

CODE OF ORDINANCES
HANCOCK COUNTY, GEORGIA
May , 2012

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Chapter 1: GENERAL PROVISIONS

Section 1-001 Introduction

1. Purpose.

The Board of Commissioners desires to maintain a system by which all regulations of the County are easily accessed and understood. All regulations of the County shall be kept in a manner that will provide the same accessibility and understanding of such regulations in posterity. Every county and municipality is required to codify or compile the ordinances and resolutions having the force and effect of law. See O.C.G.A. § 36-80-19. This document has been created to fulfill the stated purpose above.

2. Definitions

2.1 Building Inspector. The Building Inspector of the County.

2.2 Board of Commissioners. The Chairman and Board of Commissioners of the County.

2.3 County Manager. Reserved.

2.4 Clerk. Person hired and appointed by the Board of Commissioners as the Clerk of the County.

2.5 Chairman. The Chairman of the Board of Commissioners.

2.6 Owner. When applied to a building or to land, shall include any part owner, joint owner, tenant in common, joint tenant, or tenant by the entirety, of the whole or a part of such building or land.

2.7 Person. Natural person, corporation, entity, LLC, partnership, association, and any other group acting as a unit.

2.8 Resolution. A legislative act of the Board of Commissioners of a special or temporary character.

2.9 Street. Any public way, road, highway, street, avenue, boulevard, parkway, alley, viaduct or bridge, and the approaches thereto, within the County.

2.10 Tenant or Occupant. When applied to a building or to land, shall include any person holding a written or oral lease of, or who occupies the whole or a part of, such building or land, either alone or with others.

Section 1-002 Severability

If any chapter, section, paragraph, phrase or clause or any part of the Code shall be declared invalid or unconstitutional, or if the provisions of any part of said document as applied to any particular situation or set of circumstances shall be declared invalid or unconstitutional, such invalidity shall not be construed to affect the portions of this document not so held to be invalid, or the application of the Code to other circumstances not so held to be invalid. It is hereby declared as the intent of the Board of Commissioners that the Code would have been adopted had such invalid portion not been included. Where there is an apparent conflict in this Code between specific and general provisions, the specific shall control.

2. Repeal of Conflicting Provisions

All Codes and ordinances, or parts thereof, in conflict with the contents of this Code, and not preserved hereby, are hereby repealed, and this Code shall remain in effect until amended or repealed by the Board of Commissioners.

Section 1-003 Amendments, Hearings, Construction

1. Amendments to the Code

1.1 Amendments to the Code. The Board of Commissioners may amend the Code, and may read and consider the proposed amendment at a regularly scheduled or properly called special meeting. At the next meeting, the Board of Commissioners may adopt, adopt with modifications, disapprove or table the proposed amendment. If the vote is for adoption, the County shall make the amendment a physical part of the Code. Said amendment shall immediately upon adoption by the Board of Commissioners become part of this Code.

1.2 Public Hearings; Other Requirements. In addition to the requirements in paragraph 1.1, certain sections of this Code may require that a public hearing be properly called, advertised and conducted concerning certain amendments, prior to consideration and adoption of said amendments.

2. Rules of Construction

In the construction of this Code the following rules shall be observed, unless such construction would be inconsistent with the manifest intent of the Board of Commissioners.

A. General Rule. All words and phrases shall be construed and understood according to the common and approved usage of the language; but technical words and phrases and such others as may have acquired a peculiar and appropriate meaning in the law shall be construed and understood according to such peculiar and appropriate meaning.

B. Delegation. When this Code requires the head of a department or other officer to do some act or perform some duty, it shall be construed to authorize subordinates to do the required act or duty unless the terms require otherwise.

C. Computation of Time. The time in which an act is to be done as provided in this Code or in any order issued thereunder, when expressed in days, shall be computed by excluding the first day and including the last, except if the last day is Sunday or a holiday it shall be excluded.

D. Overlapping Provisions. Where any provision of this Code imposes greater restrictions than any general provisions imposed by this Code, the provision imposing the greater restriction or regulation shall be applicable.

Section 1-004 Violations & Penalties

1. Violations. Except as otherwise provided, any person who violates the Code shall be guilty of a misdemeanor, and may be prosecuted in Court. The maximum punishment for violation generally is a fine of \$1,000, or imprisonment for 60 days (unless otherwise specified), or both. O.C.G.A. 36-1-20.

2. Penalties

2.1 Penalties Specified. The monetary and/or civil penalties may be specified in individual sections of this Code.

2.2 Where No Penalty Provided. Any person who violates this Code for which no penalty has been set forth shall be subject to punishment by a fine not to exceed \$1,000 or by confinement not to exceed 60 days, or both.

2.3 Each Day Constitutes Separate Offense. Except as otherwise specified, any violation shall constitute a separate offense each day it occurs, and shall be subject to a separate penalty for each day of violation.

3. Enforcement

3.1 Chairman. Except as otherwise specified, the Chairman is responsible for daily administration of the Code. This includes applying the Code and informing the Board of Commissioners on any need to amend the Code.

3.2 Citations. Any person violating this Code is issued a citation to appear in Court.

Section 1-005 Summary of Highlights of Local Legislation

Many rights and responsibilities of the Hancock County Board of Commissioners and Constitutional Officers are governed by local legislation and the 1990 Personnel Management System. Summarized below are some of the more pertinent, current Acts (and some predecessor sections). Omitted are non-current Acts and 1964, 1972, 1973, 1979 and 1982 Acts superseded by General Statutes.

On October 5, 1885, the Board was created by Bill number 224. On December 24, 1902, by Bill number 30, they went from being a body appointed by the grand jury to an elected body. On July 21, 1923 Local legislation was approved by the General Assembly, Bill number 39, calling for the appointment of a County Clerk, with duties and compensation as per a resolution of the Board. On April 3, 1972, Local legislation introduced by Representative Charles Hudson was approved by the General Assembly, SB 1413, HB 1938, setting the salary of the Chairman at \$150 a month, and setting commissioners' salary at \$100 per month.

On April 17, 1973 Local legislation presented by Senator Culver Kidd and Representative Roy Lambert was approved by the General Assembly, SB 572, HB 865, requiring annual audits by a CPA, to be completed by 60 days after the close of the fiscal year, with an audit for each County department, and listing the names of all persons receiving more than \$100 during each quarter and fiscal year. It further provided that all expenditures over \$100 shall be published in the legal organ within 60 days after the close of each quarter.

On March 24, 1976, Local legislation introduced by Senator Kidd was approved by the General Assembly setting the salary of the Chairman at \$250 a month. The legislation stated: "(a) There shall be a Board of County Commissioners of Hancock County consisting of three residents of said county. Beginning with the general election of 1976, the three offices constituting said board shall be designated as Post 1, and Post 2, and chairman and candidates for said offices shall run for only one of said designated offices and shall specify for which said office they are a candidate. The commissioners elected during the 1976 general election to Posts 1 and 2 shall serve terms of two years and the commissioner elected during the 1976 general election to the office of chairman shall serve a term of four years; thereafter, the term of all three offices shall be four years. Commissioners and the chairman shall be elected in the general election next preceding the expiration of their respective term of office. The result of the election shall be declared as the result is declared in case of other county officers, and in case of contest the method shall be as in case of other county officers."

On March 12, 1984, Local legislation introduced by Senator Kidd, HB 645, SB 503, was approved by the General Assembly setting the salary of the Chairman at \$12,000 per annum, and setting commissioners' salary at \$3,600 per annum. It expanded the Chairman's authority regarding County personnel while maintaining the right to vote "in all matters pertaining to the affairs of Hancock County." There was language as follows: "The chairman shall be the administrative and executive official of the board. All three members of the board, however, shall have an equal vote in all matters pertaining to the affairs of Hancock County."

It states at subsection (b): "(1) The chairman shall carry out, execute, and enforce the ordinances, policies, rules, and regulations of the board when such ordinances, policies, rules, and regulations become effective. Other members of the board shall deal solely through the chairman in all matters concerning the operation, supervision, and administration of the various departments, offices, and agencies of the county government. No member of the board shall directly or indirectly order, instruct, or otherwise attempt to control the actions of county personnel subject to the administrative and supervisory control of the chairman. (2) Subject to the approval of the board, the chairman shall have the power to change, consolidate, or abolish any departments, agencies, or offices over which the chairman exercises supervision and control. Subject to the approval of the board, the chairman may create other departments, agencies, and offices, which departments, agencies, and offices, when created, shall be under the supervision and control of the chairman."

On January 8, 1987, Local legislation was approved by the General Assembly, SB 372, HB 746, increasing the salary of the Chairman from \$12,000 to \$16,000. On July 1, 1989, Local legislation was approved by the General Assembly, SB 132, HB 687, increasing the salary of the Chairman from \$16,000 to \$20,000 after the first term, and increasing commissioners' salary from \$3000 to \$4000 after the first term. In 1990, Local legislation was approved by the General Assembly, SB 937, HB 1761, giving commissioners a \$50 per diem for each day the Board conducts official business, plus a \$300 per year expense allowance.

On January 2, 1990, the Board of Commissioners adopted an ordinance revising the County's Personnel Management System; the system designates the Chairman as the County's "Appointing Authority." The Personnel Management System refers to the Chairman as the County's Chief Executive Officer (Para. 1.500); designates the Chairman as the County's appointing authority (Para. 2.103); imposes key responsibilities on the Chairman in connection with recruitment and hiring of County employees (Para. 4.402); imposes key responsibilities on the Chairman in connection with the evaluation of employee performance for purposes of retention, promotion, and merit salary increases (Para. 4.700-4.701); vests the Chairman with authority and discretion to take adverse actions against County employees (Para. 6.500); and maintains the Chairman's status as the final decision-maker with regard to adverse actions at the conclusion of the appeal process. (Para. 7.407.)

On April 5, 1993, Local legislation introduced by Senator Baugh was approved by the General Assembly expanding the Board of Commissioners from three members to five members; the allocation of powers, duties, rights, etc. set forth in the 1984 local legislation was retained. 4 Districts were described in census blocks, which are the current districts as of the 2012 adoption hereof. It required a candidate to have resided in the district for at least 12 months prior to the election and continue residing therein thereafter. The salary of the chair was increased to \$22,000, with an annual expense allowance of \$1,500, and the salary of commissioners was raised to \$3600.

On April 9, 1996, the Governor signed Senate Bill #787, introduced by Senator Griffin, an amendment to the act placing the Sheriff, Probate Judge, and Superior Court Clerk on annual salaries in lieu of the fee system back in 1964. Reference is made to Georgia Law 1993, page 4649, which changed provisions regarding Sheriff's personnel, annual budgets, personnel policies and other purposes. The April 9, 1996 amendment, adds a new subsection (c) authorizing the Sheriff to appoint deputies, clerks, assistants, and other personnel he/she deems necessary to efficiently and effectively discharge the official duties of the Sheriff's office. The Sheriff is to recommend to the Commissioners a budget of the Sheriff's office, including number of personnel needed and suggested compensation per employee. It is the sole discretion of the Commissioners to fix the compensation and to approve any increases. It is the sole power of the Sheriff, subject to the personnel policies, to actually designate the persons who will be employed, to assign their duties, and to remove or replace employees. The act became effective the month after the personnel policies for the Sheriff's office were adopted by the Sheriff and the Commissioners.

On the same date, April 9, 1996, the Governor also signed Senate Bill 786, introduced by Senator Griffin. Its purpose was to amend the act creating the Board of Commissioners on October 5, 1885, and the amendment thereto of 1993, page 4534. The purpose was to change provisions regarding per diem allowances of the Chair and members of the Board, and other purposes. A new section VIII(c)(3) was inserted. It set forth a \$50 per diem for each day the Board conducts official business, plus a \$50 per diem for the Chairman for each day he is outside the County on official business.

On April 4, 1997 the Governor signed Senate Bill #234, amending the act providing for the appointment of a Chief Magistrate, to change provisions regarding selection of subsequent chief magistrates, and to provide for term of office of the Chief Magistrate appointed in December, 1996. Georgia Law 1983, page 4006 was amended by striking Section 2(b) and inserting a new section. It provided that the person appointed in December 1996 to Chief Magistrate shall serve until December 31, 1998. At the November 1998 election, and every four years thereafter, the Chief Magistrate shall be elected by the voters, and take office January 1 following the election, for a four year term. A new Section 3 was substituted, providing that any vacancy shall be filled per Georgia Code Section 15-10-20.

On April 21, 1997, the Governor signed Senate Resolution #125, introduced by Senator Griffin, regarding conveying five acres of state owned property back to the County. It is in the 102nd G.M.D., shown on an August 27, 1959 survey prepared by P. E. Ogletree, R.L.S. The acreage was under the custody of the Department of Defense, where the National Guard Armory was located. The DOD consolidated activities, no longer needed that property, and agreed to convey it to the Board of Commissioners for \$1 as long as the property is used for public purposes and per the state property's commission. Three years was given to finalize this.

On April 21, 1997 the Governor also signed House Bill #902, introduced by Representative Sistie Hudson, amending the Act creating the Board of Commissioners, changing provisions regarding compensation. Section VIII(c)(1,2) had new language inserted. The Chairman's salary was changed to \$25,000, with an annual expense allowance of \$1,500.00. The other Board members were given an annual salary of \$4,500. This was to become effective January 1, 1998.

On March 27, 1998 the Governor signed House Bill #1820, introduced by Representative Sistie Hudson, regarding compensation and expense allowance of the Chairman and the Board members. It amended the original act creating the Board (Georgia Law 1884-85, page 435) by substituting new language in the same section, Section VIII(c)(1,2). It provided for the Chairman getting an annual base

salary of \$25,000. It provided for the other members receiving an annual base salary of \$4,500.00. It next referenced the Chairman also receiving an expense allowance of \$1,500. The change was the inclusion of the word "base", allowing supplements. Additionally, it tied annual increases in the Chairman and Board members' salaries to the amount of the increase to the Sheriff's salary per Georgia Code Section 15-16-20(a)(2). It stacks that increase on top of any previous cost of living increases. Salary increases became effective the same date the Sheriff got his salary increase.

On April 9, 1999 the Governor signed House Bill 851, introduced by Representative Sistie Hudson, amending the Act creating the Board, to change provisions regarding compensation and expense allowance. The same section discussed above was changed to insert new language at (c)(1) establishing the Chairman's annual base salary of \$25,000, the other members receiving a base annual salary of \$4,500, plus the Chairman receiving an expense allowance of \$1,500 per year, and the other Board members receiving an expense allowance of \$300 per year. Beginning on January 1, 1999, and each year thereafter, the same type percent increase, tied to the Sheriff's increase, as discussed above, would apply. The base salary, plus any cost of living increases, would then be increased by the same percent as the Sheriff received, effective on the same date the Sheriff received his increase.

In addition, there was a multiplier implemented. After the increase tied to the Sheriff's increase, there would be another increase for each member by multiplying the salary by the percentage equal to 5% times the number of completed four year terms of office served by the person as a member of the Board of Commissioners after December 31, 1983. Thus, for someone who had completed four terms, that would be multiplied times 5% to get a 20% increase. Assuming the Chairman was receiving \$25,000, this would be an automatic increase of \$5,000 if the Chairman had served four terms.

In 2011, the General Assembly approved SB 173, creating a Board of Elections and Registration, introduced by Senator Grant, [a successor to a 1997 Bill introduced by Representative Sistie Hudson intended to create a Board of Elections and Registration which was not approved], which SB 173 is summarized as follows: The board shall have the powers, duties, and responsibilities of the superintendent of elections of Hancock County under the "Georgia Election Code," currently being exercised by the judge of the Probate Court of Hancock County, and the powers, duties, and responsibilities of the Board of Registrars under the "Georgia Election Code. The board shall be composed of a chairperson and four members.

The county executive committee of the political party that nominated a candidate for Governor at the last election whose candidate received the highest number of votes shall appoint 2 members. One shall be designated to serve a term from July 1, 2011 to December 31, 2012, and 1 shall be designated to serve a term from July 1, 2011 to December 31, 2014. The county executive committee of the political party that nominated a candidate for Governor at the last election whose candidate received the second highest number of votes shall appoint 2 members. One shall be designated to serve from July 1, 2011 to December 31, 2012, and one to serve from July 1, 2011 to December 31, 2014. The chief judge of the Superior Court of Hancock County shall appoint one member who shall serve from July 1, 2011 to December 31, 2014. Such appointee shall serve as chairperson.

Members must have been registered voters in Hancock County for at least one year prior to appointment to the board. Each appointing authority shall certify the appointment to the clerk of the superior court no later than 15 days before each member is to take office, stating the name and residential address of the person appointed and certifying that such member has been duly appointed as provided in this Act. The clerk shall record each of such certifications on the minutes of the superior court and certify the name of each such member to the Secretary of State and provide for the issuance of appropriate commissions to the members within the same time and in the same manner as provided by law for registrars.

The board shall be authorized to appoint an elections supervisor to generally supervise, direct, and control the administration of the affairs of the board per law and duly adopted resolutions of the board. The elections supervisor shall not be a member of the board or an elected official. The elections supervisor shall be considered an employee of Hancock County and entitled to the same benefits as other employees of Hancock County. The board, subject to funding by the governing authority of Hancock County, shall be authorized to employ additional clerical assistants as needed to carry out the duties and functions of the board. All such clerical assistants shall be considered to be employees of Hancock County and entitled to the same benefits as other employees of Hancock County. Such employees shall be hired by the elections supervisor with the approval of the board.

On July 1, 2011, the judge of the Probate Court of Hancock County and the Board of Registrars of Hancock County was relieved of all powers and duties to which the board succeeds by the provisions of this Act.

Chapter 2: ELECTIONS

ARTICLE I. IN GENERAL

Section 2-001 Adoption of State Rules and Regulations

The rules and regulations of the State Election Board which pertain to elections, together with the Georgia Election Code contained in Title 21, O.C.G.A., and local legislation including SB173, are hereby adopted as the rules, regulations, and provisions that shall govern the conduct of general and special elections in this County.

Section 2-002 Expenses

Such funds as are necessary for the conduct of elections and for the performance of the duties that are specified by this Chapter shall be budgeted and appropriated annually, and from time to time.

ARTICLE II. REGISTRATION

Section 2-003 Election Superintendent and Registrar

Those functions shall be per Title 21, O.C.G.A., performed by the Board of Elections and Registration per 2011 SB 173.

Section 2-004 Elector Qualifications

Any person desiring to vote in any election must register as an elector prior to the primary or election, per Title 21, O.C.G.A.; be a citizen of Georgia; be at least 18 years of age; and be a resident of the County. Considerations associated with proof of residence per Georgia Appellate decisions are as follows: Utility records- mailing address, County tax records- mailing address, Post Office - mailing address, where the mail is actually delivered, W-2 forms- listed address, Address for checking account, Where person dines, sleeps, spends free time, spends the majority of days each year, and demonstrates intent to live in the place for the time being. Considerations associated with proof of domicile per Georgia Appellate decisions include: Electors list, Voter registration card, Voting record, Address shown on tax return, Driver's license, Homestead tax exemption, and Where the automobiles are tagged and taxed.

Per OCGA 21-2-217, Residence is that place in which such person's habitation is fixed, without any present intention of removing therefrom, and includes the specific address in which a person has declared a homestead exemption, if a homestead exemption has been claimed, and the following may also be considered: the applicant's financial independence, business pursuits, employment, income sources, residence for income tax purposes, age, marital status, residence of parents, spouse, and children, if any, leaseholds, sites of personal and real property owned by the applicant, motor vehicle and other personal property registration, and other such factors that the registrars may reasonably deem necessary.

Section 2-005 Registration Lists and Records

The County Board of Elections and Registration shall be responsible for maintaining County voting registration cards. The form of the registration cards shall conform to the Georgia Election Code, Title 21, O.C.G.A. The completed registration cards shall be kept in the main office of the Board of Elections and Registration.

Section 2-006 Challenge of Registration List

Any elector of the County shall have the right to challenge the registration of any person whose name appears on the registration list, in the manner set forth in the Georgia Election Code, Title 21, O.C.G.A.

Section 2-007 Permanency of Registration

Registration of an elector will be per the Georgia Election Code, Title 21, O.C.G.A.

Section 2-008 Absentee Registration

Absentee registration shall be per the Georgia Election Code, Title 21, O.C.G.A.

ARTICLE III. CANDIDATES

Section 2-009 Notice of Candidacy

Each candidate desiring to be on the ballot in an election shall file per the Georgia Election Code, Title 21, O.C.G.A.

Section 2-010 Qualification Fees

The qualification fee for candidates in any general or special election for the office of Chairman and/or for the office of Commissioner, shall be the maximum amount allowed by the Georgia Election Code, which shall be paid at the time of filing.

Section 2-011 Campaign Financing Disclosure

Per House Bill 48, passed during the 2005 General Assembly, all campaign contribution disclosure reports, financial disclosure statements, committee registrations, declarations of intent cards, political action committee reports, and choosing the option of separate accounting cards will be filed with the State Ethics Commission. All candidates shall keep all such records and file such reports as are required by the Georgia Campaign and Financial Disclosure Act.

ARTICLE IV. VOTING

Section 2-012 Election Officials

1. Appointment. The Board of Elections and Registration is appointed per SB173.

2. Qualifications and Powers. The Board of Elections and Registration and all poll officers shall meet such qualifications and exercise all such powers and duties in the Georgia Election Code, Title 21, O.C.G.A. and SB173.

Section 2-013 Election Districts

The County shall be divided into election districts, per maps by the Reapportionment Office, approved by the US Justice Department, compliant with the federal Voting Rights Act of 1965 (42 U.S.C. Section 1973c), as amended.

Section 2-014 Polling Places

The polling places within the County shall be designated by the Board of Elections and Registration, and approved by the US Justice Department.

Section 2-015 Date of Election

All elections shall be held per the Georgia Election Code, Title 21, O.C.G.A.

Section 2-016 Write-in-Votes

Write-in votes shall be permitted in county elections, per the Georgia Election Code, Title 21, O.C.G.A.

Section 2-017 Absentee Ballots

Absentee ballots shall be used per the Georgia Election Code, Title 21, O.C.G.A.

Section 2-018 Contested Elections

Elections conducted per this may be contested as provided in the Georgia Election Code, Title 21, O.C.G.A.

ARTICLE V. RECALL

Section 2-019 General

The Chairman or any Commissioners shall be subject to recall as provided by state law, Title 21, O.C.G.A.

Section 2-020 Procedure for Recall

Recall of any elected officer from office shall be in the manner provided by state law, Title 21, O.C.G.A.

Chapter 3: ADMINISTRATION

Section 3-001 Exercise of Governmental Authority

The powers of the County shall be exercised in the manner provided by local legislation, state law and this chapter.

Section 3-002 Code of Ethics

a) **Policy.** The County follows state law on ethical conduct, OCGA Title 45, Chapter 10. OCGA 45-10-1, Code of ethics for government service, which states in part as follows: "Any person in government service should: I. Put loyalty to the highest moral principles and to country above loyalty to persons, party, or government department. II. Uphold the Constitution, laws, and legal regulations of the United States and the State of Georgia and of all governments therein and never be a party to their evasion. III. Give a full day's labor for a full day's pay and give to the performance of his duties his earnest effort and best thought. IV. Seek to find and employ more efficient and economical ways of getting tasks accomplished. V. Never discriminate unfairly by the dispensing of special favors or privileges to anyone, whether for remuneration or not, and never accept, for himself or his family, favors or benefits under circumstances which might be construed by reasonable persons as influencing the performance of his governmental duties. VI. Make no private promises of any kind binding upon the duties of office, since a government employee has no private word which can be binding on public duty. VII. Engage in no business with the government, either directly or indirectly, which is inconsistent with the conscientious performance of his governmental duties. VIII. Never use any information coming to him confidentially in the performance of governmental duties as a means for making private profit. IX. Expose corruption wherever discovered. X. Uphold these principles, ever conscious that public office is a public trust."

Proper government requires that public officials be independent, impartial and responsible to the people; that government decisions and policy be made in proper channels of the government; that public office not be used for personal gain; and that the public have confidence in the integrity of government.

This section has the following purposes: 1) encourage high ethical standards in conduct by County Officials; 2) establish guidelines for ethical standards of conduct for all such Officials; 3) to require disclosure by such Officials of private financial or other interests in matters that affect the County; and 4) serve as a basis for disciplining those who refuse to comply.

b) **Persons covered.** This Code of Ethics shall be applicable to the Board of Commissioners, Planning Commission, Boards, Offices, Commissions, Authorities, Judges and County Officials defined below ("Covered Persons"). State law and Local Legislation shall be controlling if in conflict with this code of ethics. This Section shall supplement, and not replace, state law and Local Legislation.

c) **Definitions.** In this Section, the following terms have the following meanings, unless context clearly indicates otherwise:

- 1) **County Official, or Official,** means Chairman, Commissioners, Vice Chairman, County Clerk, Deputy County Clerks, County Attorney, Superior Court Clerk, Deputy Clerks, Board of Tax Assessors, Chief Appraiser, Tax Commissioner, Sheriff, Judges, EMS Director, Road Department Head, County Coroner, County Auditor, Hospital Authority, Library Board, Housing Authority, EMA Director, Board of Elections and Registration, Planning Commission, Board of Zoning Appeals, Building Inspector, Development Authority, other County Boards, Commissions and Authorities created by general law or Local Legislation, and the members of the foregoing.
- 2) **Entity** means sole proprietorship, partnership, limited partnership, firm, corporation, professional corporation, holding company, joint stock company, receivership, trust, LLC, LLP, LLLP or any other business Entity recognized by law.
- 3) **Decision** means any ordinance, resolution, contract, franchise, formal action or other matter decided on as well as the discussions or deliberations which can or may lead to a vote or formal action.
- 4) **Discretionary Authority** means the power to exercise judgment in a Decision or action.
- 5) **Immediate Family** means spouse, mother, father, brother, sister, son, or daughter of any County Official related by blood, adoption or marriage. The relationship by marriage shall include in-laws.
- 6) **Remote Interest** means an interest of a person or Entity, including a County Official, who would be affected in the same way as the general public. The interest in property tax rate, general County fees, utility charges, zoning or similar Decisions is incidental to the extent that the official would be affected in common with the general public.
- 7) **Incidental Interest** means interest in a person, Entity or property which is not substantial and has insignificant value.
- 8) **Substantial Interest** means a known interest, directly or through a member of the Immediate Family, in another person or Entity: 1) the interest is ownership of 5% or more of the voting stock, shares or equity of the Entity or ownership of \$5,000 or more of the equity or market value of the Entity; or 2) funds received by the person from the other person or Entity either during the previous 12 months or the previous calendar year equaled or exceeded \$5,000 or 10% of the recipient's gross income during that period, whichever is less; 3) the person serves as a corporate officer or member of the board of directors or other governing board of the for-profit Entity other than a corporate Entity owned or created by the Board of Commissioners; or (4) the person is a creditor, debtor, or guarantor of the other person or Entity in an

amount of \$5,000 or more. Substantial interest in real property means an interest in real property which is an equitable or legal ownership with a market value of \$5,000 or more.

d) Standards of conduct

- 1) No Covered Person shall use such position to secure special privileges or exemptions for such person or others, or to secure confidential information for any purpose other than Official responsibilities.
- 2) No Covered Person, in any matter before the board, authority or commission in which he has a Substantial Interest, shall fail to disclose for the common good for the record such interest prior to any Decision.
- 3) No Covered Person shall act as agent or attorney for another in a matter before a county board, authority or commission.
- 4) No Covered Person shall directly or indirectly receive, or agree to receive, any compensation, gift, reward, or gratuity in any matter or proceeding connected with, or related to, the duties of his office except as may be provided by law. "Art. III, Sec. VI, Par. VI(a) of the Georgia Constitution provides, in part, "The General Assembly shall not have the power to grant any donation or gratuity." The provision is also applicable to cities and counties.
- 5) No Covered Person shall enter into any contract with the County except as specifically authorized by law. Any Covered Person who has a substantial interest in an entity doing business with the County shall make known that interest in writing to the Board of Commissioners and County Clerk. (i) This prohibition shall not be applicable to an otherwise valid employment contract between the County and a County official who is not elected. (ii) Any official who has a proprietary interest in an agency doing business with the County shall make that interest known in writing to the Board of Commissioners and the County clerk.
- 6) All public funds shall be used for the general welfare of the people and not for personal economic gain.
- 7) Public property shall be disposed of per Georgia law.
- 8) No Covered Person shall solicit or accept other employment or compensation while still a Covered Person, if the employment or compensation could reasonably be expected to impair in judgment or performance of County duties.
- 9) If a Covered Person accepts or is soliciting employment from any person or Entity who has a Substantial Interest in a person, Entity or property which would be affected by any Decision upon which said Covered Person might reasonably be expected to act, investigate, advise, or make a recommendation, said Covered Person shall disclose the fact to the County Clerk, and the board, authority or commission or to his supervisor, and shall not participate in any action on matters regarding the potential employer.
- 10) No Covered Person shall use County facilities, personnel, equipment or supplies for private purposes, except to the extent such are lawfully available to the public.
- 11) No Covered Person shall give any person any consideration, treatment, advantage or favor beyond that which it is the general practice to grant or make available to the public at large.
- 12) No Covered Person shall disclose any confidential information concerning any person, or any property or governmental affairs of the County, without prior formal authorization of the Board of Commissioners.
- 13) No Covered Person shall use or permit the use of confidential information to advance the financial or personal interest of himself or any other person.
- 14) No Covered Person shall appoint or vote for the appointment of any person related by blood or marriage to fill an office, position, employment or duty when the salary, wages, pay or compensation is to be paid out of public funds.
- 15) A Covered Person shall not use their position to coerce, or give the appearance of coercing, another person to provide any financial benefit to such official or persons within their immediate family, or those with whom the official has business or financial ties amounting to a substantial interest.
- 16) A Covered Person shall not order goods and services without prior official authorization. No County official shall attempt to obligate the County nor give the impression of obligating the County without proper prior authorization.
- 17) No Covered Person shall draw travel funds or per diem from the County for attendance at meetings, seminars, training or other educational events and fail to attend such events without promptly reimbursing the County therefor.

18) No Covered Person shall attempt to influence a case before any Court nor engage in ex parte communication with a judge on any matter before the Court.

e) **Prohibition of conflict of interest.** A Covered Person may not participate in a Decision on a matter affecting a person, Entity, or property in which said person has a Substantial Interest; a Covered Person who serves as a corporate officer or member of the board of directors of a nonprofit Entity may not participate in a vote or Decision regarding funding of said Entity.

f) **Exemptions.** This shall not require filing information about connection with a professional society or charitable, religious, social, fraternal, educational, recreational, public service, civil, political, or similar organization not conducted as a business enterprise or governmental agency, and not engaged in ownership or conduct of a business enterprise or governmental agency.

g) **Ethics Committee.** The Board of Commissioners shall appoint an Ethics Committee of 3 volunteers.

1) 1 member is encouraged to be an attorney in good standing with the State Bar. All members shall be 21 or older, and registered to vote in the County, and shall serve a 3-year term. No person shall serve who holds a public elective office, or who is physically or mentally unable to discharge the duties of a member.

2) Prospective members shall be identified and names submitted to the Clerk within 30 days of the date of vacancy.

3) Nominees shall be subject to an education, employment and criminal history check to ensure no felony record, and no misdemeanor convictions of moral turpitude. Nominees shall execute all releases necessary to accomplish the same.

4) The Clerk shall assemble all relevant information and present it to the Board of Commissioners.

5) Members of the Ethics Committee shall be appointed in staggered term lengths initially to permit 1 term to terminate each year. On appointment, members of the Ethics Committee shall sign an oath attesting to their qualification to serve.

6) The position of a member of the committee shall be deemed vacated:

- a. Upon the expiration of his or her term;
- b. Upon the death of a member or the disability or incapacity of a member for more than 90 days;
- c. Upon the written resignation of the member;
- d. By the member ceasing to be a resident of the County; or
- e. Upon removal of the member for good cause by a majority vote of the Board of Commissioners.

7) Ethics Committee Members shall be prohibited from County election political activities and making campaign contributions to candidates in County elections during their terms as Committee members. Violations of this subsection may be punished by removal from committee membership by a majority vote of the Board of Commissioners.

i) **Receipt of Complaints.**

1) All complaints shall be verified under oath in front of a notary public, and filed in writing with the County Clerk and referred to the Ethics Committee. All written complaints shall contain a clear and concise statement of acts upon which the complaint is based along with an allegation that such facts constitute 1 or more violations of law, a reference to the provisions allegedly violated, any further information to support the allegations in the complaint including name and address of all other persons with first hand knowledge of the facts in the complaint and documentary evidence that supports the facts alleged.

2) The Ethics Committee may require that complaints informally drawn be reduced to a complaint in proper form. The Committee shall advise the complainant of the defect and that the complaint will not be considered unless corrected.

3) On receipt of a complaint, the Committee shall send a copy to the accused with an opportunity to respond to the complaint within 7 days in writing. Responses after the 7 days may be disregarded during preliminary investigation.

4) On receipt of a complaint in proper form and notice to the accused and the passage of more than 7 days, the Committee shall within two weeks of receipt of the original complaint:

- a. Review it to determine if it is frivolous, patently unfounded or fails to state facts sufficient to show there may be probable cause to invoke disciplinary action, or is to be considered for further investigation.

- b. Dismiss complaints which are frivolous, patently unfounded or which fail to state facts sufficient to show there may be probable cause to invoke discipline; however, a rejection of such complaint by the Committee shall not deprive the complaining party of any action he or she might otherwise have at law or in equity against the accused.
- c. Be empowered to collect evidence and information concerning any complaint and to add the findings and results of its investigations to the file containing such complaint.
- d. Be empowered to hold hearings after at least 7 days prior notice of the date, time and place, personally hand delivered to the alleged violator. It shall conduct the hearing with testimony and cross-examination of witnesses. The accused and the complainant may be represented by counsel, to hear and examine the evidence and witnesses and to present evidence and witnesses in opposition or in extenuation. The Committee may adopt forms for formal complaints, subpoenas, notices, and any other instruments under these rules.
- e. Make recommendations to the Board of Commissioners as described hereinafter.
- f. All recommendations by the Ethics Committee shall be within 30 days of receipt of the complaint.

j) Service of Recommendation; Hearings and Disposition of Complaints.

