consumers

Farm Winery: permits the manufacture and wholesale of wine up to 24,000 gallons per calendar year. To qualify for a Farm Winery at least 40% of annual production must come from agricultural produce grown in Georgia.

Farm Winery Tasting Room: permits the retail sale of wine produced by a Georgia Farm Winery for consumption on the premises and/or closed packages for consumption off the premises.

Brewpub: permits the manufacture and sale of not more than 10,000 barrels of malt beverage at a location that also holds a Malt Beverage Package and/or Malt Beverage Pouring License. This also permits the licensee to sell a maximum of 5,000 barrels per year to a licensed wholesale dealer.

Brewer: permits the manufacture and sale of not more than 3000 gallons per calendar year for consumption on the premises and/or closed container sales for consumption off premises

Special Event (nonprofit): permits the sale of wine and malt beverages in open containers for a limited and specific time period during an event sponsored by a certified non-profit organization

Authorized Catered Function: permits the sale of wine and malt beverages in open containers for a limited and specific time period during an event by a person or entity that holds a valid alcohol permit in another location and/or jurisdiction

Wholesale dealer / distributor: Permits the sale of alcoholic beverages to other wholesale dealers, to retail dealers, or to retail consumption dealers.

Manufacturer of Alcoholic Beverages: Permits the making, producing, or bottling of an alcoholic beverage.

The sale of distilled spirits by the package is expressly prohibited. The sale of distilled spirits by the drink is only permitted at restaurants.

The holding of one license does not entitle the holder to any other type of license, each will be individually decided upon by the Governing Authority.

Restaurants with a valid pouring license are authorized to allow patrons to remove one unsealed bottle of wine per patron for consumption off premises if the patron has purchased a meal and consumed a portion of the bottle of wine with their meal on the premises. This is commonly referred to as “brown bagging” and does not require a separate license. Please refer to O.C.G.A. § 3-6-4 for all requirements.

Restaurants with a valid pouring license are authorized to allow or disallow patrons to bring their own alcoholic beverages to be consumed on the premises. This does not require a separate license. This is commonly referred to as BYOB.

Authorized Catered Functions

Any person, partnership, or corporation who holds a malt beverage and or wine package and pouring license can also make application to sell the same off the licensed premises at an authorized catered function. Fifteen (15) days' notice must be given to the City Clerk before off premises sales are allowed. A separate permit must be issued for each event, the fee of which is decided upon by the Governing Authority and posted in the office of the City Clerk. All state location restrictions will still apply.

Special Events (non-profit)

Nonprofit civic organizations may qualify for a temporary permit from the commissioner of the department of revenue to sell alcoholic beverages for the consumption on the premises for a period not to exceed three (3) days. No more than six (6) permits may be issued to a non-profit organization in any calendar year. An authorized representative of a nonprofit civic organization may apply to the City Clerk for a letter certifying the date, time and event location as a condition for seeking a temporary permit from the commissioner of the department of revenue. The City shall not impose a fee or charge for such letter.

Section 7-3-9 Fingerprints

Each applicant shall furnish a complete set of fingerprints to the County Sheriffs' office who shall search the files of the Georgia Bureau of Investigation (GBI) for a period of two (2) years (O.C.G.A. § 3-3-2) immediately preceding the date of application for any instance of criminal activity, and the fingerprints shall also be submitted to the Federal Bureau of Investigation (FBI) under rules established by the United States Department of Justice for processing and identification of records. The records from the GBI and the FBI will be forwarded by the sheriffs' office to the office of the Governing Authority to become part of the application, but will be held separately in a secure location and will only be viewed and/or disseminated to those persons who have completed training as may be required by state and federal laws. Tender of an application for an alcohol license shall serve as an express authorization to the City to conduct an investigation into the background of the applicant and all others authorized in this chapter.

Section 7-3-10 Other information needed

The applicant is also required to provide his/her name, complete address and phone number, address for the past five (5) years, employers for the past five (5) years, and a listing of any other license held in any other jurisdiction for alcoholic beverages and any revocation of such license. A detailed drawing is required of the building which will house the business, including the outside area with all businesses within three hundred (300) feet of the building identified, dining area, restrooms, kitchen and the area reserved to store any alcoholic beverages.

Section 7-3-11 Posting of Notice

Once an application for the sale or distribution of alcoholic beverages is made, the applicant has three (3) days to post a sign at least twenty-four (24) inches by thirty-six (36) inches with letters at least four (4) inches in height on the front door of the premises proposed for the location of the business to be licensed and upon a prominent place on the lot where the business for which the license is proposed is located, to be no more than ten (10) feet from the public street on which said business faces, which sign shall state: "Application Pending for this Location for License to Sell Alcoholic Beverages" whichever is applicable. This sign shall remain in place until the application is acted upon by the Governing Authority.

Section 7-3-12 Application Fee

There shall be a non-refundable application fee attached to the application in an amount set by the Governing Authority and posted in the office of the City Clerk.

Section 7-3-13 Application Review by the Governing Authority

Once the application is complete, the City Clerk will submit the application to the Governing Authority for approval or denial at its next regularly scheduled meeting. The applicant, or at least one general partner of the partnership, member or manager of the LLC, or officer of the corporation, or the managing agent shall be present to answer any questions that may be submitted to them by the Governing Authority. Failure to attend the meeting may be grounds for denial or delayed consideration of the application. Other grounds for denial are found in this ordinance. If the Governing Authority finds, upon motion and majority approval, the application is in good order and granting approval of the license(s) meets the standards set under this ordinance, the Governing Authority will instruct the City Clerk to generate the license(s) so approved.

Article III Grounds for Denial

Section 7-3-14 Age and Residency Requirements

No license shall be granted to any person as defined herein unless such person is of legal age and is a citizen or resident legal alien of the United States of America.

Section 7-3-15 False Statements on Application

The making of any statement on the application that is found to be false is grounds for denial of the application.

Section 7-3-16 Character

- (a) In no event shall any license be granted to any person where any of the individuals, or officers, as the case may be, have, within two years (2) immediately

prior to the filing of the application, entered a plea of guilty or a plea of nolo contendere, or shall have suffered any conviction of any kind involving particularly, but not limited to, alcoholic beverages, of the state or of any locality or of the United States, if such plea or conviction tends to indicate that the applicant will not maintain the operation for which he is seeking a license in conformity with local, state or federal laws.

- (b) In no event will a license be granted if the applicant at any time has had a license for distilled spirits, alcoholic beverage revoked at any location, whether in this county or otherwise if it indicates the applicant will not maintain the operation for which he is seeking a license in conformity with local, state or federal laws.
- (c) A license application may be denied to any applicant where it appears that the applicant would not have adequate financial participation in the proposed business to direct and manage its affairs, or where it appears that the applicant is intended to be a mere surrogate for a person or persons who would not otherwise qualify for a license for any reason whatsoever.
- (d) The Governing Authority, in its discretion, may consider any extenuating circumstances which may reflect favorably or unfavorably on the applicant, application or proposed location of the business. If in their judgment circumstances are such that the granting of the license would not be in the best interest of the general public, such circumstance may be grounds for denying the application.
- (e) The restrictions of this subsection as to stockholders shall apply only to stockholders of privately owned corporations and to stockholders of publicly owned corporations who hold in excess of fifty percent (50%) of outstanding stock.

Section 7-3-17 Zoning Requirements

No license shall be granted to an establishment that does not meet all zoning and building regulations.

Section 7-3-18 Payment of Taxes

No application for a license required by this Chapter shall be approved unless the applicant and/or the property owner of the establishment to be licensed (if different from the applicant) thereof shall have fully paid all ad valorem taxes and occupational taxes due to the City and County.

Section 7-3-19 Location

No application for any license to sell alcoholic beverages shall be approved where the proposed location of the business is within 100 yards of any school building, school grounds, or college campus. However, this shall not prohibit a grocery store licensed for the retail sale of only wine and malt beverages within 100 yards of any school building, school grounds, or college campus,

where so otherwise permitted. For this purpose, the term “grocery store” shall mean a retail establishment which has a total retail floor space of at least 10,000 square feet of which at least 85% is reserved for the sale of food and other nonalcoholic items, conducts all of its sales inside the building containing its retail floor space, and meets such other criteria as may be required in the City’s Zoning Ordinance. Sale of any distilled spirits, wine, or malt beverages within 100 yards of an alcoholic treatment center owned and operated by this state or any county or municipal government therein is prohibited. O.C.G.A. § 3-3-21

The distance herein prescribed shall be measured in the following manner:

- From the front door of the structure from which alcoholic beverages is offered for sale;
- In a straight line to the nearest public sidewalk, walkway, street, road or highway;
- Along such public sidewalk, walkway, street, road or highway by the nearest route;
- To the front door of the building, or to the nearest portion of the grounds, whichever is applicable under the appropriate state statute.

The premises cannot, at the time of application, be the subject of an ordinance violation enforcement investigation. The front entrance of the premises must be clearly visible from a public street.

Section 7-3-20 Written statement of denial

If the application for a license is denied, the denial shall issue a written statement to the applicant with ten (10) days of the decision, which statement shall set forth the reason or reasons for denial.