- 1) The recommendation by the Committee shall be in writing, summarize the evidence, and be personally served on all parties in interest and the County Clerk within 5 days of reaching a recommendation.
- 2) The Board of Commissioners shall take action on the recommendation of the Committee at their next regular meeting following receipt of the recommendation, by discussing it based on the evidence at the hearing, as summarized by the Committee. Notice thereof shall be personally served upon the complainant and the accused.
- 3) The Board of Commissioners shall deliberate in public, and reach a majority decision by public vote.
- 4) The decision of the Board of Commissioners shall be tendered to the accused and complainant within 5 days.
- 5) Failure to comply with deadlines in this ordinance shall not invalidate any otherwise valid complaint or in any way affect the power of the Ethics Committee or the Board of Commissioners to act on any complaint.

k) Right to Appeal.

- 1) Any accused or complainant adversely affected by the decision may obtain judicial review. Decisions shall be reviewable by the Superior Court via a Petition for Certiorari granted within 30 days of receipt of notice of the decision of the Board of Commissioners. The grant of such petition is a supersedeas, staying enforcement of the decision appealed from.
- 2) Review by the Superior Court shall be limited to whether there was any evidence to support the decision.
- 3) No action of the Board of Commissioners refusing or failing to take action shall be reviewable by the Superior Court.

l) Penalties. Any person found to have violated any provisions hereof may be subject to written and oral reprimand or public censure by the Board of Commissioners, fine up to \$1000 and/or request for resignation by the Board of Commissioners.

Section 3-003 Administrative Policy and Procedures

1. Officers. Each officer shall perform all duties required of his office by state law, the Local Legislation and this Code, and such other duties not in conflict therewith as may be required.

2. Department Heads. All department heads shall per Local Legislation, State law and the Personnel Policy:

- a. be immediately responsible to the Chairman for the effective administration of their respective department and all activities assigned thereto;
- b. keep informed as to the latest practices in their particular field and institute, with the approval of the Chairman, such new practices as would benefit the public;
- c. submit quarterly and annual reports of the activities of their respective department to the Chairman;

d. establish and maintain a system of filing and indexing records and reports in sufficient detail to furnish all information necessary for proper control of departmental activities and to form a basis for periodic reports to the Chairman;

e. be responsible for the proper maintenance of all County property and equipment used in their respective departments.

3. Departments. Each department shall cooperate with every other department and furnish, on direction of the Chairman, any other department such labor and materials requisitioned by the head of each department, as its own facilities permit.

4. Operation of Administrative Services. All units in the administrative services shall accomplish the following:

a. **Office Hours.** Generally be open 8 a.m. to 5 p.m. weekdays, closed Saturday, Sunday and legal holidays.

b. **Make Daily Deposit.** Make a regular deposit with the County Clerk of any monies received directly from the public.

c. **Payment of Monies.** Pay out monies belonging to the County in the manner prescribed herein.

Section 3-004 Oaths

All officers and employees required by Local Legislation or some other provision of law to take an oath shall, before entering upon the discharge of their respective duties, take and subscribe the following oath before an officer authorized by law to administer oaths: "I, _____, do solemnly swear or affirm that I will faithfully and impartially, and without fear, favor or affection, support the Constitution of the United States and the State of Georgia, the Local Legislation, and Code of Hancock County; that I will, to the best of my ability, faithfully perform the duties of the office of _____ during my continuance therein; I do further solemnly swear or affirm that I am not the holder of any public money due this state unaccounted for; that I am not a member of the Communist party or the holder of any office of trust under the government of the United States, nor of either of the several states, nor of any foreign state, and that I am otherwise qualified to hold said office, according to the Constitution of the United States and of this state. I will bear true faith, loyalty and allegiance to the same. I will perform my duties impartially, without favor or ill will, and without regard to race, religion, political beliefs, or aspirations. I understand my conduct at all times must be ethical conduct. So Help Me God."

Section 3-005 Bonds

Except as otherwise provide by law, the Board of Commissioners may require any department head, County official, or employee to give good and sufficient bond in any amount decided by the Board of Commissioners. Said bond shall be payable to the County for the faithful performance of duties and to protect the County from corruption, malfeasance, misappropriations, or unlawful expenditures. Said bonds shall be obtained from a surety company licensed to do business in Georgia which appears in the Federal Circular 570 approved by the Board of Commissioners. The premiums thereon shall be paid by the County.

Section 3-006 Compensation

Each officer and employee shall receive compensation per state law, local legislation and the Board of Commissioners.

Section 3-007 Election

The Chairman and Commissioners shall be elected for 4 year terms, and serve until successor is qualified. See OCGA 45-2-4.

Section 3-008 Qualification for Office

A person whose principal residence and domicile is in the County (See OCGA 21-2-132 (f) and 21-2-2 (32) ["Residence" means domicile]) and is a qualified voter of the County and at least 18 at the time of election and has never been convicted and sentenced in any court of competent jurisdiction for fraudulent violation of primary or election laws, malfeasance in office, or felony involving moral turpitude or conviction of domestic violence under the laws of this state or any other state or of the United States, or that the candidate's civil rights have been restored and that at least ten years have elapsed from the date of the completion of the sentence without a subsequent conviction of another felony involving moral turpitude, and meets all other legal requirements including local legislation and state law shall be eligible for office. Neither the chair nor commissioners shall hold any other County office or County employment. See OCGA.

Section 3-009 Vacancies

In case of a vacancy of Chairman or Commissioner from failure to elect, death, removal, or any cause whatsoever, such vacancy shall be filled as provided by law, including local legislation and OCGA Title 21, the Election Code.

Section 3-010 Meetings, Minutes, Open Records

The Board of Commissioners shall hold regular meetings the first and third Tuesday of each month at 5 p.m., unless otherwise ordered by the Board of Commissioners. The Chairman may per the Local Legislation convene the Board of Commissioners whenever, in his opinion, public business requires it, and shall do so upon the application of 3 members of the Board. It shall be the duty of each member of the Board to attend each meeting, unless prevented by unavoidable circumstance.

Per the Georgia Sunshine Laws, 2012 Rewrite, HB 397, Open and Public Meetings Act (O.C.G.A. §§ 50-14-1 et. seq.) and the Open Records Act (O.C.G.A. §§ 50-18-70 et. seq.), the following apply: A formal, written agenda, following the official order, shall be prepared in advance of each meeting. The meeting agenda will be available to the general public a week in advance, and a notice containing such information will be posted and maintained in a conspicuous place available to the public at the regular meeting place of the agency and on any County website. The agenda shall list all items to be considered at a particular meeting and briefly state what action is requested. All items timely submitted to be on the agenda shall be placed on the agenda, and no one shall prohibit such a timely request from appearing on the agenda. To appear on a regular monthly meeting's agenda, the item must be submitted to the Clerk by 1 p.m. on the Wednesday preceding the scheduled regular monthly meeting. The agenda, together with data, reports, and memoranda, should be sent early enough to reach each Commissioner at least 3 days before the meeting.

Any item received after the deadline will be held over for the next meeting unless a majority of Commissioners present at the meeting vote to add it to the agenda. For specially called meetings, other than the regularly scheduled monthly meeting, the agenda shall consist only of the item or items specifically indicated as the purpose of the called meeting in accordance with the Open Meetings Act. Failure to include on the agenda an item which becomes necessary to address during the course of a meeting shall not preclude considering and acting upon such item.

When any called meeting is to be held, the County will give due notice thereof, the posting of a written notice for at least 24 hours at the place of regular meetings and giving of written or oral notice at least 24 hours in advance of the meeting to the legal organ in which notices of sheriffs' sales are published in the county where regular meetings are held and, upon written request from any local broadcast or print media outlet whose place of business and physical facilities are located in the county, notice by telephone or facsimile to that requesting media outlet at least 24 hours in advance of the called meeting.

When special circumstances occur and are so declared by the Board at the meeting, they may hold a meeting with less than 24 hours' notice upon giving such notice of the meeting and subjects expected to be considered at the meeting as is reasonable under the circumstances including notice to said county legal organ or a newspaper having a general circulation in the county at least equal to that of the legal organ, in which event the reason for holding the meeting within 24 hours and the nature of the notice shall be recorded in the minutes. Any oral notice required or permitted by this subsection may be given by telephone.

A summary of the subjects acted on and those members present at a meeting shall be written and made available to the public for inspection within 2 business days of the adjournment of a meeting. The minutes of a meeting shall be promptly recorded and such records shall be open to public inspection once approved as official by the agency, but in no case later than immediately following the next regular meeting, but nothing herein shall prohibit the earlier release of minutes, whether approved or not. Said minutes shall, at a minimum, include the names of the members present at the meeting, a description of each motion or other proposal made, and a record of all votes, who voted for and against. Official minutes of the meetings shall be maintained in the Commissioner's Office. Copies of contracts, maps, or similar material or documents related to actions taken may be included in the minutes or incorporated by reference to an alternate location. Where incorporated by reference, such documents shall be stored in a central location or locations identified by ordinance or resolution of the Board of Commissioners.

Open Records shall be maintained per the state records retention act, 50-18-90 et seq. See 50-18-71(a). Records must be produced within 3 business days of an Open Records Request if possible. If not, the response must be made within 3 business days as to when the records will be produced [§ 50-18-71 (b)(1)(A)]. Requests can be made orally or in writing. [§ 50-18-71 (b)(1)(B)]. All written requests shall go to a records custodian [§ 50-18-71(b)(1)(B)], the County Clerk. This provision is the statutory designation in writing and the legal organ is notified of such, and the custodian is be posted on any County website [§ 50-18-71 (b)(2)]. The 3 day response period starts when the custodian gets the request. Charges for search, retrieval and production of copies is at the rate of the lowest paid full time employee able to respond [§ 50-18-71 (c)(1)], the first 15 minutes are free. The County charges for the cost of redacting records by a full time employee [§ 50-18-71 (c)(1)]. Fees for copying records are \$.10/page for letter or legal size documents. For odd-size printed documents, the actual cost of producing the documents is charged. For electronic records, the County charges the actual cost of the media on which the records or data are produced. [§ 50-18-71 (c)(2)].

The County charges for requested records, even if not picked up [§ 50-18-71 (c)(3)]. If estimated cost of producing records is over \$25, the Clerk shall notify the requestor within 3 business days of the request as to the estimated amount. The County can defer search and retrieval until the requestor agrees to pay the amount. If estimated cost of producing records is over \$500, the County requires prepayment before the search, retrieval, review or production of records [§ 50-18-71 (d)]. If costs are not paid to the county for prior requests, it requires prepayment for all new requests, regardless of amount, until the previous charges are paid [§ 50-18-71 (d)].

If records are sought as part of ongoing litigation, the request must be in writing and copied to the County attorney simultaneously. The County will prepare a duplicate set of the requested documents produced that must be provided to the County attorney unless the County attorney elects not to receive them [§ 50-18-71 (e)]. Requests for emails shall contain information about the requested messages reasonably calculated to allow the Clerk to locate the requested messages such as name, title, office or specific data base to be searched to assist the Clerk in finding the emails [§ 50-18-71 (g)]. The County shall not prepare new reports, summaries, or compilations not in existence at the time of the request [§ 50-18-71 (j)]. Personal email addresses, unlisted phone numbers, cell phone numbers found in public records are exempted and will be redacted before the underlying document is released [§ 50-18-72 (a)(20)(A)]. The exemption for personal information regarding public employees, such as home address, home telephone numbers, social security numbers, birthdates, credit card information, bank account information, and similar personal data is extended to former employees as well as current employees [§ 50-18-72 (a)(21)].

Executive Session. When any meeting is closed to the public pursuant to Georgia Law, the specific reasons for such closure shall be entered upon the official minutes, the meeting shall not be closed to the public except by a majority vote of a quorum present for the meeting, the minutes shall reflect the names of the members present and the names of those voting for closure, and that part of the minutes shall be made available to the public as any other minutes. Where a meeting is devoted in part to matters within the exceptions provided by law, any portion of the meeting not subject to any such exception, privilege, or confidentiality shall be open to the public, and the minutes of such portions not subject to any such exception shall be taken, recorded, and open to public inspection as provided in Georgia Law. Executive session minutes must be kept, but are confidential unless reviewed by a court in chambers. The executive session minutes will specify each issue discussed in executive session. If matters are discussed subject to the attorney-client privilege, the fact that an attorney-client discussion occurred and the subject shall be identified, but the substance of the discussion need not be recorded or identified in the minutes [§ 50-14-1 (e)(2)(C)]. If a non-exempt topic is brought up in executive session, the Chairman must immediately rule the discussion out of order. If the non-exempt discussion continues, the chairman must adjourn the meeting. When any meeting is closed to the public, the Chairman and Commissioners shall execute and file with the official minutes of the meeting a notarized affidavit stating under oath that the subject matter of the meeting or the closed portion thereof was devoted to matters within the exceptions provided by law and identifying the specific relevant exception.

Criminal penalty for violation of the Sunshine Laws is up to \$1000. However, the court, as an alternative, may impose civil penalties of up to \$1000 against any person violating the open meetings act. The penalties will increase to \$2500 for subsequent violations in the same calendar year.

Section 3-011 Standing Committees- reserved

Section 3-012 Rules for the Conduct of Business

Except as otherwise provided, Roberts' Rules of Order, Newly Revised shall be a general guide for meetings. Prior to each meeting, each member should: Study the data, reports, and memoranda accompanying the agenda; Review his/her own research and observations on the issues, as well as pertinent ordinances; Review alternative solutions to each problem; Look for the best solution, determine what positions others are likely to take, and consider where and how much he or she is willing to compromise; Be ready to discuss his or her position. The performance of the presiding officer is the key to effective, businesslike meetings. He or she sees that meetings are orderly, conducted per the rules of procedure, and that they progress at an appropriate speed. At the same time, the presiding officer is responsible for ensuring members and citizens have ample opportunity to express their views. Commissioners share with the presiding officer the responsibility for properly conducted meetings. This includes having respect for one another's views. It also requires willingness to compromise, where possible, for the good of the County.

1. **Call to Order.** The Chairman, or in his absence the Vice Chairman, shall take the chair at the hour appointed for meeting, and call the Board of Commissioners to order.

2. **Roll Call.** Before proceeding with the business of the Board of Commissioners, the County Clerk or a deputy may call the roll of the members. The names of those present shall be entered in the minutes.

3. **Quorum.** A majority of all the members of the Board of Commissioners shall constitute a quorum at any meeting of the Board of Commissioners, and an affirmative vote of a majority shall permit the conduct of all business except that for which a greater vote has been mandated by this Code or general law.

4. **Order of Business.** The business of the Board of Commissioners shall generally be taken up for consideration and disposition in the following order: call to order by presiding officer; roll call; approval of minutes of previous meetings; petitions and communications; unfinished business; new business; adjournment.

5. **Reading of Minutes.** Unless a reading of the minutes is requested by a majority of the Board, such minutes may be approved without a reading if the Clerk has previously furnished each member with a copy.

6. **Reports by Committees.** Reserved.

7. **Manner of Addressing Board of Commissioners.** No member, while the Board of Commissioners is in session, shall speak on any subject unless recognized by the presiding officer. Every speaker shall address the chair, and no member shall interrupt anyone who is speaking, except to call him to order or for explanation.

8. **Limitations on Addressing Board of Commissioners.** Any person not a member of the Board of Commissioners, who desires to address the Board of Commissioners shall first secure the permission of the presiding officer to do so, and then shall step up in front of the podium, give his name and address in an audible tone of voice for the record, and direct his remarks to the Board of Commissioners as a body rather than to any particular member, limiting such remarks to 3 minutes, unless additional time is granted by the Chairman.

9. **Code Amendments, Ordinances, Resolutions, Contracts and Agreements.** Unless otherwise provided in this Code, all code amendments, ordinances, resolutions, contracts, and agreements of the County should generally be prepared, approved, introduced, and adopted in the following manner.

a. **Preparation.** All code amendments and ordinances should be prepared by the County Attorney, and should not be prepared for presentation to the Board of Commissioners unless ordered by a majority vote of the Board of Commissioners, or requested by the Chairman, or prepared by the County Attorney on his own initiative.

b. **Administrative Staff Approval.** All code amendments, ordinances, resolutions, and contract documents should, before presentation to the Board of Commissioners, have been approved as to form and legality by the County Attorney or his authorized representative, and should have been examined and approved for administration by the Chairman or his authorized representative where there are substantive matters of administration involved.

c. **Introduction and Adoption.**

1). Ordinances, amendments, resolutions, and other matters or subjects requiring action by the Board of Commissioners may be sponsored by a Commissioner, or the Chairman or County Attorney may present such to the Board, and any Board of Commissioners member may assume sponsorship thereof by moving that such be adopted.

2). An ordinance, amendment, resolution, or contract shall be deemed adopted or approved when it receives the affirmative vote of a majority of the Board. For tallying such vote, an abstention shall not be counted. The Chairman shall cast the deciding vote if a tie.

10. **Recording Vote.** The yeas and nays of each member shall be recorded in the minutes.

11. **Questions of Order.** The presiding officer shall decide all questions of order, but any Commissioner dissatisfied with the decision may appeal to the Board per Roberts' Rules of Order New Revised for appealing decisions of presiding officers.

12. **Executive Session.** The Board of Commissioners may, upon motion duly carried, meet in executive session per Georgia law. Attendance at such session shall be limited to the Chairman and Commissioners and invitees invited by majority vote of the Board of Commissioners.

13. **Legal Effect.** A majority of a quorum at any meeting of the Board of Commissioners may vary any provisions of this Section. The legal effect of any action taken by the Board of Commissioners at any meeting shall not be affected in any way by the failure of the Board to follow any rules or provisions of this Section unless the Board minutes show such failure was brought to the attention of the Board at said meeting prior to the taking of the action.

Section 3-013 Legislative Authority Generally

The Board of Commissioners shall exercise the legislative functions of the County, and may pass any code amendment, ordinance or resolution that it deems best for the County; provided that the same is not in conflict with the Local Legislation of the County, the Constitution or laws of the State of Georgia, or the Constitution or laws of the United States of America.

Section 3-014 Personnel Management System Policies, Nepotism

The County Personnel Policy last approved by the Board of Commissioners, is incorporated into this Code by reference in its entirety. Said policy replaces and supersedes any prior personnel policy or policies. All employees are at will and serve at the pleasure of a majority vote of the Board. Consistent with the code of ethics for government service, O.C.G.A. 45-10-1 et seq., the county shall not employ any immediate family members of any commissioners. For the purposes of this section, the term "immediate family members" means spouses, parents, children, grandparents, grandchildren, brothers, and sisters.

Section 3-015 Chairman

1. Creation of Chairman Position. Per the powers granted in the constitution and laws of Georgia, the position of Chairman was created by Local Legislation to carry out executive and administrative duties and responsibilities.

2. Minimum Qualifications Established. The Chairman shall have the qualifications established by Georgia laws and Local Legislation including 21 years of age at time of election, and legal residency in the County one year prior to date of election.

3. Powers, Duties and Responsibilities of Chairman. The Chair shall preserve strict order at all meetings. He shall state every question coming before the Board, announce the vote of the Board on all subjects, and decide all questions of order, subject, however, to an appeal to the Board, in which event a majority vote of the Board shall govern and conclusively determine such question of order. The Board of Commissioners shall elect a Vice-Chair who shall serve as Chair if the absence of the Chair.

The 1984 Local legislation said: "The chairman shall be the administrative and executive official of the board. All three [now five] members of the board, however, shall have an equal vote in all matters pertaining to the affairs of Hancock County." It states at subsection (b): "(1) The chairman shall carry out, execute, and enforce the ordinances, policies, rules, and regulations of the board when such ordinances, policies, rules, and regulations become effective. Other members of the board shall deal solely through the chairman in all matters concerning the operation, supervision, and administration of the various departments, offices, and agencies of the county government. No member of the board shall directly or indirectly order, instruct, or otherwise attempt to control the actions of county personnel subject to the administrative and supervisory control of the chairman. (2) Subject to the approval of the board, the chairman shall have the power to change, consolidate, or abolish any departments, agencies, or offices over which the chairman exercises supervision and control. Subject to the approval of the board, the chairman may create other departments, agencies, and offices, which departments, agencies, and offices, when created, shall be under the supervision and control of the chairman."

Per the January 2, 1990, Ordinance revising the County's Personnel Management System, which is incorporated herein by reference, the Chairman is the County's Chief Executive Officer (Para. 1.500), the County's Appointing Authority (Para. 2.103), has key responsibilities in connection with recruitment and hiring of County employees (Para. 4.402), has key responsibilities in connection with the evaluation of employee performance for purposes of retention, promotion, and merit salary increases (Para. 4.700-4.701), has authority and discretion to take adverse actions against County employees (Para. 6.500) and is the final decision-maker with regard to adverse actions at the conclusion of the appeal process (Para. 7.407.)

Subject to the Local Legislation, the Chairman shall have the following duties and responsibilities: To promote, facilitate and enforce this Code and all other County ordinances, resolutions, laws, regulations and rules; to be the liaison between the Board of Commissioners and department heads; to keep the Board of Commissioners advised as to the financial condition and needs of the County and maintain accurate records reflecting the County's financial affairs; to assemble County department budget requests and present a compilation of same, along with an annual budget recommendation, to the Board of Commissioners; to inspect, coordinate and represent the County in the performance of contracts and purchase of materials and supplies for the County within limitations and under such rules and regulations as may be imposed by the Board of Commissioners, provided that the Chairman is authorized to make purchases and contracts for the County in amounts not exceeding \$2000; to prepare advertisements for bids and compile bids for contracts and purchases subject to any competitive bidding requirements; to maintain an inventory and maintenance schedule for County property; to coordinate, advise and recommend to the Board of Commissioners in matters of personnel compensation; to perform such other duties and responsibilities as per local legislation and as may be delegated by the Board of Commissioners; and to hold no other office or employment for remuneration while so engaged.

The chairman shall have daily executive and administrative charge of all the business matters of the county, and shall have supervision of the work of the county in the building and repairing of roads, bridges, or any other works of the county under the general supervision of the board, subject to the Local Legislation. He shall, with the advice and consent of the board, fix the salary and wages of the employees of the county, engaged in the construction and repair on roads, bridges, buildings, or other work of the county, over which the board has jurisdiction, and shall have supervision over all such employees, and shall have power to hire and to discharge them at any time, with or without cause. He shall be the official purchasing and selling agent of the county for all machinery, implements, materials and supplies of all kinds used in the construction or repair of buildings, roads, bridges and other purchases for the County; but all purchases and sales over \$2000 shall be subject to the ratification of the board. He shall do every act or thing necessary or proper in the discharge of his duties as county chief executive. The board shall check up all accounts, acts and doings of the county, at least once every month.

4. Chairman's Salary. The salary for the position of Chairman shall be as per local legislation.

5. Board of Commissioners to Have Specific Powers With Regard to Those of the Chairman. The Board of Commissioners reserves unto itself exclusive jurisdiction in the following: To levy taxes; to make appropriations; to fix the rates of all charges and fees; to authorize the incurring of indebtedness; to authorize contracts and purchases exceeding \$2000; to establish, alter, or abolish public roads, private ways, and bridges, according to law; to exercise all powers, duties and authorities imposed upon or vested in the Board of Commissioners in respect to zoning and planning; to create and change the boundaries of special taxing districts authorized by law; to fix the bonds of County officers where the same are not fixed by statute; to enact any ordinances or other legislation; to determine the priority and authorization for capital improvement; to call elections for the voting of bonds or other indebtedness as provided by general law; to appoint members of all County boards and commissions; and to exercise all powers and authorities vested by law in the Board of Commissioners of the County.

Section 3-016 County Clerk

The Clerk shall consistent with the Local Legislation have the following duties as County Clerk:

1. To perform duties and tasks assigned by the Chairman and attend all meetings of the Board;
2. To keep correct and full minutes of the proceedings of Board together with all ordinances, Code amendments, and resolutions passed by it, in a properly indexed book or register kept for that purpose;
3. To receive all applications or petitions to be decided by the Board and to place them before the Board at the next meeting;
4. To issue all licenses, and keep a record thereof, and all permits authorized by the Board;
5. To be the custodian of the County seal and affix its impression on documents whenever required; and
6. To carefully preserve the records and documents belonging to the County which are not assigned to the custody of some other office, and to maintain a proper index to all such records and documents so that ready access thereto and use thereof may be had.
7. The County Clerk shall play a significant part in preparing business to be considered at a Board meeting, including obtaining facts, developing alternatives, making recommendations to the Board, and carrying out decisions.
8. Become familiar with and assist the Chairman to administer all ordinances, Code amendments, and resolutions.

Section 3-017 Budget, Check Writing

- 1. County Clerk Additional Duties.** He/she shall further, consistent with the Local Legislation oversee the receipt of money due the County, including taxes, licenses, fees, and other moneys belonging to the County and pay out funds only as instructed; keep a book of accounts showing all money received on behalf of the County and the source and disposition thereof, which book shall be open for inspection by the public; maintain a uniform system of accounts and keep other records and accounts required by statute, local legislation or ordinance; and furnish the Board with monthly statements detailing receipts and payments of funds.
- 2. Budget, Expenditures generally.** Consistent with OCGA 36-81-1 et. seq., this section is to ensure a balanced budget and to provide taxpayers with an opportunity to gain information concerning the purposes for which local revenues are proposed to be spent and are actually spent and to assist the County in generally improving local financial management practices while maintaining, preserving, and encouraging the principle of home rule over local matters.

2.1. The County shall operate under an annual balanced budget adopted by ordinance or resolution and administered in accordance with Chapter 81, Title 36 of the O.C.G.A. A budget ordinance or resolution is balanced when the sum of estimated net revenues and appropriated fund balances is equal to appropriations. The proposed budget shall be an estimate of the financial requirements of each department or agency, by fund, for the budget year and shall be in such form and detail, with such

supporting information and justifications, as may be prescribed. The budget document shall provide a statement of the amount budgeted for anticipated revenues by category and the amount budgeted for expenditures by category for the current year, including budget amendments, and the anticipated revenues and proposed expenditures for the proposed budget year. It shall be prefaced by a clear general summary of its contents and shall show in detail all estimated income, indicating the proposed property tax levy, and all proposed expenditures for the ensuing fiscal year. It shall be so arranged as to show comparative figures for actual and estimated income expenditures of the preceding fiscal year. Separate items shall be included for at least the following: 1. Administration, operation, and maintenance expenses of each department or office, including a breakdown for salaries and wages for each such unit; 2. Interest and debt redemption charges; 3. Proposed capital expenditures, detailed by departments and offices when practicable; 4. Cash deficits of the preceding year; 5. Contingent expenses in an amount not more than three percent (3%) of the total amount of administration, operation, and maintenance expenses; and 6. Such reserves as may be deemed advisable by the Board. The total of proposed expenditures shall not exceed the total of anticipated revenue. NOTE: See O.C.G.A. § 36-81-3 regarding "Uniform Chart of Accounts."

2.2. No later than 60 days prior to the new fiscal year, the proposed budget shall be submitted to the Board for review prior to enactment of the budget ordinance or resolution. On the day that the budget is submitted to the Chairman and Board of commissioners, a copy of the budget shall be placed in a public location which is convenient to the residents of the Town. The Chairman and Board of commissioners shall make every effort to provide convenient access to the residents during reasonable business hours so as to accord every opportunity to the public to review the budget prior to adoption. A copy of the budget shall also be made available, upon request, to the media.

2.3. At the time of submission of the budget to the Board, per OCGA Title 36, Chapter 81, a statement advising the residents of the availability of the budget shall be published in a newspaper of general circulation in the County. It shall be published during the week in which the proposed budget is submitted. The statement shall be a prominently displayed advertisement, not in the legal notices, and shall give notice of the time and place of the required budget hearing, at least 1 week before the budget hearing is held. At least 1 week thereafter, the Board may adopt the budget.

2.4. The Board may amend the budget during or after the public hearing, except that no proposed amendment shall be effective without such a hearing if it shall: A. Add a new item of appropriation in an amount in excess of 1% of the total amount of appropriations as stated in the initially approved budget; or B. Increase or decrease any item of appropriation by more than 10%; or increase the amount needed to be raised by taxes by more than 5%. Notice of hearing on any amendment shall be advertised at least 7 days before the date set therefor and also meet any additional legal requirements. Any such amendment must be published in full in the same manner as an original publication and must be read at the hearing and before adoption. (36-81-3(d))

No expenditures shall be proper unless appropriations adequate to meet that expenditure have been made in the budget. No expenditure of county funds from whatever source may be made for a nonpublic purpose.

3. Audits required. The board of commissioners shall cause to be made an annual audit of the financial affairs and transactions of all funds and activities. The audits shall be conducted per generally accepted auditing standards. Each audit shall also contain a statement of any agreement or arrangement under which the county has assumed liability for the obligations of any governmental or private agency, authority, or instrumentality, which shall include the purpose of the agreement or arrangement, identify the agency, authority, or instrumentality upon whose obligations the county is or may become liable, and state the amount of actual liability and maximum amount of potential liability. All annual audit reports of the county shall contain: financial statements prepared in conformity with generally accepted governmental accounting principles, setting forth the financial condition and results of operation of each fund and activity of the county which shall be the representation of the county; and the opinion of the performing auditor with respect to the financial statement; in addition to an explanation of any qualification or disclaimers in the opinion, and any apparent material violation of law discovered during the audit. Each annual audit report shall be completed and forwarded to the state auditor within 180 days after the close of the county's fiscal year. A copy of the report and of any comments made by the state auditor shall be maintained at the county commissioner's office.

4. Annual report to the department of community affairs. The board of commissioners shall submit an annual report of local government finances to the DCA. The report shall include revenues, expenditures, assets, and debts of all funds and agencies, and other such information as reasonably requested by the DCA, including an annual report of indebtedness, and any actions taken to incur indebtedness. The reports shall be filed on forms promulgated by the DCA and submitted timely.

5. Capital program. A 5-year capital program may be submitted to the board of commissioners at the same time that the budget and budget message are introduced for approval, to include: clear general summary of contents; list of all capital improvements proposed for the next 5 fiscal years with appropriate supporting information as to the necessity for such improvements; cost estimates, method of financing, and recommended time schedules for each improvement; and estimated annual cost of operation

and maintaining facilities to be constructed or acquired. The information may be revised and extended each year with regard to capital improvements still pending or in the process of construction or acquisition.

6. Transfer of appropriations. The county may, any time during the fiscal year, transfer any unencumbered appropriation balance among programs within a department or office, and the board of commissioners may transfer any unencumbered appropriation balance from one department or office to another, except no appropriation for debt service or capital improvements may be reduced or transferred during any fiscal year, and under no circumstances may the expenditures exceed the total of the budget. No transfer within a departmental budget affecting the salary appropriation, whether increase or decrease, shall be accomplished without approval of the board of commissioners. No appropriation transfer from a sinking fund or debt retirement fund shall be made until all legal obligations and requirements of such funds have been satisfied.

7. Emergency appropriations. The board of commissioners may make emergency appropriations after the adoption of a budget, for a purpose which was not foreseen at the time of the adoption thereof, or for which adequate provision was not made therein. Such an appropriation shall be made only to meet a public emergency affecting life, health, safety, property, or the public peace, and shall be made only out of actual un-appropriated revenues or surplus. If there is no surplus, then temporary borrowing in notes may be made, provided any such borrowed amounts are included as an appropriation in the next year's budget.

8. Lapse of appropriations. Every appropriation, except for a capital expenditure, shall lapse at the close of the next succeeding year to the extent that it has not been expended or encumbered. An appropriation for a capital expenditure shall continue until the purpose for which it was made has been accomplished or abandoned; the purpose of any such appropriation shall be deemed abandoned if 3 years pass without any disbursement from or encumbrance of the appropriation.

9. Check Writing, Purchases. All checks issued shall be signed by at least 3 of the following: The Clerk; Chairman; Vice Chair; and a Commissioner. All purchases, including expenditures for maintenance and repairs, shall be made by the Chairman, except as provided in emergency as described herein. No purchase or expenditure shall be made unless funds for the same are provided by the budget. The previous month's income and expense report will be provided to the Board at the regular scheduled meeting. An emergency purchase or expenditure is one which, by necessity resulting from accident or unforeseen circumstances, requires such to avoid an extreme hardship or an unusually large loss. It must involve uncommon or extraordinary circumstances. It must involve surprise, or be such that the exercise of reasonable prudence would not have previously suggested the wisdom of the purchase or expenditure. In all cases where there is immediate need by any department for an emergency purchase or expenditure, the requisition or request for the same shall be made in writing if circumstances permit so under the emergency situation and marked "for emergency purposes"; and when a requisition so marked is received by the Clerk, it shall be his/her duty to give the same her immediate attention. In such an emergency, such purchase or expenditure may be made by the Clerk as described herein and the same shall be reported to the Chairman within 24 hours and to the entire Board for ratification at the next scheduled meeting. An emergency purchase of up to \$500 may be made by the Clerk. Otherwise, it will require the written approval of the Chairman and a Commissioner. The same shall be presented to the Board for ratification at the next scheduled meeting. The person or persons expending the funds can be held personally liable if the emergency expenditure is not ratified by a majority vote finding that an emergency situation as described above did indeed exist.

The board of commissioners hereby designates the Chairman as the chief purchasing officer (CPO). The limit of the CPO's authority to approve purchases shall be \$2,000. The CPO may appoint a subordinate purchasing officer, the County Clerk, with authority to approve purchases not to exceed \$100. The CPO may also designate a purchasing clerk with no approval authority within the limitations of budget appropriations. The CPO and the subordinate purchasing officer shall have the authority and duty:

- 1) To purchase or contract for, within the limitations of the law and in accordance with the regulations adopted by the board of commissioners, all supplies, materials, equipment, and contractual services which have been requisitioned and authorized by any department or agency which derives the major portion of its financial support from the county.

- 2) To purchase materials, supplies, equipment, and services from the lowest responsible bidder meeting the specifications.

- 3) To sell or dispose of any county property which has become unusable or obsolete in accordance with this section, state law, and any rules, regulations, or other resolutions adopted by the board of commissioners,

The chief purchasing officer must informally seek three bids on all purchases in excess of \$5,000. Failing to secure three bids, the CPO must be able to show that he or she made a good faith effort to obtain the same. The chief purchasing officer may utilize state contract purchasing in lieu of bid procedures or an additional bidder.

Sole source purchases may be accomplished when the vendor of goods or provider of services is: Another unit of government, educational institution, or a division of county government; A professional firm or individual engaged in the practice of

law, accounting, medicine, engineering, planning or consulting; The only source of an item that has been determined to be specifically suited to the needs of the county. In this event, the state purchasing office may be used to obtain spot bids.

10. Accounting. The following funds may be used to provide the proper accounting of all financial activities:

- 1) General fund: to account for the general operations and all financial transactions not properly accounted for in another fund.
- 2) Special revenue funds: to account for special revenue, other than special assessment, or to finance specified activities as required by law or administrative regulation.
- 3) Debt service funds: to account for the payment of interest and principal on long term debt other than special assessment and revenue bonds.
- 4) Fixed assets and capital projects: to account for the receipt and disbursement of monies, including bond funds, used for acquisition of equipment or capital facilities other than those financed by special assessment and enterprise funds.
- 5) Enterprise utility funds: to account for the financing of services to the general public where all or most of the costs involved are paid in the form of charges by users of such services.
- 6) Trust and agency funds: to account for assets held by a governmental unit as trustee or agent for individuals, private organizations, and other governmental units.
- 7) Intergovernmental service funds: to account for the financing of special activities and services performed by a designated organizational unit within the same governmental jurisdiction.
- 8) Special assessment funds: to account for special assessments levied to finance public improvements or services deemed to benefit the properties against which the assessments are levied.

A complete self-balancing group of accounts shall be established and maintained for each fund used. This group of accounts shall include all general ledger accounts and subsidiary records necessary to comply with law, and to set forth the financial position and the results of financial operations of the fund. To reflect the true fiscal position of each account and comply with law, each fund should be self-balancing. The double-entry system of bookkeeping shall be used. For each account debited, there is an offsetting credit and vice-versa. The total credits and debits must equal each other.

Additional accounts, as follows, may be maintained:

- 1) A fixed assets account for the purpose of accounting for those assets which: Are of a tangible nature; Have a life longer than three years; and Have a value greater than \$5,000. Fixed assets shall be removed from the account when disposed of.
- 2) A general long term debt account for the purpose of accounting for long term debt which is supported by general revenues, and for recording and fairly representing the liability for long term debt at any time from date of issuance until the debt is retired.

To the extent possible, the modified accrual basis of accounting shall be used so expenditures, other than accrued interest on long term debt, are recorded at the time liabilities are incurred and revenues are recorded when cash is received, except for material or available revenues which shall be accrued to reflect properly the taxes levied and the revenues earned. All receipts and disbursements shall be posted promptly and at least on a monthly basis. To the extent possible, all inter-fund transfers shall be cleared by the end of the fiscal year.

Financial statements and reports showing the current conditions of budgetary accounts shall be prepared and presented to the board of commissioners at least every three months. Not later than 60 days after the close of the fiscal year, a comprehensive annual financial report covering all funds and financial operations shall be prepared and published. A summary of this report, containing at least a statement of revenues and expenditures as of the close of the preceding fiscal year and the combined balance sheet for all funds and account groups, will be published in a newspaper of general circulation in the county.

All the funds, accounts and financial transactions of the county shall be subjected to an annual audit by an independent certified public accountant selected by the board. The audit shall be conducted according to the standards set forth in the American Institute of Certified Public Accountants publication titled Audits of State and Local Governmental Units.

Section 3-018 Planning Commission

1. General. This Section is to facilitate coordinated and harmonious development of the County which will best promote public health, safety, morals, order, prosperity and welfare, and efficiency and economy in development. There is hereby maintained the Hancock County Planning Commission, sometimes hereinafter referred to as the Planning Commission.

2. Organization & Membership

2.1 Membership. The Planning Commission consists of 5 members, all of whom shall be residents of the County at least 18 years of age; be appointed by the Board of Commissioners; and not Chairman or on the Board of Commissioners.

2.2 Terms. The terms of the members are 4 years, staggered. If the Planning Commission becomes inactive, disorganized, or suffers from a mass resignation, the Board of Commissioners shall appoint new members to staggered terms as though it were establishing the first Planning Commission.

2.3 Vacancies. Any vacancy in membership shall be appointed for the remainder of the term by Board of Commissioners, which may remove any member for any reason at any time, with or without cause.

2.4 Compensation. All members of the Planning Commission shall serve without compensation, but may be reimbursed for actual expenses incurred in connection with their official duties.

2.5 Organization. The Planning Commission shall elect a Chair from among its members. The term of the Chair shall be one year with eligibility for re-election. The Planning Commission shall also appoint a Secretary, who may be an officer or employee of the County.

2.6 Rules. The Planning Commission shall follow the Georgia Zoning Procedures Law and be generally guided by Robert's Rules of Order, latest revision, and may, at its discretion, establish further reasonable rules of procedure, and shall determine its place and time of meeting. All meetings of the Planning Commission shall be open to the public.

2.7 Employees and Finances. The Planning Commission may appoint such employees and staff as it may deem necessary within the amounts appropriated by the Board of Commissioners.

3. Powers and Duties of the Planning Commission. The Planning Commission shall have all powers, duties and responsibilities provided for in this Code and by law. Actions of the Planning Commission shall be advisory recommendations.

4. Meetings of the Planning Commission

4.1 Regular Meeting. Regular meetings shall be at a time and place decided by a majority of the Commission.

4.2 Special Meetings. The Chair of the Planning Commission shall call special meetings when the public business may require it, or at the written request of any 3 members of the Commission. The Clerk of the Commission shall notify each member of the Commission and any other entity legally required to be notified, including the legal organ of Hancock County.

4.3 Agenda. All reports, communications, requests, amendments, other documents, or other matter to be submitted to the Planning Commission shall at least 30 days prior to the Commission meeting, be delivered to the Clerk, who shall then prepare a list according to the Order of Business and furnish each member of the Commission and post publicly and distribute to the media a meeting agenda at least 7 days in advance.

4.4 Presiding Officer - Election & Duties. The Chairman of the Planning Commission shall assume the Chair upon election by the members of the Planning Commission. The Chair shall preserve strict order and decorum at all meetings. He shall state every question coming before the Commission, announce the recommendation of the Commission on all subjects, and decide all questions of order, subject, however, to an appeal to the Commission, in which event a majority vote of the Commission shall govern and conclusively determine such question of order. The Chair shall not vote except if a tie vote or to create a constitutional majority. The members of the Commission shall elect a Vice-Chair who shall serve as Chair if the absence of the Chair.

4.5 Call to Order - Presiding Officer. The Chair shall take the chair at the hour appointed for the meeting, and shall then call the meeting to order. In the absence of the Chair or Vice-Chair, the County Clerk shall call the Planning Commission to order, whereupon a temporary presiding officer shall be elected by the members of the Commission present. Upon the arrival of the Chair or Vice-Chair, the temporary presiding officer shall relinquish the Chair.

4.6 Roll Call. Before proceeding with the business of the Planning Commission, the County Clerk may call the roll of the members. The names of those present shall be entered in the minutes.

4.7 Quorum. A majority of the members of the Planning Commission shall constitute a quorum at meeting.

4.8 Order of Business. Promptly at the beginning of each regular meeting, the members of the Planning Commission shall take their regular stations, and the business of the Commission shall generally be: Roll Call; Approval of Minutes of Previous Meeting; Public Hearings and New Business; Unfinished Business; Miscellaneous; and Adjournment.

4.9 Reading of the Minutes. Unless a reading of the minutes is requested by the Chair or a member of the Planning Commission, such minutes may be approved without reading if they have been provided to the members before the meeting.

4.10 Presiding Officer May Debate. The presiding officer may debate from the Chair, subject only to such limitations of debate as are by these rules imposed on all members and shall not be deprived of any of the rights and privileges of a Planning Commission member by reason of his action as the Presiding Officer except as otherwise specified in this Section.

4.11 Obtaining the Floor. Every member desiring to speak shall address the Chair, and upon recognition, shall confine himself to the question under debate, avoiding all personalities and indecorous language.

4.12 Interruptions. A member, once recognized, shall not be interrupted when speaking unless it is to call him to order, or as herein otherwise provided. If a member, while speaking, is called to order, he shall cease speaking until the question of order is determined and, if in order, he shall be permitted to proceed.

5. Addressing the Planning Commission

5.1 General. Any person planning to address the Planning Commission shall first secure the permission of the Chair.

5.2 Addressing Commission After Motion Made. After a motion is made, no person shall address the Commission.

5.3 Manner of Addressing Commission; Time Limit. Each person addressing the Planning Commission shall stand, give his name and address, and unless further time is granted by the Commission, shall limit his address to 5 minutes. All remarks shall be addressed to the Commission as a body. No person, other than the Commission and the person having the floor, shall be permitted to enter into any discussion, either directly or through a member of the Commission, without the permission of the Presiding Officer. No question shall be asked except through the Presiding Officer.

6. Decorum

6.1 By Commission Members. The members must preserve order, and a member shall neither delay or interrupt the proceedings, disturb any member while speaking, nor refuse to obey the Commission or its Presiding Officer.

6.2 By Persons. Any person making personal, impertinent or slanderous remarks or who shall become boisterous shall be barred from further audience before the Commission, unless permission is granted by a majority vote of the Commission.

6.3 Enforcement of Decorum. The Sheriff or deputy or a representative of the Commission, shall be Sergeant-at-Arms and shall carry out all orders and instructions given by the Presiding Officer for maintaining order and decorum at the meeting.

7. Miscellaneous

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

7.2 Legal Effect. The legal effect of any action by the Planning Commission shall not be affected by the unintentional failure of the Commission to follow any rules or provisions of this Section, if the Zoning Procedures Law was not violated, unless the Commission minutes show such failure was brought to the attention of the Commission prior to the subject action.

Section 3-019 Liability Insurance and Contracts of Indemnity for Public Officials

1. Board of Commissioners Authorized to Purchase Insurance

The Board of Commissioners is authorized, in its discretion, to purchase liability insurance or contracts of indemnity insuring or indemnifying the Chairman and Commissioners, and selected supervisors, administrators, employees or other elected or appointed County officers, against personal liability for damages arising out of performance of their duties, whether based on negligence, violation of contract rights or violation of civil, constitutional, common law or other statutory rights, state, federal or local. The amount and persons chosen for coverage shall be at the discretion of the Board.

2. Board of Commissioners Authorized to Defend County Officials in Legal Actions

In lieu of the insurance or indemnity referred to above or in addition thereto, the Board may defend any actions against the Chairman and/or Commissioners and/or against supervisors, administrators, employees or other elected or appointed County officers, arising out of their duties. The Board may expend funds for such purposes, including attorney's fees, court costs, deposition costs, witness fees and compensation and all like costs, expenses and fees. The amount and type of such defense shall be at the sole discretion of the Board. The Board shall not furnish a defense to any person charged with a criminal offense involving theft or other like crime with respect to property or money of or in which the County has an interest.

Section 3-020 Worker's Compensation Policy for Volunteer Firemen

Volunteer firefighters for the County shall be covered by and under the Worker's Compensation policy which covers the workers and employees of the County.

Section 3-021 County Employees' Retirement System

The Ordinance establishing a retirement plan for the employees, and the contract for the administration of said plan, as amended, is incorporated into this Code by this reference and is made a part hereof as if it were fully set out herein.

Section 3-020 Employee Benefits

Per OCGA, Hancock County subscribes to a plan of employee benefits. Said benefits shall be provided to eligible employees and dependents. Hancock County agrees to include only qualified active employees. Hancock County agrees to provide 30 days advance written notice of its intent not to continue participation in the employee benefit program.

Section 3-021 Department heads

All department heads shall:

- A. Be responsible to the Chairman for the effective administration of their department and activities assigned thereto;
- B. Keep informed as to the latest practices in their field and implement such new practices as appear to be of benefit;
- C. Submit quarterly and annual reports of the activities of their department to the Chairman;
- D. Maintain a system of filing and indexing records and reports in sufficient detail to furnish all information necessary for proper control of departmental activities and to form a basis for periodic reports to the Chairman;
- E. Have power to appoint and remove, subject to personnel regulations, all subordinates;
- F. Be responsible for the proper maintenance of all County property and equipment used in their department;
- G. Work within the confines of their county approved budget;
- H. Prepare and present to the Board of Commissioners when directed an operational budget for their Department.

Section 3-022 Board of Tax Assessors

Membership. The consists of 3 members, all of whom shall be residents of the County at least 18 years of age; be appointed by the Board of Commissioners, and comply with all requirements of law including training, Title 48 and the Sunshine Laws.

Section 3-023 Courthouse Operation

The County recognizes its duty to keep courthouse open during normal working hours, O.C.G.A. 36-1-12. The courthouse shall be kept open for court and related business Monday through Friday from 8:30 a.m. until 5 p.m. except during holidays. Unless otherwise approved by a superior court judge or the Chairman, during all other hours, the courthouse shall be closed to the public and the outside doors locked. Unless given permission by the Chairman or the sheriff, no person except a worker in an office in the courthouse may be present except during the permitted times. The courthouse employees may only be in said courthouse during other times if they have been given permission by their supervisor.

Section 3-023 Volunteer fire department protection.

The county is served with countywide fire protection by a coordinated system of fire departments. To provide the most efficient use of available resources, the county fire protection chiefs council has been created with the following goals: To promote the development of an effective, affordable county volunteer fire protection system; To improve effectiveness within limitations of existing departments and equipment through coordination, mutual assistance, joint training, planning and standardization of firefighting techniques and procedures; To encourage and assist in development of new volunteer companies/departments, where needed, to achieve a minimum of ISO category nine fire protection coverage of all of the county; To prepare and defend budget submissions to the board of commissioners for the volunteer companies/departments; To promote fire prevention and fire safety education throughout the county.

The council will be composed of the chiefs of each fire company/department in the county and such other qualified concerned county residents as approved by a majority of the chiefs. A chairperson will be elected by and serve at the pleasure of the council. Regular meetings of the council will be held each month. Special meetings may be held at the call of the Chairman or at the request of two or more fire company/department chiefs.

Each department should be equipped with a fire knocker and all the necessary support equipment. In addition, all departments should have a tanker and engine trucks and the fire protection council's objective is for each department to have a tanker truck and possibly an additional fire knocker.

All fire calls are dispatched through the communication system with all departments having radio contact capabilities. Standard procedure calls for the dispatch of two departments to all structure fires. Once on the scene, the fire chief may call for additional departments to respond if needed.

Chapter 4: TAXATION

Section 4-001 Ad Valorem Tax

1. **Rate of Levy.** The Board of Commissioners may set and levy to meet the ordinary current expenses of the County an annual ad valorem tax upon all real and personal property within the County.

2. **Assessment and Fair Market Value.** All property subject to taxation shall be assessed at 40% of its fair market value. The basis for fair market value shall be 100% of the fair market value determined for the property for ad valorem tax purposes.

3. **Appeal of Assessment.** Any taxpayer may appeal from an assessment by the Board of Tax Assessors as to matters of taxability, uniformity of assessment, and value as per Georgia Law.

4. **When Taxes Are Due and Payable.** Ad valorem taxes shall become due on December 20 each year and shall be deemed delinquent if not paid 60 days after. Tax bills showing assessed valuations, amount of taxes due, due dates, and information as to delinquency dates and penalties shall be sent to all taxpayers at least 30 days prior to the due date, but failure to send a tax bill shall not invalidate any tax. Delinquent taxes shall bear interest at 12% per annum from due date.

5. **Failure to Pay.** The County shall issue an execution against any person who has defaulted in the payment of any ad valorem tax, which shall be a lien on all the property of such person, both real and personal, and shall be placed in the hands of the County officer responsible for collection by levy and sale.

6. **Against Whom Charged.** Taxes are to be charged against the owner of the property if known, or against the specific property itself if the owner is not known. Life tenants and those who enjoy the use of the property are chargeable with the tax.

Section 4-002 Reserved

Section 4-003 Reserved

Section 4-004 Insurers License Fees Assessed Under Georgia Law

1. **General.** This section is to impose license fees on insurers conducting business within the County; to impose a gross premiums tax on insurers operating in Georgia; and other purposes.

2. Insurers License Fees

2.1 **Definition.** Insurer means a company authorized in any of the classes of insurance in O.C.G.A. 33-3-5.

2.2 **Fee Levied.** There is hereby levied a \$40 annual license fee upon each insurer doing business in the County. For each separate business location in excess of one not covered in subsection 2.3 of this Section, operating on behalf of such insurers within the County, there is levied a license fee in the amount of \$100 per year.

2.3 **License Fees for Insurers Insuring Certain Risks at Additional Business Locations.** For each separate business location, not otherwise subject to a license fee hereunder, operated and maintained by a business organization which is engaged in the business of lending money or transacting sales involving term financing and in connection with such loans or sales offers, solicits or takes application through a licensed agent of an insurer for insurance, said insurer shall pay an additional license fee of \$14 per location.

2.4 **Insurance Agency License Fees; Independent Insurance Agencies, Brokers, etc. Not Otherwise Licensed.** There is hereby levied an annual license fee upon independent agencies and brokers for each separate business location from which an insurance business is conducted and which is not subject to the company license fee imposed by paragraph 2.2 of this Section hereof in the amount of \$100 for each such location in the County.

3. Gross Premiums Tax

3.1 Life Insurers. There is levied an annual tax based solely upon gross direct premiums on each insurer doing business in Georgia writing life, accident and sickness insurance of 1% of the gross direct premiums received from policies insuring persons residing within the unincorporated area of the counties during the preceding calendar year per O.C.G.A. 33-8-8.1. Gross direct premiums as used in this paragraph shall mean gross direct premiums as used in O.C.G.A. 33-8-4. The premium tax levied by this paragraph is in addition to license fees.

3.2 Gross Premiums Tax, All Other Insurers. There is levied an annual tax based solely upon gross direct premiums upon each insurer doing business in Georgia, other than life insurance companies, of 2.5% of the gross direct premiums received during the preceding calendar year, per O.C.G.A. 33-8-8.2. Gross direct premiums as used in this paragraph 3.2 of this Section mean gross direct premiums as used in O.C.G.A. 33-8-4. The premium tax levied by this paragraph is in addition to the license fees imposed by this Section. On or before January 1 of the first year that the tax is levied, the county shall file with the Insurance Commissioner a certified copy of the pertinent parts of all ordinances and resolutions and amendments thereto which impose the tax, and such filing shall be a condition to the validity and enforceability thereof.

4. Administrative Provisions

4.1 Due Date for License Fees. License fees imposed in subsection 2 of this Section 4-004 shall be due March 1.

4.2 Clerk to Notify Insurance Commissioner. The Clerk shall forward a duly certified copy of this Section 4-004 to the Commissioner of the State of Georgia within 45 days of its original enactment.

Section 4-005 Public Utility Franchise Taxes

1. Electric Utility Franchises

The authority, right, permission and consent are hereby granted to each electric supplier within the meaning of O.C.G.A. 46-3-1, et seq., ("Company") their successors, lessees and assigns, subject to the terms and conditions set forth hereinafter, for a period of 35 years, to occupy and use the streets, alleys and public places of the County as from time to time each such Company may deem proper or necessary for the overhead or underground construction, maintenance, operation and extension of poles, towers, lines, wires, cables, conduits, insulators, transformers, appliances, equipment, connections and other apparatus for the business and purpose of transmitting, conveying, conducting, using, supplying and distributing electricity for public or private use, and to re-enter upon such streets, alleys and public places from time to time as each such Company may deem proper or necessary to perform these functions, and to cut and trim trees and shrubbery when and where necessary, in the judgment of each such Company, to ensure safe and efficient service. The foregoing notwithstanding, the definition of Company shall not include any entity with whom the County has a written franchise agreement.

The use by any Company of the streets and other property of the County for any of its electric distribution systems, and the grant of requisite street franchise rights, is expressly conditioned upon payment by such Company of franchise fees, if such fees are allowed by state law due to consolidated government or otherwise, per this Section, and continued use and occupancy of such County property for said purpose without payment of such franchise fees shall be unlawful, and the County shall be entitled to enforce compliance with this Section by appropriate proceeding at law or in equity.

Provided further, that the rights, permission and consents herein contained are made for the following considerations and upon the following terms and conditions, to wit:

1). At such time as permitted by state law, including upon city/county consolidation, each Company shall pay the County on or before the twentieth day of each month, 5% of the gross sales of electric energy to all of such Company's customers served within the corporate limits of the County during the preceding month. The 5% rate herein specified shall be reviewed at the first Board of Commissioners Meeting in January of each year and may be changed by majority vote of the Board to such other levels as are allowed or mandated by law. Such a rate change shall take effect on February 1st of the year in which such rate change is approved. The County should provide the Company with written notice of any such rate change.

2). The percentage of gross revenues prescribed to be collected shall be in lieu of all other license and business or occupation taxes, but shall not at any time be considered to interfere with, or in any way prevent the collection of, ad valorem taxes on property of Company in the same manner as all other property in the County is taxed.

3). If the County shall grant to any other electric utility the right to use and occupy its streets for like purposes, such use and occupancy shall be on the same terms and conditions as those herein, including payment provisions.

4). Each Company shall fully protect, indemnify and hold harmless (including payment of the County's reasonable attorney's fees and court costs) the County from all damages to person or property caused by the construction, maintenance,

operation or extension of poles, wires or other apparatus, by such Company, or conditions of streets, alleys or public places resulting therefrom, for which the County would otherwise be liable. Provided however, the County shall not be indemnified for damages arising from the willful misconduct of the County itself.

5). Each Company shall, in constructing, maintaining, operating and extending its poles, wires and other apparatus, submit and be subject to all reasonable exercises of the police power of the County.

6). The grant of rights, permission and consents by the County in this Section to any Company is conditioned on payment of any sums due the County from such Company per the rate, conditions and payment dates in item 1 above, and failure timely pay said franchise fees shall constitute a forfeiture of all rights granted to Company by this Section. From the original implementation of this public utility franchise tax, each Company's continued use and occupancy of the streets and public places of the County for the aforesaid purposes shall evidence Company's acceptance of the franchise and shall render Company liable for payment of all fees required by item 1. If forfeiture for failure to comply with such requirements, the forfeiting Company shall nevertheless remain liable for all sums accrued until the Company removes all of its property from the County following such forfeiture.

7). The Chairman shall be responsible for administration and enforcement of this Section, and shall have the power to prepare and provide for the collection of the fees herein required.

8). All work by any Company on the streets, alleys and public places of the County shall be done under the supervision of the County, and any sidewalk, street pavement or other County improvement which may be displaced, obstructed or destroyed by such work shall be properly replaced, reopened or repaired by such Company to the satisfaction of the Board.

2. Telephone and Telegraph Companies

The authority and consent are hereby granted to each telephone and/or telecommunication company ("Company") providing telephone and/or telecommunication service in the County their successors, lessees and assigns, subject to the terms and conditions set forth hereinafter for a period of 35 years, to occupy and use the streets and public places of the County as the Company may deem proper or necessary for the overhead or underground construction, maintenance, operation and extension of poles, towers, lines, wires, cables, conduits, appliances, equipment, connections and other apparatus for the business and purpose of transmitting, conveying, conducting, using, supplying and distributing telephone communications service for public or private use, and to re-enter upon such streets, alleys and public places as such Company may deem proper or necessary to perform these functions, and to cut and trim trees and shrubbery when and where necessary, in the judgment of such Company, to ensure safe and efficient service.

Per OCGA 46-5-1 C, County imposes an administrative cost recoupment fee which shall not exceed the direct, actual costs incurred in its permitting process, including issuing and processing permits, plan reviews, physical inspection and direct administrative costs; and such costs shall be demonstrable and shall be equitable among applicable users of such county's roads and highways or rights of way. Permit fees shall not include the costs of highway or rights of way acquisition or any general administrative, management, or maintenance costs of the roads and highways or rights of way and shall not be imposed for any activity that does not require the physical disturbance of such public roads and highways or rights of way or does not impair access to or full use of such public roads and highways or rights of way. The county to require a telegraph or telephone company to comply with reasonable regulations for construction of telephone lines and facilities in public highways or rights of way per the provisions of paragraph (6) of Code Section 32-4-42.

At such time as permitted by state law, such as upon city/county consolidation, the use by the Company of the streets, alleys, public places and other property of the County for the operation of any of its telephone communication systems, and the grant of requisite street franchise rights, is expressly conditioned upon payment by Company of franchise fees per this Section, and continued use of such County property for said purpose without payment of franchise fees shall be unlawful, and the County shall be entitled to enforce compliance with this Section by appropriate proceeding at law or in equity.

The rights, permission and consents herein are for the following considerations and on the following terms and conditions:

1. At such time as permitted by state law, such as upon city/county consolidation, the Company shall pay to the County on or before the twentieth day of each month, a sum of money equal to three percent (3%) of the gross recurring local service revenues received from all of such Company's customers served within the County during the preceding month. For the purposes of this Section, the phrase "gross recurring local service revenues" shall include, but not be limited to, revenues from the following services, all as defined in Company's tariff in effect on the date of passage hereof as applicable to the County: Basic Local Exchange Service, Directory Assistance Service, Operator Assisted Local Calls, ESSX Service, Touch Tone Calling Service, Interphone Services, Special Billing Services, Arrangement for Night, Sunday and Holiday Services, Custom

Calling Services, Touch Tone Service, RingMaster Service, TicketTaker Service, Simplified Message Desk Interface, Message Waiting Indication-Audible, Surrogate Client Number, Telecommunications Service Priority (TSP) System, Electronic White Pages (EWP), Multiline Hunt Queuing, Hot Line Service, Warn Line Service, Automatic Number Identification, Custom Service Area (CSA), Answer Supervision, Caller Detail Information, Data Transport Service, Integration Plus Management Services (IPMS), Frame Relay Service, Switched Multi Megabit Data Service (SMDS), Native Mode LAN Interconnection (NMLI) Service.

The 3% rate herein specified shall be reviewed at the first Board of Commissioners Meeting in January of each year and may be changed by majority vote of the Board to such other levels as are allowed by law. Such a rate change shall take effect on February 1st. The County should provide the Company with written notice of any such rate change.

2. The percentage of gross recurring local service revenues to be collected shall be in lieu of all other license and business or occupation taxes, but shall not be considered to interfere with, or in any way prevent the collection of ad valorem taxes upon the property of the Company in the same manner as all other property, real and personal, in the County is taxed.

3. If the County shall grant to any other telephone and/or telecommunication company the right to use and occupy its streets for like purposes, such use and occupancy shall be on the same terms and conditions as those herein.

4. The Company shall fully defend, indemnify and hold harmless (including attorney's fees and court costs) the County from all damages to person or property caused by the construction, maintenance, operation or extension of poles, wires or other apparatus, or conditions of streets, alleys or public places resulting therefrom, for which the County would otherwise be liable. The County shall not be indemnified for damages arising from the willful misconduct of the County itself.

5. The Company shall, in constructing, maintaining, operating and extending its poles, wires and other apparatus, submit and be subject to all reasonable exercises of the police power of the County.

6. At such time as permitted by state law, such as upon city/county consolidation, the grant of rights, permission and consents in this Section are conditioned on the payment of all sums due the County from the Company per the rate, conditions and payment dates set forth in item 1 above, and failure by the Company to timely pay said franchise fees shall constitute a forfeiture of all rights granted to such Company by this Section. The Company's continued use and occupancy of the streets, alleys and public places of the County for the aforesaid purposes shall evidence the Company's acceptance of the franchise granted hereby and shall render the Company liable for payment of all fees required by item 1. If forfeiture for failure to comply, the forfeiting Company shall nevertheless remain liable for all sums accrued until such time as the Company has removed all of its property from the County after such forfeiture.

7. The Chairman shall be responsible for the administration and enforcement of this Section, and shall have the power to prepare and provide for the collection of the fees herein required.

8. All work done by the Company upon the streets and public places of the County shall be done under the review of the County, and any sidewalk, street pavement or other County improvement which may be displaced, obstructed or destroyed by such work shall be properly replaced, reopened or repaired by Company to the satisfaction of the Board of Commissioners.

9. Due compensation for telephone companies with end user retail customers within the County. **Reserved.**

3. Franchise Fee for State Issued Cable or Video Franchise.

3.1 Franchise fee for state issued cable or video franchise.

The County requires per 47 U.S.C.A. § 542 a franchise fee of 5% of gross revenues generated within the County for any cable or video state franchise issued in its boundaries by the State of Georgia.

3.2 Authorized Designee.

The County hereby authorizes the County Clerk, upon receipt of notice to the County of its right to designate a franchise fee for an applicant for or holder of an existing state franchise, to provide written notice to the Secretary of State of each applicant for or holder of a state franchise within a service area that is wholly or partially located within the County of the 5% franchise fee rate applicable to such applicant or holder of a state franchise.

Section 4-006 Local Option Sales Tax

The Board of Commissioners is authorized to levy a local option sales tax as necessary.

Section 4-007 Local Option Income Tax

Reserved.

Section 4-008 Tax Sales

1. Time, Place, and Manner of Sale. The time, place, and manner of the sale of property, both real and personal, for taxes due the County shall be the same as that provided by law for sheriffs' sales for state taxes.
2. Purchase by County. The Clerk or Tax Commissioner shall attend all sales of property for taxes due the County and if no person bids for the property for the tax amount due thereon, shall place a bid for such property for the County and, if the bid is accepted, take custody of the deed for the County.
3. Redemption of Property Sold for Taxes. Any person whose property is sold in obedience to an execution issued for the collection of County taxes shall have such rights of redemption of said property in OCGA 48-4-1, et seq.

Section 4-009 Financial Institutions Business License Tax

- 1.1 Per O.C.G.A. Section 48-6-93, there is hereby levied an annual business license tax upon depository financial institutions a business license tax at the rate of .25% of the gross receipts of said institutions. The minimum amount of business license tax due from any depository financial institution per this Section shall be \$1,000 per year.
- 1.2 Each depository financial institution within the County shall file a return of its gross receipts with the County on March 1st 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 on the allocation method set forth in 48-6-93(d). The tax levied per this Section shall be assessed and collected based upon the information provided in said return. The due date for taxes levied by this Section shall be April 1st of each year.

Section 4-010 Business Licenses

1. Levy. There is levied for each year a business license fee of \$25 to cover administrative expenses of application review, zoning confirmation and related costs, expenses and staff time, on each business, except for those cases as specified in this section.
2. Penalties for violation. Any person required to obtain a license, who shall fail to do so, shall pay a penalty of \$100. The clerk, when in the clerk's judgment circumstances warrant, may grant an extension of time, not exceeding 10 days, to file application and pay the license fee. No penalty will be charged on any license on which an extension of time has been granted. Any person violating any other provision shall, upon conviction, be punished in accordance with the provisions on violations of this Code.
3. Applications. Every person or entity required to procure a business license hereunder shall before first opening and by December 15 each year submit an application for such license to the clerk, which application shall conform to the requirements hereof. Each applicant must show that all taxes owed to the County are current or in good standing before submitting their application. Each application shall be a written statement upon forms provided by the clerk. Each application shall contain the following information:
 - a. Name and home address of the applicant, if an individual, or office address, if an entity.
 - b. The name of the business to be established, and the place where the proposed business is to be located.
 - c. Kind of business to be carried on.
 - d. Names and home address of the partners, if a partnership.
 - e. Name and home addresses of the officers and directors, if a corporation.
 - f. Name and home addresses of the members, if a LLC.
 - g. Complete record of all arrests and convictions against the applicant and every partner, officer, member, or director of the applicant for violation of any and all county, state or federal laws and ordinances.
4. Each application shall be sworn to by the applicant if an individual, or by an authorized person if an entity. Each application shall be accompanied by the amount of the fee chargeable for the business license sought. The clerk shall issue a receipt to the applicant for the amount of the fee tendered with the application for a license, provided that such receipt shall not be construed as approval of the application, nor shall it entitle or authorize the applicant to open or maintain any business contrary to the provisions of County regulation. The application fee is nonrefundable, whether or not the business license is granted. False statements on any application for a license shall be grounds for a refusal or immediate revocation of such license.
5. Reserved.

6. No license shall be issued to any applicant whose business is not in full compliance with all codes. No license shall be issued to any applicant whose County taxes are not current or in good standing with the Tax Commissioner. The grant of a business license shall be a privilege only, and nothing in this section shall be construed as granting any legal right to engage in such business.

7. Display. It shall be the duty of any person conducting a business to keep the license posted in a conspicuous place on the premises used for such business at all times. Whenever inspections are a reasonable precedent to the licensing of a business or to the detection of violations of public peace, order or morality that would normally be cause to revoke or suspend a license, it shall be the duty of the licensee, or the person in charge of the premises to be inspected, to admit thereto for the purpose of making the inspection any officer or employee authorized or directed to make such inspection at any reasonable time that admission is requested. In addition to any other penalty which may be provided, the County may revoke the license of any business who refuses to permit any officer or employee authorized to make such inspection, or who interferes with such officer or employee while in the performance of his duty in making such inspection, provided that no license shall be revoked for such cause unless written demand is made upon the licensee or person in charge of the premises, stating that such inspection is desired at the time it is sought to make inspection.

8. Termination and Renewal. All issued licenses for the operation of business shall remain in force, provided that the business is not operated so as to violate County, state or federal laws and ordinances, and that all applicable license fees for the forthcoming year are paid in full by January 15. If not renewed by this date a 20% per month late fee will be applied.