Section 7-3-21 Hearing

Any person aggrieved by any act or omission of the Governing Authority with respect to its proceedings as to issuance of a license under this Chapter shall have the right to move for a hearing and reconsideration of the matter. Such motion for a hearing shall be filed within ten (10) calendar days after the receipt of the notice of denial, shall be in writing, and shall outline the manner in which such protestant believes that the City has erred. If the motion relates to a matter as to which evidence has already been heard, no additional evidence or argument shall be permitted on the motion for a hearing except after a grant thereof by the Governing Authority for good cause shown. The Governing Authority shall afford a hearing within sixty (60) calendar days after the filing of the motion, with at least ten (10) calendar days written notice having been served upon the protestant, which notice shall state the protestant has the right to appear in person at a date and time specified in said notice, and that the protestant shall be allowed to be represented by counsel, and may introduce oral and documentary evidence under oath, and may examine and cross examine witnesses.

Article IV License

Section 7-3-22 License Fee

A license fee for alcoholic beverages will be established by the Governing Authority and will be posted in the office of the City Clerk.

Section 7-3-23 Transferability

No license issued under this Chapter shall be assignable or transferable. In the event a licensed business is moved, sold or closed or no longer directly operated by the licensee, the licensee shall immediately surrender his license to the City Clerk. All licenses shall be issued to specific persons and for a specific location. Change of business interest from one (1) party at interest named in the original application to another party at interest named in the original application shall not be deemed a transfer of a license. In such instance, however, the licensee shall notify the City Clerk in writing of such change, and fully disclose the facts in connection therewith, within seven (7) days from the date of such change. Whenever a licensee is a business entity, other than a sole proprietorship, a new license application shall be required subsequent to any change in more than 10 percent (10%) of the ownership of the licensed business entity where a new owner joins said business entity.

Section 7-3-24 Licenses to be Displayed

Licenses granted for the manufacturing, sale or distribution of alcoholic beverages must be displayed at all times on the premises for which the same was issued in the same location as is displayed the occupational tax certificate.

Section 7-3-25 Term

All licenses issued by the City shall be issued on a calendar year basis and shall expire, regardless of the date of issuance, on the last day of December of each year.

Section 7-3-26 Renewals

Applications for a renewal license shall be provided to the City by November 1 for the following year for the Governing Authority to act upon by December 31. Renewal applications will be made available in the City Clerk's office. Re-advertising is not required however, fingerprints must be resubmitted to the Pike County Sheriffs' Office every two (2) years. Any license not renewed by December 31st of each year will become void on January 1st and the license holder must reapply following the same procedure as a new license.

Section 7-3-27 Failure to open or operate

All holders of licenses issued hereunder must, within six months after the issuance of such license, open for business the establishment referred to in the license. Failure to open the licensed establishment within such period shall serve as a forfeiture and cancellation of the

unused license and no refund of the license fee shall be made to the license holder.

Article V Restrictions and Requirements

Section 7-3-28 Hours of Operation

It shall be unlawful to sell or offer for sale any alcoholic beverage except between the hours of 7:00 a.m. and 12:00 a.m. (midnight) on Monday through Saturday. All open containers of alcoholic beverages on the premises shall be collected and either properly stored or disposed of not later than thirty minutes after the deadline to stop selling or offering for sale alcoholic beverages by the drink.

Section 7-3-29 Sales on Election Days

The sale of alcoholic beverages on election days is specifically permitted. However, no licensee or any person in his employ shall sell or offer to sell any alcoholic beverages within two hundred fifty (250) feet of any polling place or the outer edge of any building within which such polling place is established on primary or election days.

Section 7-3-30 Sale to Minors

No licensee under this Chapter shall furnish or cause to be furnished or permit any person in his employ to furnish any alcoholic beverage to any minor. The licensee shall be held responsible for any such sale made by his employees or others in the licensed business premises. The prohibition of this section includes the sale, gift or any other furnishing of alcoholic beverages to minors. The holder of any license for the sale of alcoholic beverages by package or by the drink shall post in a conspicuous place in his place of business a notice with letters not less than four (4) inches in height which shall be clearly visible to all customers entering the establishment as follows: "Sales of any alcoholic beverages to Minors is Strictly Prohibited."

Section 7-3-31 Furnishing to certain other persons prohibited

No licensee under this Chapter shall sell or permit to be sold or otherwise furnish any alcoholic beverages to any person who is physically or mentally impaired due to the consumption of any alcoholic beverage.

Section 7-3-32 Employment of Persons under the age of 18

It shall be unlawful for any person to allow or require a person under 18 years of age to dispense, serve, sell or take orders for alcoholic beverages; provided, however, that the provisions of this section shall not prohibit minors who are employed in supermarkets, convenience stores, or drugstores from selling or handling alcoholic beverages which are sold for consumption off the premises, so long as such minor is under the supervision of at least one (1) adult, whether such adult be the licensee or another employee.

Section 7-3-33 Consumption on Premises

No retail dealer for the sale of alcoholic beverages shall allow alcoholic beverages to be consumed on its premises unless such dealer has both a package license and a pouring license.

Section 7-3-34 Requirements Regarding Premises

All businesses holding a license to sell alcoholic beverages must comply with the building ordinances of the City, County, the State of Georgia and the federal government. Each building in which alcoholic beverages will be sold shall contain sufficient lighting so that the building itself and the premises on all sides of the building are readily visible at all times. All premises for which a 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.

Section 7-3-35 State Law Location Restrictions

No license for the sale of alcoholic beverages shall be granted for any premises located at any place, even if in accordance with the City's zoning regulations, if the sale of alcoholic beverages at such location is prohibited by O.C.G.A. § 3-3-21, or any subsequent amendment thereof.

Section 7-3-36 Adult Entertainment Establishments

- (a) 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.

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 materials or five percent of its net sales consisting of printed materials which are distinguished or characterized by their emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas.

Adult dancing establishment means a business that features live dancers on the premises engaged in displaying or exposing specified anatomical areas.

Adult entertainment establishments shall mean and include adult dancing establishments, exotic dance establishments, adult bookstore, adult motion picture theaters, adult motion picture arcades, and adult video stores.

Adult motion picture arcade means any place to which the public is permitted or invited wherein coins or slug-operated or electronically, electrically or mechanically controlled still or motion picture machines, projectors or other image producing devices are

maintained to show images to five or fewer persons per machine at any one time and where the images so displayed are distinguished or characterized by an emphasis on depicting or describing specified sexual activities or specified anatomical areas.

Adult motion picture theater means an enclosed building used for presenting motion pictures distinguished or characterized by an emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas for observation by patrons therein.

Adult video store means an establishment having a substantial or significant portion of its stock in trade, video tapes, DVD's or movies or other reproductions, whether for sale or rent, which are distinguished or characterized by their emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas or an establishment with a segment or section, comprising five percent of its total floor space, devoted to the sale or display of such material or which derives more than five percent of its net sales from videos which are characterized or distinguished by their emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas.

Exotic dance establishment means a nightclub, theater or other establishment which features live performances on the premises 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 by exposure of specified anatomical areas.

- (b) The Governing Authority takes note of the notorious and self-evident conditions and secondary effects attendant to the commercial exploitation of human sexuality, particularly the problems of crime, blight, and deterioration which are brought about by alcohol and live nudity. It is the finding of the Governing Authority that prohibiting public nudity (either partial or total) under circumstances related to the sale and consumption of alcoholic beverages is in the best interest of the public welfare by furthering legitimate governmental interest, such as reducing criminal activity, protecting against property devaluation and deterioration, and eliminating undesirable community conditions normally associated with establishments which serve alcohol and allow and/or encourage nudity, and that such prohibition will not infringe upon the protected constitutional rights of freedom of speech. Therefore, the sale or consumption of alcoholic beverages is prohibited in Adult Entertainment establishments.

Article VI Taxes on Malt Beverages and Wine

Section 7-3-37 Taxes on Wine

There is hereby levied an excise tax computed at the rate of \$.22/liter which shall be paid to the Governing Authority on all wine sold, displayed or stored in the City. Said tax shall be paid to the Governing Authority by the wholesale distributor on all wine sold to the licensees for the sale of wine, as follows: Each wholesale distributor selling, distributing or in any way delivering

wine to any such licensee shall collect the tax at the time of delivery and shall remit the same together with a summary of all deliveries to each licensee on or before the tenth day of the month following. The \$.22/liter shall be pro-rated so that each bottle or each individual sized container shall be taxed on the basis of \$.22/liter. It shall be unlawful and a violation of this division for any such licensee to possess, own, hold, store, display, or sell any wine on which such tax has not been paid.

Section 7-3-38 Taxes on Malt Beverages

There is hereby levied an excise tax computed at the rate of \$.05 per twelve ounces which shall be paid to the Governing Authority on all malt beverages sold, displayed or stored in the City. Said tax shall be paid to the Governing Authority by the wholesale distributor on all malt beverages sold to the licensees for the sale of malt beverages, as follows: Each wholesale distributor selling, distributing or in any way delivering malt beverages to any such licensee shall collect the tax at the time of delivery and shall remit the same together with a summary of all deliveries to each licensee on or before the tenth day of the month following. The \$.05 per twelve ounces shall be pro-rated so that each bottle or each individual sized container shall be based on \$.05 per twelve ounces. It shall be unlawful and a violation of this division for any such licensee to possess, own, hold, store, display, or sell any malt beverages on which such tax has not been paid.

Where malt beverages, commonly known as tap or draft beer, are sold in or from a barrel or bulk container, a tax of \$6.00 of each container sold containing not more than 15 ½ gallons and a proportionate tax at the same rate on all fractional parts of 15 ½ gallons.

Section 7-3-39 Taxes on Distilled Spirits by the Drink

There is imposed an excise tax upon the sale of distilled spirits by the drink, which tax shall be three percent (3%) of the charge to the public, members or guests for the beverages. Each licensee shall collect, report and remit the tax in the manner described in Section 2.

Section 7-3-40 Excise tax for private clubs

An excise tax of three percent (3%) is hereby imposed of private clubs pursuant to O.C.G.A. § 3-7-61.

Section 7-3-41 Failure to make timely reports and/or false or fraudulent reports

The failure of any wholesale dealer in distilled spirits, wine and/or malt beverages to make a timely report or remittance as provided in this article shall render a wholesaler dealer liable for a penalty equal to ten (10) percent of the total amount due during the first thirty-day period following the date such report and remittance were due and further penalty of twenty-five (25) percent of the amount of such remittance for each successive thirty-day period or any portion thereof during which such report and remittance are not filed. The filing of a false or fraudulent report shall render the wholesale dealer making such report liable for a penalty equal to fifty (50)

percent of the amount of the remittance which would be required under an accurate and truthful report.

Article VII Revocation or Suspension

Section 7-3-42 Grounds for Revocation or Suspension

The following shall be considered just cause for suspension or revocation of any license issued under this Chapter:

- (1) The performance of any act prohibited by this Chapter or the failure to perform any act required by this Chapter, as well as the violation of any state, local or federal law, particularly, but not limited to, those involving alcoholic beverages, if such violation tends to indicate that the licensee will not maintain the operation of the business licensed in conformity with state, local or federal laws. If such act, omission or violation is done by any agent, employee, or officer of the licensee, the lack of knowledge on the part of the licensee or the lack of authorization for such act or omission or violation shall be no defense.
- (2) The conviction of, or the entry of a plea of guilty or nolo contendere to, a drug-related, alcohol, gambling, or sex-related crime, or any crime involving moral turpitude, or any violation of this Chapter.
- (3) The occurrence on three (3) or more occasions within any twelve-month period on the licensed premises of fights, disorderly conduct, drunkenness, breach of the peace and other similar conduct, whether the same be committed by the licensee or by customers or by others.
- (4) The employment or use of any person live, in any capacity, in the sale or service of alcoholic beverages or food while such person is unclothed or in such attire, costume or clothing, as to expose any portion or his or her specified anatomical areas as defined herein.
- (5) Live entertainment where any person appears unclothed or in such attire, costume or clothing as to expose any portion of his or her specified anatomical areas or where such person performs acts or specified sexual activities or acts which simulate specified sexual activity, as defined herein.
- (6) The holding, promotion, sponsoring or allowance of any contest, promotion, special night, event or any other activity where live patrons of the licensed establishment are encouraged or allowed to engage in any or the conduct proscribed above.

Section 7-3-43 Suspension or Revocation of License

In the event the licensee violates any regulation or restriction as defined in this Chapter or any laws of the state or has committed a crime of moral turpitude as defined by state law, then the

license of the licensee shall be subject to immediate suspension pending a hearing. The Governing Authority hereby empowers the Mayor to issue orders of immediate suspension of any license issued under this Chapter provided that said Mayor receives clear and convincing evidence indicating either a violation of the prohibitions of this Chapter or of state law relating to alcoholic beverages or any general law, the violation of which is a crime of moral turpitude as defined by state law. In such cases, the Mayor or his agent shall immediately enter upon the premises of the licensee, post a notice in a place where it can be seen by the general public and notify the licensee or its agent on the premises that the license is suspended pending a hearing. A notice of the immediate suspension shall also be delivered to the licensee at the address given when applying for the license. The immediate suspension order and notice shall contain the following information:

- A brief description of the reason for the issuance of the order for immediate suspension of the license;
 - The date, time and place of the hearing before the Governing Authority;
- and
- Notice to the licensee and the general public that the licensee's permission to engage in the sale of distilled spirits, alcoholic beverages has been suspended pending the outcome of the hearing and any continuation of the business pursuant to the suspended license is a further violation of this Chapter and state law.

Within seven (7) days after the issuance of such order, unless the seventh day falls on a Sunday or a holiday, the Governing Authority shall convene for a hearing on the issue of continued suspension or permanent revocation of the license. If the seventh day falls upon a Sunday or a holiday, the time shall be extended until the next day that is neither a Sunday nor a holiday. At the hearing, the licensee shall have the right to appear in person and by attorney and both the Governing Authority and the licensee shall have the right to present evidence under oath, introduce documentary evidence, cross examine witnesses, and generally present evidence of violations of this division or the absence thereof, such hearing to be open to the public.

Section 7-3-44 Rehearing

Any person aggrieved by any act or omission of the Governing Authority with respect to its proceedings involving revocation or suspension or forfeiture of any part of a bond under this article shall have the right to move for a rehearing. Such motion for rehearing shall be filed within five (5) calendar days after the act or omission complained of, shall be in writing, and shall outline the manner in which such protestant believes that the Governing Authority has erred. If the motion relates to a matter as to which evidence has already been heard, no additional evidence or argument shall be permitted on the motion for rehearing except after a grant thereof by the Governing Authority. If the matter of which complaint is made is not the subject of a prior hearing at which the protestant was permitted to be present and heard, the Governing Authority shall afford a hearing within ten (10) calendar days after the filing of the motion, of which three (3) calendar days written notice shall be given to the protestant, at which rehearing the protestant shall be allowed to appear,

be represented by counsel, introduce oral and documentary evidence and examine and cross examine witnesses.

Section 7-3-45 Time Limitations on New Licenses

When a license issued under this Chapter has been suspended or revoked under the provisions of this article, no application for a new license for the same location will be received for a period of twelve (12) months thereafter; and no application for a new license from the licensee involved shall be received for a period of twenty-four (24) months.

Chapter 4 Miscellaneous Regulations

- § 7-4-1 Parades; permit required.
- § 7-4-2 Application for permit.
- § 7-4-3 Investigation.
- § 7-4-4 Poolrooms; minors prohibited.
- § 7-4-5 Handbills.
- § 7-4-6 Garage sales and rummage sales.
- § 7-4-7 Vendors and yard sale during Concord Jubilee

Section 7-4-1 Parades; permit required.

It shall be unlawful for any person to participate in, conduct or accompany any organized parade or procession, other than a funeral procession, on the public streets, sidewalks or other public property in the city unless an application has been previously filed and a permit granted to conduct such parade or procession within the city.

Section 7-4-2 Application for permit.

An application for permit to conduct or sponsor a parade or procession shall be filed with the chief of police in writing and shall contain the following information furnished by the person in official charge of the proposed parade or procession:

- (1) the name of all organizations or persons organizing or sponsoring the parade or procession;
- (2) the purpose of the parade or procession;
- (3) the date and hours of the parade or procession;
- (4) the proposed route of the parade or procession, and its beginning and termination points;
- (5) the number and types of vehicles, marching units and floats to be used in the parade or procession; and
- (6) the number of persons participating in the parade or procession.

Section 7-4-3 Investigation.

The chief of police shall investigate all applications for parade permits, and may issue permits where the information specified in Section 7-4-3 has been furnished, provided the proposed parade or procession is otherwise lawful and can be held without undue interference with vehicular and pedestrian traffic within the city, of which circumstances the chief of police shall exercise his discretion.

Section 7-4-4 Poolrooms; minors prohibited.

It is unlawful for any person who operates a billiard parlor or poolroom in the city to allow any person under 16 years of age to enter billiard parlors or poolrooms in the city.

Section 7-4-5 Handbills.

- (a) It shall be unlawful for any person to post any bills or other advertising matter on any place where he has not secured the permission of the owner or manager of the property to do so.
- (b) It shall be unlawful for any person to place or cause any commercial handbill to be placed within or upon, or under the windshield wiper of any private automobile parked upon any of the public streets or in any public parking area, preclude the delivery of any handbill to an owner, occupant or person present and in charge of a vehicle willing to accept and receive the handbill. This shall not preclude the delivery of any handbill to an owner, occupant or person present and in charge of a vehicle willing to accept and receive the handbill.
- (c) It shall be unlawful for any person to post any bills or other advertising matter upon any permanent or temporary structure or building, pole or tree located on any street, park or public way without first obtaining a permit therefor from the city clerk.

Section 7-4-6 Garage sales and rummage sales.

Sales commonly known as "garage sales" or "rummage sales" conducted on residential property shall be subject to the following rules and regulations:

- (1) Such sales shall be conducted only by the owner or tenant of residential property.
- (2) No such sales shall be conducted for a longer period than 24 hours consecutively in any six (6) month period on one residential lot.
- (3) No wares, goods, or merchandise shall be advertised or offered for sale, or swap, or given away except goods, wares, and merchandise owned by the property owner or tenant conducting the sale.
- (4) No goods, wares or merchandise shall be purchased by the owner or tenant for the purpose of selling, swapping, or giving away same at such a sale.
- (5) Any person desiring to conduct such a sale shall notify police department of his intent at least 48 hours prior to the time such sale is to begin. The police chief, or his authorized representatives, shall issue a license to the person to conduct such a sale upon the payment of such license fee as fixed from time to time by the mayor and council, if the

applicant otherwise meets the requirements of this section.

- (6) Sales for religious or charitable purposes only shall be exempt from the provisions of this section.
- (7) It shall be unlawful for any person to conduct a garage sale or rummage sale without first Obtaining a license as described herein or in such a manner as to violate any of the provisions of this section and the police department is authorized and directed to enforce the provisions of this section.