9. Revocation; suspension; probation. The Board of Commissioners, after affording the licensee notice of the charges and opportunity to be heard with respect to any proceedings, may, on the basis of its findings, revoke such license in its entirety, suspend the same for a specified period of time, place the licensee on probation, or place other conditions thereon as the Board may deem necessary.

10. Change of location. In the absence of any provision to the contrary, the location of any licensed business may be changed, provided ten days' notice of such change is given to the clerk and all building and zoning requirements are complied with.

11. Transfer. All licenses shall be personal to the licensee, but where the ownership is changed and both the name and location of the licensed business or occupation are maintained, the Board of Commissioners may allow the license to be transferred.

12. Branch offices. For the purposes of this chapter, each branch establishment or location wherein a representative of the owner is employed and is authorized to transact business for such owner shall be deemed a separate place of business for which a separate license shall be required, provided that warehouses and distributing plants used in connection with and incidental to a business licensed under the provisions of this chapter shall not be deemed to be separate places of business or branch offices.

13. Joint license. A person engaged in two or more businesses at the same location shall be required to obtain separate licenses for conducting each of such businesses for which a license is required.

14. False statements. Any misstatement or concealment of fact in the application or in response to any inquiries made by the clerk or an authorized official in carrying out his duties shall make the applicant or licensee liable to prosecution for perjury.

15. Businesses Not Covered by This Chapter. The following businesses are not subject to business licenses provided for herein:

- i. Those businesses regulated by the Georgia Public Service Commission.
- ii. Those electrical service businesses organized under Chapter 3 of Title 46 of the Code of Georgia.
- iii. Any farm operation for the production from or on the land of agricultural products, but not including agribusiness.
- iv. Cooperative marketing associations governed by O.C.G.A. §2-10-105.
- v. Insurance companies governed by O.C.G.A. §33-8-8, et seq.
- vi. Motor common carriers governed by O.C.G.A. §46-7-15.
- vii. Those businesses governed by O.C.G.A. §48-5-355. (Businesses that purchase carload lots of guano, meats, meal, flour, bran, cottonseed, or cottonseed meal and hulls.)
- viii. Agricultural products and livestock raised in Georgia governed by O.C.G.A. §48-5-356.
- ix. Depository financial institutions governed by O.C.G.A. §48-6-93.
- x. Facilities operated by a charitable trust governed by O.C.G.A. §48-13-55.

Section 4-011 911 Prepaid Wireless Transactions

Per O.C.G.A. 46-5-134.2, there is hereby imposed a prepaid wireless 9-1-1 charge as defined by O.C.G.A. 46-5-134.2(a)(4) upon every prepaid wireless retail transaction occurring within the County public service answering point in the amount of 75 cents. Prepaid wireless 9-1-1 charges collected by sellers shall be remitted to the Commissioner of the Department of Revenue per OCGA Chapter 8 of Title 48 with respect to the sales and use tax. The County Clerk shall file with Per O.C.G.A. 46-5-134.2(j)(5), funds received by County from charges imposed by this ordinance shall be deposited in the Emergency Telephone System Fund maintained on behalf of the County per O.C.G.A. 46-5-134 and kept separate from general revenue. All such funds shall be used exclusively per O.C.G.A. 46-5-134 (f).

Chapter 5: COURTS AND ENFORCEMENT OF ORDINANCES.

Section 5-001 Magistrate Court

The Magistrate Court shall have jurisdiction and authority to try offenses against the ordinances of the County and punish for a violation of the same. Such Court shall have the power to enforce its judgments by such penalties as may be provided by this Code or laws of Georgia, to subpoena witnesses, to punish witnesses for non-attendance, and try all offenses occurring within the County including certain traffic cases, under the laws of Georgia. The criminal jurisdiction responsibilities include:

1. Issuing arrest and search warrants
2. Conducting first appearance hearings
3. Setting bonds
4. Preliminary or committal hearings
5. Extraditions
6. Warrant application hearings
7. Conducting trials for county ordinance violations
8. Misdemeanor deposit account fraud [O.C.G.A. 16-9-20]
9. Criminal trespass [O.C.G.A. 16-7-21]
10. Furnishing alcoholic beverages to a person less than 21 years of age [O.C.G.A. 3-3-23]
11. Purchase or possession of alcoholic beverages by a person less than 21 years of age [O.C.G.A. 3-3-23]
12. Shoplifting, \$300 or less [O.C.G.A. 16-8-14]
13. Possession of marijuana less than one ounce [O.C.G.A. 16-13-30; 15-10-260]
14. Such other matters as are committed to their jurisdiction by other general laws
15. Trial and sentencing of misdemeanor violations of Code Section 16-9-20, relating to criminal issuance of bad checks
16. The execution or subscribing and the acceptance of written waivers of extradition per 17-13-46; and
17. The trial sentencing of misdemeanor violations of other Code sections.

The civil jurisdictions responsibilities include:

1. Trial and arbitration of civil claims for less than \$15,000
2. Abandoned motor vehicles
3. Dispossessory and distress proceedings
4. Foreclosures
5. Garnishments
6. Issuance of subpoenas
7. Issuance of summons
8. Mechanics liens
9. Punishment of contempt by fines not exceeding \$200 or by imprisonment not exceeding 10 days
10. Writ of Possessions

Section 5-002 Probate Court

The Probate Court shall have jurisdiction and authority to try traffic offenses per state law and punish for a violation of the same. Such Court shall have the power to enforce its judgments by such penalties as may be provided by this Code or laws of Georgia, to subpoena witnesses, to punish witnesses for non-attendance, and try probate cases, under the laws of Georgia. The jurisdiction responsibilities under OCGA 15-9-30 include:

- 1) The probate of wills;
 - 2) The granting of letters testamentary and of administration and the repeal or revocation of the same;
 - 3) All controversies in relation to the right of executorship or administration;
 - 4) The sale and disposition of the property belonging to, and the distribution of, deceased persons' estates;
 - 5) The appointment and removal of guardians of minors, conservators of minors, guardians of incapacitated adults, and conservators of incapacitated adults and persons who are incompetent because of mental illness or mental retardation;
 - 6) All controversies as to the right of guardianship and conservatorship, except that the probate court shall not be an appropriate court to take action under Code Section 19-7-4;
 - 7) The auditing and passing of returns of all executors, administrators, guardians of property, conservators, and guardians;
 - 8) The discharge of former sureties and the requiring of new sureties from administrators, guardians of property, conservators, and guardians;
 - 9) All matters as may be conferred on them by Chapter 3 of Title 37;
 - 10) All other matters and things as appertain or relate to estates of deceased persons and to persons who are incompetent because of mental illness or mental retardation; and
 - 11) All matters as may be conferred on them by the Constitution and laws.
- In addition to the jurisdiction granted above, unless otherwise provided by law, the probate courts shall have the power to carry out the following duties as assigned by specific laws:
- 1) Perform county governmental administration duties;
 - 2) Perform duties relating to elections [impermissible under SB173];
 - 3) Fill vacancies in public offices by appointment;
 - 4) Administer oaths to public officers;
 - 5) Accept, file, approve, and record bonds of public officers;
 - 6) Register and permit certain enterprises;
 - 7) Issue marriage licenses;
 - 8) Hear traffic cases;
 - 9) Receive pleas of guilty and impose sentences in cases of violations of game and fish laws;
 - 10) Hold criminal commitment hearings; and
 - 11) Perform such other judicial and ministerial functions as may be provided by law including weapons permits.

Section 5-003 Judge

Each Judge and associate or assistant judge/magistrate shall meet the requirements of state law including local legislation.

Section 5-004 Sessions of Court

A regular session of each Court shall be held per state law including local legislation; provided, that any session may be dispensed with when there is no business pending or no cases are ready for trial. The Court may hold special sessions when, in the Judge's opinion, it is necessary or there is urgent cause for trial before the next regularly scheduled session of court.

Section 5-005 Clerk of Court

There shall be a Clerk of each Court who shall prepare all subpoenas and warrants and maintain a docket thereof that will show the name of the person on whom the subpoena or warrant was issued, its date, at whose instance it was issued and to whom it was delivered; be the custodian of the seal of the court and have authority to certify copies of all official records of the court and to maintain the proper books of accounts, including receipts and disbursements, which the court may maintain; and perform such other duties as may be imposed upon him/her by the judge and by state law including local legislation.

Section 5-006 Trial

Any party shall be informed by writing served on him of the trial date; shall have compulsory process for obtaining witnesses in his behalf; shall have a speedy trial; and have the privilege of cross examination as in the Superior Courts of the State. The rules as to examination of witnesses and the evidence are per state law. The party shall have the privilege of defending himself, by counsel or by himself, or both, whichever shall seem proper to him.

Section 5-007 Form and Execution of Summons

It shall be the duty of the Clerk of Court in all cases to issue a summons directed to the party requiring such person to appear in Court for the case, which summons shall set forth the time and place of trial, bear the name of the Judge of the Court, be signed by the Clerk of Court, and provided to the party as per state law.

Section 5-008 Witness - Subpoena

When the attendance of a witness is required, the Clerk of Court shall issue a subpoena, directed to the witness, stating the time and place of trial and the parties to the case, and bear the name of the Judge, which subpoena shall be served per state law.

Section 5-009 Witness - Defaulting

If any person so summoned as a witness shall fail, neglect, or refuse to attend a trial, or render at the time a sufficient excuse in the judgment of the Court, the defaulting witness shall be liable to a fine and, if the cause shall be continued on account of the witness's absence, the Court may issue an attachment against such witness requiring him to show cause on the day appointed for trial why he should not be further dealt with for contempt. Any law enforcement officer, by virtue of such attachment, shall arrest and confine the person, so as to have him before the Court at such time as may be appointed for further hearing.

Section 5-010 Continuances

Where justice requires, cases may be continued per the sound legal discretion of the Court.

Section 5-011 Docket

A docket shall be kept in the Office of Clerk of Court on which shall appear the name of every party and, at the trial of all cases, the Judge shall record opposite the statement of the case any judgment pronounced and the date; and the Clerk of Court shall enter thereunder, the final disposition of the case.

Chapter 6: PUBLIC HEALTH & SAFETY

Section 6-001 Emergency Management

1. General

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

The State of Georgia is vulnerable to a wide range of natural or man-made disaster/emergencies. The Georgia Emergency Management Act, as amended (The Act) gives the local governments of the State the authority to make agreements for mutual aid assistance in emergencies, and through such agreements to ensure the timely reimbursement of costs incurred by the local governments which render such assistance. Under the Act the Agency has authority to coordinate assistance between local governments during emergencies and to provide available resources where needed.

Per O.C.G.A. § 38-3-35(a), no political subdivision of the state, nor the agents or representatives of the state or any political subdivision thereof, shall be liable for personal injury or property damage sustained by any person appointed or acting as a volunteer emergency management worker or member of any agency engaged in emergency management activity.

Per O.C.G.A. § 38-3-35(b), no political subdivision of the state nor, except in cases of willful misconduct, gross negligence, or bad faith, the employees, agents, or representatives of the state or any political subdivision thereof, nor any volunteer or auxiliary emergency management worker or member of any agency engaged in any emergency management activity complying with or reasonably attempting to comply with Articles 1 through 3, Chapter 3, Title 38, Official Code of Georgia Annotated; or any order, rule, or regulation promulgated pursuant to Articles 1 through 3 of title, or pursuant to any ordinance relating to precautionary measures enacted by any political provisions of Articles 1 through 3 of said chapter and title, or pursuant to any ordinance relating to precautionary measures enacted by any political subdivision of the state shall be liable for the death of or the injury to person or for damage to property as a result of any such activity.

Per O.C.G.A. § 38-3-30(a), whenever the employees of any Assisting Party or political subdivision are rendering outside aid pursuant to this agreement and the authority contained in Code Section 38-3-27, the employees shall have the same powers, duties, rights, privileges and immunities as if they were performing their duties in the political subdivisions in which they are normally employed.

Office of the County Emergency Management Director. The Board of Commissioners, with concurrence of the Mayor of all cities within the County, shall nominate for appointment, by the Governor, a Director of Emergency Management for the County. When appointed, the Emergency Management Director is charged with the following duties:

- 1) To represent the governing officials of the County on matters pertaining to civil defense.
- 2) With assisting County officials in organizing County departments for emergency operations.
- 3) With assisting in developing the plan for emergency functions for county emergency organization. Such plan will be in consonance with the state emergency plan and be submitted to the governing officials of the county and the municipalities for approval and then to the director, Georgia EMA, for approval.
- 4) To maintain the emergency management office in carrying out the day-to-day administration of the county civil preparedness and disaster program including the rendering of required reports to the Georgia EMA.
- 5) Rendering reports such as required by governing officials.
- 6) Procuring, with authority such as required by governing officials, a facility for a County Emergency Operating Center.
- 7) To coordinate the activities of the county emergency operating center staff during a declared emergency under the supervision of county and municipal governing officials.

State law references: Plan and program, O.C.G.A. § 38-3-22.

Hancock County Emergency Management Agency. The Emergency Management Agency shall be established around existing County departments and the emergency functions describe above are assigned as follows:

DEPARTMENT/AGENCY	FUNCTIONS
Chairman of Board of Commissioners	Direction and Control
Hancock County Clerk	Administrative Services & Resources
Sheriff's Department	Police Services & Search and Recover Communications
Fire Departments	Rescue, Fire & Hazardous Material Control
Superintendent of Schools	Transportation Services
Road & Bridges Department	Engineering
Department of Family and Children Services	Social Services
Health Department	Health and Medical Services
Sheriff or Chamber of Commerce	Emergency Public Information
Emergency Management Agency	Evacuation; Radiological Protection; Training; Damage Assessment; Public Property Assistance; Specific Hazards; State Military Support
American Red Cross	Sheltering & Temporary Housing and Food Services

Heads of County departments listed above are responsible for developing appropriate annexes to the local Emergency Operations Plan (EOP) for their assigned emergency functions. Such annexes will be submitted to the Emergency Management Director for inclusion in the local EOP for submission to appropriate local officials for approval.

2. Emergency Powers

2.1 Powers During Emergency or Disaster. In a man-made or natural disaster, enemy attack on the U.S., or any other emergency which may affect the citizens, the Chairman separately, or jointly with the County Commissioners, or in their absences their legally appointed successors, may determine an emergency or disaster exists and thereafter shall have and may exercise for such period as such emergency or disaster exists or continues, the following powers:

- A) to enforce all rules, laws and regulations pertaining to emergency management, and to assume direct operational control over all emergency management resources;
- B) to seize or take for temporary use, any private property for the protection of the public;
- C) to sell, lend, give or distribute all or any of such property or supplies among the inhabitants of the county and to maintain a strict accounting of property or supplies distributed and for funds received for such property or supplies; and
- D) perform and exercise such other functions, duties, and emergency actions as may be necessary to promote and secure the safety, protection and well-being of the inhabitants of the county.

2.2 Volunteers. While engaged in emergency functions, duly assigned volunteers shall have the same immunities as County officers and employees.

2.3 Curfew. Upon declaration of a state of emergency by the governor, or determination by the board of commissioners, or its designee, of an emergency or disaster, the board, its designee or the emergency interim successor may adopt a resolution instituting a County-wide curfew when it is determined necessary to protect and safeguard the people and property of the county. The resolution instituting the curfew shall include the dates and hours. No person, other than exempt emergency management individuals, may appear in public during the curfew, including streets, highways, alleys, sidewalks, vacant lots, parks, public buildings or any other public places.

2.4. Emergency Construction and Repair Registration. No person or entity during a state of emergency or the subsequent recovery period shall engage in building, constructing, repairing, renovating or making improvements to real property without having registered with the board of commissioners, and first shall register with the county clerk. The building contractor shall, under oath, describe the general nature of the business to be conducted and complete the application and pay the fee of \$50 per annum. Each day of doing business without complying with this division shall constitute a separate offense. The registration is not transferable. Each certification shall be carried on his or her person or vehicle used in such business, and be exhibited to any authorized officer when requested. The County reserves the right to revoke or suspend any certification upon violation of this section or any other law. Written notice thereof shall be given, which shall specify the violation and a date, time and place at which a hearing shall be held with regard to the violation. The violator may be heard at such hearing, be represented by counsel, and introduce and submit evidence in opposition and cross examine witnesses.

2.5. Authority to waive procedures and fee structures in an emergency. Upon proclamation by the appropriate state official of an emergency, disaster, or enemy attack impending on or affecting the state or the US, or upon the determination by the board, or its designee, of an emergency or disaster, the board, its designee, or the emergency interim successor may:

1) Meetings. Conduct the affairs and business of the county at places other than the regular or usual place thereof, within or outside of the county, when it is not prudent, expedient, or possible to conduct business at the regular location. All actions taken by the board shall be as valid and binding as if performed at the regular location. The presiding officer or any two members of the board, without regard to the time-consuming procedures and formalities otherwise required by law, may call such meetings.

2) Purchasing and public works contracts. Contract for public works without letting such to the lowest responsible bidder and without advertising and posting notification of such contract; provided, however, that any public works contract entered into shall be entered on the minutes of the county as soon as practical, and the nature of the emergency described therein.

3) Code enforcement. Temporarily suspend enforcement of certain ordinances of the county where: The emergency or disaster is of such nature that immediate action outside the Code is required; Such suspension is consistent with the protection of the public health, safety and welfare; and Such suspension is not inconsistent with any federal or state statutes or regulations.

4) Fees. Temporarily reduce or suspend certain permit fees, application fees or other rate structures as necessary to encourage the rebuilding of the area impacted by the disaster or emergency.

5) Temporary dwellings. Allow temporary mobile home, trailer, recreational vehicle or other temporary dwelling structures or parks in any zoning district while the primary dwelling is being repaired, if the plans are approved by the county health department and building inspector or his or her designee. The temporary permit shall not exceed 6 months. If continuing hardship and in the discretion of the board or its designee, the permit may be extended for an additional 6 months.

3. Penalties.

Any person violating any provision hereof shall, upon conviction, be punishable for a misdemeanor.

Section 6-002 Mutual Aid During Local Emergencies

1. Findings and Purpose

The County provides fire protection services to the citizens of Hancock County through its fire department. Local emergencies may occur, such as conditions of extreme peril to the safety of persons and property, as caused by natural disasters, riots, civil disturbances or other emergency situations. These local emergencies present potentially major public safety problems, which conditions are or are likely to be beyond the control of the personnel, equipment, and facilities of the County. Neighboring political subdivisions are likely to also be confronted with similar local emergencies, which conditions are or are likely to be beyond the control of personnel, equipment and facilities of these jurisdictions. The State has provided for mutual aid during local emergencies through O.C.G.A. 36-69-1, et seq. the Georgia Mutual Aid Act. This Section is so the resources of the County can be combined with resources of a neighboring county during local emergencies, so life and property of all may be better protected and

to demonstrate the desire of the citizens of the County to be good neighbors during local emergencies in neighboring political subdivisions.

2. Mutual Aid Authorized

The Fire Chief of the County may request assistance and cooperation from neighboring counties during local emergencies per the Georgia Mutual Aid Act. The Fire Chief of the County shall cooperate with and provide assistance during local emergencies to neighboring counties.

Section 6-003 Litter Control, Garbage Disposal and Yard Trimmings Regulations, Nuisances

1. Litter Control

1.1 Definitions. Litter includes all slag, brickbats, rubbish, waste material, garbage, trash, debris, dead animals or discarded materials of every kind. Public or private property includes rights of way of any road; any body of water or shores thereof; any park, playground, building, refuge or recreation area; and residential or farm properties, timberlands or forests.

1.2 Scope

1.2.1 Dumping Litter. It shall be unlawful to dump, throw or leave or to cause or permit the dumping, throwing or leaving of litter on any public or private property unless: the property is designated by the County for disposal of litter and the person is authorized to use such property for such purpose; the litter is properly placed in a litter receptacle or container lawfully installed on such property; or the person is the owner or lawful tenant and has properly placed non-oversized litter for regular pickups, in a manner consistent with the public welfare. Oversized litter is that which does not fit in a standard garbage company bin.

1.2.2 Prima-facie Evidence. Whenever litter is thrown, dropped or dumped from a vehicle, it shall be prima-facie evidence that the operator violated this Section.

1.2.3 Rebuttable Presumption. When any litter has any items with the name of a person thereon so as to indicate that the item belonged to such person, it shall be prima-facie evidence that such person has violated this Section.

1.2.4 Enforcement. All law enforcement agencies and officers of the County and any person appointed by the Board of Commissioners are authorized and directed to enforce compliance with the above regulations.

1.2.5 Penalties. Any person who violates this Section shall be guilty of a misdemeanor and, upon conviction, shall be punished as follows: by a fine of \$300 to \$1,000; the person may be directed to pick up and remove from any public street or highway or public right-of-way for a distance not to exceed one mile, all litter deposited by anyone prior to the date of execution of sentence; or the person may be directed to pick up all litter from any public park, private right-of-way or, with the prior permission of the owner, private property upon which it can be established by competent evidence that the person has deposited litter.

2. Garbage Disposal Regulations- Reserved.

3. Yard Trimmings Disposal Regulations

3.1. Definitions:

a). **Commercial Solid Waste.** All types of solid waste generated by stores, office, restaurants, warehouses and other non-manufacturing activities, excluding residential and industrial wastes.

b). **Composting.** The controlled biological decomposition of organic matter into stable, odor-free humus.

c). **Leachate Collection System.** A system at a landfill for collection of the leachate which may percolate through the waste and into the soils surrounding the landfill or transfer station.

d). **Municipal Solid Waste.** Any solid waste from households, including garbage, trash and sanitary waste in septic tanks and solid waste from residences, hotels and motels, campgrounds, picnic grounds, and day use recreation areas; includes yard trimmings and commercial solid waste, but not construction\demolition debris, tires, wood, metal, solid waste from mining, agricultural or silvicultural operations or industrial processes or operations.

e). **Municipal Solid Waste Disposal Facility.** Any location for final deposit of any municipal solid waste, whether or not mixed with or including commercial or industrial solid waste, including municipal solid waste landfills.

f). **Municipal Solid Waste Landfill.** A disposal or transfer facility where any amount of municipal solid waste, whether or not mixed with or including commercial waste, industrial waste, nonhazardous sludge or small quantity generator hazardous waste, is disposed of by means of placing an approved cover thereon.

g). **Yard Trimmings.** Leaves, grass clippings, prunings, Christmas trees, and vegetative matter from landscaping.

3.2. Prohibitions. It shall be unlawful to place or mix yard trimmings with other municipal solid waste. Yard trimmings shall not be disposed of at any municipal solid waste disposal facility.

3.3 Sorting, storing, composting and collecting yard trimmings.

Yard trimmings shall be sorted and stockpiled, chipped, or composted, or used as mulch or otherwise beneficially reused or recycled to the maximum extent feasible. Following are the options for yard trimmings:

Naturalized, low-maintenance landscaping requiring little or no cutting; Grass cycling by mowing it high and letting it lie; Stacking branches into brush piles for use as wildlife habitats and for gradual decomposition into the soil; Composting on site where material was grown, followed by incorporation into the soil at that site; Chipping woody material on the site where such material was generated; Collecting yard trimmings and transporting to another site to be chipped or composted for later use; and Chipping woody material for later use as fiber fuel.

3.4 Penalties:

A violator shall be punished by a fine not to exceed \$1,000, imprisonment up to 60 days, or both.

4. Nuisances

Any person who shall erect or continue after notice to abate a nuisance which tends to annoy the community, injure the health of the citizens in general, or corrupt the public morals shall be guilty of a misdemeanor, O.C.G.A. § 41-1-6. The following conditions are nuisances:

- a. Stagnant water on a premises;
- b. Dead or decaying matter, vegetation, fruit, vegetable or animal, odorous or capable of causing disease or annoyance;
- c. Garbage or other waste liable to give off a foul odor or attract vermin or any other refuse of any kind;
- d. Junk allowed to scatter or blow off any premises;
- e. Combustible material not necessary or beneficial to the premises, or other fire hazard;
- f. Smoke or fumes in sufficient amount to cause odor or annoyance;
- g. Burning of junk or debris other than tree limbs and leaves per a burn permit;
- h. Pollution of water or putting matter into the sewage system which would be damaging thereto;
- i. Maintaining a dangerous or diseased animal or fowl;
- j. Storage of junk: tractors, equipment, implements, trailers, cycles, grills, and other debris;
- k. Dumping fuel or oil;
- l. Storage of fuel or oil other than in approved closed containers;
- m. Sand blasting and any other unreasonably loud mechanical work in a residential area;
- n. Unreasonably loud automotive, truck, motorcycle or other exhaust noise;
- o. Obstruction of a street, highway, sidewalk, or path of travel regularly used by the public;
- p. Loud noises clearly audible at 100 feet including loud disturbances in or around churches or single- family or multiple-family areas, such as loud music and other loud activities;
- q. Listing, unsafe, rotten, deteriorated or unstable walls, trees and buildings;
- r. Any business or building where illegal activities are commonly conducted as to reasonably suggest that the owner or operator of the business or building was aware of the activities and failed to prevent those activities;
- s. Exterior storage of iceboxes, refrigerators, washing machines, dryers, stoves;
- t. Exterior storage of mattresses, furniture or similar which would attract rodents and other pests;
- u. Toilets or sanitary facilities, plumbing or sewers in bad repair;
- v. Conditions conducive to the breeding of flies, mosquitoes or other insects;
- w. Conditions conducive to a harboring of colonies of bats, such as bat-accessible attics;

- x. Any animal that excessively makes disturbing noises, defined as ongoing howling, barking or crying or causing unreasonable annoyance continuously for a period of one-half hour or more;
- y. Any trees, shrubbery or other plants which obstruct clear vision on roads and intersections; and
- z. Any other continuous or regularly repetitious acts or conditions constituting a nuisance under state law, namely, anything that causes hurt, inconvenience, or damage to another or which tends to annoy the community, injure the health of the citizens in general, or corrupt the public morals.

4.2 Any person or entity found guilty of violating any of this Section shall be guilty of a misdemeanor and shall be fined up to \$1,000 or imprisoned up to 30 days, or both. Each day such violation is committed or permitted to continue shall constitute a separate offense. Notwithstanding the foregoing, the violation of this Section is declared a public nuisance, and may be subject to abatement by a restraining order or a temporary or permanent injunction by a court of competent jurisdiction. Nothing in this Section shall be construed as an election of remedies and the County may seek both criminal penalties and the injunctive relief contemplated by this Section for any violation.

Section 6-005 Burial of Dead Bodies

1. Purpose and Scope

1.1 General. This Section is a health measure and will be strictly enforced by the County. It shall be unlawful for any individual or entity to bury any human or animal body within the County, except as specified in this Section.

1.2 Burial Requirements. Any grave must be covered with soil of not less than 18 inches on top of vault or container in which body is placed; the ground around said excavation or grave shall be level.

1.3 Penalties. Any individual or entity violating this Section is guilty of a misdemeanor and may be fined or punished by a fine up to \$1,000, imprisonment up to 60 days, or both.

Section 6-005 Open Wells

1. Purpose and Scope

1.1 Filling and Covering. All property owners with open wells must fill or cover them with concrete slabs that meet the County's specifications.

1.2 Penalties. Any individual or entity violating this Section will guilty of a misdemeanor and may be fined or punished by a fine up to \$1,000, imprisonment up to 60 days, or both.

Section 6-006 Emergency 911

1.1 Definitions. The following have the meanings ascribed to them in this section, except where context clearly indicates otherwise.

Addressing means assigning of a numerical address and street name to each location necessary to provide public safety service. .

ALS (advanced life support) means base level of services and equipment which shall include basic life support plus adjunctive equipment, intravenous line, fluids and drugs, cardiac monitoring, defibrillation, the control of arrhythmias, and post-resuscitation care.

Call means any communication, message, signal or transmission.

Consumer means a person who purchases prepaid wireless telecommunications service in a retail transaction.

Division means the telecommunications division of the department of administrative services.

Emergency 911 system means a telephone service, computer service, wireless service, or other service which facilitates calls by persons in need of emergency systems services to a public safety answering point by dialing 911 and which are responded to by public safety answering points established and operated by the county subscribing to the 911 service. The term "emergency 911 system" also includes the term "enhanced 911 service" which means an emergency system that provides the user with emergency 911 system service and, in addition, directs 911 calls to appropriate public safety answering points by selective routing based on location from which the call originated and provides the capability for automatic number identification and automatic location identification features.

Exchange access facility means access from a subscriber's premises to the telephone system of a service supplier. Exchange access facilities include service supplier provided access lines, PBX trunks, and Centrex network access registers, all as defined by tariffs of the telephone companies as approved by the PSC. "Exchange access facility," also includes Voice over Internet Protocol service suppliers and any other communication, message, signal, or information delivery system capable of initiating a 911 call.

911 charge means a contribution to the county for the 911 service startup equipment costs, subscriber notification costs, addressing costs, billing costs, installation, maintenance, service and network charges of a service supplier providing 911 service, and costs associated with hiring, training and compensating dispatchers to operate said 911 system at public safety answering points.

911 number means the digits, address, Internet Protocol address, or other information used to access or initiate a call to a public safety answering point.

Prepaid wireless 911 charge means a \$.75 charge per retail transaction required to be collected by a seller from a consumer.

Prepaid wireless service means any method in which a consumer pays a wireless service supplier or seller in advance for a wireless telecommunications connection, and includes calling or usage privileges included with purchase of a wireless phone and additional calling or usage privileges purchased by any means, including a calling card, a wireless communication, or an Internet transaction.

Public agency means the state and any city, county, chartered organization, public district, or public authority in whole or in part within the county, which can provide firefighting, law enforcement, ambulance, medical or other emergency services.

Public safety agency means a functional division of a public agency which provides firefighting, law enforcement, emergency medical, suicide prevention, civil defense, poison control, drug prevention, child abuse, spouse abuse, or other emergency services.

Retail transaction means the purchase of prepaid wireless service from a seller for any purpose other than resale.

Seller means a person who sells prepaid wireless service to another person.

Service supplier means a person or entity who provides telephone service to a telephone subscriber in the county.

Telephone service means any method by which a 911 call is delivered to a public safety answering point and includes local exchange telephone service or other telephone communication service, wireless, prepaid wireless, mobile telecommunications, computer service, Voice over Internet Protocol, or any technology that delivers a call to a public safety answering point.

Telephone subscriber means a person or entity to whom telephone service is provided. When the same person or entity has several telephone lines, each exchange access facility shall constitute a separate subscription. When the same person or entity has several wireless telephones, each wireless telecommunications connection shall constitute a separate connection.

Voice over Internet Protocol service means a technology that permits a voice conversation using a connection to a computer, which sends a digital signal over the Internet to be converted back to the human voice at a distant terminal and that delivers or is required by law to deliver a call to a public safety answering point; such shall also include interconnected Voice over Internet Protocol service, which enables real-time, 2-way voice communications, requires Internet protocol compatible customer premises equipment, and allows calls that originate on the public service telephone network and to terminate calls to the public switched telephone network.

Voice over Internet Protocol service supplier means a person or entity who provides Voice over Internet Protocol service.

Wireless enhanced 911 charge means a contribution to the county for the costs to the county of implementing or upgrading, and maintaining, an emergency 911 system which is capable of receiving and utilizing the following information, as it relates to 911 calls made from a wireless telecommunications connection: 1. Automatic number identification, the location of the base station or cell site which receives the 911 call, and the location of the wireless telecommunications connection; 2. Nonrecurring and recurring installation, maintenance, service, and network charges of a wireless service supplier to provide the information described in subparagraph (1) of this paragraph; and 3. Other costs which may be paid with money from the emergency telephone system fund, pursuant to O.C.G.A. § 46-5-134(e).

Wireless service means "commercial mobile service" as defined under section 11 332(D) of the Federal Telecommunications Act of 1996, regulations of the Federal Communications Commission, and the Omnibus Budget Reconciliation Act of 1993 and includes real-time, two-way interconnected voice service provided over networks which utilize intelligent switching capability and offer seamless handoff to customers and prepaid wireless service.

Wireless service supplier means a provider of wireless service.

Wireless telecommunications connection means any mobile station for wireless service that connects a provider of wireless service to a provider of local exchange telephone service.

State law reference— Similar provisions, O.C.G.A. § 31-11-2.

1.2 a) Liability. Neither the emergency 911 system provider, the county nor any of its employees, officers and agents, except in cases of wanton and willful misconduct, or bad faith, shall be liable for death or injury to person or for damage to property as a result of either developing, adopting, establishing or carrying out duties in operating the 911 emergency telephone system or in the identification of the telephone number, address or name associated with any person accessing an emergency 911 system.

b) No Release. The county shall not be required to release, indemnify, defend or hold harmless any emergency 911 system provider from any loss, claim, demand, suit or other action or any liability whatsoever which arises out of subsection (a) of this section unless the county agrees or has agreed to assume such obligations.

1.3 Maintenance fee; collection. The service supplier providing enhanced emergency 911 service shall divide its maintenance fee among the telephone subscribers whose telephones are in the area served by the enhanced 911 system and bill such subscribers pro rata for their share, and shall collect the maintenance fee. This shall be a condition of doing business in the area served. The maintenance fee collected shall be expended exclusively for purposes allowed by law per O.C.G.A. 46-5-134 and as set forth herein.

1.4 Billing.

a) Non-wireless service. The telephone subscriber shall be billed for the monthly 911 charge, \$1.50 per month per telephone service, shown as a separate entry on each bill. All telephone services billed to governments shall be exempt from the 911 charge. Each service supplier shall, on behalf of the county, collect the 911 charge from those subscribers to whom it provides telephone service in the area served by the emergency 911 system, for each month a telephone service is in service.

b) Wireless service. The subscriber of a wireless telecommunications connection whose billing address or place of primary use is served by the county shall be billed for the monthly wireless enhanced 911 charge of \$1.50, shown as a separate entry on each bill. All wireless connections billed to governments shall be exempt from the charge. Each wireless service supplier shall, on behalf of the county, collect the charge from those telephone subscribers whose place of primary use is within the geographic area served by the county or that would be served by the county for the purpose of such an emergency 911 system.

c) Prepaid wireless service. Beginning January 1, 2012, the seller of prepaid wireless service shall collect from each consumer a prepaid wireless 911 fee of \$.75, either separately stated or otherwise disclosed to the consumer for every retail transaction, and shall remit that fee, per O.C.G.A. 46-5-134.2, to the GA DOR. The fee shall be the liability of the consumer and not of the seller or of any provider, and the fee shall not be included in the base for measuring any tax, fee, surcharge, or other charge imposed by this state, any political subdivision, or any intergovernmental agency. If ten minutes or less, or \$5.00 or less of prepaid wireless telecommunications service is sold with a prepaid wireless device for a single, non-itemized price, then the seller may elect not to apply the \$.75 prepaid wireless 911 charge for that transaction.

d) Liability for 911 charge. Every telephone subscriber in the area served by the 911 system shall be liable for the charge until paid to the service supplier. A service supplier shall have no obligation to take legal action to enforce the collection of the charge, but shall provide the county within 60 days with the name and address of each subscriber who has refused to pay the 911 charge. A collection action may be initiated by the county, and reasonable costs and attorney's fees associated with that collection action may be awarded.

1.4 Responsibilities of board. Each service supplier that collects 911 charges may retain as an administrative fee 3% of the gross 911 charge receipts remitted to the county. The remaining amount shall be due quarterly to the county and shall be remitted to it no later than 60 days after the close of a calendar quarter. The 911 receipts shall be deposited and accounted for in a separate restricted revenue fund known as the emergency telephone system fund maintained by the county. The county may invest the monies in the fund the same as other monies of the county may be invested and any income shall be deposited into the emergency telephone system fund. Money from the emergency telephone system fund shall be used only for those purposes allowed by O.C.G.A. 46-5-134.

1.5 Records; funding. The county may contract with a service supplier for an emergency 911 system and may make payments from the emergency telephone system fund to provide any payments required by the contract. The service supplier shall maintain records of the amount of the 911 charge collected for at least 3 years from date of collection. The county may require an annual audit of the service supplier's books and records with respect to the collection and remittance of the 911 charge.

Section 6-007 Fire Safety, Burn Permit required.

This section is consistent with O.C.G.A. Title 25 (State Fire Law), the provisions of which are incorporated by reference and enforced by the County. The State Minimum Fire Safety Standards shall have state-wide effect and shall not require adoption. The County is authorized to enforce these standards on all buildings and structures except one-family and two-family dwellings and those structures listed in O.C.G.A. § 25-2-13. Notwithstanding any other provision of law or any local ordinance to the contrary, in the event of a conflict between any code or standard of the National Fire Protection Association (National Fire Code and National Electric Code) and any other Code, the more stringent code or standard shall prevail. The order of precedence established by this subsection shall apply to all buildings and structures whether or not such buildings and structures are covered under this Code Section.

a) No person or entity shall light, kindle or maintain a bonfire or rubbish fire, half acre or less, until satisfying all of the following:

- 1) Obtaining a permit through the state forestry commission.
- 2) No fire may be burned during nighttime hours.
- 3) No fire may be burned closer than 500 feet to any building, structure or any other improvement to the subject real property.
- 4) Until the fire has been completely extinguished, the landowner or agent must directly supervise the fire at the scene.
- 5) The following may not be burned: Tires; Any item which may emit gaseous vapors or odors; Any item the odors of which are likely to be injurious to public health, safety and welfare; Any hazardous materials as the same are defined by state and/or federal laws, statutes and regulations.

b) Organizations primarily for religious purposes, volunteer fire departments, and organizations primarily for the training and education of children (such as the Boy Scouts or Girl Scouts) may obtain the permit required in subsection (a) without complying with the requirements that no fire may be burned during nighttime or closer than 500 feet to any building, structure or any other improvement.

c) No person or entity shall light, kindle or maintain a bonfire or rubbish fire which measures more than one-half acre. However, controlled burns (i.e., burns closely supervised and lighted for a specific purpose) may be permitted as an acceptable agricultural practice on farmlands and woodlands upon the applicant satisfying all of the following conditions:

- 1) Obtaining a burn permit from the state forestry commission.
- 2) No fire may be burned during nighttime hours and/or closer than 500 feet to any building, structure or any other improvement.
- 3) Until the fire has been completely extinguished, the landowner or authorized agent must directly supervise the fire.
- 4) Promptly reporting to the state highway patrol any burn within one-half mile of the nearest right-of-way of a state highway.
- 5) Completely encircling the burn area with plowed fire lanes and/or natural boundaries, such as highways or creeks.
- 6) If burn control becomes difficult, the permitted party must immediately request assistance from the state forestry commission.
- 7) The following items may not be burned: Tires; Construction-type materials and/or building materials or related items; Any item which may emit gaseous vapors or odors; Any item the odors of which are likely to be injurious to public health, safety and welfare; Any hazardous materials as the same are defined by state and/or federal laws, statutes and regulations.

d) If it is discovered at any point after a permit has been issued that one or more of the items listed in c)(7) exist, the same shall constitute sufficient reason to immediately revoke the permit to burn, and any representative from the county will have full authority to extinguish the fire, or direct the individual in charge of the fire to extinguish the fire. Reasons for revoking a permit include, but are not limited to, the following: Materials being burned that are not allowed to be burned; The fire existing or burning in a manner as to endanger the health, welfare or safety of property, persons or motorists within the unincorporated areas of the county; The declaration by a government entity of the day being a no burn day. When a permit is revoked, the applicant and the individual in charge of the burn will be advised why the fire must be extinguished and may be subject to penalties.

Section 6-008 Food Service, Adoption of state regulations.

County boards of health are authorized to adopt sanitation standards for food service establishments, O.C.G.A. § 26-2-373; county boards of health are authorized to enforce laws, regulations and standards of the state regarding food service establishments, O.C.G.A. § 26-2-375; county board of health is empowered to adopt and enforce rules and regulations appropriate to its functions and powers as long as such rules do not conflict with those enacted by department of human resources, O.C.G.A. § 31-3-4; county board of health is empowered to establish local rules and regulations applicable throughout county, O.C.G.A. § 31-3-6. The board of commissioners hereby adopts and incorporates by reference the rules and regulations for food service, which were adopted by the Georgia Department of Human Resources. Ga. Admin. Code § 290-5-14 et. seq.

Chapter 7: LAND AND BUILDING REGULATIONS

Section 7-001 Zoning

1. **Intent.** The Board of Commissioners desires to fully enforce The Zoning Ordinance, as previously adopted, and any amendments. The enforcement by the County of said ordinance is to facilitate proper use of land in the County.

2. **Incorporation by Reference.** The County shall administer and enforce the latest edition of the Zoning Ordinance of Hancock County, Georgia, as adopted and amended by the Board of Commissioners. Said ordinance and its amendments are hereby incorporated for application and enforcement by reference as though fully copied herein.

Section 7-002 Land Subdivision Regulations

1. **Intent.** The Board of Commissioners desires to fully enforce the terms and provisions of any Subdivision Regulations of Hancock County, and any amendments thereto. The enforcement of these regulations by the County is to facilitate proper subdivision of land and development of streets and other public facilities improvements.

2. **Incorporation by Reference.** The County shall administer and enforce any Subdivision Regulations of Hancock County, as adopted and amended by the Board of Commissioners. Said ordinance and amendments are hereby incorporated by reference for application and enforcement by reference as though fully copied herein.

Section 7-003 Soil Erosion and Sedimentation Control

I- TITLE. This ordinance will be known as the "Soil Erosion and Sedimentation Control Ordinance."

II- DEFINITIONS

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

1. **Best Management Practices (BMPs):** These include sound conservation and engineering practices to prevent and minimize erosion and resultant sedimentation, which are consistent with, and no less stringent than, those practices contained in the 'Manual for Erosion and Sediment Control in Georgia' published by the Commission as of January 1 of the year in which the land-disturbing activity was permitted.
2. **Board:** The Board of Natural Resources.
3. **Buffer:** The area of land immediately adjacent to the banks of state waters in its natural state of vegetation, which facilitates the protection of water quality and aquatic habitat.
4. **Certified Personnel:** A person who has successfully completed the appropriate certification course approved by the Georgia Soil and Water Conservation Commission.
5. **Commission:** The Georgia Soil and Water Conservation Commission (GSWCC).
6. **CPESC:** Certified Professional in Erosion and Sediment Control with current certification by Certified Profession in Erosion and Sediment Control Inc., a corporation registered in North Carolina, also referred to as CPESC or CPESC, Inc.
7. **Cut:** A portion of land surface or area from which earth has been removed or will be removed by excavation; the depth below original ground surface to the excavated surface. Also known as excavation.
8. **Department:** The Georgia Department of Natural Resources (DNR).
9. **Design Professional:** A professional licensed by the State of Georgia in the field of: engineering, architecture, landscape architecture, forestry, geology, or land surveying; or a person that is a Certified Professional in Erosion and Sediment Control (CPESC) with a current certification by Certified Professional in Erosion and Sediment Control Inc.
10. **Director:** The Director of the Environmental Protection Division or an authorized representative.
11. **District:** Piedmont Soil and Water Conservation District.
12. **Division:** The Environmental Protection Division (EPD) of the Department of Natural Resources.
13. **Drainage Structure:** A device composed of a virtually nonerodible material such as concrete, steel, plastic or other such material that conveys water from one place to another by intercepting the flow and carrying it to a release point for storm water management, drainage control, or flood control purposes.
14. **Erosion:** The process by which land surface is worn away by the action of wind, water, ice or gravity.
15. **Erosion and sedimentation control Plan:** A plan required by the Erosion and Sedimentation Act, O.C.G.A. Chapter 12-7, that includes, as a minimum protections at least as stringent as the State General Permit, best management practices, and requirements in section IV.C. of this ordinance.
16. **Fill:** A portion of land surface to which soil or other solid material has been added; the depth above the original ground surface or an excavation.
17. **Final Stabilization:** All soil disturbing activities at the site have been completed, and that for unpaved areas and areas not covered by permanent structures and areas located outside the waste disposal limits of a landfill cell that has been certified by EPD for waste disposal, 100% of the soil surface is uniformly covered in permanent vegetation with a density of 70% or greater, or equivalent permanent stabilization measures (such as the use of rip rap, gabions, permanent mulches or geotextiles) have been used. Permanent vegetation shall consist of: planted trees, shrubs, perennial vines; a crop of perennial vegetation appropriate for the time of year and region; or a crop of annual vegetation and a seeding of target crop perennials appropriate for the region. Final stabilization applies to each phase of construction.
18. **Finished Grade:** Final elevation and contour of the ground after cutting or filling and conforming to proposed design.
19. **Grading:** Altering the shape of ground surfaces to a predetermined condition; this includes stripping, cutting, filling, stockpiling and shaping or any combination thereof and shall include the land in its cut or filled condition.
20. **Ground Elevation:** The original elevation of the ground surface prior to cutting or filling.

21. Land-Disturbing Activity: Any activity which may result in soil erosion from water or wind and the movement of sediments into state waters or onto lands within the state, including, but not limited to, clearing, dredging, grading, excavating, transporting, and filling of land but not including agricultural practices as described in Section III, Paragraph 5.
22. Larger Common Plan of Development or Sale: A contiguous area where multiple separate and distinct construction activities are occurring under one plan of development or sale. For the purposes of this paragraph, "plan" means an announcement; piece of documentation such as a sign, public notice or hearing, sales pitch, advertisement, drawing, permit application, zoning request, or computer design; or physical demarcation such as boundary signs, lot stakes, or surveyor markings, indicating that construction activities may occur on a specific plot.
23. Local Issuing Authority: The governing authority of any county or municipality certified per subsection (a) O.C.G.A. 12-7-8.
24. Metropolitan River Protection Act (MRPA): A state law referenced as O.C.G.A. 12-5-440 et. seq. which addresses environmental and developmental matters in certain metropolitan river corridors and their drainage basins.
25. Natural Ground Surface: The ground surface in its original state before any grading, excavation or filling.
26. Nephelometric Turbidity Units (NTU): Numerical units of measure based upon photometric analytical techniques for measuring the light scattered by finely divided particles of a substance in suspension. This technique is used to estimate the extent of turbidity in water in which colloidally dispersed or suspended particles are present.
27. NOI: A Notice of Intent form provided by EPD for coverage under the State General Permit.
28. NOT: A Notice of Termination form provided by EPD to terminate coverage under the State General Permit.
29. Operator: The party or parties that have: (A) operational control of construction project plans and specifications, including the ability to make modifications to those plans and specifications; or (B) day-to-day operational control of those activities that are necessary to ensure compliance with an erosion and sedimentation control plan for the site or other permit conditions, such as a person authorized to direct workers at a site to carry out activities required by the erosion and sedimentation control plan or to comply with other permit conditions.
30. Outfall: The location where storm water in a discernible, confined and discrete conveyance, leaves a facility or site or, if there is a receiving water on site, becomes a point source discharging into that receiving water.
31. Permit: The authorization necessary to conduct a land-disturbing activity under the provisions of this ordinance.
32. Person: Any individual, partnership, firm, association, joint venture, public or private corporation, trust, estate, commission, board, public or private institution, utility, cooperative, state agency, municipality or other political subdivision of the State of Georgia, any interstate body or any other legal entity.
33. Phase or Phased: Sub-parts or segments of construction projects where the sub-part or segment is constructed and stabilized prior to completing construction activities on the entire construction site.
34. Project: The entire proposed development project regardless of the size of the area of land to be disturbed.
35. Properly Designed: Designed in accordance with the design requirements and specifications contained in the "Manual for Erosion and Sediment Control in Georgia" (Manual) published by the Georgia Soil and Water Conservation Commission as of January 1 of the year in which the land-disturbing activity was permitted and amendments to the Manual as approved by the Commission up until the date of NOI submittal.
36. Roadway Drainage Structure: A device such as a bridge, culvert, or ditch, composed of a virtually nonerodible material such as concrete, steel, plastic, or other such material that conveys water under a roadway by intercepting flow on one side of a traveled roadway consisting of one or more defined lanes, with or without shoulder areas, and carrying water to a release point on the other side.
37. Sediment: Solid material, both organic and inorganic, that is in suspension, is being transported, or has been moved from its site of origin by wind, water, ice, or gravity as a product of erosion.
38. Sedimentation: The process by which eroded material is transported and deposited by the action of water, wind, ice or gravity.
39. Soil and Water Conservation District Approved Plan: An erosion and sedimentation control plan approved in writing by Piedmont Soil and Water Conservation District.
40. Stabilization: Process of establishing an enduring soil cover of vegetation by the installation of temporary or permanent structures for the purpose of reducing to a minimum the erosion process and the resultant transport of sediment by wind, water, ice or gravity.
41. State General Permit: The National Pollution Discharge Elimination System (NPDES) general permit or permits for storm water runoff from construction activities as is now in effect or as may be amended or reissued in the future per the state's authority to implement the same through federal delegation under the Federal Water Pollution Control Act, as amended, 33 U.S.C. Section 1251, et seq., and subsection (f) of Code Section 12-5-30.
42. State Waters: Any and all rivers, streams, creeks, branches, lakes, reservoirs, ponds, drainage systems, springs, wells, and other bodies of surface or subsurface water, natural or artificial, lying within or forming a part of the boundaries of Georgia which are not entirely confined and retained completely upon the property of a single individual, partnership, or corporation.
43. Structural Erosion and sedimentation control Practices: Practices for the stabilization of erodible or sediment-producing areas by utilizing the mechanical properties of matter for the purpose of either changing the surface of the land or storing, regulating or

disposing of runoff to prevent excessive sediment loss. Examples of structural erosion and sediment control practices are riprap, sediment basins, dikes, level spreaders, waterways or outlets, diversions, grade stabilization structures and sediment traps, etc. Such practices can be found in the publication Manual for Erosion and Sediment Control in Georgia.

44. Trout Streams: All streams or portions of streams within the watershed as designated by the Wildlife Resources Division of the Georgia Department of Natural Resources under the provisions of the Georgia Water Quality Control Act, O.C.G.A. 12-5-20, in the rules and regulations for Water Quality Control, Chapter 391-3-6 at www.gaepd.org. Streams designated as primary trout waters are defined as water supporting a self-sustaining population of rainbow, brown or brook trout. Streams designated as secondary trout waters are those in which there is no evidence of natural trout reproduction, but are capable of supporting trout throughout the year. First order trout waters are streams into which no other streams flow except springs.

45. Vegetative Erosion and Sedimentation Control Measures: Measures for the stabilization of erodible or sediment-producing areas by covering the soil with:

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

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

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

47. Wetlands: Those areas that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs, and similar areas.

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

1. Surface mining, as the same is defined in O.C.G.A. 12-4-72, "The Georgia Surface Mining Act of 1968".
2. Granite quarrying and land clearing for such quarrying;
3. Such minor land-disturbing activities as home gardens and individual home landscaping, repairs, maintenance work, fences, and other related activities which result in minor soil erosion;
4. The construction of single-family residences, when such construction disturbs less than one (1) acre and is not a part of a larger common plan of development or sale with a planned disturbance of equal to or greater than one (1) acre and not otherwise exempted under this paragraph; provided, however, that construction of any such residence shall conform to the minimum requirements as set forth in O.C.G.A. 12-7-6 and this paragraph. For single-family residence construction covered by the provisions of this paragraph, there shall be a buffer zone between the residence and any state waters classified as trout streams per Article 2 of Chapter 5 of the Georgia Water Quality Control Act. In any such buffer zone, no land-disturbing activity shall be constructed between the residence and the point where vegetation has been wrested by normal stream flow or wave action from the banks of the trout waters. For primary trout waters, the buffer zone shall be at least 50 horizontal feet, and no variance to a smaller buffer shall be granted. For secondary trout waters, the buffer zone shall be at least 50 horizontal feet, but the Director may grant variances to no less than 25 feet. Regardless of whether a trout stream is primary or secondary, for first order trout waters, which are streams into which no other streams flow except for springs, the buffer shall be at least 25 horizontal feet, and no variance to a smaller buffer shall be granted. The minimum requirements of subsection (b) of O.C.G.A. 12-7-6 and the buffer zones provided by this paragraph shall be enforced by the Local Issuing Authority;
5. Agricultural operations as defined in O.C.G.A. 1-3-3, "definitions", to include raising, harvesting or storing of products of the field or orchard; feeding, breeding or managing livestock or poultry; producing or storing feed for use in the production of livestock, including but not limited to cattle, calves, swine, hogs, goats, sheep, and rabbits or for use in the production of poultry, including but not limited to chickens, hens and turkeys; producing plants, trees, fowl, or animals; the production of aqua culture, horticultural, dairy, livestock, poultry, eggs and apiarian products; farm buildings and farm ponds;
6. Forestry land management practices, including harvesting; provided, however, that when such exempt forestry practices cause or result in land-disturbing or other activities otherwise prohibited in a buffer, as established in paragraphs (15) and (16) of Section IV C. of this ordinance, no other land-disturbing activities, except for normal forest management practices, shall be allowed on the entire property upon which the forestry practices were conducted for a period of three (3) years after completion of such forestry practices;
7. Any project carried out under the technical supervision of the Natural Resources Conservation Service (NRCS) of the United States Department of Agriculture;
8. Any project involving less than one (1) acre of disturbed area; provided, however, that this exemption shall not apply to any land-disturbing activity within a larger common plan of development or sale with a planned disturbance of equal to or greater than one (1) acre or within 200 feet of the bank of any state waters, and for purposes of this paragraph, "State Waters" excludes channels and

drainage ways which have water in them only during and immediately after rainfall events and intermittent streams which do not have water in them year-round; provided, however, that any person responsible for a project which involves less than one (1) acre, which involves land-disturbing activity, and which is within 200 feet of any such excluded channel or drainage way, must prevent sediment from moving beyond the boundaries of the property on which such project is located and provided, further, that nothing contained herein shall prevent the Local Issuing Authority from regulating any such project which is not specifically exempted by paragraphs 1, 2, 3, 4, 5, 6, 7, 9 or 10 of this section;

9. Construction or maintenance projects, or both, undertaken or financed in whole or in part, or both, by the Department of Transportation, the Georgia Highway Authority, or the State Road and Tollway Authority; or any road construction or maintenance project, or both, undertaken by any county or municipality; provided, however, that construction or maintenance projects of the Department of Transportation or the State Road and Tollway Authority which disturb one or more contiguous acres of land shall be subject to provisions of O.C.G.A. 12-7-7.1; except where the Department of Transportation, the Georgia Highway Authority, or the State Road and Tollway Authority is a secondary permittee for a project located within a larger common plan of development or sale under the state general permit, in which case a copy of a notice of intent under the state general permit shall be submitted to the Local Issuing Authority, the Local Issuing Authority shall enforce compliance with the minimum requirements set forth in O.C.G.A. 12-7-6 as if a permit had been issued, and violations shall be subject to the same penalties as violations by permit holders;

10. Any land-disturbing activities conducted by any electric membership corporation or municipal electrical system or any public utility under the regulatory jurisdiction of the Public Service Commission, any utility under the regulatory jurisdiction of the Federal Energy Regulatory Commission, any cable television system as defined in O.C.G.A. 36-18-1, or any agency or instrumentality of the United States engaged in the generation, transmission, or distribution of power; except where an electric membership corporation or municipal electrical system or any public utility under the regulatory jurisdiction of the Public Service Commission, any utility under the regulatory jurisdiction of the Federal Energy Regulatory Commission, any cable television system as defined in O.C.G.A. 36-18-1, or any agency or instrumentality of the United States engaged in the generation, transmission, or distribution of power is a secondary permittee for a project located within a larger common plan of development or sale under the state general permit, in which case the Local Issuing Authority shall enforce compliance with the minimum requirements set forth in O.C.G.A. 12-7-6 as if a permit had been issued, and violations shall be subject to the same penalties as violations by permit holders; and

11. Any public water system reservoir.

IV- MINIMUM REQUIREMENTS FOR EROSION AND SEDIMENTATION CONTROL USING BEST MANAGEMENT PRACTICES

A. GENERAL PROVISIONS

Excessive soil erosion and resulting sedimentation can take place during land-disturbing activities if requirements of the ordinance and the NPDES General Permit are not met. Therefore, plans for those land-disturbing activities which are not exempted by this ordinance shall contain provisions for application of soil erosion and sedimentation control measures and practices. The provisions shall be incorporated into the erosion and sedimentation control plans. Soil erosion and sedimentation control measures and practices shall conform to the minimum requirements of Section IV B. & C. of this ordinance. The application of measures and practices shall apply to all features of the site, including street and utility installations, drainage facilities and other temporary and permanent improvements. Measures shall be installed to prevent or control erosion, sedimentation and pollution during all stages of any land-disturbing activity in accordance with requirements of this ordinance and the NPDES General Permit.

B. MINIMUM REQUIREMENTS/ BMPs

1. Best management practices as set forth in Section IV B. & C. of this ordinance shall be required for all land-disturbing activities. Proper design, installation, and maintenance of best management practices shall constitute a complete defense to any action by the Director or to any other allegation of noncompliance with paragraph (2) of this subsection or any substantially similar terms contained in a permit for the discharge of storm water issued per subsection (f) of O.C.G.A. 12-5-30, the "Georgia Water Quality Control Act". As used in this subsection the terms "proper design" and "properly designed" mean designed in accordance with the hydraulic design specifications contained in the "Manual for Erosion and Sediment Control in Georgia" specified in O.C.G.A. 12-7-6 (b).

2. A discharge of storm water runoff from disturbed areas where best management practices have not been properly designed, installed, and maintained shall constitute a separate violation of any land-disturbing permit issued by a local Issuing Authority or of any state general permit issued by the Division per subsection (f) of O.C.G.A. 12-5-30, the "Georgia Water Quality Control Act", for each day on which such discharge results in the turbidity of receiving waters being increased by more than twenty-five (25) nephelometric turbidity units for waters supporting warm water fisheries or by more than ten (10) nephelometric turbidity units for waters classified as trout waters. The turbidity of the receiving waters shall be measured in accordance with guidelines to be issued by the Director. This paragraph shall not apply to any land disturbance associated with the construction of single family homes which are not part of a larger common plan of development or sale unless the planned disturbance for such construction is equal to or greater than five (5) acres.

3. Failure to properly design, install, or maintain best management practices shall constitute a violation of any land-disturbing permit issued by a Local Issuing Authority or of any state general permit issued by the Division per subsection (f) of Code Section 12-5-30, the "Georgia Water Quality Control Act", for each day on which such failure occurs.

4. The Director may require, in accordance with regulations adopted by the Board, reasonable and prudent monitoring of the turbidity level of receiving waters into which discharges from land disturbing activities occur.
5. The LIA may set more stringent buffer requirements than stated in C.15 and 16, in light of O.C.G.A. § 12-7-6 (c).
- C. The rules and regulations, ordinances, or resolutions adopted per O.C.G.A. 12-7-1 et. seq. for the purpose of governing land-disturbing activities shall require, as a minimum, protections at least as stringent as the state general permit; and best management practices, including sound conservation and engineering practices to prevent and minimize erosion and resultant sedimentation, which are consistent with, and no less stringent than, those practices contained in the Manual for Erosion and Sediment Control in Georgia published by the Georgia Soil and Water Conservation Commission as of January 1 of the year in which the land-disturbing activity was permitted, as well as the following:
 1. Stripping of vegetation, regrading and other development activities shall be conducted in a manner so as to minimize erosion;
 2. Cut-fill operations must be kept to a minimum;
 3. Development plans must conform to topography and soil type so as to create the lowest practicable erosion potential;
 4. Whenever feasible, natural vegetation shall be retained, protected and supplemented;
 5. The disturbed area and the duration of exposure to erosive elements shall be kept to a practicable minimum;
 6. Disturbed soil shall be stabilized as quickly as practicable;
 7. Temporary vegetation or mulching shall be employed to protect exposed critical areas during development;
 8. Permanent vegetation and structural erosion control practices shall be installed as soon as practicable;
 9. To the extent necessary, sediment in run-off water must be trapped by the use of debris basins, sediment basins, silt traps, or similar measures until the disturbed area is stabilized. As used in this paragraph, a disturbed area is stabilized when it is brought to a condition of continuous compliance with the requirements of O.C.G.A. 12-7-1 et. seq.;
 10. Adequate provisions must be provided to minimize damage from surface water to the cut face of excavations or sloping of fills;
 11. Cuts and fills may not endanger adjoining property;
 12. Fills may not encroach upon natural watercourses or constructed channels in a manner so as to adversely affect other property owners;
 13. Grading equipment must cross flowing streams by means of bridges or culverts except when such methods are not feasible, provided, in any case, that such crossings are kept to a minimum;
 14. Land-disturbing activity plans for erosion and sedimentation control shall include provisions for treatment or control of any source of sediments and adequate sedimentation control facilities to retain sediments on-site or preclude sedimentation of adjacent waters beyond the levels specified in Section IV B. 2. of this ordinance;
 15. Except as provided in paragraph (16) of this subsection, there is established a 25 foot buffer along the banks of all state waters, as measured horizontally from the point where vegetation has been wrested by normal stream flow or wave action, except where the Director determines to allow a variance that is at least as protective of natural resources and the environment, where otherwise allowed by the Director per O.C.G.A. 12-2-8, where a drainage structure or a roadway drainage structure must be constructed, provided that adequate erosion control measures are incorporated in the project plans and specifications, and are implemented; or along any ephemeral stream. As used in this provision, the term 'ephemeral stream' means a stream: that under normal circumstances has water flowing only during and for a short duration after precipitation events; that has the channel located above the ground-water table year round; for which ground water is not a source of water; and for which runoff from precipitation is the primary source of water flow. Unless exempted as along an ephemeral stream, the buffers of at least 25 feet established per part 6 of Article 5, Chapter 5 of Title 12, the "Georgia Water Quality Control Act", shall remain in force unless a variance is granted by the Director as provided in this paragraph. The following requirements shall apply to any such buffer:
 - a. No land-disturbing activities shall be conducted within a buffer and a buffer shall remain in its natural, undisturbed state of vegetation until all land-disturbing activities on the construction site are completed. Once the final stabilization of the site is achieved, a buffer may be thinned or trimmed of vegetation as long as a protective vegetative cover remains to protect water quality and aquatic habitat and a natural canopy is left in sufficient quantity to keep shade on the stream bed; provided, however, that any person constructing a single-family residence, when such residence is constructed by or under contract with the owner for his or her own occupancy, may thin or trim vegetation in a buffer at any time as long as protective vegetative cover remains to protect water quality and aquatic habitat and a natural canopy is left in sufficient quantity to keep shade on the stream bed; and
 - b. The buffer shall not apply to the following land-disturbing activities, provided that they occur at an angle, as measured from the point of crossing, within 25 degrees of perpendicular to the stream; cause a width of disturbance of not more than 50 feet within the buffer; and adequate erosion control measures are incorporated into the project plans and specifications and are implemented: (i) Stream crossings for water lines; or (ii) Stream crossings for sewer lines; and
 16. There is established a 50 foot buffer as measured horizontally from the point where vegetation has been wrested by normal stream flow or wave action, along the banks of any state waters classified as "trout streams" per Article 2 of Chapter 5 of Title 12, the "Georgia Water Quality Control Act", except where a roadway drainage structure must be constructed; provided, however, that small springs and streams classified as trout streams which discharge an average annual flow of 25 gallons per minute or less shall have a 25 foot buffer or they may be piped, at the discretion of the landowner, per the terms of a rule providing for a general variance

promulgated by the Board, so long as any such pipe stops short of the downstream landowner's property and the landowner complies with the buffer requirement for any adjacent trout streams. The Director may grant a variance from such buffer to allow land-disturbing activity, provided that adequate erosion control measures are incorporated in the project plans and specifications and are implemented. The following requirements shall apply to such buffer:

- a. No land-disturbing activities shall be conducted within a buffer and a buffer shall remain in its natural, undisturbed, state of vegetation until all land-disturbing activities on the construction site are completed. Once the final stabilization of the site is achieved, a buffer may be thinned or trimmed of vegetation as long as a protective vegetative cover remains to protect water quality and aquatic habitat and a natural canopy is left in sufficient quantity to keep shade on the stream bed: provided, however, that any person constructing a single-family residence, when such residence is constructed by or under contract with the owner for his or her own occupancy, may thin or trim vegetation in a buffer at any time as long as protective vegetative cover remains to protect water quality and aquatic habitat and a natural canopy is left in sufficient quantity to keep shade on the stream bed; and
- b. The buffer shall not apply to the following land-disturbing activities, provided that they occur at an angle, as measured from the point of crossing, within 25 degrees of perpendicular to the stream; cause a width of disturbance of not more than 50 feet within the buffer; and adequate erosion control measures are incorporated into the project plans and specifications and are implemented: (i) Stream crossings for water lines; or (ii) Stream crossings for sewer lines.
- D. Nothing contained in O.C.G.A. 12-7-1 et. seq. shall prevent any Local Issuing Authority from adopting rules and regulations, ordinances, or resolutions which contain stream buffer requirements that exceed the minimum requirements in Section IV B. & C. of this ordinance.
- E. The fact that land-disturbing activity for which a permit has been issued results in injury to the property of another shall neither constitute proof of nor create a presumption of a violation of the standards provided for in this ordinance or the terms of the permit.

V- APPLICATION/PERMIT PROCESS

- A. GENERAL The property owner, developer and designated planners and engineers shall design and review before submittal the general development plans. The Local Issuing Authority shall review the tract to be developed and the area surrounding it. They shall consult the zoning ordinance, storm water management ordinance, subdivision ordinance, flood damage prevention ordinance, this ordinance, and any other ordinances, rules, regulations or permits, which regulate the development of land within the jurisdictional boundaries of the Local Issuing Authority. However, the owner and/or operator are the only parties who may obtain a permit.
- B. APPLICATION REQUIREMENTS
 1. No person shall conduct any land-disturbing activity within the jurisdictional boundaries of Hancock County without first obtaining a permit from the Hancock County Planning and Zoning Office to perform such activity and providing a copy of Notice of Intent submitted to EPD if applicable.
 2. The application for a permit shall be submitted to the Hancock County Building and Zoning Office and must include the applicant's erosion and sedimentation control plan with supporting data, as necessary. Said plans shall include, as a minimum, the data specified in Section V C. of this ordinance. Erosion and sedimentation control plans, together with supporting data, must demonstrate affirmatively that the land disturbing activity proposed will be carried out in such a manner that the provisions of Section IV B. & C. of this ordinance will be met. Applications for a permit will not be accepted unless accompanied by two (2) copies of the applicant's erosion and sedimentation control plans. All applications shall contain a certification stating that the plan preparer or the designee thereof visited the site prior to creation of the plan in accordance with EPD Rule 391-3-7-.10.
 3. A fee, in the amount of \$25.00 shall be charged for each acre or fraction thereof in the project area.
 4. In addition to the local permitting fees, fees will also be assessed per paragraph (5) subsection (a) of O.C.G.A. 12-5-23, provided that such fees shall not exceed \$80.00 per acre of land-disturbing activity, and these fees shall be calculated and paid by the primary permittee as defined in the state general permit for each acre of land-disturbing activity included in the planned development or each phase of development. All applicable fees shall be paid prior to issuance of the land disturbance permit. In a jurisdiction that is certified per subsection (a) of O.C.G.A. 12-7-8 half of such fees levied shall be submitted to the Division; except that any and all fees due from an entity which is required to give notice per paragraph (9) or (10) of O.C.G.A. 12-7-17 shall be submitted in full to the Division, regardless of the existence of a Local Issuing Authority in the jurisdiction.
 5. Immediately upon receipt of an application and plan for a permit, the Local Issuing Authority shall refer the application and plan to the District for its review and approval or disapproval concerning the adequacy of the erosion and sedimentation control plan. The District shall approve or disapprove a plan within 35 days of receipt. Failure of the District to act within 35 days shall be considered an approval of the pending plan. The results of the District review shall be forwarded to the Local Issuing Authority. No permit will be issued unless the plan has been approved by the District, and any variances required by Section IV C. 15 & 16 has been obtained, all fees have been paid, and bonding, if required as per Section V B.7., have been obtained. Such review will not be required if the Local Issuing Authority and the District have entered into an agreement which allows the Local Issuing Authority to conduct such review and approval of the plan without referring the application and plan to the District. The Local Issuing Authority with plan review authority shall approve or disapprove a revised Plan submittal within 35 days of receipt. Failure of the Local Issuing Authority with plan review authority to act within 35 days shall be considered an approval of the revised Plan submittal.