Section 7-4-7 Vendor and yard sales during Concord Jubilee

- (1) Every vendor operating a booth for the sale of merchandise or food must obtain a permit from the City of Concord before the beginning of the Concord Jubilee. The term “vendor” as used in this ordinance shall include persons who are conducting yard sales during the weekend of the Concord Jubilee. To obtain this permit, an application must be filled out in the City Clerk’s Office at City Hall in Concord. The permit issued by the City shall contain the location of the vendor’s booth for the festival and state the products to be sold by the vendor.
- (2) No vendors shall be allowed to operate within the City limits of the City of Concord during the Concord Jubilee without a permit.
- (3) Anyone violating this ordinance shall be subject to a fine of not less than \$150.00 nor more than \$1,000.
- (4) Each and every other Ordinance, or part thereof, in direct conflict with the terms and provisions of this ordinance be, and the same hereby are, repealed.

TITLE 8
Motor Vehicles and Traffic

- Chapter 1 General Provisions
- Chapter 2 Traffic Regulations
- Chapter 3 Parking Regulations
- Chapter 4 Motor Vehicle Accident Reparations

Chapter 1 General Provisions

- § 8-1-1 Uniform Rules of the Road adopted.
- § 8-1-2 Temporary traffic regulations.
- § 8-1-3 Vehicle cover required.
- § 8-1-4 Traffic, speed, truck, parking and other zones, signs and traffic control devices; schedule.
- § 8-1-5 Obstruction of view and use by trees and shrubs; notice.

Section 8-1-1 Uniform Rules of the Road adopted.

Pursuant to Chapter 6 of title 40, code sections 40-6-372 through 40-6-376, sections 40-6-1 through 40-6-376 of that Chapter, except sections 40-6-393 and 40-6-394, known as the Uniform Rules of the Road, are hereby adopted as and for the traffic regulations of this city with like effect as if recited herein. (Ord. No. 1981-10-6, 10/6/81)

Section 8-1-2 Temporary traffic regulations.

In cases where traffic upon the streets of the city may become congested upon occasions of parades, at theaters and other public assemblages where large numbers of vehicles are assembled, the police chief may make temporary rules directing and regulating the traffic in these congested districts, and any person, after being warned of the temporary traffic regulations, who shall violate them shall be liable therefor as for other violations of this code.

Section 8-1-3 Vehicle cover required.

No person shall operate or load any vehicle on the public streets and roads of this city unless the vehicle is constructed, loaded and securely covered so as to prevent any of its load from dropping, escaping or shifting in such a manner as to create a safety hazard or in such a manner so as to litter the streets and roads of the city.

Section 8-1-4 Traffic, speed, truck, parking and other zones, signs and traffic control devices; schedule.

- (a) The police chief or a designee thereof, upon approval by ordinance of the mayor and council, is authorized to designate and maintain with appropriate traffic control signs, markings and devices after engineering and traffic investigations:

- (1) speed zones;
 - (2) truck routes and streets to be designated specifically to prohibit various classes of trucks;
 - (3) one-way streets and other directional control devices;
 - (4) freight loading zones and regulations;
 - (5) parking and no parking zones and regulations thereon;
 - (6) stop, yield and other right-of way signs; and
 - (7) stop signals and other traffic signals.
- (b) The police chief or a designee thereof is authorized to issue written orders designating by appropriate traffic control signs, markings and devices after engineering and traffic investigations:
- (1) pedestrian crosswalks;
 - (2) other safety zones for pedestrians;
 - (3) traffic lanes; and
 - (4) any other sign, marking or zone necessary for orderly and safe conditions on the streets of the city.
- (c) The police chief shall maintain or cause to be recorded a current schedule of all traffic rules, regulations and orders under this section, which record shall be available for inspection by the public. For items listed in subsection (a) above, this schedule, and any amendments thereto, shall become effective only upon approval thereof by ordinance of the mayor and council and this schedule is hereby incorporated herein and copies thereof shall be available for public inspection in the office of the city clerk.
- (d) All traffic control signs, signals, devices and markings shall conform to specifications in the " Manual on Uniform Traffic-Control Devices" adopted by the state transportation board. All signs and signals required hereunder for a particular purpose shall, so far as practicable, be uniform as to type and location throughout the city. All traffic control devices so erected and not inconsistent with the provisions of state law or this code shall be official traffic control devices of the city.
- (e) Any violation of any traffic zone, marking, sign or other traffic control device established hereunder shall be a violation of this code.

Section 8-1-5 Obstruction of view and use by trees and shrubs; notice.

- (a) No person owning, occupying or in anywise controlling property in this city shall permit any tree, bush or shrub on the property to project over any street or sidewalk of this city so as to obstruct or interfere with the view and use of persons walking or riding in a vehicle on the street or sidewalk or of other persons or vehicles approaching from cross or intersecting streets.
- (b) It shall be unlawful for any person, whether the owner, tenant, agent or person controlling property in the city to fail to remove any tree, bush or other obstruction from the streets or sidewalks of this city after 10 days' notice by the city to do so.

CHAPTER 2 Traffic Regulations

- § 8-2-1 Free flow of traffic; obstruction prohibited.
- § 8-2-2 Speed limits established.
- § 8-2-3 Traffic signs, signals and markings.
- § 8-2-4 Tracked vehicles prohibited on streets.
- § 8-2-5 Penalty for violation.

Section 8-2-1 Free flow of traffic; obstruction prohibited.

All persons are prohibited from engaging in driving procedures which obstruct the free flow of traffic in, around, over and through the streets, alleyways and other public ways of the city. Any person is prohibited from stopping his vehicle (except at a stop signal or stop sign, or to honor another driver's right-of-way, or in an emergency situation) in a manner as to obstruct the free and orderly flow of traffic by the maneuver, or to engage in unduly slow driving procedures so as to obstruct the free flow of traffic or to needlessly "circle the block" or dawdle or make unnecessarily rapid accelerations and decelerations or to in any other manner constitute a traffic nuisance or hazard.

Section 8-2-2 Speed limits established.

- (a) No person shall operate any motor vehicle or tractor upon any of the streets and highways of the city at a greater speed than is reasonable and proper having regard to the width, traffic and use thereof, or so as to endanger the property or life or limb of any person.
- (b) Thirty miles per hour shall be the maximum speed on all streets or portions of streets within the city unless otherwise indicated by officially posted signs designating the maximum vehicular speed upon those streets as approved by the mayor and council.

Section 8-2-3 Traffic signs, signals and markings.

All traffic shall obey and be directed by official traffic control signals, signs and markings erected at street intersections and other locations now or hereafter approved by the mayor and council.

Section 8-2-4 Tracked vehicles prohibited on streets.

It is unlawful for any person to operate any tracked or other vehicle having metal tracks or wheels upon the city streets.

Section 8-2-5 Penalty for violation.

Any person who shall violate any provision of this Chapter shall, upon conviction be punished as provided in Section 1-1-5 of this code.

Chapter 3 Parking Regulations

- § 8-3-1 Vehicles to be parked within marked spaces.
- § 8-3-2 Parking prohibited at all times in certain locations.
- § 8-3-3 Parking prohibited in certain locations, certain days and hours.
- § 8-3-4 Parking time limited in certain locations, certain days and hours.
- § 8-3-5 Special purpose parking zones established, parking otherwise prohibited.
- § 8-3-6 Penalty for violation.

Section 8-3-1 Vehicles to be parked within marked spaces.

Whenever a space is marked off on any highway for the parking of an individual vehicle, every vehicle there parked shall be parked within the lines bounding that space.

Section 8-3-2 Parking prohibited at all times in certain locations.

It is unlawful for the owner or operator of any motor vehicle or other vehicle to park the vehicle in any of the places on the streets and alleys of the city specifically designated by posted signs indicating the prohibited parking.

Section 8-3-3 Parking prohibited in certain locations, certain days and hours.

It is unlawful for the owner or operator of any motor vehicle or other vehicle to park the vehicle in any of the places on the days and between the hours indicated and specified by posted signs indicating the prohibited parking.

Section 8-3-4 Parking time limited in certain locations, certain days and hours.

It is unlawful for the owner or operator of any motor vehicle, or other vehicle to park the vehicle or allow the vehicle to remain parked in any of the places on the streets and alleys of the city, at any time on the days and between the hours indicated and specified by posted signs limiting parking time in certain locations on certain days and hours.

Section 8-3-5 Special purpose parking zones established, parking otherwise prohibited.

It is unlawful for the owner or operator of any motor vehicle, or other vehicle to park the vehicle or allow the vehicle to remain parked in any locations on the streets and alleys of the city established and designated as special purpose parking zones indicated and specified by posted signs approved by the mayor and council.

Section 8-3-6 Penalty for violation.

Any person who shall violate any provision of this Chapter shall, upon conviction, be punished as provided in Section 1-1-5 of this code.

Chapter 4 Motor Vehicle Accident Reparations

§ 8-4-1 Definitions.

§ 8-4-2 Applicability of ordinance.

§ 8-4-3 Penalty provisions.

Section 8-4-1 Definitions.

- (a) Operator means the owner of the vehicle, owner's agent or any other person who knowingly authorized another to operate a motor vehicle without effective insurance on such vehicle or without an approved plan of self-insurance as required by the "Georgia Motor Vehicle Accident Reparations Act" as set forth in the Official Code of Georgia Annotated, Title 33, Chapter 34.
- (b) Motor vehicle means a vehicle having more than three (3) loadbearing wheels of a kind required to be registered under the laws of this state relating to motor vehicles designed primarily for operation upon the public streets, roads, and highways and driven by power other than muscular power. The term includes a trailer drawn by or attached to such a vehicle.

Section 8-4-2 Applicability of ordinance.

All requirements set forth by the "Georgia Motor Vehicle Accident Reparations Act" as set forth in the Official Code of Georgia Annotated, Title 33, Chapter 34, and subsequent amendments thereto are applicable to any operator of a motor vehicle.

Section 8-4-3 Penalty provisions.

- (a) Any operator of a motor vehicle without the required insurance as set forth in the Official Code of Georgia Annotated, Title 33, Chapter 34, and subsequent amendments thereto shall be guilty of a misdemeanor.
- (b) Any offense which is a violation of this article may, at the discretion of the local law enforcement officer or prosecutor, be charged as a violation of the state statute or of the local ordinance.
- (c) If the offense charged under this article constitutes a violation of any provision of the same and the defendant elects to have the charge treated as a state offense, the municipal judge, after conducting a commitment hearing in which probable cause for arrest is found or upon obtaining a waiver of commitment hearing, shall summarily fix bond for the defendant and bind his or her case over to the appropriate state tribunal.
- (d) No person tried in any court for a violation of the Official Code of Georgia Annotated, Title 33, Chapter 34, or of this section adopted pursuant thereto shall thereafter be tried in any court for the same offense.

TITLE 9
Offenses

- Chapter 1 General Offenses
- Chapter 2 Nuisances
- Chapter 3 Animals

Chapter 1 General Offenses

Editorial Note: Municipalities are prohibited by law from enacting ordinances covering matters which have been preempted by general law and are prevented from regulating conduct which has been made a violation of any criminal law of the state. See OCGA, Section 36-35-6 (a)(2); GA Const, of 1982, Art. III, Section VI, Paragraph IV.

State Law Reference: Abandonment of airtight containers, OCGA, Section 16-11-100; fireworks, OCGA, Section. 25-10-1 et seq.; disorderly houses, OCGA, Section. 16-11-44; peeping toms, OCGA, Section. 16-11-61; gambling, OCGA, Section. 16-12-20 et seq.; cruelty to animals, OCGA, Section 16-12-4; criminal trespass, OCGA, Section. 16-7-21.

- § 9-1-1 Disorderly conduct.
- § 9-1-2 Public drunkenness.
- § 9-1-3 Noise; creating unnecessary noise.
- § 9-1-4 Posting signs on poles without consent.
- § 9-1-5 Weapons; discharge in city.
- § 9-1-6 Tree protection.
- § 9-1-7 Possession of marijuana unlawful; penalty.
- § 9-1-8 Junk

Section 9-1-1 Disorderly conduct.

It shall be unlawful and disorderly conduct for any person to:

- (1) act in a violent or tumultuous manner toward another, whereby a reasonable person would be placed in fear of safety for life or limb;
- (2) place the property of another in serious danger of being destroyed or damaged;
- (3) use fighting words directed toward another, who becomes outraged and thus creates a turmoil;
- (4) violently interfere with another's pursuit of a lawful occupation; or
- (5) congregate with others to halt the flow of vehicular or pedestrian traffic and refuse to clear the way when ordered by lawful authority to do so.

- (6) carry any object in a menacing or threatening manner during any public gathering so that if an individual were confronted by the person carrying such object, that individual would be placed in fear of safety of life, limb, or health or such individual's property would be placed in danger of being destroyed or damage. Any objects which are used in violation of this subsection shall be delivered into the custody of the police department and there remain until the public gathering is concluded or the criminal charges, if any, are finally concluded at which time the object shall be returned to the person from whom the object was taken, unless the object is otherwise unlawful to possess.

Section 9-1-2 Public drunkenness.

It shall be unlawful for any person to be on the streets of the city or in any public place in an intoxicated condition.

Section 9-1-3 Noise; creating unnecessary noise.

- (a) The creating of any unreasonably loud, disturbing and unnecessary noise within the limits of the city is prohibited. Noise of such character, intensity or duration as to be detrimental to the life or health of any individual, or in disturbance of the public peace and welfare, is prohibited. Provided however, that the specific acts enumerated in paragraph (b) shall not apply when the noise is not audible at a distance of not more than twenty-five (25) feet from the location at which the noise is being emitted.
- (b) The following acts, among others, are declared to loud, disturbing and unnecessary noises and noises in violation of this section, but this enumeration shall not be deemed to be exclusive, namely:
 - (1) Horns. The sounding of any horn or signal device on any automobile, motorcycle, bus or other vehicle, while not in motion except as a danger signal if another vehicle is approaching apparently out of control, or, if in motion, only as a danger signal; the creation by means of any such signal device of any unreasonably loud or harsh sound or the sounding of that device for an unnecessary or unreasonable period of time.
 - (2) Musical instruments. The playing of any radio, phonograph or any musical instrument in such a manner or with such volume, as to annoy or disturb the quiet, comfort or repose of persons in any office, hospital or in any dwelling, hotel or other type of residence, or any persons in the vicinity, except this section shall not apply to schools of music between the hours of 7:00 a.m. and 10:00 p.m.
 - (3) Voices. Yelling, shouting, hooting, whistling or singing on the public streets, particularly between the hours of 12 midnight and 7:00 am, or at any time or place so as to annoy or disturb the quiet, comfort or repose of persons in any hospital, dwelling, hotel or other type of residence, or any persons in the vicinity.

- (4) Noisy vehicle. The use of any automobile, motorcycle or vehicle so out of repair, so loaded or in any manner as to create loud and unnecessary grating, grinding or rattling, or other noise.
 - (5) Steam whistles. The blowing of any steam whistle attached to any stationary boiler, except to give notice of the time to begin or stop work, or as a warning of fire or danger, or upon request of proper city authority.
 - (6) Exhausts. To discharge into the open air the exhaust of any stationary steam engine, stationary internal combustion engine, motor vehicle or motorboat engine, except through a muffler or other device which will effectively prevent loud or explosive noises there from.
 - (7) Construction work. The erection (including excavating), demolition, alteration or repair of any building in any residential district or section, the excavation of streets and highways in any residential district or section, other than between the hours of 7:00 a.m. and 6:00 p.m. on week days except in cases of urgent necessity, and then only with a permit from the city, which permit may be granted for a period not to exceed 60 days while the emergency continues.
 - (8) On streets of institutions requiring quiet. The creation of any excessive noise on any street adjacent to any school, institution of learning, church or court while the same are in session, or adjacent to any hospital, which unreasonably interferes with the workings or sessions thereof.
 - (9) Loudspeakers on vehicles. The use of mechanical loudspeakers or amplifiers on trucks or other moving or standing vehicles for advertising or other purposes.
 - (10) Animals, birds. The keeping of any animal or bird which shall disturb the comfort or repose of any persons in the vicinity by making long, continual or frequent noise.
- (c) None of the foregoing terms or prohibitions shall apply to or be enforced against:
- (1) any vehicle of the city while engaged upon necessary public business;
 - (2) excavations or repairs of bridges, streets or highways, by or on behalf of the city, county or state during the night season, when the public welfare and convenience renders it impossible to perform that work during the day; nor shall the same apply to work performed by public utility companies under like conditions and circumstances, or when there is urgent necessity therefor; and
 - (3) the reasonable use of amplifiers or loudspeakers in the course of public addresses which are noncommercial in character.

- (d) The prohibitions shall not be applicable to any parade, celebration or performance for which a written permit has been obtained prior thereto from the city clerk.
- (e) It shall be unlawful to use, maintain or operate loudspeakers, sound trucks, amplifiers or other mechanical or electrical devices for increasing the volume of sound, upon the streets, sidewalks, parks or other public places of the city; provided that nothing in this section shall apply to the United States of America, the state, the county nor the city, nor to public agencies.

Section 9-1-4 Posting signs on poles without consent.

It shall be unlawful for any person to post or display in or upon any bridge any sign or advertisement, or to post or display upon any telegraph, telephone or electric company's pole, or upon any public property or the private property of any person any bills, signs or advertisements without the consent in writing of the owner thereof.

Section 9-1-5 Weapons; discharge in city.

It shall be unlawful for any person to discharge a firearm, including pistol, rifle and shotgun, or to shoot an air gun, including BB gun and pellet gun, within the city, except by law enforcement officers in the line of duty, and the military when on drill or parade, or at a funeral in honor of the dead; provided, however, it shall not be unlawful for any person to shoot a BB gun upon private property if that person shall have first obtained the express permission of the owner of that property to do so.

Section 9-1-6 Tree protection.

Any person who shall cut, injure or destroy any shade tree in the city, shall upon conviction, be punished as prescribed in section 1-1-5, provided owners may cut trees on their own property. (Ordinance of 11/1/43)

Section 9-1-7 Possession of marijuana unlawful; penalty.

- (a) It shall be unlawful for any person to possess one (1) ounce or less of marijuana within the corporate limits of the city.
- (b) Any person guilty of violating this section shall be punished as provided in section 1-1-5 of this code.

State Law Reference: Jurisdiction of municipal courts over possession of one ounce or less of marijuana, OCGA, Section 36-32-6.

Section 9-1-8 Junk.

- (a) In order to eliminate unsightly, unhealthy or dangerous situations, and in order to protect

property values and to enhance the beauty of the city, it shall be unlawful for any person to own, rent, lease or be in possession of any premises, dwelling, dwelling unit or other structure, place or vacant lot wherein are kept dilapidated furniture, appliances, machinery or equipment, including automobiles, which are either in a wholly or partially wrecked, junked, dismantled or inoperative condition and which are not completely enclosed within a building.