6. If a permit applicant has had two or more violations of previous permits, this ordinance section, or the Erosion and Sedimentation Act, as amended, within three years prior to the date of filing the application under consideration, the Local Issuing Authority may deny the permit application.

7. The Local Issuing Authority may require the permit applicant to post a bond in the form of government security, cash, irrevocable letter of credit, or any combination thereof up to, but not exceeding, \$3,000 per acre or fraction thereof of the proposed land-disturbing activity, prior to issuing the permit. If the applicant does not comply with this section or with the conditions of the permit after issuance, the Local Issuing Authority may call the bond or any part thereof to be forfeited and may use the proceeds to hire a contractor to stabilize the site of the land-disturbing activity and bring it into compliance. These provisions shall not apply unless there is in effect an ordinance or statute specifically providing for hearing and judicial review of any determination or order of the Local Issuing Authority with respect to alleged permit violations.

C. PLAN REQUIREMENTS

1. Plans must be prepared to meet the minimum requirements as contained in Section IV B. & C. of this ordinance, or through the use of more stringent, alternate design criteria which conform to sound conservation and engineering practices. The Manual for Erosion and Sediment Control in Georgia is hereby incorporated by reference into this ordinance. The plan for the land-disturbing activity shall consider the interrelationship of the soil types, geological and hydrological characteristics, topography, watershed, vegetation, proposed permanent structures including roadways, constructed waterways, sediment control and storm water management facilities, local ordinances and State laws. Maps, drawings and supportive computations shall bear the signature and seal of the certified design professional. Persons involved in land development design, review, permitting, construction, monitoring, or inspections or any land disturbing activity shall meet the education and training certification requirements, dependent on his or her level of involvement with the process, as developed by the Commission and in consultation with the Division and the Stakeholder Advisory Board created per O.C.G.A. 12-7-20.

2. Data Required for Site Plan shall include all the information required from the appropriate Erosion and Sedimentation Control Plan Review Checklist established by the Commission as of January 1 of the year in which the land-disturbing activity was permitted.

D. PERMITS

1. Permits shall be issued or denied as soon as practicable but in any event not later than forty-five (45) days after receipt by the Local Issuing Authority of a completed application, providing variances and bonding are obtained, where necessary and all applicable fees have been paid prior to permit issuance. The permit shall include conditions under which the activity may be undertaken.

2. No permit shall be issued by the Local Issuing Authority unless the erosion and sedimentation control plan has been approved by the District and the Local Issuing Authority has affirmatively determined that the plan is in compliance with this ordinance, any variances required by Section IV C. 15 & 16 are obtained, bonding requirements, if necessary, as per Section V B. 7 are met and all ordinances and rules and regulations in effect within the jurisdictional boundaries of the Local Issuing Authority are met. If the permit is denied, the reason for denial shall be furnished to the applicant.

3. Any land-disturbing activities by a local issuing authority shall be subject to the same requirements of this ordinance, and any other ordinances relating to land development, as are applied to private persons and the division shall enforce such requirements upon the local issuing authority.

4. If the tract is to be developed in phases, then a separate permit shall be required for each phase.

5. The permit may be suspended, revoked, or modified by the Local Issuing Authority, as to all or any portion of the land affected by the plan, upon finding that the holder or his successor in the title is not in compliance with the approved erosion and sedimentation control plan or that the holder or his successor in title is in violation of this ordinance. A holder of a permit shall notify any successor in title to him as to all or any portion of the land affected by the approved plan of the conditions contained in the permit.

6. The LIA may reject a permit application if the applicant has had two or more violations of previous permits or the Erosion and Sedimentation Act permit requirements within three years prior to the date of the application, in light of O.C.G.A. 12-7-7 (f) (1).

VI - INSPECTION AND ENFORCEMENT

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

- B. The Local Issuing Authority must amend its ordinances to the extent appropriate within twelve (12) months of any amendments to the Erosion and Sedimentation Act of 1975.
- C. The Hancock County Zoning Administrator shall have the power to conduct such investigations as it may reasonably deem necessary to carry out duties as prescribed in this ordinance, and for this purpose to enter at reasonable times upon any property, public or private, for the purpose of investigation and inspecting the sites of land-disturbing activities.
- D. No person shall refuse entry or access to any authorized representative or agent of the Local Issuing Authority, the Commission, the District, or Division who requests entry for the purposes of inspection, and who presents appropriate credentials, nor shall any person obstruct, hamper or interfere with any such representative while in the process of carrying out his official duties.
- E. The District or the Commission or both shall semi-annually review the actions of counties and municipalities which have been certified as Local Issuing Authorities per O.C.G.A. 12-7-8 (a). The District or the Commission or both may provide technical assistance to any county or municipality for the purpose of improving the effectiveness of the county's or municipality's erosion and sedimentation control program. The District or the Commission shall notify the Division and request investigation by the Division if any deficient or ineffective local program is found.
- F. The Division may periodically review the actions of counties and municipalities which have been certified as Local Issuing Authorities per Code Section 12-7-8 (a). Such review may include, but shall not be limited to, review of the administration and enforcement of a governing authority's ordinance and review of conformance with an agreement, if any, between the district and the governing authority. If such review indicates that the governing authority of any county or municipality certified per O.C.G.A. 12-7-8 (a) has not administered or enforced its ordinances or has not conducted the program in accordance with any agreement entered into per O.C.G.A. 12-7-7 (e), the Division shall notify the governing authority of the county or municipality in writing. The governing authority of any county or municipality so notified shall have 90 days within which to take the necessary corrective action to retain certification as a Local Issuing Authority. If the county or municipality does not take necessary corrective action within 90 days after notification by the division, the division shall revoke the certification of the county or municipality as a Local Issuing Authority.

VII- PENALTIES AND INCENTIVES

A. FAILURE TO OBTAIN A PERMIT FOR LAND-DISTURBING ACTIVITY

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

B. STOP-WORK ORDERS

1. For the first and second violations of the provisions of this ordinance, the Director or the Local Issuing Authority shall issue a written warning to the violator. The violator shall have five days to correct the violation. If the violation is not corrected within five days, the Director or the Local Issuing Authority shall issue a stop-work order requiring that land-disturbing activities be stopped until necessary corrective action or mitigation has occurred; provided, however, that, if the violation presents an imminent threat to public health or waters of the state or if the land-disturbing activities are conducted without obtaining the necessary permit, the Director or the Local Issuing Authority shall issue an immediate stop-work order in lieu of a warning;
2. For a third and each subsequent violation, the Director or the Local Issuing Authority shall issue an immediate stop-work order; and;
3. All stop-work orders shall be effective immediately upon issuance and shall be in effect until the necessary corrective action or mitigation has occurred.
4. When a violation in the form of taking action without a permit, failure to maintain a stream buffer, or significant amounts of sediment, as determined by the Local Issuing Authority or by the Director or his or her Designee, have been or are being discharged into state waters and where best management practices have not been properly designed, installed, and maintained, a stop work order shall be issued by the Local Issuing Authority or by the Director or his or her Designee. All such stop work orders shall be effective immediately upon issuance and shall be in effect until the necessary corrective action or mitigation has occurred. Such stop work orders shall apply to all land-disturbing activity on the site with the exception of the installation and maintenance of temporary or permanent erosion and sediment controls.

C. **BOND FORFEITURE** If, through inspection, it is determined that a person engaged in land-disturbing activities has failed to comply with the approved plan, a written notice to comply shall be served upon that person. The notice shall set forth the measures necessary to achieve compliance with the plan and shall state the time within which such measures must be completed. If the person engaged in the land-disturbing activity fails to comply within the time specified, he shall be deemed in violation of this ordinance and, in addition to other penalties, shall be deemed to have forfeited his performance bond, if required to post one under the provisions of Section V B. 7. The Local Issuing Authority may call the bond or any part thereof to be forfeited and may use the proceeds to hire a contractor to stabilize the site of the land-disturbing activity and bring it into compliance.

D. MONETARY PENALTIES

1. Any person who violates any provisions of this ordinance, or any permit condition or limitation established per this ordinance, or who negligently or intentionally fails or refuses to comply with any final or emergency order of the Director issued as provided in this

ordinance shall be liable for a civil penalty not to exceed \$2,500 per day. For the purpose of enforcing the provisions of this ordinance, notwithstanding any provisions in any City charter to the contrary, municipal courts shall be authorized to impose penalty not to exceed \$2,500 for each violation. Notwithstanding any limitation of law as to penalties which can be assessed for violations of county ordinances, any magistrate court or any other court of competent jurisdiction trying cases brought as violations of this ordinance under county ordinances approved under this ordinance shall be authorized to impose penalties for such violations not to exceed \$2,500 for each violation. Each day during which violation or failure or refusal to comply continues shall be a separate violation.

VIII- EDUCATION AND CERTIFICATION

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

B. For each site on which land-disturbing activity occurs, each entity or person acting as either a primary, secondary, or tertiary permittee, as defined in the state general permit, shall have as a minimum one person who is in responsible charge of erosion and sedimentation control activities on behalf of said entity or person and meets the applicable education or training certification requirements developed by the Commission present on site whenever land-disturbing activities are conducted on that site. A project site shall herein be defined as any land-disturbance site or multiple sites within a larger common plan of development or sale permitted by an owner or operator for compliance with the state general permit.

C. Persons or entities involved in projects not requiring a state general permit but otherwise requiring certified personnel on site may contract with certified persons to meet the requirements of this ordinance.

D. If a state general permittee who has operational control of land-disturbing activities for a site has met the certification requirements of paragraph (1) of subsection (b) of O.C.G.A. 12-7-19, then any person or entity involved in land-disturbing activity at that site and operating in a subcontractor capacity for such permittee shall meet those educational requirements specified in paragraph (4) of subsection (b) of O.C.G.A. 12-7-19 and shall not be required to meet any educational requirements that exceed those specified in said paragraph.

IX- ADMINISTRATIVE APPEAL; JUDICIAL REVIEW

A. ADMINISTRATIVE REMEDIES

The suspension, revocation, modification or grant with condition of a permit by the Local Issuing Authority upon finding that the holder is not in compliance with the approved erosion and sediment control plan; or that the holder is in violation of permit conditions; or that the holder is in violation of any ordinance; shall entitle the person submitting the plan or holding the permit to a hearing before the Hancock County Board of Zoning Appeals within thirty (30) days after receipt by the Local Issuing Authority of written notice of appeal.

B. JUDICIAL REVIEW

Any person, aggrieved by a decision or order of the Local Issuing Authority, after exhausting his administrative remedies, shall have the right to appeal de novo to the Superior Court of Hancock County.

X- EFFECTIVITY, VALIDITY AND LIABILITY

A. EFFECTIVITY

28 June 2010, this ordinance amends the ordinance effective on the 1st day of June 2004 and reflects all 2009 and earlier amendments to the Georgia Erosion and Sedimentation Act of 1975.

B. VALIDITY

If any section, paragraph, clause, phrase, or provision of this ordinance shall be adjudged invalid or held unconstitutional, such decisions shall not affect the remaining portions of this ordinance.

C. LIABILITY

1. Neither the approval of a plan under the provisions of this ordinance, nor the compliance with provisions of this ordinance shall relieve any person from the responsibility for damage to any person or property otherwise imposed by law nor impose any liability upon the Local Issuing Authority or District for damage to any person or property.

2. The fact that a land-disturbing activity for which a permit has been issued results in injury to the property of another shall neither constitute proof of nor create a presumption of a violation of the standards provided for in this ordinance or the terms of the permit.

3. No provision of this ordinance shall permit any persons to violate the Georgia Erosion and Sedimentation Act of 1975, the Georgia Water Quality Control Act or the rules and regulations promulgated and approved thereunder or pollute any Waters of the State as defined thereby.

[Note: Signed Original on file with the P & Z Office of Hancock County]

Section 7-003A Protected Resources

1. River and Stream Corridor Protection

A. Protected Streams

1. All streams in the Watershed Protection Overlay Districts must comply with the natural greenway and setback requirements below.
2. There shall be no land-disturbing activities within 50 feet of stream banks, other than drainage structures and roads allowed under a development permit.

2. Groundwater Recharge Area Protection

A. Applicability

This Section applies to the areas defined as "significant recharge areas" by the State of Georgia and are hereby protected relative to their susceptibility to pollution.

1. Significant recharge areas. Significant recharge areas are defined by the DNR using criteria developed by them, and have been mapped on DNR's Hydrologic Atlas.
2. Pollution susceptibility category. Categories of relative vulnerability of an aquifer to pollution (classified as higher, average or lower) are defined by the DNR using criteria developed by them, and have been mapped on DNR's Hydrologic Atlas along with the most significant recharge areas.

B. Protected groundwater recharge area restrictions

Within any significant recharge area, as defined and delineated by the DNR, the following apply:

1. New hazardous waste treatment or disposal facilities are prohibited.
2. New sanitary landfills are prohibited.
3. New facilities that involve the treatment, storage or disposal of hazardous waste are prohibited.
4. New facilities that handle hazardous materials of the types listed in Section 312 of the Resource Conservation and Recovery Act of 1976 (excluding under-ground storage tanks) are prohibited.
5. A new above-ground chemical or petroleum storage tank must have secondary containment of 110% of the volume of the tank or 110% of the volume of the largest tank in a cluster of tanks. This requirement does not apply to:
 - a. Any tank having a maximum capacity of less than 660 gallons; and,
 - b. Any tank used for agricultural purposes, provided it complies with all Federal requirements.
6. New agricultural waste impoundment sites larger than 50 acre-feet must be lined. The liner must be constructed of compacted clay having a thickness of 1 foot and a vertical hydraulic conductivity of less than 5×10^{-7} cm/sec or other criteria established by the U.S. Soil Conservation Service.
7. A new home served by a septic tank/drain field system must be approved by the Health Department and must have a lot that is at least 110% of the minimum lot size required by Table MT-1 of the Department of Human Resource's Manual for On-Site Sewage Management Systems.
8. A new manufactured home park served by a septic tank/drain field system must be approved by the Health Department and must have a lot or space that is at least 110% of the minimum lot or space size required by Table MT-2 of the Department of Human Resource's Manual for On-Site Sewage Management Systems.

3. Wetlands Protection

A. Purpose

The purpose is to protect, maintain, and enhance the public health, safety, and general welfare by establishing requirements and procedures to control the adverse impacts from the destruction or alteration of protected wetland.

B. Applicability

All persons proposing development and/or construction within any suspected federally protected Wetland, as determined by the Director, shall submit a detailed delineation of such wetlands, a copy of the pre-construction notification

required under the Nationwide Permit (NWP) program, and written approval from the U.S. Army Corps of Engineers (USACOE) granting concurrence with the proposed activities and mitigation measures outlined.

C. Use Restrictions

Within any protected wetlands area, the following shall apply:

1. Hazardous or toxic waste receiving, treatment or disposal facilities are prohibited.
2. Sanitary landfills are prohibited.
3. Land uses that may be allowed if permitted by the zoning district and by the Section 404 permit include:
 - a. Timber production and harvesting.
 - b. Wildlife and fisheries management.
 - c. Camping, hiking, hunting and fishing recreation activities.
 - d. Public wastewater treatment and natural water quality treatment or purification facilities.
 - e. Other uses permitted under Section 404 of the federal Clean Water Act.

D. Restriction On Construction Activities

No land disturbance will be permitted in any suspected Wetland, as determined by the Director, until all such permit applications are submitted by the applicant or developer to the USACOE, and subsequent approvals are issued by the USACOE for the proposed activities. The Director may grant partial project approval, and allow work to proceed on portions of the project outside of the wetlands, provided an alternate development plan is submitted per these regulations with ample provisions for project completion if the subject wetlands disturbance is not permitted by the USACOE.

E. Violation And Enforcement

If any land disturbance activities are performed in any suspected federally protected Wetland, as determined by the Director, without first complying with the requirements of this Section 3, the Director shall issue a Stop Work Order for all site activities and promptly report any and all violations to the USACOE and the EPD. Work shall not resume at the site until all required documentation has been submitted to and approved by the USACOE, and all fines paid in full.

4. _____ Overlay Protection District (W-P2)

A. Purpose and Intent

The intent of this Land Development Overlay District is to protect the designated watershed areas from the possible adverse effects of residential and non-residential development such as the leaching of septic systems, increased storm water runoff, sedimentation and other sources of water pollution, to insure water quality. All property in this District shall simultaneously carry the District designation of the underlying District as well as the W-P2 designation.

B. Location of the District

The W-P2 Watershed Protection Overlay District is comprised of all land areas within the _____ watershed basins, which have been officially designated for use as public water supplies. The W-P2 Watershed Protection District is shown on the Official Land Development Maps of Hancock County, Georgia, which are adopted by reference by the County. In all cases, the watershed is defined by the ridgelines that separate the flow of storm water between the _____ watershed basins and all other watersheds. The actual boundary of W-P2 Watershed Protection Overlay District must therefore be determined on a property-by-property basis using the actual topography of each site.

C. Permitted and Conditional Uses

1. In the W-P2 Watershed Protection Overlay District, the Permitted Uses, as well as the Conditional Uses, shall be those of the underlying Land Development District provided for in this Chapter, except where the provisions of this Overlay District differ or are more restrictive than the underlying Land Development District.

2. The following uses are restricted in all Land Development Districts within the W-P2 District:

- a. Sanitary landfills are prohibited.
- b. Hazardous waste treatment or disposal facilities are prohibited (except septic tanks).

c. Facilities which handle hazardous materials, of the types and amounts regulated by the Georgia Department of Natural Resources, are prohibited.

d. Mining and quarrying activities are prohibited.

D. Required Greenways and Setbacks

The following greenways and setbacks are hereby established along each perennial stream (i.e., a stream that flows throughout the year) and water impoundment (i.e., a pond or lake) in the W-P2 District:

1. Stream Greenway

The area extending 100 feet from the banks of all perennial streams. This area shall remain natural and undisturbed except as otherwise provided in this District, below.

2. Stream Setback

The area extending a distance of 150 feet from the banks of all perennial streams.

3. Water Impoundment Greenway

The area extending a distance of 100 feet from the normal pool elevation of any water impoundment, except that greenway requirements shall not apply adjacent to the dam side of the impoundment. The greenway shall remain natural and undisturbed except as otherwise provided in this District, below.

4. Water Impoundment Setback

The area extending a distance of 150 feet from the normal pool elevation of any water impoundment.

E. Development Regulations

In the W-P2 Watershed Protection District, all requirements relating to the development of a site shall be those that apply to the underlying Land Development District as required by this Chapter, except where the provisions of this District differ or are more restrictive than the development regulations applying to the underlying Land Development District or contained elsewhere in this Chapter.

F. Stormwater Management

1. With the exception of an individual single-family residential lot, all development sites and subdivisions shall provide storm water detention per the requirements of Sections 7-003A through 7-003C.

2. If a subdivision (residential or nonresidential) project is provided with an on-site storm water detention facility, a property owner's association shall be established for its ownership and maintenance. The association bylaws shall be recorded concurrently with the recording of a final subdivision plot. The association bylaws shall include the following provisions:

- a. Automatic (mandatory) membership of all purchasers of lots therein and their successors; and,
- b. Conditions and timing of transferring control of the association from the developer to the lot owners shall be specified which shall not exceed four (4) years from the date of recording of the Final Plat of the subdivision; and,
- c. Responsibility for maintenance, insurance and taxes; and,
- d. Sharing of the costs of maintenance among the lot owners with shares defined by the association bylaws; and,
- e. Authority to place liens on the real property of members who fail to pay their dues or assessments; and,
- f. Prohibition on the dissolution of the association without the approval of the County.

G. Limitation on Variances

Variances from the provisions of the W-P2 Watershed Protection Overlay District are prohibited except as follows:

1. Lots of Record

All lots or parcels of record as of the effective date of this amendment and all lots or parcels that are shown on a preliminary plat approved by the County prior to the effective date of this amendment, that are made unbuildable by the provisions of this District, may still be developed on a case by case basis. Requests for development of these lots shall be made to the Director and Development as Administrative Variances.

2. Nonconforming Lots, Buildings and Uses

Nonconforming lots, buildings and uses shall be governed by the County Zoning Ordinance.

Section 7-003B Stormwater Management

1. Purpose

This Section is to protect and enhance the public health, safety, and welfare by establishing minimum requirements and procedures to control the adverse impacts from stormwater discharges. Proper management of surface water runoff will reduce channel erosion, stream sedimentation, local flash flooding, assist in the attainment and maintenance of water quality standards, and maintain as practically as possible the pre-development surface water runoff characteristics of the area.

2. Policy

A. It is hereby declared to be public policy to:

1. Recognize the necessity of joint action where feasible by the County and the development industry in resolution of existing drainage problems and prevention of their worsening or recurrence;
2. Work in a cooperative relationship with the development industry to accomplish the above-stated objective by encouraging through this chapter and other public actions the development of fewer but larger major detention facilities and incremental resolution of existing drainage problems on a priority basis in concert with private development;
3. Maintain, where feasible, the natural environment of County streams through reduction of flow quantities from new development, and where feasible, restore the flood plain to its natural functional purpose to resolve existing flooding problems, but recognize the necessity of using urban streams for stormwater runoff where maintenance of the natural stream environment would result in continuation or worsening of flooding conditions;
4. Require the development industry to maintain the function of the storm drainage system during the development process and property owners thereafter;
5. Encourage the construction of joint detention ponds serving several properties. The County encourages location of these detention facilities off the site of the property under development and may participate where it is in the general public's best interest in the construction of major detention facilities which would help existing flooding problems;
6. Encourage innovative design solutions to the effective detention of runoff.

3. Applicability

A. All persons proposing development and/or construction in the County shall submit a Stormwater Management Plan and Hydrology Study to the Department for review and approval, except as provided in Section 4 of this Part.

B. A combination of storage and controlled release of stormwater runoff shall be required for all development and construction that will increase the peak runoff from the site by more than one cubic foot per second for a ten-year storm. The requirement of this paragraph may be waived by the Director ("Director" includes designee) if detailed engineering including descriptions, drawings, calculations and any other pertinent information prove to the Director that one of the following exists:

1. The installation of stormwater management facilities would reduce downstream flood peaks by less than 1%; or
2. The applicant demonstrates the downstream drainage system will have enough capacity to receive increase in runoff for the design storms and protect downstream without addition or improvement of stormwater management facilities; or
3. The applicant demonstrates the proposed design will meet the standards of this Chapter without such facilities.

However, the provisions of this Paragraph B shall not be waived if the Director determines that such waiver would increase known flooding problems, or exceed the capacity of the downstream drainage system.

4. Exemption

A. The following development activities are exempt from the requirements of a combination of storage and controlled release of stormwater runoff:

1. Agricultural and forestry land management activities.
2. Additions or modifications to existing detached single-family dwellings.
3. Construction of a detached single-family dwelling not part of a larger development.

4. Non-residential developments with less than 5000 square feet of land disturbance activity.

5. Developments of property where the runoff resulting from the proposed development is discharged directly into a FEMA identified 100-year flood zone, provided that approved Sediment Basins are constructed at each significant discharge point to prevent discharge of sediment from the site, and sufficient energy dissipation devices or structures are installed to limit post development stormwater velocities to less than or equal to pre-development flow velocities at any point on the perimeter of the project.

6. Residential developments consisting of single-family dwellings, each on a lot of 5 acres or more.

B. When the developer requests and the Department agrees that development and construction of nonresidential projects are too small, or that engineering and economic factors make combined detention of other drainage facilities more practical, the Department may authorize joint construction of these facilities to serve two or more properties by two or more developers. Where joint detention facilities serving two or more properties are approved for construction, no use of land or occupancy of building in the properties served by these facilities shall be permitted until completion of the detention facility, and the owners of the joint detention facility have submitted a written agreement that is satisfactory to the Department and assigns to one of the parties the responsibility of maintaining that facility.

5. Requirements for Stormwater Management Plan

A. Stormwater detention facilities shall be constructed per plans approved by the Department and shall be in place and inspected prior to the issuance of a certificate of occupancy or acceptance of a Final Plat.

B. The Plan shall be prepared under the supervision of, and certified by, a Professional Engineer, Landscape Architect or a Registered Land Surveyor per O.C.G.A. 43-15-2, with competency in Hydrology and Hydraulics, currently registered in Georgia. The Plan shall include sufficient information to evaluate the environmental characteristics of the affected areas, the potential impacts of the proposed development on water resources, and the effectiveness and acceptability of measures proposed for managing stormwater runoff. The Stormwater Management Plan, or applications for a variance or waiver, shall include a site plan drawn to a scale of not less than 1 inch = 100 feet and the following:

1. Graphic scale, north arrow and date.
2. Vicinity map showing site location relative to surrounding landmarks, highway intersections, rivers, and streams.
3. Topography showing existing and proposed elevations per the following:
 - a. For sites with slopes less than 2%, show contours at intervals of not more than 2 feet and spot elevations at all breaks in grade along drainage channels or swales at selected points not more than 50 feet apart.
 - b. For sites with slopes 2+ percent, show contours with an interval of not more than 5 feet.
 - c. Elevation shall be based on the datum plane established by the USGS.

C. Delineation of property lines and deed record names of adjacent property owners.

D. Location of Existing Structures.

1. Location and right-of-way of streets, roads, railroads and utility lines, either on or adjacent to the property to be developed. Specify if utility lines are in easements or right-of-way and show location of towers and poles.
2. Size and location of existing sewers, water mains, storm drains, culverts, and other underground facilities in the tract or in the right-of-way of adjoining streets/roads. Show grades and invert elevations of storm drains, sewers and culverts.

E. Proposed Conditions

1. Layout of streets, roads, drives, paved areas, and public crosswalks, with widths, road names or designations.
2. Location of structures.
3. Proposed storm sewer system with grade, pipe size, and location of outlet, both in plan and profile.
4. Delineation of drainage areas to be routed through drainage structure and/or stormwater management facility.
5. Plans for detention facilities shall show existing and proposed contours with a contour interval per Paragraph 3 of this Section. The plans shall include sufficient information indicating positive drainage (dry-basins), top of wall or dam to insure adequate freeboard for 100-year peak stage (minimum 1'), width of dam crest (minimum 8'), limits of ponding, maximum ponding elevation, location of facility with respect to property lines, public right-of-way, easements, and details of outlet device, dam or wall and other provisions needed to insure safe, proper, and continued function of the facility.

F. Provide computations and supporting documentation of hydrologic and hydraulic analyses.

1. Analysis of drainage areas 50 acres and less in size may be performed using the Rational Method.
2. Analysis of drainage areas of 25 to 2,000 acres may be performed using SCS methods.
3. Analysis of drainage areas of 25 acres to 25 square miles may be performed using USGS methods.
4. Use of other methods will require prior approval from the Department.

G. Stormwater management plan shall provide the following for pre-development and post-development conditions:

1. The composite runoff curve number or runoff coefficient for the site.
2. Peak runoff rate at the point(s) of discharge for 2, 5, 10, 25, 50 and 100 year design frequency storm events.
3. The capacity of storm sewers, ditches, and other hydraulic structures.

H. A landscaping plan shall be submitted and reviewed for all detention and other storage facilities as part of the Plan.

I. The Planning Department shall review each Plan, and shall either approve, or reject and return comments for revision. The approval of any Plan shall not relieve the Developer from satisfying any and all requirements of this Part.

6. Hydrology Study Requirements

A. The hydrology study used in the Stormwater Management Plan shall consist of computations resulting in pre-developed and post-developed runoff rates for the 2, 5, 10, 25, 50, and 100-year frequency storms and contain the following:

1. Statement of method used (Rational, SCS, USGS, or derivative with prior approval from the Department).
2. Statement of all assumptions.
3. Calculations should be shown for time of concentration or lag time.
4. Calculations should be shown for all weighted C-factors or weighted curve numbers used.
5. Rainfall intensities and amounts are to be consistent with data for the Hancock County area.

B. Downstream Analysis Required

The analysis is to determine if flooding or drainage problems will occur as a result of the development or if existing flooding or drainage problems will be worsened. To provide a reasonable guide for downstream analysis, hydrologic-hydraulic engineering study shall extend downstream to a point where the development represents less than 10% of the total watershed draining to that point.

1. Hydrographs shall be generated for the following conditions:

- a. Design hydrographs from the developed land using undeveloped land use conditions.
- b. Design hydrographs from the development using developed land use conditions and routed through the proposed storage or other stormwater management facilities.
- c. Design hydrographs at the 10% point routed from the development using developed land use conditions in the development site.
- d. Design hydrographs from the entire drainage area to the 10% point using land use conditions as for the different design flows specified in this section.

2. Hydrographs at the exit to the development and the 10% point are compared and analyzed to show flows from the development will not be beyond the limits in this section, at the exit to the development and the 10% point.

3. A narrative shall describe the hydraulic characteristics of the drainage system downstream from the development, any restrictions, and any physical characteristics that might affect flows through the system to the 10% point.

C. All detention and/or retention facility plans shall be at a scale of not less than 1"= 50' with a maximum contour interval of 2'. Hereinafter where the term detention facility is used, the same criteria applies to a retention facility as well. The plans should be based on a stage-storage and controlled discharge design and contain the following:

1. Maximum storage requirements for the detention facility based on storage volume required for 100-year storm event.

2. The plans shall present all information needed for proper review and construction of the facility, including dimensions and contours as appropriate.

D. Design of Outlet Device

1. The outlet device shall be thoroughly detailed for proper construction. The design shall require minimal maintenance and provide maximum longevity.
2. Provide emergency overflow spillway in dam or outlet structure top.
3. If the outlet device utilizes orifice flow, a trash rack protecting the orifice from blockage from debris shall be provided for orifices 15" or less. Access shall be provided for maintenance in the form of a manhole or other suitable device and shall discourage and restrict human entry by bolt down lids or other positive means.
4. Discharge from detention facilities shall be a distance of at least 6x diameter of discharge pipe from any exterior property line. Rip-rap shall be placed accordingly.
5. Provide details of outlet devices and dam cross section on the construction drawings.
6. Indicate type and size of outlet pipes, along with detail drawings and specifications for all facilities.
7. Actual results from routing 2, 5, 10, 25, 50, and 100-year post-developed storm hydrographs through the facility.
8. Include a summary chart showing maximum pond elevation, storage required, and pre-developed and post-developed discharge rates for 2, 5, 10, 25, 50, and 100 year storms.

E. Acceptable stormwater management facilities are not limited to conventional facilities. Constructed wetlands, infiltration systems, and other innovative solutions are encouraged, so long as the intent of this Section is satisfied. Proposals for alternative systems shall be presented to the Director for tentative acceptability prior to formal submittal of a plan.

F. Stormwater retention facilities are recommended in all developments where possible, to improve water quality, enhance groundwater recharge and provide effective stormwater management and an aesthetically pleasing amenity area.

G. Design Criteria

1. The peak release rate of stormwater from all developments where detention is required shall not exceed the corresponding peak stormwater runoff rate from the area in its natural undeveloped state for all intensities up to the 50-year storm event. Routing conditions must be presented to prove the facility can safely accommodate and pass the 100-year storm event, without damage to any dam or related structure.
2. The same methodology must be used for calculating pre and post-development rates of runoff.
3. Detention designs may be rejected if they incorporate structures and facilities that will demand excessive maintenance or utilize numerous small structures, if other alternatives are physically possible.
4. Discharge velocities from detention facilities shall be reduced to provide a non-erosive flow.
5. Stormwater management and flood control facilities shall include structural + non-structural controls per 7-003B (14, 15).

H. Methods for estimating stormwater runoff, storage design and outlet structure design shall be implemented per the Georgia Stormwater Management Volume 2, Chapter 2.

7. Location Criteria for Detention Facilities

- A. Detention facilities consist of the area in the maximum design ponding limits, the dam including all slopes and wall footings, primary and emergency outlet works, any drainage and access easements, and any energy dissipation devices.
- B. Detention facilities shall be designed and located to promote interception of runoff from the land use. Areas of non-regulated runoff are permitted only if the combined peak discharge rate from the site meets Sections 5 and 6 of this Part.
- C. Detention facilities shall be located per the Georgia Erosion and Sedimentation Act of 1975 (12-7-6,16) and the Flood Damage Prevention Regulations.
- D. Detention facilities shall be located per the restrictions created by Title 404, Chapter 1, Subchapter B, Parts 59 and 60 of the Code of Federal Regulations, as amended.
- E. Detention facilities shall be located per the Clean Water Act of 1974 regulating land disturbing activities within designated wetland areas. (See Title 404 of the Federal Regulations)

F. Detention facilities may be constructed in a transitional buffer or recreation areas, on approval by the Planning Director on an individual basis dependent on site-specific conditions. Title to the recreation area is to be held by a property owners association, homeowners association or private entity and the design will not interfere with the intended use of the area. Detention facilities on individual lots will be owned and maintained by the property owner.

G. The 100-year ponding elevation created by the detention facility shall be considered a flood hazard and as such, shall require the same provisions as the base flood as defined by the Flood Damage Prevention Regulations of the County.

H. The drainage system from a development must discharge into an outfall with adequate capacity to accommodate the runoff. If downstream easements are needed to extend the drainage system to an adequate outfall, the developer shall obtain these easements.

I. Detention facilities may be incorporated in lake or pond designs. All such facilities shall be designed and constructed per all applicable regulations. Design engineers shall be knowledgeable of the Safe Dams Act, DNR "Rules for Dam Safety", and the U.S.D.A. Soil Conservation Service's Release No. 60, "Earth Dams and Reservoirs." The principles and practices for dam construction detailed in Design of Small Dams, US Department of the Interior Bureau of Reclamation, shall be used.

J. Parking lot detention areas shall be located to restrict ponding to areas other than parking spaces near buildings, and to not encroach on entrance drives. The maximum depth of detention ponding in a parking lot, except at a flow control structure, shall be 6" for a 10-year storm, and 9" for a 100-year storm. The maximum depth at a flow control structure shall be 12" for a 100-year storm. In tractor trailer truck parking areas, the maximum depth of ponding shall be 12" for the 10-year storm. Detention in ponding areas are to be drained within 30 minutes after peak flow.

K. The 100-year ponding limits of a detention facility shall not encroach on a public right-of-way. Roadway embankments will not be allowed as a dam for a detention facility.

L. Detention facilities may not be located in utility easements, or encroach on utility easements or right-of-way, unless the owner provides the Department with written permission from both the property and utility owners.

8. Access and Fencing Requirements

A. Access

1. A 20' access easement shall be provided to all stormwater management and detention facilities from a public right-of-way. In the easement shall be an access road of at least 12' in width. The road shall have a 12" base compacted to 95% of the Standard Proctor soil test and be grassed.

2. All storm water management and detention facilities shall have a minimum 10' drainage and access easement encompassing entire facility including the 100-year ponding limits and the entire dam. The area surrounding the facility shall be for maintaining the facility.

3. Storm water detention facilities shall be constructed per plans approved by the County and in place and inspected prior to a certificate of occupancy or acceptance of a Final Plat.

B. Fencing

1. Except as in subsection (B)(2) below, a 4' chain link fence will be required for every stormwater detention facility, with double 8-foot wide gates (16 feet total opening) to permit entrance of equipment necessary for periodic maintenance.

2. A 4' chain link fence will not be required when the stormwater detention facility meets one of the following criteria:

a. When 70%+ of the side slopes are not steeper than a slope of four horizontal to one vertical.

b. When the maximum depth of the pond is less than three feet in the one hundred year frequency event.

c. When the planned facility is a retention facility and the maximum depth change from the normal water surface elevation to the one-hundred year flood frequency event is less than or equal to four feet.

d. When a culvert is downsized to provide stormwater detention through a natural area where the existing topography has not been altered.

e. When the site in which the pond is to be constructed is industrial and is more than 500' from residential or publicly owned property (excluding right-of-way).

9. Maintenance of Stormwater Management Facilities

A. The maintenance of any such Facility (including piped systems and other drainage facilities) shall be the responsibility of the homeowners association of residential subdivision developments or property owner of commercial development, with responsibility clearly vested in the organization through established covenants previously approved by the Director. The County maintains the right, but not the responsibility to access any stormwater management facility for maintenance.

B. Regional stormwater retention facilities, an essential and integral part of the County stormwater management plan, may be maintained by the County. To facilitate the maintenance of said facilities, a drainage easement shall be provided which will encompass the 100 year flood elevation contour plus 20'. The 20' shall be measured horizontally outward from the 100 year flood elevation contour. An improved access easement shall be provided from an existing or proposed right-of-way to the facility as required in Paragraph 8 of 7-003B.

C. A stormwater retention facility shall satisfy the requirements herein. The shorelines must be graded so there is not a sudden change in elevation. The banks of the impoundment beyond the normal pool contour shall be graded not steeper than a 6 horizontal to 1 vertical. A retention facility shall have periodic maintenance of the outlet structure and the dam.

D. All stormwater detention facilities shall be graded for positive drainage, minimum slope along the bottom shall be 2%.

E. Inspection and Maintenance Agreement:

1. An inspection and maintenance agreement shall be executed for all stormwater management facilities prior to Final Plat approval. Such agreement shall be acceptable to the Director, and provide that all maintenance and repairs of such facilities shall be the responsibility of the developer, property owner, or other entity approved by the County.

2. Such agreement shall provide for access by a non-exclusive perpetual easement to the County for periodic inspections of the facility. This may include an inspection during the first year of operation and every 2 years thereafter.

3. The agreement shall provide if a facility presents a danger, County shall have the right, but not the duty, to take action necessary to make the facility safe. Any cost by the County shall be paid by the owner as set forth in Paragraph 4 below.

4. The agreement shall provide that the County shall notify the owner(s) of any violation, deficiency or failure to comply with this Division. The agreement shall also provide that upon a failure to correct violations within 14 days after notice, the County may provide for all necessary work to place the facility in proper condition. The owner(s) shall be assessed the costs of the work per this subsection and there shall be a lien on all property of the owner in which said property utilizes or will utilize such facility in achieving stormwater management, which lien, when filed in Hancock County real estate records, shall have the same priority as liens for ad valorem taxes. Portions of the affected property may be released by the County following the payments of such owner's pro-rata share of the lien based on the acreage to be released, with such release amount to be determined by the Director.

5. The agreement shall be recorded by the owner in the land records of Hancock County prior to the Final Plat approval or the issuance of any building permit for the subject property(s).

10. Maintenance of Pre-Existing Stormwater Facilities

All stormwater management facilities in the County may be maintained by the County to be assured such are safe, to reduce damage to property, to reduce erosion, to assist in the attainment and maintenance of water quality standards, to reduce local flooding, and to maintain, as nearly as possible, the pre-existing development runoff characteristics of the area.

11. Performance Bond

A. Stormwater management facilities shall be constructed before other clearing and grading activities unless the Director approves. The Director may allow limited construction only after the applicant has provided suitable performance surety.

B. When required stormwater facilities have not yet been constructed, and a valid performance bond is in effect, the Director may issue a maximum of 5 building permits for a residential development, if adequate measures are in place to satisfy this Section.

C. The performance bond or other securities shall not be released until the following requirements have been met:

1. The Director, or designee, shall perform a final inspection of the facilities and determine they have been constructed per the Stormwater Management Plan, and this Part.

2. It has been determined that all provisions of the Stormwater Management Plan have been faithfully executed.

3. Provision may be made for partial release of bond pro-rata on acceptance of stages of development as delineated in the Stormwater Management Plan. The applicant shall notify the Department when ready for inspection.

12. Inspection

A. The Director shall determine whether development is proceeding per the approved Stormwater Management Plan. Periodic inspection of the development site shall be made by the Director, or designee, to ensure that the Stormwater Management Plan is properly implemented.

B. The Director and other duly authorized employees bearing proper credentials and identification shall be permitted to enter all properties for inspection, observation, and management per this Part.

C. Prior to approval of final plat or a Certificate of Occupancy, the developer shall provide certification by a Professional Engineer registered in Georgia, that the facility has been constructed per the approved plan and will effectively control post development peak flow and velocities to less than or equal to pre-development conditions for the 2, 5, 10, 25 and 50-year storm events, and can safely accommodate and pass the 100-year storm event without damage to the facility.

13. Enforcement

A. If work does not conform to the approved Stormwater Management Plan and inspection, the developer shall be subject to any and all applicable enforcement and violation procedures outlined in this Part.

B. If the developer continues in non-compliance with the Plan following a stop-work order or other violation, the performance bond or other surety posted shall be forfeited in favor of the County.

14. Structural Stormwater Controls

Structural stormwater controls are to be designed and implemented per the Georgia Stormwater Management Manual.

15. Non-Structural Stormwater Controls

Non-Structural stormwater controls are to be per the Georgia Stormwater Management Manual.

16. Stormwater Management Planning and Design (Section 250)

Stormwater management standards for new development, redevelopment and hotspots as well as site planning and site design shall be per the Georgia Stormwater Management Manual.

Section 7-003C Flood Damage Prevention

ARTICLE 1. STATUTORY AUTHORIZATION, FINDINGS OF FACT, PURPOSE, OBJECTIVES

A. AUTHORIZATION

Article IX, Section II of the Constitution of Georgia and OCGA 36-1-20(a) have delegated the responsibility to local governmental to adopt regulations to promote the public health, safety, and general welfare. The Board of Commissioners does ordain as follows:

B. FINDINGS OF FACT

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

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

C. STATEMENT OF PURPOSE

It is the purpose of this ordinance to minimize public and private losses due to flood conditions by provisions designed to:

- (1) require that uses vulnerable to floods, and facilities which serve such uses, be protected against floods at initial construction;
- (2) restrict or prohibit uses dangerous to health, safety and property due to water or erosion hazards, or which increase flood heights, velocities, or erosion;
- (3) control filling, grading, dredging and other development which may increase flood damage or erosion;
- (4) prevent or regulate the construction of flood barriers which will unnaturally divert flood waters or which may increase flood hazards to other lands; and
- (5) control alteration of natural floodplains, stream channels and natural protective barriers, involved in accommodation of floods.

D. OBJECTIVES

The objectives of this Section are:

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

ARTICLE 2. GENERAL PROVISIONS

A. LANDS TO WHICH THIS SECTION APPLIES

This shall apply to all Areas of Special Flood Hazard within Hancock County.

B. BASIS FOR AREA OF SPECIAL FLOOD HAZARD

The Areas of Special Flood Hazard identified by FEMA in its current Flood Insurance Study (FIS), with accompanying maps and other supporting data and any revision thereto, are adopted by reference and declared a part hereof. Areas of Special Flood Hazard may also include areas known to have flooded historically or defined through standard engineering analysis by governmental agencies or private parties but not yet incorporated in a FIS. The Repository for public inspection of the Flood Insurance Study (FIS), accompanying maps and other supporting data is located in Hancock County Commissioners Office.

C. ESTABLISHMENT OF DEVELOPMENT PERMIT

A Development Permit shall be required per this ordinance PRIOR to the commencement of any Development activities.

D. COMPLIANCE

No structure or land shall be located, extended, converted or altered without full compliance herewith.

E. ABROGATION AND GREATER RESTRICTIONS

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

F. INTERPRETATION

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

G. WARNING AND DISCLAIMER OF LIABILITY

The degree of flood protection required is considered reasonable for regulatory purposes and based on scientific and engineering considerations as determined by GA EPD. Larger floods can and will occur; flood heights may be increased by man-made or natural causes. This ordinance does not imply that land outside the Areas of Special Flood Hazard or uses permitted within such areas will be free from flooding or flood damages. This ordinance shall not create liability on the part of Hancock County or by any officer or employee thereof for flood damages that result from reliance on this Section or any administrative decision made hereunder.

H. PENALTIES FOR VIOLATION

Failure to comply herewith, including conditions and safeguards established in connection with variance or special exceptions, shall constitute a violation. Any person who violates this Section or fails to comply with any of its requirements shall, upon conviction, be fined not more than \$1000 per day, per violation, and in addition, shall pay all costs and expenses in the case. Nothing herein shall prevent Hancock County from taking such other lawful actions as is necessary to prevent or remedy any violation.

ARTICLE 3. ADMINISTRATION

A. DESIGNATION OF ORDINANCE ADMINISTRATOR

The Hancock County Planning Department is appointed to administer and implement the provisions of this ordinance.

B. PERMIT PROCEDURES

Application for a Development Permit shall be made to the Planning Department PRIOR to any development activities, and shall include: plans in duplicate drawn to scale showing the elevations of the area in question and the nature, location, dimensions, of existing or proposed structures, earthen fill placement, storage of materials or equipment, and drainage facilities. Specifically, the following information is required:

(1) Application Stage -

- (a) Elevation in relation to mean sea level (or highest adjacent grade) of the lowest floor, including basement, of all structures;
- (b) Elevation in relation to mean sea level to which any non-residential structure will be flood-proofed;
- (c) Design certification from a registered professional engineer or architect that any proposed non-residential flood-proofed structure will meet the flood-proofing criteria of Article 4, Section B (2);
- (d) Description of the extent to which any watercourse will be altered or relocated as a result of a proposed development, and;

(2) Construction Stage -

For new construction and substantial improvements, the permit holder shall provide the Administrator an as-built certification of the regulatory floor elevation or flood-proofing level immediately after the lowest floor or flood proofing is completed. Any lowest floor certification shall be prepared by or under the direct supervision of a registered land surveyor or professional engineer and certified by same. When flood proofing is utilized for non-residential structures, said certification shall be prepared by or under the direct supervision of a professional engineer or architect and certified by same.

Any work prior to submission of these certifications shall be at the permit holder's risk. The Planning Department shall review the above referenced certification data submitted. Deficiencies detected by such review shall be corrected by the permit holder immediately and prior to further work being allowed. Failure to submit certification or make said corrections shall be cause to issue a stop-work order.

C. DUTIES AND RESPONSIBILITIES OF THE ADMINISTRATOR

Duties of the Hancock County Planning Department shall include, but shall not be limited to:

- (1) Review proposed development to assure the permit requirements of this Section have been satisfied.
- (2) Review proposed development to assure all necessary permits have been received from governmental agencies from which approval is required by law, including section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1334.
- (3) Review all permit applications to determine whether proposed building sites will be reasonably safe from flooding.
- (4) When Base Flood Elevation data or floodway data have not been provided per Article 2 Section B, then the Planning Department shall obtain, review and reasonably utilize any base flood elevation and floodway data available to administer Article 4.
- (5) Review and record the actual elevation in relation to mean sea level (or highest adjacent grade) of the lowest floor, including basement, of all new or substantially improved structures per Article 3, Section B (2).
- (6) Review and record the actual elevation, in relation to mean sea level, to which any new or substantially improved structures have been flood-proofed, per Article 3, Section B (2).
- (7) When flood-proofing is utilized for a structure, the Planning Department shall obtain certification of design criteria from a registered professional engineer or architect per Article 3(B)(1)(c) and Article 4(B)(2) or (D)(2).
- (8) Make substantial damage determinations following a flood or other event that causes damage to structures in flood hazard areas.
- (9) Notify adjacent communities and DNR prior to any alteration or relocation of a watercourse and submit evidence of such to FEMA.
- (10) For any altered or relocated watercourse, submit engineering analysis within 6 months to FEMA to ensure accurate community flood maps through the Letter of Map Revision process. Assure ample flood carrying capacity of any altered or relocated watercourse.
- (11) Where interpretation is needed of the exact location of boundaries of the Areas of Special Flood Hazard, the Planning Department shall make the interpretation. Any person contesting it shall be given a reasonable opportunity to appeal.
- (12) All records pertaining hereto shall be maintained in the office of the Planning Department and open for public inspection.

ARTICLE 4. PROVISIONS FOR FLOOD HAZARD REDUCTION

A. GENERAL STANDARDS

In ALL Areas of Special Flood Hazard the following provisions are required:

- (1) New construction and substantial improvements shall be anchored to prevent flotation, collapse or lateral movement;
- (2) New construction and substantial improvements shall be constructed with material and utility equipment resistant to flood damage;
- (3) New construction or substantial improvements shall be constructed by methods and practices that minimize flood damage;
- (4) Elevated Buildings - All New construction or substantial improvements that include ANY fully enclosed area below the lowest floor formed by foundation and other exterior walls shall be an unfinished or flood resistant enclosure. The enclosure shall be designed to equalize hydrostatic flood forces on exterior walls by allowing for the automatic entry and exit of floodwater.
 - (a) Designs for complying with this requirement must be certified by a professional engineer or architect or meet the following:
 - (i) Minimum of two openings having a total net area not less than one square inch for every square foot of enclosed area subject to flooding;
 - (ii) The bottom of all openings shall be no higher than one foot above grade; and,
 - (iii) Openings may be equipped with screens or other devices if they permit the automatic flow of floodwater in both directions.
 - (b) So as not to violate the "Lowest Floor" criteria hereof, the unfinished or flood resistant enclosure shall only be used for parking vehicles, limited storage of maintenance equipment used in connection with the premises, or entry to the elevated area, and
 - (c) The interior of such enclosed area shall not be partitioned or finished into separate rooms.
- (5) All heating and air conditioning equipment and components (including ductwork), all electrical, ventilation, plumbing, and other service facilities shall be designed and/or located to prevent water from entering or accumulating in the components during flooding.
- (6) Manufactured homes shall be anchored to prevent flotation, collapse, or movement. Anchoring may include over-the-top or frame ties to ground anchors. This shall be in addition to and consistent with applicable State requirements for resisting wind.
- (7) New and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters;
- (8) Sewage systems shall minimize or eliminate infiltration of floodwaters and discharges from the systems into flood waters;
- (9) On-site waste disposal systems shall be located and constructed to avoid impairment or contamination during flooding, and;
- (10) Any alteration or repair to a structure not compliant herewith, shall be done only if the non- conformity is not extended or replaced.

B. SPECIFIC STANDARDS

In ALL Areas of Special Flood Hazard the following provisions are required:

- (1) Residential construction, substantial improvements - Where base flood elevation data are available, construction and/or substantial improvement shall have the lowest floor, including basement, elevated no lower than 1' above the base flood elevation. Should solid foundation perimeter walls be used to elevate a structure, openings sufficient for equalization of flood hydrostatic forces on both sides of walls shall be provided per standards of Article 4, Section A (4), "Elevated Buildings". All HVAC equipment and components, all electrical, ventilation, plumbing, and other service facilities shall be at or above 1' above base flood elevation.
- (2) Non-Residential Construction - May be flood-proofed in lieu of elevation. The structure, together with utility and sanitary facilities, must be designed to be water tight to 1' above base flood elevation, with walls substantially impermeable to water, and structural components having the capability of resisting hydrostatic and hydrodynamic loads and buoyancy. A registered professional engineer or architect shall certify that the design and construction are per accepted standards of practice for meeting such, and shall provide such certification.
- (3) Standards for Manufactured Homes and Recreational Vehicles - Where base flood elevation data are available:
 - (a) All manufactured homes placed and/or substantially improved on: (1) individual lots or parcels, (2) in new and/or substantially improved manufactured home parks or subdivisions, (3) in expansions to existing manufactured home parks or subdivisions, or (4) in an existing manufactured home park or subdivision where a manufactured home has incurred "substantial damage" as the result of a flood, must have the lowest floor including basement, elevated no lower than 1' above the base flood elevation.
 - (b) Manufactured homes placed and/or substantially improved in an existing manufactured home park or subdivision may be either:
 - (i) The lowest floor of the manufactured home is elevated no lower than 1' above the level of the base flood elevation, or
 - (ii) The manufactured home chassis is elevated and supported by reinforced piers (or other foundation elements of at least an equivalent strength) of no less than 36 inches in height above grade.

(c) All manufactured homes must be securely anchored to an adequately anchored foundation system to resist flotation, collapse and lateral movement. (Ref. 4(A)(6) above)

(d) All recreational vehicles placed on sites must either:

(i) Be on the site for fewer than 180 consecutive days.

(ii) Be fully licensed and ready for highway use (ready for highway use if it is on its wheels or jacking system, attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached structures or additions), or

(iii) The RV must meet all requirements for "New Construction", including anchoring and elevation requirements of 4, B (3)(a-c).

(4). Floodway - Located in Areas of Special Flood Hazard established in Article 2, Section B, are areas designated as floodway. The area must remain free of encroachment to allow for discharge of the base flood without increased flood heights. Encroachments are prohibited, including earthen fill, new construction, substantial improvements or other development in the floodway. Development may be permitted only if hydrologic and hydraulic analyses per standard engineering practice show the encroachment shall not result in any increase in flood levels or floodway widths during a base flood discharge. A registered professional engineer must provide supporting technical data and certification thereof. Any new construction or substantial improvement shall comply with all other applicable flood hazard reduction provisions of Article 4.

C. BUILDING STANDARDS FOR STREAMS WITHOUT ESTABLISHED BASE FLOOD ELEVATIONS AND/OR FLOODWAY

Located in the Areas of Special Flood Hazard established in Article 2, B, where streams exist but no base flood data have been provided, OR where base flood data have been provided but a Floodway has not been delineated, the following provisions apply:

(1) When base flood elevation data or floodway data have not been provided per Article 2(B), the Planning Department shall obtain, review, and reasonably utilize any scientific or historic base flood elevation and floodway data to administer the provisions of Article 4. ONLY if data are not available from these sources, then the following provisions (2&3) shall apply:

(2) No encroachments, including structures or fill material, shall be located in an area equal to the width of the stream or 20', whichever is greater, measured from top of the stream bank, unless certification by a registered professional engineer is provided demonstrating that such encroachment shall not result in more than a 1' increase in flood levels during the base flood discharge.

(3) In special flood hazard areas without base flood elevation data, new construction and substantial improvements of existing structures shall have the lowest floor of the lowest enclosed area (including basement) no less than 3' above highest adjacent grade at the building site. The lowest floor shall be 1' above the estimated base flood elevation in areas where a Limited Detail Study has been completed. Openings sufficient to facilitate the unimpeded floodwaters shall be provided per Article 4, A (4) "Elevated Buildings".

(a) All HVAC equipment and components, all electrical, ventilation, plumbing, and other service facilities shall be no less than 3' above the highest adjacent grade.

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

D. STANDARDS FOR AREAS OF SPECIAL FLOOD HAZARD WITH ESTABLISHED BASE FLOOD ELEVATIONS WITHOUT DESIGNATED FLOODWAYS

In Areas of Special Flood Hazard in Article 2, B, where base flood elevations are provided but no floodways have been designated, the following apply:

1. No encroachments, including fill, new structures or substantial improvements shall be located in areas of special flood hazard, unless certification by a registered professional engineer is provided demonstrating the cumulative effect of the development, combined with all other existing and anticipated development, will not increase the water elevation of the base flood more than 1' at any point in the development. The certification shall be supported by technical data that conforms to standard hydraulic engineering principles.

2. New construction or substantial improvements of buildings shall be elevated or flood-proofed to elevations per Article 4, B.

E. STANDARDS FOR AREAS OF SHALLOW FLOODING

Areas of Special Flood Hazard established in Article 2, B, may include designated shallow flooding areas. These areas have base flood depths of 1-3' above ground, with no clearly defined channel. The following apply:

(1) All new construction and substantial improvements of residential and non-residential structures shall have the lowest floor, including basement, elevated to the flood depth number specified on the Flood Insurance Rate Map (FIRM), above the highest adjacent grade. If no flood depth is specified, the lowest floor, including basement, shall be elevated at least 3' above the highest adjacent grade. Openings sufficient to facilitate the movements of flood waters shall be per Article 4, A (4), "Elevated Buildings". The Planning Department shall certify the lowest floor elevation level and the record shall become a permanent part of the permit file.

(2) New construction or substantial improvement of a non-residential structure may be flood-proofed in lieu of elevation. The structure, together with attendant utility and sanitary facilities, must be water tight to the specified FIRM flood level plus 1' above highest adjacent grade, with walls substantially impermeable to water, and structural components having the capability of resisting hydrostatic and hydrodynamic loads and buoyancy. A registered professional engineer or architect shall certify the design and methods of construction are per accepted practice for meeting the provisions above, and shall provide such certification as set forth above and as required in Articles 3(B)(1)(c) and 3(B)(2).

(3) Drainage paths shall be provided to guide floodwater around and away from any proposed structure.

F. STANDARDS FOR SUBDIVISIONS

- (1) All subdivision and/or development proposals shall be consistent with the need to minimize flood damage;
- (2) All subdivision and/or development proposals shall have utilities and facilities located and constructed to minimize flood damage;
- (3) All subdivision and/or development proposals shall have adequate drainage to reduce exposure to flood hazards, and;

For subdivisions and/or developments greater than either *fifty lots or five acres*, whichever is less, base flood elevation data shall be provided for subdivision and all other proposed development, including manufactured home parks and subdivisions. Any changes or revisions to the flood data adopted herein and shown on the FIRM shall be submitted to FEMA for review as a Conditional Letter of Map Revision (CLOMR) or Conditional Letter of Map Amendment (CLOMA), whichever is applicable. Upon completion of the project, the developer is responsible for submitting the "as-built" data to FEMA in order to obtain the final LOMR.

G. STANDARDS FOR CRITICAL FACILITIES

Critical facilities shall not be in the 100 or 500-year floodplain. All access therefrom must be protected to the 500-year flood elevation.

ARTICLE 5. VARIANCE PROCEDURES

- A) The Board of Zoning Appeals shall hear and decide requests for appeals or variance herefrom. The Board is a 5 person body appointed by the Board of Commissioners for staggered 3 year terms.
- B) The Board shall hear and decide appeals when it is alleged an error in any requirement, decision, or determination is made by the Planning Department in the enforcement or administration hereof.
- C) Any person aggrieved by the decision of the Board may file a petition for certiorari to the Superior Court.
- D) Variances may be issued for repair or rehabilitation of Historic Structures upon a determination that the variance is the minimum to preserve the historic character and design of the structure.
- E) Variances may be issued for development necessary for a functionally dependent use, provided the criteria of this Article are met, no reasonable alternative exists, and the development is protected by methods that minimize flood damage during the base flood and create no additional threats to public safety.
- F) Variances shall not be issued in any designated floodway if ANY increase in levels during base flood discharge would result.
- G) In reviewing such requests, the Board shall consider all technical evaluations, relevant factors, and all standards specified in this and other sections hereof.
- H) Conditions for Variances:
 - (1) A variance shall be issued ONLY when there is:
 - (i) a finding of good and sufficient cause,
 - (ii) a determination that failure to grant the variance would result in exceptional hardship, and;
 - (iii) a determination that grant of a variance will not result in increased flood heights, additional threats to public safety, public expense, nuisance, fraud on or victimization of the public, or conflict with existing local laws or ordinances.
 - (2) The provisions hereof are minimum standards for flood loss reduction; therefore any deviation must be weighed carefully. Variances shall only be issued upon a determination that the variance is the minimum necessary to afford relief.
 - (3) Any applicant to whom a variance is granted shall be given written notice of the difference between the base flood elevation and the elevation of the proposed lowest floor and stating that the cost of flood insurance will increase with the increased risk.
 - (4) The Planning Department shall maintain the records of all appeal actions and report any variances to FEMA on request.

l) Upon consideration of the factors above and the purposes hereof, the Board may attach such conditions to the granting of variances as it deems necessary to further the purposes hereof.

ARTICLE 6. DEFINITIONS

Unless specifically defined below, words shall be interpreted to give them the meaning they have in common usage and to give this Section its most reasonable application.

"Appeal" means a request for a review of the Planning Department's interpretation hereof.

"Area of shallow flooding" means a designated Zone on a community's FIRM with base flood depths 1-3', and/or where a clearly defined channel does not exist, where the path of flooding is unpredictable and indeterminate, and where velocity flow may be evident.

"Area of special flood hazard" is land in the floodplain subject to a 1%+ chance of flooding in any given year. In the absence of official designation by the FEMA, shall be designated by the County and referenced in Article 2, B.

"Base flood," means the flood having a 1% chance of being equaled or exceeded in any given year.

"Base Flood Elevation (BFE)" The elevation shown on the FIRM for various Zones that indicates the water surface elevation resulting from a flood that has a 1% chance of equaling or exceeding that level any given year.

"Critical Facility" means any facility, which, if flooded, would create an added dimension to the disaster or would increase hazard to life and health. Critical facilities include those that produce, use, or store volatile, flammable, explosive, toxic, or water-reactive materials; hospitals, nursing homes and housing for the elderly; emergency operation centers or data storage centers which contain records or services that may become lost or inoperative during floods; generating plants and other principal points of utility lines.

"Development" means any man-made change to improved or unimproved real estate, including, but not limited to, buildings or other structures, mining, dredging, filling, grading, paving, excavating, drilling operations, and storage of materials or equipment.

"Expansion to an existing manufactured home park or subdivision" means the preparation of additional sites by the construction of facilities for servicing the lots, including utilities, streets, and either final site grading or the pouring of concrete pads.

"Flood" or "flooding" means partial or complete inundation of normally dry land areas from:

- (a.) the overflow of waters; or
- (b.) the unusual and rapid accumulation or runoff of surface waters from any source.

"Flood Hazard Boundary Map (FHBM)" means an official map of a community, issued by the Federal Insurance Administration, where the boundaries of areas of special flood hazard have been defined as Zone A.

"Flood Insurance Rate Map (FIRM)" means an official map of a community, issued by the Federal Insurance Administration, delineating the areas of special flood hazard and/or risk premium zones applicable to the community.

"Flood Insurance Study" the official report by the Federal Insurance Administration evaluating flood hazards and containing flood profiles and water surface elevations of the base flood.

"Floodplain" means any land area susceptible to flooding.

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

"Floodway" means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height.

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

"Highest adjacent grade" means highest natural elevation of the ground, pre-construction, adjacent to the foundation of a building.

"Historic Structure" means any structure Listed individually in the National Register of Historic Places or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing; Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district; Individually listed on a state inventory of historic places and determined as eligible by states with historic preservation programs which have been approved by the Secretary of the Interior; or Individually listed on a local inventory of historic places and determined as eligible by communities with historic preservation programs certified either: By an approved state program as determined by the Secretary of the Interior, or Directly by the Secretary of the Interior in states without approved programs.

Lowest floor means the lowest floor of the lowest enclosed area, including basement. An unfinished or flood resistant enclosure, used solely for parking, building access, or storage, in an area other than a basement, is not considered a building's lowest floor, provided that such enclosure is not built so as to render the structure in violation of other provisions of this code.

"Manufactured home park or subdivision" means land divided into two or more manufactured home lots for rent or sale.

"Recreational vehicle" means a vehicle built on a single chassis; 400 square feet or less when measured at the largest horizontal projection; designed to be self-propelled or permanently towable by a light duty truck; and designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

"Start of construction" means the date the development permit was issued, provided the actual start of construction, repair, reconstruction, or improvement was within 180 days of the permit date. The actual start means the first placement of permanent construction of the structure beyond excavation, and includes the placement of a manufactured home on a foundation. For a substantial improvement, start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

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

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

"Substantial damage" means damage sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50 % of the market value of the structure before the damage.

"Substantial improvement" means any reconstruction, rehabilitation, addition, or other improvement of a structure, during a 5-year period, in which the cost equals or exceeds fifty (50) percent of the market value of the structure prior to the "start of construction" of the improvement. NOTE: *The market value of the structure should be (1) the appraised value of the structure prior to the start of the initial repair or improvement, or (2) in the case of damage, the value of the structure prior to the damage occurring.* This term includes structures, which have incurred "substantial damage", regardless of the actual amount of repair work performed. It is considered to occur when the first alteration of any wall, ceiling, floor, or other structural part of the building commences, whether or not that alteration affects the external dimensions of the building. The term does not, however, include (1) improvements required to comply with existing violations of code specifications which are solely necessary to assure safe living conditions and which have been identified by the Code Enforcement Official, and not solely triggered by an improvement or repair project, or (2) alteration of a "historic structure."

"Substantially improved existing manufactured home parks or subdivisions" is where the repair, reconstruction, rehabilitation or improvement of the streets, utilities and pads equals or exceeds 50 percent of their value before it commenced.

"Variance" is a grant of relief from the requirements hereof, which permits construction in a manner otherwise prohibited hereby.

"Violation" means failure to be fully compliant with the floodplain management regulations. A structure or other development without the elevation certificate, or other certifications, or other evidence of compliance required hereby is presumed to be in violation until compliance documentation is provided.

Section 7-004 Non-Discrimination in Housing

It is the policy of the County to provide, within constitutional limitations, for fair housing. The purposes of this Section are:

- (1) To provide for execution of policies in Title VIII of Civil Rights Act, as amended by Fair Housing Amendments Act;
- (2) To safeguard all individuals from discrimination in any aspect relating to sale, rental, or financing of dwellings or brokerage services or facilities in connection with sale or rental of a dwelling because of race, color, religion, sex, disability, handicap, familial status, or national origin;
- (3) To promote elimination of discrimination in any aspect relating to sale, rental, or financing of dwellings or in the provision of brokerage services or facilities in connection with sale or rental of a dwelling because of a person's race, color, religion, sex, disability or handicap, familial status, or national origin; and
- (4) To promote the protection of each individual's interest in personal dignity and freedom from humiliation and the individual's freedom to take up residence wherever such individual chooses; to secure the County against domestic strife and unrest which would menace its democratic institutions; to preserve the public safety, health, and general welfare; and to further the interests, rights, and privileges of individuals in the County.

Per OCGA 8-3-220, entitled Adoption of local ordinances, the County incorporates by reference and adopts verbatim the laws against discriminatory housing practices in OCGA Title 8, Chapter 3, Article 4, including those cited in Code Section 8-3-202, 8-3-203, 8-3-204, 8-3-205, or 8-3-222, and does not expand or reduce the rights granted thereby.

Section 7-005 Building Construction

1. Intent. The Uniform Codes Act is at chapter 2 of title 8 of the O.C.G.A. 8-2-20(9)(B) identifies "state minimum standard codes". Each of these separate codes typically consists of a base code (The International Code published by the International Code Council) and Georgia amendments to the base code. <http://www.dca.state.ga.us/development/constructioncodes/programs/codes2.asp>. County permit processes for HVAC, plumbing or electrical systems must conform certain mandatory requirements. See O.C.G.A. § 48-13-29.

2. Codes Enforced. Hancock County shall enforce the latest edition of the following Codes and the appendices identified for said Codes, as adopted and amended by the Georgia Department of Community Affairs: Georgia State Minimum Standard Building Code (International Building Code with Georgia State Amendments); Georgia State Minimum Standard One and Two Family Dwelling Code (International Residential Code for One- and Two-Family Dwellings with Georgia State Amendments); Georgia State Minimum Standard Fire Code (International Fire Code with Georgia State Amendments); Georgia State Minimum Standard Plumbing Code (International Plumbing Code with Georgia State Amendments); Georgia State Minimum Standard Mechanical Code (International Mechanical Code with Georgia State Amendments); Georgia State Minimum Standard Gas Code (International Fuel Gas Code with Georgia State Amendments); Georgia State Minimum Standard Electrical Code (National Electrical Code); Georgia State Minimum Standard Energy Code (International Energy Conservation Code with Georgia State Supplements and Amendments).