- (b) Should the police chief determine that any person is violating the terms of this section, he shall give the offending party 10 days' notice within which to eliminate the unsightly, unhealthy or dangerous situation. This notice shall be in writing and shall be a prerequisite to the bringing of charges against an offender. Should the person to whom the notice is directed fail to comply with the request made therein within the 10 day period, the law enforcement officers of the city shall be authorized to proceed with the bringing of charges as for the violation of any city ordinance. Each day the unsightly, unhealthy or dangerous situation exists shall be deemed a separate offense.
- (c) Furniture, appliances, machinery or equipment including automobiles, as hereinabove defined, which remain on the same property for a period of 30 days after either a plea or a finding of guilty shall be presumed to be abandoned and subject to being removed from the property by the police chief and shall be disposed of by destruction or sale.

State Law Reference: Authority to provide for removal and disposal of junked motor vehicles, OCGA, Section 36-60-4.

Section 9-1-9 Solicit, panhandles, begs.

Any person who solicits alms, panhandles, or begs in the city without first registering in accordance with Chapter 2 of Title 7 of the Code shall be guilty of an offense against the city.

Section 9-1-10 Consumption of alcoholic beverage in public.

It shall be unlawful for any person to serve or consume any alcoholic beverage in a street, alley, public parking lot, or other area commonly used by the public, or in any public place or on any public property.

Chapter 2 Nuisances

State Law Reference: Nuisances, OCGA, Title 41.

- § 9-2-1 Definition.
- § 9-2-2 Jurisdiction to try and abate.
- § 9-2-3 Complaint of nuisance; hearing.
- § 9-2-4 Abatement by city.
- § 9-2-5 Nuisance per se, exception; summary abatement.
- § 9-2-6 Offense; penalty.

Section 9-2-1 Definition.

The following conditions may be declared to be nuisances;

- (1) stagnant water on premises;
- (2) any dead or decaying matter, weeds, vegetation or any fruit, vegetable, animal or rodent, upon premises which is odorous or capable of causing disease or annoyance to the inhabitants of the city;
- (3) the generation of smoke or fumes in sufficient amount to cause odor or annoyance to the inhabitants of the city;
- (4) the pollution of public water or the injection of matter into the sewage system which would be damaging thereto;
- (5) maintaining a dangerous or diseased animal or fowl;
- (6) obstruction of a public street, highway or sidewalk without a permit;
- (7) loud or unusual noises which are detrimental or annoying to the public, including without limitation, unusual loud disturbances in or around churches or multiple family complexes such as loud music and other activities in swimming pool and clubhouse areas;
- (8) all walls, trees and buildings that may endanger persons or property;
- (9) any business or building where illegal activities are habitually and commonly conducted in such a manner as to reasonably suggest that the owner or operator of the business or building was aware of the illegal activities and failed to reasonably attempt to prevent those activities;
- (10) unused iceboxes, refrigerators and the like unless the doors, latches or locks thereof are removed;

- (11) any trees, shrubbery or other plants or parts thereof, which obstruct clear, safe vision on roadways and intersections of the city; and
- (12) any other condition constituting a nuisance under state law.

Section 9-2-2 Jurisdiction to try and abate.

The municipal court shall have full jurisdiction to try and dispose of all questions of nuisance affecting the public health or welfare, and shall also have jurisdiction to try and, in case of conviction, to punish persons failing to abate nuisances, as prescribed in section 1-1-5 of this code.

State Law Reference: Jurisdiction of municipal court to determine existence of nuisance and order its abatement, OCGA, Section 41-2-5.

Section 9-2-3 Complaint of nuisance; hearing.

- (a) Any official or inhabitant of the city may direct a complaint of nuisance to the city police department, who shall investigate and may place the complaint on the municipal court docket for a hearing upon the basis of the investigation, municipal court after a 10 day notice to the party involved, shall hold a hearing thereon and upon finding that a nuisance does exist shall issue an order to the owner, agent in control of or tenant in possession, stating that a nuisance has been found to exist and that the nuisance must be abated within so many hours or days as the judge shall deem reasonable, having consideration for the nature of the nuisance and its effect on the public.
- (b) Animal control officers, inspectors shall and may also receive complaints, investigate the same and place on the court docket such complaints in the same manner as police officers.

Section 9-2-4 Abatement by city.

- (a) In any case where the owner, agent or tenant fails to abate the nuisance in the time specified, or where the owner, agent or tenant cannot be served with notice, or where the nature of the nuisance is such, in the opinion of the judge that it must be immediately abated, the judge may issue an order to the chief of police directing the nuisance to be abated. The chief of police in such case, shall keep record of the expenses and cost of abating same, and the costs shall be billed against the owner, agent or tenant for collection as for city revenues.
- (b) Other city departments shall assist the chief of police as is necessary in abating nuisances hereunder.

Section 9-2-5 Nuisance per se, exception; summary abatement.

Nothing contained in this Chapter shall prevent the mayor from summarily and without notice ordering the abatement of or abating any nuisance that is a nuisance per se in the law or where the case is an urgent one and the health and safety of the public or a portion thereof is in imminent danger.

Section 9-2-6 Offense; penalty.

It is hereby declared to be an offense for any owner, agent or tenant to maintain or allow a nuisance to exist. Each day a nuisance is continued shall constitute a separate offense.

State Law Reference: Failure to abate nuisance after order to do so is a state crime, OCGA, Section 41-1-6.

Chapter 3 Animals

Cross Reference: Noise created by animals, Section 9-1- 3(b) (10).

Article A General Provisions

§ 9-3-1 Bird sanctuary; wildlife.

§ 9-3-2 thru § 9-3-15 deleted 7/09/1998

Section 9-3-1 Bird sanctuary; wildlife.

- (a) The entire area embraced within the corporate limits of the city is designated as a bird sanctuary.
- (b) It shall be unlawful to trap, hunt, molest or kill any wild bird or to rob any wild bird's nest; provided, however, if nuisance birds such as starlings are found to be congregating in such numbers in a particular locality so as to constitute a nuisance or a menace to health or property in the opinion of the mayor and council, those birds may be destroyed as humanely as possible, under the supervision of the police department, in such numbers and in such manner as is deemed advisable by the mayor and council.
- (c) It shall be unlawful to trap, hunt, molest or kill any other wild game in the city except by order of the chief of police.

Sections 9-3-2 thru 9-3-15 deleted 07/09/1998.

Article I In General

§ 9-4-1 Definitions.

§ 9-4-2 Enforcement by animal control officer; limitation of authority.

§ 9-4-3 Penalty for violation.

§ 9-4-4 Injury or destroying; use of poisons.

§ 9-4-5 Cruelty.

§ 9-4-6 Keeping of swine.

§ 9-4-7 Running at large - Animal's generally.

§ 9-4-8 Same-Domestic fowl.

§ 9-4-9 Same; impounding required.

§ 9-4-10 Vicious animals; keeping.

§ 9-4-11 Dead animals; removal required.

Article II Office of Animal Control

- § 9-5-1 Creation; administration and enforcement by animal control officer.
- § 9-5-2 Duties of animal control officer.
- § 9-5-3 Impoundment.
- § 9-5-4 Redemption.
- § 9-5-5 Disposition.
- § 9-5-6 Hearing.

Article III Dogs

- § 9-6-1 Definitions.
- § 9-6-2 Female dogs in heat.
- § 9-6-3 Rabies inoculation required.
- § 9-6-4 Confinement, disposal of uninoculated dog upon biting person; liability of owner for violation and penalties.
- § 9-6-5 License and tag required; procedure for obtaining.
- § 9-6-6 Attachment of tag not issued to dog; removal of tag without owner's consent.
- § 9-6-7 Impoundment of certain dogs; redemption.
- § 9-6-8 Violations; duty to report and give testimony in court; duty of enforcement officer receiving complaint.
- § 9-6-9 Hindering of enforcement.
- § 9-6-10 Nuisance dogs generally.

Article IV Animal Control Ordinance

- § 9-7-1 Definitions.
- § 9-7-2 Leash law.
- § 9-7-3 Duty of all animal owners to be responsible owners.
- § 9-7-4 Duty to keep dogs under restraint while on owner's property.
- § 9-7-5 Duty to keep dog under restraint while off property.
- § 9-7-6 Public nuisance animal.
- § 9-7-7 Limit on number of dogs allowed.
- § 9-7-8 Grandfather clause.
- § 9-7-9 Responsibility to comply.
- § 9-7-10 Unlawful presence.
- § 9-7-11 Vaccination and tags required.
- § 9-7-12 Running at large while in heat.
- § 9-7-13 Limit on number of cats harbored.
- § 9-7-14 Enforcement.
- § 9-7-15 Penalties.

Article I In General

Section 9-4-1 Definitions.

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

Animal control officer means the person designated by the city to enforce the provisions of this Chapter.

Impoundment or impound means the taking into custody of an animal by a fully authorized employee of the office of animal control or any other duly authorized employee or agent of the city, and the placing of such animal in an impoundment facility.

Impoundment facility means that physical area, structure or facility, designated by the city and city council, wherein animals are placed and maintained after impoundment under the provisions of this Chapter.

Owner of an animal means any person having a right of property in an animal, who keeps or harbors the animal, or who has it within his care, who acts as a animal's custodian, or who permits the animal to remain in or about any premises occupied by him.

Section 9-4-2 Enforcement by animal control officer; limitation of authority.

Enforcement of the provisions of this Chapter by the animal control officer shall be within the incorporated areas of the city.

Section 9-4-3 Penalty for violation.

Any person violating the terms and provisions of this Chapter, or any rules and regulations promulgated pursuant thereto, shall, upon conviction, be subject to punishment in the municipal court, as provided in section 1-1-5.

Section 9-4-4 Injury or destroying; use of poison.

Whoever willfully and maliciously kills, wounds, maims, disfigures or poisons any domestic animal or exposes any poisonous substances with the intent that the life of any animal should be destroyed thereby, such animal being the property of another, shall, upon conviction, be punished as provided by section 1-1-5.

Section 9-4-5 Cruelty.

It shall be unlawful for any person to overdrive, overload, override, torture, torment, unjustifiably injure, deprive of necessary sustenance, food or drink; or cruelly beat, or needlessly mutilate, or kill any living creature; or cause or procure any of the acts or omissions described in this section.

State law references: Cruelty to animals, O.C.G.A. § 16-12-4.

Section 9-4-6 Keeping of swine.

It shall be unlawful for any person to keep enclosed in any pen, or otherwise, any swine of any description within the city.

Section 9-4-7 Running at large-Animals generally.

It shall be unlawful for any person in charge or control of any horse, mule, jack, cow, bull, yearling, goat, sheep or hog, or cattle or any kind of stock, to allow the same to run at large in and upon the streets, alleys or commons of the city.

State law reference Livestock running at large or straying, O.C.G.A. § 4-3-1 et seq.

Section 9-4-8 Same-Domestic fowl.

All chickens, geese, ducks, turkeys and other domestic fowl shall be kept by the owners thereof on their own premises, and it shall be unlawful for the owners of such fowl to allow or permit them to run or be at large in the streets, or to allow them to go upon and trespass on the yards, lawns or premises of other people.

Section 9-4-9 Same-Impounding required.

It shall be the duty of the animal control officer and of such other persons designated by the mayor and councilmembers to take up and confine any of the animals or fowl mentioned in this article as shall be found at large within the city.

Section 9-4-10 Vicious animals; keeping.

It shall be unlawful for any owner or other person to maintain or harbor within the limits of the city a manifestly vicious animal unless such vicious animal is securely, but humanely, confined or restrained in such manner as to prevent such animal from attacking or biting a person or another animal. It shall be prima facie evidence of viciousness if an animal, without provocation, fiercely attacks or bites persons or animals not on the owner's premises.

State law reference: Liability of owner or keeper of vicious or dangerous animal for injuries caused by animal, O.C.G.A. § 51-2-7.

Section 9-4-11 Dead animals; removal required.

It shall be unlawful for any person to allow any dead animal to remain on his premises for more than six hours after its death, or to throw the dead animal upon any of the streets, lanes, alleys or vacant lots within the city. The owner or person in possession of such animal, or the owner or occupant of the premises upon which such animal may have died, shall, immediately after its death, notify the city to make proper disposal of the dead animal.

Article II Office of Animal Control

Section 9-5-1 Creation; administration and enforcement by animal control officer.

The office of animal control of the city is hereby created. This office shall operate under the general supervision of the animal control officer, subject to the oversight and control of the mayor. The animal control officer shall be charged with the primary responsibility of enforcing this Chapter.

Section 9-5-2 Duties of animal control officer.

The animal control officer shall receive and investigate all complaints regarding animals. Such complaints shall be made in writing and in person, and they shall state facts and circumstances regarding the incidents in question from the firsthand knowledge of the complaining party.

Section 9-5-3 Impoundment.

- (a) *Notice to owner* After the impoundment of any animal under the provisions of this Chapter, the animal control officer shall give notice thereof to the owner of such animal by letter directed to such owner at the address indicated on the vaccination records or other city and county records. If no such address is available, then notice shall be sent to such address that the animal control officer can determine, after reasonable inquiry, as would be reasonably expected to reach the owner,
- (b) *Contents of notice.* The notice provided for in subsection (a) of this section shall be sent by certified mail, with return receipt requested, and it shall contain the following:
 - (1) *Description of animal.* A general description of the animal impounded, the kind of animal, the breed of the animal, if readily ascertainable, the color and sex of the animal, together with any other information which may be furnished by any identification tag found on or affixed to the animal.
 - (2) *Required fees.* The owner of the animal may redeem such animal within five days from the giving of the notice, upon the payment of a reasonable impoundment fee and such other fees as are necessary to bring the owner and his animal into compliance with the laws and the provisions of this Chapter.

Section 9-5-4 Redemption.

At any time within five days from the date of the giving of the notice required in section 9-5-3(b), the owner of an animal may claim the animal, and such animal may be redeemed by the owner, upon the following conditions:

- (1) The submission of proof of ownership.

- (2) The payment to the city, at city hall, for the use and benefit of the city, of such impoundment fee as is prescribed by the city.
- (3) The payment to the city for the use and benefit of the city of the costs of feeding the animal during the period of confinement, as prescribed by the city council.

Section 9-5-5 Disposition.

- (a) *Hearing*. The animal control officer or his employees or agents may dispose of any animals not claimed or redeemed by the owner, as provided in this article, on the first day following the required impoundment period as provided in section 9-5-3, unless the owner of the animal has requested a hearing under this article, in which event the animal shall not be disposed of until a decision has been rendered by the mayor pursuant to this Chapter. Disposition after the hearing shall be made in accordance with the decision of the mayor, unless superseded by appeal or otherwise.
- (b) *Methods*. The following methods of disposal may be used by the animal control officer, or any of his agents, or any duly authorized officer or agent of the city:
 - (1) The animal may be placed in an adoptive home;
 - (2) The animal may be sold;
 - (3) The animal may be destroyed in such a humane method as the animal control officer may deem appropriate; or
 - (4) The animal may be donated or given to any legally constituted medical research facility.
- (c) *Bill of sale*. In the case of the sale or adoption of any such animal, the city at the city hall offices shall execute a bill of sale to any such person so requesting a bill of sale, which shall be sufficient to vest title to the animal in such purchaser. This receipt shall then be taken to the animal control officer for him to release the animal.

Section 9-5-6 Hearing.

- (a) *Request by owner*. All animal owners who are aggrieved by the actions of the animal control officer or his duly authorized agents, or any duly authorized employee or agent of the city, taken pursuant to the provisions of this Chapter, may request a hearing concerning the actions before the mayor.
- (b) *Notice by owner*. Any person so aggrieved shall notify the mayor five days after his receipt of any notice required to be given by this article. The notice shall be in writing, signed by the aggrieved party, and shall state his correct mailing address and telephone number, if any.
- (c) *Designation of time and place*. Upon receipt of such notice, the mayor shall designate a time and place for such hearing within a reasonable time, not to exceed 30 days from the receipt of the request.

- (d) *Conduct of hearing.* On the scheduled date for the hearing, the mayor shall hear all facts and testimony relevant to the matter, liberally applying rules of evidence so as not to be overly restricted by the technical application of same, and shall render a decision upon the merits of the matter.

Article III Dogs

Section 9-6-1. Definitions.

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

Dog means a dog of either sex, unless otherwise specified.

Inoculated means having received the administration of an antirabic vaccine, which vaccine has been approved by the state and administered by a licensed veterinarian or other person authorized by the city council.

Section 9-6-2 Female dogs in heat.

No person owning or having custody of any female dog shall permit such female dog off the premises of the owner or person having control of such dog when such dog shall be in heat, unless the female dog is under control and attached to a leash.

State law reference: Permitting dogs in heat to roam or run free, O.C.G.A. § 4-8-6.

Section 9-6-3 Rabies inoculation required.

Any person who shall own, keep, or have control of a dog within the city is required to have such dog inoculated in an approved manner by a licensed veterinarian for the control of rabies. Such person shall be required to have within his possession at all times a certificate supplied by the veterinarian stating the date of the last inoculation and the expiration date of the vaccine.

State law reference: Control of rabies, O.C.G.A. § 31-19-1 et seq.

Section 9-6-4 Confinement, disposal of uninoculated dog upon biting person; liability of owner for violation and penalties.

Any uninoculated dog which bites any person may be confined for a period of not over ten days at the expense of the owner for observation, or may be disposed of as directed by the city council for examination and report by the state health department. The owner or person in control of such dog shall be tried before the municipal court for permitting the dog to run at large in the corporate limits uninoculated and shall, upon conviction, be subject to the penalties provided by section 1-1-5.

State law references: Dangerous Dog Control Law, O.C.G.A. § 4-8-20 et seq.; dogfighting, O.C.G.A. § 16-12-37.

Section 9-6-5 License and tag required; Procedure for obtaining.

During the month of September each year, or upon a dog attaining four months of age, in that event, each person owning, keeping or controlling a dog shall apply for a license and tag for each dog owned, kept or controlled. The fee for this license shall be \$3.00 per dog. Evidence that the dog applied for has been inoculated shall be presented as required by the city clerk. Upon satisfactory proof, a license and tag shall be issued, and the tag securely attached to the body of the dog. The license and tag shall contain the expiration date of the license and tag.

Section 9-6-6 Attachment of tag not issued to dog; removal of tag without owner's consent.

No person shall attach a license tag to any dog to which it was not issued or remove a license tag from the collar of any dog without the consent of its owner.

Section 9-6-7 Impoundment of certain dogs; redemption.

All dogs found without the tag described in section 9-6-5 shall be impounded and kept for a period of five days, after which, if not claimed by the owner or keeper, such dogs shall be put to death humanely. Owners or keepers of dogs seeking to claim dogs from the pound shall be required to pay all charges for the care and keeping of the dog during confinement and shall further comply with section 10-39. The city shall select the location of the dog pound in which dogs shall be impounded for failure to comply with this article. The sum of \$5.00 per day, per dog, will be charged, each day a dog is impounded, payable as the city directs.

Section 9-6-8 Violations; duty to report and give testimony in court; duty of enforcement officer receiving complaint.

Any person who has personal knowledge of the violation of all or any portion of the provisions of this article shall notify the police department and shall also make known his willingness to appear and give testimony concerning any such violation in the municipal court of the city upon being summoned thereto at the time and place specified in such summons. It shall be the duty of any person designated by the governing authority to seize and confine such dogs as provided in this article, provided that the person may act to seize and confine dogs not complying with this article based on personal knowledge.

Section 9-6-9 Hindering of enforcement.

No person shall hinder, molest, or interfere with any person authorized or empowered to perform any duty under this article.

Section 9-6-10 Nuisance dogs generally.

No person shall allow a dog over which he has custody or control to remain on his property or premises if the dog shall constitute a nuisance as the term is defined by the laws of this state.

Article IV Animal Control Ordinance

Section 9-7-1 Definitions.

- (a) Dog - A Canine of either sex.
- (b) Dog under control - A dog is under control if he is controlled by a leash, is at heel, or is beside a competent person and obedient to that person's commands, or is within a vehicle being driven or parked on the streets and either supervised or confined, or is confined within the property limits of its owner or custodian.
- (c) Dogs running at large - Any dog is considered running at large and not under immediate control if it is not on a leash, not at heel, not beside a competent person and obedient to that person's commands, or when it is not in a vehicle driven or parked and either supervised or confined, or not confined within the property limits of its owner or custodian.
- (d) Abandoned animals - Any domesticated animal shall be considered abandoned, for the purpose of this Chapter, which shall have been placed upon public property or within a public building unattended or uncared for, or upon or within the private property of another without the express permission of the owner, custodian or tenant of the private property, and is unattended or uncared for.

Section 9-7-2 Leash law.

It shall be unlawful for any owner or possessor of any dog to allow such dog to run at large, whether wearing a collar and tag or not, within the incorporated areas of the city. Any and all such dogs found running at large, shall be immediately impounded by an officer of the Animal Control unit or any police officer. The officers may pursue the dog onto private property to effect capture of such dog.

Section 9-7-3 Duty of all animal owners to be responsible owners.

It shall be the duty of every owner or custodian of any animal to exercise reasonable care and take all necessary steps and precautions to protect other people, property, other animals and the animals under their supervision from injuries, illness or damages which might result from the animal's behavior. In the event that the owner or custodian of any animal is a minor, the parent or guardian of such minor shall be responsible to ensure that all provisions of this ordinance are complied with.

Section 9-7-4 Duty to keep dogs under restraint while on owner's property.

It shall be the duty of every owner or custodian of any dog to ensure that the dog is kept under restraint and that reasonable care and precautions are taken to prevent the dog from leaving the real property limits of its owner, possessor, or custodian, and ensure that:

- (a) It is securely and humanely enclosed within a house, building, fence, pen, or other enclosure out of which it cannot climb, dig, jump, or otherwise escape on its own volition.
- (b) It is securely and humanely restrained by chain, cable or trolley, or other tether of sufficient strength to prevent escape, or
- (c) It is on a leash and under the control of a competent person or it is on a leash and obedient to that person's command and that person is present with the animal any time it is not restrained as provided for in (a) or (b) above while on the owner's property.
- (d) Animals determined to be vicious shall comply with the requirements of the "dangerous animal" ordinance of the City of Concord and the State of Georgia.

Section 9-7-5 Duty to keep dog under restraint while off property.

It shall be the duty of the owner or custodian of any dog to keep the dog under restraint and control at all times while the dog is off the real property limits of the owner, possessor or custodian.

For the purpose of this Section, a dog is deemed under control when:

- A. It is securely and humanely confined within a vehicle, parked or in motion, or
- B. It is properly confined within a secure enclosure with the permission of the owner or the property where the enclosure is located, or
- C. It is securely restrained by a leash or other device held by a competent person, or
- D. It is under voice command of a competent person who is in the immediate proximity of the dog.
- E. Owners shall be responsible for litter clean up.

Section 9-7-6 Public nuisance animal.

A public nuisance animal shall mean and include any animal or animals that:

- (a) is repeatedly found at large,
- (b) damages the property of anyone other than the owner,

- (c) is vicious,
- (d) attacks without provocation,
- (e) excessively makes disturbing noises including, but not limited to, continued and repeated howling, barking, whining, or other utterances to such a degree as to cause loss of sleep, discomfort, anxiety or fear of any citizen who commonly dwells within audible distance of the kennel or common place of abode of such canine,
- (f) creates unsanitary conditions of offensive and objectionable odors in enclosures or surroundings and thereby creates unreasonable annoyance or discomfort to neighbors or others in close proximity to the premises where the animal is kept.

In the event any two (2) citizens, not from the same household, of the city shall sign an affidavit, in writing, that an animal who resides or is commonly kept or housed within audible distance of their residence(s) or place(s) of business, barks or howls or makes noise or series of noises in succession for a period although not necessarily constant or continuous, of twenty (20) minutes or more than one occasion, and such noise, barking or howling has caused them to become anxious, nervous or afraid, or has caused loss of sleep, such canine may be deemed to be a nuisance or otherwise is deemed a nuisance animal in accordance with the aforementioned description of Public Nuisance Animal. The owner of possessor of such animal shall be cited into the municipal court to answer the charge made by said affidavit or citation to show just cause why such animal should not be banned from the limits of the city, and upon conviction thereon, shall be fined the sum of fifty dollars (\$50.00) per day for each and every day such animal shall remain within the city limits, together with the cost of court and any other necessary and incidental to the prosecution of such action.

Any such animal may be impounded and the owner or possessor charged for a violation of this Chapter.

Section 9-7-7 Limit on number of dogs allowed.

The keeping of dogs shall be allowed as an accessory use on any lot, provided such dogs are for personal use and enjoyment and not for commercial purposes. Exceptions to this may include specially trained law enforcement dogs under the supervision of trained managers.

The number of dogs permitted shall be in accordance with the following schedule, except in determining the number of dogs allowed only those dogs six (6) months or older in age shall be counted:

1-2	No requirement
3	10,000 feet of lot size
4	20,000 feet of lot size
5 or more	30,000 feet, plus 10,000 square feet for each dog over 5

Section 9-7-8 Grandfather clause.

Any person, at the time of the enactment of this ordinance that has more dogs or cats than permissible by this ordinance shall be allowed to maintain their pets and shall come into compliance by attrition.

Cats

Section 9-7-9 Responsibility to comply.

Any person who harbors a cat shall be responsible for ensuring that the cat is in compliance with the provisions of this article.

Section 9-7-10 Unlawful presence.

It shall be unlawful for a cat to be upon the property of any person if the person owning or in the lawful possession of said property objects to the presence of the cat.

Section 9-7-11 Vaccination and tags required.

- (a) A cat shall not be required to wear a collar. However, such cat shall have a valid vaccination tag showing the name and address of the person harboring the cat and which the person harboring the cat shall retain and display to authorized personnel when requested to do so.
- (b) No person shall attach a vaccination tag or an identification tag to any cat for which it was not issued or intended, nor shall any person remove a vaccination tag or an identification tag from any cat for which it was issued or intended.
- (c) Any cat being shipped or transported through the city, or any cat entering the city only for the purpose of a temporary stay, when such stay does not exceed fifteen (15) days, shall be exempt from the vaccination and tagging provisions of this article.

Section 9-7-12 Running at large while in heat.

Every female cat in heat shall be confined in a building or other enclosure in such manner that such female cat cannot come into contact with a male cat except for planned breeding.

Section 9-7-13 Limit on number of cats harbored.

- (a) The harboring of cats for commercial purposes, including but not limited to the breeding and sale of cats, shall not be allowed except as may be provided under licensing provisions in the ordinances of the city.
- (b) The number of cats six (6) months of age or older shall be limited on any lot according to the following provisions:

<u>Number of Cats</u>	<u>Minimum Lot Size</u>
Up to 4	1 acre or less
1 additional	Each additional 14 acre

This limitation shall not apply to veterinary clinics, licensed animal shelters, pet shops or grooming establishments.

Section 9-7-14 Enforcement.

- (a) In the event that a determination can be made of the identity of a person harboring an animal in violation of this article, any authorized personnel shall be authorized to issue a citation to said person returnable to the city recorder's court.
- (b) In the event that a determination cannot be made of the identity of a person harboring an animal in violation of this article, any authorized personnel may impound said animal.
- (c) Whether or not a determination can be made of the identity of a person harboring an animal in violation of this article, authorized personnel may impound said animal if the animal by its behavior, actions or appearance becomes a threat to the public health or welfare.

Section 9-7-15 Penalties.

Any person who violates the provisions of this article shall be guilty of a misdemeanor and, in addition to any penalties imposed by state law, may be subject to a fine of up to \$50.00 or imprisonment for a period not to exceed five (5) days, or both. Each day's continuing violation and each animal in violation constitutes a separate offense.

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- (1) Cross references (when needed) are always located at the beginning of entries. Have you overlooked any?
- (2) Frequently initial questions are too general. Reformulating a more specific question may help.
- (3) Definitions can be located under the "DEFINITIONS" main heading or in specific subject areas through the subheading "Definitions of terms."

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