Section 7-006 Building Code Administration and Enforcement

1. Purpose

1.1 General. This is to provide for the administration and enforcement of the State Minimum Standard Codes ("technical codes"). The County adopts administrative procedures in order to enforce them (O.C.G.A. 8-2-25(a)). The power to adopt these administrative procedures is in O.C.G.A. 8-2-26(a)(1). These include procedural requirements for enforcement of the codes, provisions for hearings, provisions for appeals from decisions of local inspectors, and any other procedures necessary for the proper local administration and enforcement of the state minimum standard codes. These powers include: Inspecting buildings and other structures to ensure compliance with the code; Employing inspectors and other personnel necessary for the proper enforcement of codes; and Requiring permits and to establishment charges for said permits.

1.2 Code Remedial. These codes and all inspections conducted and permits issued hereunder are remedial, and shall be construed to secure the beneficial interests and purposes thereof - public safety, health and general welfare - through structural strength, stability, sanitation, adequate light and ventilation, and safety to life and property from fire and other hazards attributed to the built environment including alteration, repair, removal, demolition, use and occupancy of buildings, structures or premises, and by regulating installation and maintenance of all electrical, gas, mechanical and plumbing systems ("service systems").

1.3 Quality Control. Quality control of materials and workmanship is not covered hereby except as it relates to purposes herein.

1.4 Permitting and Inspection. The inspection or permitting of any building, system or plan, under this Code shall not be construed as a warranty of the physical condition of such building, system or plan or their adequacy. Neither the County nor any employee shall be liable for damages for any defect or hazardous or illegal condition or inadequacy in such building, system or plan, nor for any failure of any component of such, which may occur subsequent to such inspection or permitting.

2. Scope

2.1 Applicability. Where different sections of these codes specify different materials, methods of construction or other requirements, the most restrictive shall govern. Where there is a conflict between a general and a specific requirement, the specific requirement shall be applicable.

2.2 Federal and State Authority. This Section shall not deprive any Federal or State agency, or any applicable governing authority having jurisdiction, of any power or authority it had on the effective date hereof or of any remedy than existing for the enforcement of its orders, nor shall it deprive any individual or corporation of its legal rights as provided by law.

2.3 Appendices. Appendices referenced in the code text of the technical codes shall be considered an integral part of the codes.

2.4 Referenced Standards. Standards referenced in the text of technical codes shall be considered an integral part of the codes. If specific portions of a standard are denoted by code text, only those portions of the standard shall be enforced. If code provisions conflict with a standard, code provisions shall be enforced. Permissive provisions in a standard shall not be construed as mandatory.

2.5 Maintenance. All buildings, structures, electrical, gas, mechanical and plumbing systems, both existing and new, and all parts thereof, shall be maintained in a safe and sanitary condition. All devices or safeguards which are required by the technical codes when constructed, altered, or repaired, shall be maintained in good working order. The owner, or his designated agent, shall be responsible for the maintenance of buildings, structures, electrical, gas, mechanical and plumbing systems.

3. Building Department

3.1 General. There is hereby established a department to be called the Building Department and the person in charge shall be known as the Building Inspector. The qualifications for the Building Inspector and other Code enforcement personnel are to be established by the Chairman, upon concurrence of the Board of Commissioners.

3.2 Restrictions on Employees. An officer or employee of the department shall not be financially interested in the furnishing of labor, material, or appliances for the construction, alteration, or maintenance of a building, structure, service, system or in the making of plans or of specifications thereof, unless he is the owner of such. This officer or employee shall not engage in any work inconsistent with his duties or conflict with the interests of the department.

3.3 Records. The Building Inspector shall keep, or cause to be kept, a record of the business of the department.

3.4 Liability. Any officer or employee shall not thereby render himself personally liable, and is hereby relieved from all personal liability, for any damage that may occur as a result of any act in the discharge of his duties. Any suit against any officer or employee or member because of such act performed in good faith shall be defended by the County until the final termination of the proceedings.

3.5 Reports. The Building Inspector shall submit a report of the work of the building department during the preceding year.

4. Existing Buildings

4.1 General. Alterations, repairs or rehabilitation work may be made to any existing structure, building, electrical, gas, mechanical or plumbing system without requiring the entire building, structure, plumbing, electrical, mechanical and gas systems to fully comply with all the requirements of the technical codes, provided, however, that the alteration, repair or rehabilitation work must conform to the requirements of the technical codes for new construction. The Building Inspector shall determine the extent to which the existing system shall be made to conform to the requirements of the technical codes for new construction.

4.2 Change of Occupancy. If the occupancy classification of any existing structure is changed, the building, electrical, gas, mechanical and plumbing systems shall be made to conform to the intent of the technical codes as required by the Building Inspector.

4.3 Historic Buildings. Technical codes relating to construction, alteration, repair, enlargement, restoration, relocation or moving of buildings or structures shall not be mandatory for existing buildings or structures identified and classified by the State or County as Historic Buildings when such are judged by the Building Inspector to be safe and if any proposed construction, alteration, repair, enlargement, restoration, relocation or moving of buildings is consistent with the public interest, health, safety and welfare.

5. Powers and Duties of the Building Inspector

5.1 General. The Building Inspector is authorized and directed to enforce the technical codes and render interpretations of the technical codes, consistent with the intent and purpose of each such code.

5.2 Right of Entry. When necessary to make an inspection to enforce this Code, or when the Building Inspector has reasonable cause to believe that there exists in any building or upon any premises any condition or code violation which makes such building, structure, premises, electrical, gas, mechanical or plumbing systems unsafe, dangerous or hazardous, the Building Inspector may enter at all reasonable times to inspect the same or to perform any duty imposed upon the Building Inspector by these technical codes, provided that if such building or premises is occupied, he shall first present proper credentials and request entry. If such building, structure or premises is unoccupied, he shall first make a reasonable effort to locate the owner or other persons having charge or control of such and request entry. If entry is refused, the Building Inspector shall have recourse to every remedy provided by law to secure entry. When the Building Inspector shall have first obtained a proper inspection warrant or other remedy provided by law to secure entry, no one shall fail or neglect, after proper request is made as herein provided, to promptly permit entry therein by the Building Inspector for inspection and examination per this Code.

On receipt of a credible written complaint or request from an owner, occupant, public safety official, Department of Family and Children Services, or a public utility provider, the Building Inspector shall make or cause to be made inspections to determine the condition of residential buildings and premises. Building Inspector staff is authorized to enter, examine and survey at all reasonable times all residential buildings and premises. The owner or occupant of every residential building or the person in charge thereof shall give staff free access to such building and its premises, at all reasonable times for the purpose of such inspection.

Inspection on Interruption of Utility Service. If utility service provided to a premises is interrupted for any reason, other than for non-payment that is cured within 21 days of the date of cessation of the service, before the provision of service is restored to the premises, an inspection of the premises by the Building Inspector shall be made. The owner, tenant or resident shall notify the Building Inspector of the need for such inspection, and arrange for a day and time for the inspection to occur. The inspection shall certify that the premises meet the applicable legal standards and codes. The fee for each such inspection shall be \$35.00 or as may be set by the Board of Commissioners from time to time, which includes an initial inspection and follow-up within 14 days if necessary. Any additional inspection shall require payment of the fee again to cover the cost.

5.3 Stop Work Orders. On notice from the Building Inspector, work on any building, structure, electrical, gas, mechanical or plumbing system contrary to the technical codes or in a dangerous or unsafe manner, shall immediately cease. Such notice shall be in writing and be given to the owner or to his agent, or to the person doing the work, and shall state the conditions under which work may be resumed. Where an emergency exists, the Building Official shall not be required to give a written notice prior to stopping work.

5.4 Revocation of Permit. The Building Inspector may revoke a permit or approval, if there has been any false statement or misrepresentation as to any material fact in the application or plans on which the permit or approval was based.

5.5 Revocation of Permit for Violation of Code. The Building Inspector may revoke a permit upon determination that the construction, erection, alteration, repair, moving, demolition, installation or replacement of the building, structure, electrical, gas, mechanical or plumbing systems for which the permit was issued is in violation of, or not in conformity with, the provisions of the Code.

5.6 Unsafe Buildings or Systems. All buildings, structures, electrical, gas, mechanical or plumbing systems that are unsafe, unsanitary, or do not provide adequate egress, or that constitute a fire hazard, or are otherwise dangerous to life, or which in relation to existing use, constitute a hazard to safety or health, are considered unsafe buildings or service systems. All such unsafe buildings, structures or service systems are declared illegal and shall be abated by repair and rehabilitation or by demolition per the Code.

5.7 Requirements Not Covered by Code. Any requirements necessary for the strength, stability, or proper operation of an existing or proposed building, structure, electrical, gas, mechanical or plumbing system, or for the public safety, health and general welfare, not specifically covered by this or the other technical codes, shall be determined by the Building Inspector.

5.8 Alternate Materials and Methods. The codes are not intended to prevent the use of any material or method of construction not specifically prescribed by them, provided any such alternate has been reviewed by the Building Inspector. The Building Inspector shall approve any such alternate, provided he finds the alternate for the purpose intended is at least the equivalent of that prescribed in the technical codes, in quality, strength, effectiveness, fire resistance, durability and safety. The Building Inspector shall require that sufficient evidence or proof be submitted to substantiate any claim made regarding the alternate.

6. Permits

6.1 Permit Required. Any owner, authorized agent, or contractor who desires to construct, enlarge, alter, repair, move, demolish, or change the occupancy of a building or structure, or to erect, install, enlarge, alter, repair, remove, convert or replace any electrical, gas, mechanical or plumbing system, the installation of which is regulated by the codes, or to cause any such work to be done, shall first make application to the Building Inspector and obtain the required permit for the work.

EXCEPTION: Permits shall not be required for the following mechanical work:

1. any portable heating appliance;
2. any portable ventilation equipment;
3. any portable cooling unit;
4. any steam, hot or chilled water piping within any heating or cooling equipment regulated by this Code;
5. replacement of any part which does not alter its approval or make it unsafe;
6. any portable evaporative cooler;
7. any self-contained refrigeration system containing 10 lb. or less of refrigerant and actuated by motors of 1 horsepower or less.

6.2 Work Authorized. A building, electrical, gas, mechanical or plumbing permit shall carry with it the right to construct or install the work shown on the drawings and set forth in the specifications filed with the application for the permit. Where the work is not shown on the drawings and covered by the specifications submitted with the application, separate permits shall be required.

6.3 Minor Repairs. Ordinary minor repairs may be made with the approval of the Building Inspector without a permit, provided that such repairs shall not violate any of the provisions of the technical codes.

6.4 Information Required. Each application for a permit, with the required fee, shall be filed with the Building Inspector on a form furnished for that purpose, and shall contain a description of the proposed work and its location. The application shall be signed by the owner, or his authorized agent. The application shall indicate the proposed occupancy of all parts of the building and of that portion of the site or lot not covered by the building or structure, and shall contain other information required by the Building Inspector.

6.5 Time Limitations. An application for a permit for any proposed work shall be deemed to have been abandoned 6 months after the date of filing for the permit, unless before then a permit has been issued. Extensions of not more than 90 days each may be allowed by the Building Inspector for the application, if the extension is requested in writing and justifiable cause is demonstrated.

7. Drawings & Specifications

7.1 Requirements. When required by the Building Inspector, 2+ copies of specifications, and of drawings drawn to scale with sufficient clarity and detail to indicate the nature and character of the work, shall accompany the application for a permit. Such shall contain information, notes or otherwise, as to the quality of materials, where quality is essential to conformity with the technical codes. Such information shall be specific, and the technical codes shall not be cited as a whole or in part, nor shall the term "legal" or its equivalent be used, as a substitute for specific information. All information, drawings, specifications and accompanying data shall bear the name and signature of the person responsible for the design.

7.2 Additional Data. The Building Inspector may require details, computations, stress diagrams, and other data necessary to describe the construction or installation and the basis of calculations. All drawings, specifications and accompanying data required by the Building Inspector to be prepared by an architect or engineer shall be affixed with their official seal.

7.3 Design Professional. The design professional shall be an architect or engineer legally registered in Georgia and shall affix his official seal to said drawings, specifications and accompanying data, for the following:

1. All Group A, E and I occupancies.
2. Buildings and structures three stories or more high.
3. Buildings and structures 1000 sq. ft. or more in area.

For all other buildings and structures, the submittal shall bear the certification of the applicant that some specific state law exception permits its preparation by a person not so registered. EXCEPTION: Single family dwellings, regardless of size, shall require neither a registered architect or engineer, nor a certification that an architect or engineer is not required.

7.4 Structural and Fire Resistance Integrity. Plans for all buildings shall indicate how required structural and fire resistance integrity will be maintained where a penetration of a required fire resistance wall, floor or partition will be made for electrical, gas, mechanical, plumbing, signal and communication conduits, pipes and systems and also indicate in sufficient detail how the fire integrity will be maintained where required fire resistance floors intersect the exterior walls.

7.5 Site Drawings. Drawings shall show the location of the proposed building or structure and of every existing building or structure on the site or lot. The Building Inspector may require a boundary line survey prepared by a qualified surveyor.

7.6 General Site Plan for Hazardous Occupancies. The Building Inspector may require the submission of a general site plan drawn at a legible scale which shall include the location of all buildings, exterior storage facilities, permanent access ways, evacuation routes, parking lots, internal roads, chemical loading areas, equipment cleaning areas, storm and sanitary sewer accesses, emergency equipment and adjacent property uses. The exterior storage areas shall be identified with the hazard classes and the maximum quantities per hazard class of hazardous materials stored.

7.7 Building Floor Plan for Hazardous Occupancies. The Building Inspector may require a building floor plan which shall include all hazardous materials storage facilities in the building and shall indicate rooms, doorways, corridors, exits, fire rated assemblies with hourly rating, location of liquid tight rooms, and evacuation routes. Each hazardous materials storage facility shall be identified on the plan with the hazard classes and quantity range per hazard class or the hazardous materials stored.

7.8 Plan Review. The Building Inspector shall cause to be examined each application for a permit and the accompanying documents, consisting of drawings, specifications, computations, and additional data, and ascertain by such examinations whether the construction indicated and described is per the requirements of the codes and all other pertinent laws or ordinances.

7.9 Affidavits. The Building Inspector may accept an affidavit from a Registered Architect or Engineer stating the plans conform to the codes. For buildings and structures the affidavit shall state the plans conform to laws as to egress, type of construction and general arrangement and be accompanied by drawings showing the structural design, and by a statement that the plans and design conform to the codes. The Building Inspector may without any examination or inspection accept such affidavit if the architect or engineer who made such affidavit agrees to submit to the Building Inspector, copies of inspection reports as inspections are performed, and on completion of the structure, electrical, gas, mechanical or plumbing systems a certification that the structure, electrical, gas, mechanical or plumbing system has been erected per the codes. Where the Building Inspector relies on such affidavit, the architect or engineer shall assume full responsibility for compliance with all codes and pertinent laws or ordinances.

8. Issuing Permits

8.1 Action on Permits. The Building Inspector shall act on an application for a permit without unreasonable delay. If the Building Inspector is satisfied that the work described in an application and the contract documents filed therewith conform to the requirements of the technical codes and other pertinent laws and ordinances, he shall issue a permit to the applicant.

8.2 Refusal to Issue Permit. If the application for a permit and the accompanying documents describing the work do not conform to the codes or other pertinent laws or ordinances, the Building Inspector shall not issue a permit, but shall return the documents to the applicant with his refusal to issue such permit. Such refusal shall, when requested, be in writing and shall contain the reason.

8.3 Special Foundation Permit. When application for a permit to erect or enlarge a building has been filed, pending issuance, the Building Inspector may, at his discretion, issue a special permit for the foundation only. The holder is proceeding at his own risk and without assurance that a permit for the remainder of the work will be granted or that corrections will not be required to meet code.

8.4 Public Right of Way. A permit shall not be given by the Building Inspector for any building, or the alteration of such when such change will affect the exterior walls, bays, balconies, or other appendages or projections fronting on any street, alley or public lane, or for the placing on any lot or premises of any building or structure removed from another lot or premises, unless the applicant has met setback from the lines of the public street on which he proposes to build, erect or locate said building; and it shall be the duty of the Building Inspector to see that the street lines are not encroached upon.

8.5 Contractors Responsibilities. Every contractor who shall make contracts for installation or repairs of buildings, structures, gas, electrical, mechanical, sprinkler or plumbing systems, for which a permit is required, shall comply with State and local rules and regulations. In any case in which the State requires a state license before performing work, the contractor shall supply the license number before receiving a permit.

9. Conditions of Permit

9.1 Permit Intent. A permit issued shall be a license to proceed with the work and not authority to violate or set aside any of the provisions of the codes, nor shall a permit prevent the Building Inspector from thereafter requiring a correction of errors in plans, construction or violations of code. Every permit shall become invalid unless the work is commenced within 6 months after issuance, or if the work authorized by such permit is suspended or abandoned for 6 months. One or more extensions of time, for periods of not more than 90 days each, may be allowed, in writing.

9.2 Permit Issued on Affidavit. Whenever a permit is issued in reliance on an affidavit or the work involves installation under conditions that, in the opinion of the Building Inspector, are hazardous or complex, the Building Inspector shall require that registered architects or engineers supervise such work. They shall be responsible for conformity with the permit, provide copies of inspection reports as performed, and upon completion make and file with the Building Inspector written affidavit that the work has been done per the reviewed plans and the structural provisions of the technical codes. If such architect or engineer is not available, the owner shall employ in his stead a competent person or agency whose qualifications are subject to approval by the Building Inspector.

9.3 Plans. When the Building Inspector issues a permit, he shall notate, in writing or by stamp, both sets of plans Reviewed for Code Compliance. One set of drawings shall be retained by the Building Inspector and the other set returned to the applicant. The permitted drawings shall be kept at the site of work and open to inspection by the Building Inspector or his authorized representative.

10. Fees

10.1 Prescribed Fees. A permit shall not be issued until the fees prescribed by the County have been paid. An amendment to a permit shall not be released until the additional fee, if any, due to an increase in the cost, has been paid.

10.2 Work Commencing Before Permit. Any person who commences work on a building, structure, electrical, gas, mechanical or plumbing before obtaining the necessary permits, shall be subject to a penalty of 100% of the usual permit fee.

10.3 Accounting. The Building Inspector shall keep a permanent and accurate accounting of all permit fees and other monies collected, the names of all persons upon whose account the same was paid, and date and amount.

10.4 Schedule of Permit Fees. On all buildings, structures, electrical, gas, mechanical and plumbing systems or alterations requiring a permit, a fee for each permit shall be paid per the fee schedules established by the Board of Commissioners.

10.5 Building Permit Valuations. If, in the opinion of the Building Inspector, the valuation of building, alteration, structure, electrical, gas, mechanical or plumbing systems appear underestimated, the permit shall be denied, unless the applicant can show detailed estimates to meet the approval of the Building Inspector. Permit valuations shall include materials and labor.

11. Inspections

11.1 Existing Building Inspections. Before issuing a permit the Building Inspector may cause to be examined any building, electrical, gas, mechanical or plumbing systems for which an application has been received to enlarge, alter, repair, move, demolish, install or change the occupancy. He shall inspect all buildings, structures, electrical, gas, mechanical and plumbing systems, during and upon completion of the work. He shall make a record of every inspection and of all violations of the codes.

11.2 Manufacturers and Fabricators. The Building Inspector may cause to be made an inspection of materials or assemblies at the point of manufacture or fabrication. A record shall be made of every such inspection and of all violations of the codes.

11.3 Inspection Service. The Building Inspector may cause to be made, the inspections required by paragraph 11.6. He may accept reports of recognized inspection services if after investigation he is satisfied as to their qualifications and reliability. A certificate called for by any code shall not be based on such reports unless in writing and certified by a responsible officer of such service.

11.4 Inspections Prior to Certificate of Occupancy or Completion. The Building Inspector shall cause to be inspected at various intervals all construction or work for which a permit is required, and a final inspection shall be made of every building, structure, electrical, gas, mechanical or plumbing system on completion, prior to the Certificate of Occupancy or Completion.

11.5 Posting of Permit. Work requiring a permit shall not commence until the permit card is posted in a conspicuous place on the premises. The permit shall be protected from the weather and in such a position as to permit the Building Inspector or representative to conveniently make the required entries until the Certificate of Occupancy or Completion is issued.

11.6 Required Inspections. The Building Inspector, on notification from the permit holder or his agent, which notification is an affirmative duty, shall make the following inspections and such other inspections as necessary, and either release that portion of the construction or shall notify the permit holder or his agent of any violations which must be corrected in order to comply with the code:

BUILDING

1. Foundation: after trenches are excavated and forms erected.
2. Frame: after all roofing, framing, fireblocking, bracing, concealing wiring, pipes, chimneys, ducts and vents are done.
3. Final: after the building is completed and ready for occupancy.

ELECTRICAL

1. Underground: after trenches or ditches are excavated, conduit or cable installed, and before any backfill is in place.
2. Rough-In: after roof, framing, fireblocking and bracing is in place and prior to wall or ceiling membranes.
3. Final: after building complete, all required electrical fixtures in place, connected or protected, structure ready for occupancy.

PLUMBING

1. Underground: after trenches or ditches are excavated, piping installed, and before any backfill is put in place.
2. Rough-In: after all roofing, framing, fireblocking, bracing and soil, waste and vent piping is complete, and prior to installation of wall or ceiling membranes.
3. Final: after building is complete, all plumbing fixtures in place and connected, and structure ready for occupancy.

MECHANICAL

1. Underground: after trenches or ditches are excavated, underground duct and fuel piping installed, and before backfill.
2. Rough-In: after the roof, framing, fire blocking and bracing are in place and all ducting, and other concealed components are complete, and prior to the installation of wall or ceiling membranes.
3. Final: after the building is complete, mechanical system is in place and connected, and structure ready for occupancy.

GAS

1. Rough Piping: after all piping installed, and before such is covered or concealed or any fixtures or gas appliances connected.
2. Final Piping: after all piping installed and concealed, before any fixtures or gas appliances connected, include pressure test.
3. Final: on all new gas work and portions of existing systems affected by new work or any changes.

ENERGY

1. Foundation: before slab concrete is poured, to verify perimeter insulation has been installed on any slab on grade foundations.
2. Frame: before wall insulation is concealed, inspect that all holes and cracks through the structure envelope have been sealed.
3. Final: after the building is completed, verify installation and R-value of all insulation, verify correct SEER ratings on appliances.

11.7 Written Release. Work shall not be done beyond the next point in each successive inspection without a written release from the Building Inspector. Such written releases shall be given only after an inspection.

11.8 Reinforcing Steel, Structural Frames, Insulation, Plumbing, Mechanical, or Electrical Systems. Reinforcing steel, structural frame, insulation and plumbing shall not be covered or concealed without a release from the Building Inspector.

11.9 Plaster Fire Protection. In all buildings where plaster is used for fire protection, the permit holder or his agent shall notify the Building Inspector after all latching and backing is in place. Plaster shall not be applied until release from the Building Inspector.

12. Certificates

12.1 Building Occupancy. A new building shall not be occupied or a change made in the occupancy, nature or use of a building or a part of a building until after the Building Inspector has issued a Certificate of Occupancy, after all required electrical, gas, mechanical, plumbing and fire protection systems have been approved by the Building Inspector.

12.2 Certificates of Occupancy. Upon satisfactory completion of construction of a building or structure and installation of all systems per the codes, plans and specifications, and after final inspection, the Building Inspector shall issue a Certificate of Occupancy stating occupancy permitted, number of persons for each floor when limited by law, and allowable load per square foot for each floor.

12.3 Temporary/Partial Occupancy. A temporary/partial certificate of occupancy may be issued for a portion of a building which may be safely occupied prior to final completion.

12.4 Existing Building Certificate of Occupancy. A Certificate of Occupancy for an existing building may be obtained by applying and supplying the information and data necessary to determine compliance with the codes. Where necessary, in the opinion of the Building Inspector, two sets of detailed drawings, or a general inspection, or both, may be required. When, upon inspection, it is found that the building conforms to the codes and other applicable laws and ordinances, a Certificate of Occupancy shall issue.

12.5 Certificate of Completion. On satisfactory completion of a building or system, a Certificate of Completion may issue, as proof that a structure or system is complete and for certain types of permits is released for use and may be connected to a utility system. This does not grant authority to occupy or connect a building, such as a shell building, prior a Certificate of Occupancy.

13. Service Utilities

13.1 Connection. No person shall connect from a utility, source of energy, fuel or power to any building or system regulated by the codes for which a permit is required, until approved by the Building Inspector and a Certificate of Occupancy or Completion.

13.2 Temporary Connection. The Building Inspector may authorize temporary connection of the building or system to the energy, fuel or power for testing building service systems or use under a temporary Certificate of Occupancy.

13.3 Authority to Disconnect Service Utilities. The Building Inspector may authorize disconnection of utility service to the building, structure or system, in case of emergency to eliminate an immediate hazard to life or property. The Building Inspector shall notify the serving utility, and whenever possible the owner and occupant, of the decision to disconnect prior to taking such action. If not notified prior to disconnecting, the owner or occupant shall be notified in writing, as soon as practical thereafter.

14. Posting Floor Loads

14.1 Occupancy. An existing or new building shall not be occupied for any purpose which will cause the floors thereof to be loaded beyond their safe capacity.

14.2 Storage and Factory-Industrial Occupancies. It shall be the responsibility of the owner, agent, proprietor or occupant where excessive floor loading is likely to occur, to employ a competent architect or engineer in computing the safe load capacity. All such computations shall be accompanied by an affidavit from the architect or engineer stating the safe allowable floor load on each floor in pounds per square foot uniformly distributed.

14.3 Signs. In every building or part thereof for storage, industrial or hazardous purposes, the safe floor loads, as reviewed by the Building Inspector, shall be marked on plates securely affixed by the owner of the building in a conspicuous place in each story to which they relate. Such plates shall not be removed or defaced, and if lost, removed or defaced, shall be replaced by the owner.

15. Tests. The Building Inspector may require tests or test reports as proof of compliance. Required tests are to be made at the expense of the owner, or his agent, by an approved testing laboratory or other approved agency.

16. Violations and Penalties. Any person, firm, corporation or agent who shall violate a provision of the codes, or fail to comply, or who erects, constructs, alters, installs, demolishes or moves any structure, electrical, gas, mechanical or plumbing system, in violation of a statement or drawing submitted and permitted thereunder, shall be guilty of a misdemeanor. Each such person shall be considered guilty of a separate offense for each day during which a violation of any of the provisions of the Code is committed or continued, and on conviction shall be punished as provided by law. The violation of any provision of this Section is declared to be a public nuisance, and may be subject to abatement summarily by a restraining order or a temporary or permanent injunction. Nothing in this Section shall be construed as an election of remedies and the County may seek both criminal penalties and injunctive relief.

Section 7-007 Water Conservation

1. Definitions.

- (a) "Commercial" means any building other than residential.
- (b) "Construction" means the erection of a new building or the alteration of an existing building in connection with its repair or renovation or in connection with an addition to an existing building and shall include the replacement of a malfunctioning, unserviceable, or obsolete faucet, showerhead, toilet, or urinal in an existing building.
- (c) "Residential" means any building or unit thereof intended for occupancy as a dwelling but not a hotel or motel.

2. Restrictions

- (a) No construction may be initiated within the County for any residential building of any type which:
 - (1) Employs a toilet that uses more than an average of 1.6 gallons of water per flush;
 - (2) Employs a shower head that allows more than 2.5 gallons of water per minute at 60 psi;
 - (3) Employs a urinal that uses more than an average of 1 gallons of water per flush;
 - (4) Employs a lavatory faucet or lavatory replacement aerator that allows more than gallons per minute; or
 - (5) Employs a kitchen faucet or kitchen replacement aerator that allows more than 2.5 gallons a minute.

3. Effective Date

- (a) On or after July 1, 1992, there shall be no construction of any commercial building initiated within the County for any commercial building of any type which does not meet the requirements of subparagraphs (1) through (5) of Section 2 hereof.
- (b) Subsection 2 applies to residential construction after July 1, 1991, and commercial construction after July 1, 1992, which involves repair or renovation of or addition to any existing building that replaces toilets, showers or both.

4. Exemptions.

- (a) New construction and the repair or renovation of an existing building shall be exempt from the requirements of subsections 2, 3 and 4 hereof when:
 - (1) The repair or renovation of the existing building does not include the replacement of the plumbing or sewage system servicing toilets, faucets or showerheads within such existing buildings; or,
 - (2) When such plumbing or sewage system within such existing building, because of its capacity, design, or installation would not function properly if the toilets, faucets or showerheads required by this section were installed; or,
 - (3) Such system is a well or gravity flow from a spring and owned privately by an individual for use in such individual's personal residence; or,
 - (4) Units to be installed are:
 - (a) Specifically designed for use by the handicapped,
 - (b) Specifically designed to withstand unusual abuse or installation in a penal institution; or
 - (c) Toilets for juveniles.

- (b) The owner, or agent, of a building undergoing new construction, repair or renovation entitled to an exemption as specified in (a)(2), (3) or (4) of this subsection shall obtain the exemption by applying at the office of the building inspector.

5. Outdoor Watering Restrictions. Restrictions on outdoor watering of landscape.

Outdoor watering for ground cover, trees, shrubs, or other plants may occur only between 4 p.m. -10 a.m. No person shall use water in violation hereof. The following outdoor water uses shall be exempt: Commercial raising, harvesting, or storing of crops; feeding, breeding, or managing livestock or poultry; the commercial production or storing of feed for use in the production of livestock, including, but not limited to, cattle, calves, swine, hogs, goats, sheep, and rabbits, or for use in the production of poultry, including, but not limited to, chickens, hens, ratites, and turkeys; producing plants, trees, fowl, or animals; or the commercial production of aquacultural, horticultural, dairy, livestock, poultry, eggs, and apiarian products or as otherwise defined in O.C.G.A. § 1-3-3; Capture and reuse of cooling system condensate or storm water in compliance with applicable county ordinances and state guidelines; Reuse of gray water in compliance with O.C.G.A. § 31-3-5.2 and applicable local board of health regulations; Use of reclaimed waste water by a designated user from a system permitted by the Environmental Protection Division of the DNR to

provide reclaimed waste water; Watering personal food gardens; Watering new and replanted plant, seed, or turf in landscapes, golf courses, or sports turf fields during installation and for a period of 30 days immediately following the date of installation; Drip irrigation or irrigation using soaker hoses; Hand watering with a hose with automatic cutoff or handheld container; Use of water withdrawn from private water wells or surface water by an owner or operator of property if such well or surface water is on said property; Watering horticultural crops held for sale, resale, or installation; Watering athletic fields, golf courses, or public turf grass recreational areas; Installation, maintenance, or calibration of irrigation systems; or Hydroseeding.

6. Enforcement; Penalty. This Section shall be enforced by the building inspector. Citations for violations may be issued. Any person, corporation, partnership or other entity violating this Section shall be tried before the Magistrate Court. On conviction, a violation may be punished by a civil fine not to exceed \$1,000.

Section 7-008 Unfit Buildings and Property

1. Purpose and authority.

This article is adopted per O.C.G.A. §41-2-1, et seq. for health and cleanliness of the County, and to ensure safe and sanitary conditions in private property by a method for enforcing minimum standards, for the public health, safety and welfare.

2. Definitions.

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

Closing means causing a dwelling, building, structure or property to be vacated and secured against unauthorized entry.

Dwellings, buildings or structures means any building or structure or part thereof used and occupied for human habitation, commercial, industrial or business uses or intended to be so used, and includes any outhouses, improvements and appurtenances belonging thereto or usually enjoyed therewith and also includes any building or structure of any design. The term does not include any farm, any building or structure located on a farm, or any agricultural facility or other building or structure used for the production, growing, raising, harvesting, storage, or processing of crops, livestock, poultry, or other farm products.

Owner means the holder of the title in fee simple and every mortgagee of record.

Parties in interest means persons in possession of such property and all persons and entities who have any interest in such dwelling, building or structure, or the property on which it is situated, based on the records of the Public Officer and of the county courthouse, and based on a 50 year title examination conducted per the title standards of the State Bar of Georgia, and any party who has filed a notice per O.C.G.A. §48-3-9.

Public authority means any housing authority officer or any officer in charge of any department or branch of the County or state relating to health, fire, or building regulations or other activities concerning dwellings, buildings, or structures.

Public officer means the Building Inspector, Health Department officer, or any other County representative approved by the Board of Commissioners, authorized to exercise the powers prescribed by this section, or any agent of such officer or officers, or any other officer or officers appointed by the Board of Commissioners for purposes of this section.

Repair means altering or improving a dwelling, building, structure or property to bring it into compliance with the applicable regulations and the cleaning or removal of debris, trash, and other materials present and accumulated which create a health or safety hazard in or about any dwelling, building, structure or property.

Vacancy means the use of a structure or property is discontinued in excess of 30 consecutive days.

State law reference - Similar provisions, O.C.G.A. §41-2-8.

3. Findings and applicability.

(a) It is found and declared that there exist in the County dwellings, buildings, structures, and properties which are unfit for human habitation or for commercial, industrial or business uses and not in compliance with the applicable standard codes or optional building, fire, life safety, or other codes adopted by the County; or in violation of general nuisance law and which constitute a hazard to the health, safety, and welfare of the people; and that a public necessity exists for the repair, closing or demolition of such dwellings, buildings or structures. It is further found and declared that where there is a condition or use of real estate which renders adjacent real estate unsafe or inimical to safe human habitation, such use is dangerous and injurious to the health, safety, and welfare of the people and a public necessity exists for the repair of such condition or the cessation of such use. This County should exercise its police power to repair, close or demolish said dwellings, buildings or structures and/or cause the repair of such conditions or the cessation of such use in the manner provided in this section.

(b) All the provisions hereof may also be applied to private property where there is an endangerment to the public health or safety as a result of unsanitary or unsafe conditions to those persons residing or working in the vicinity. A finding by any governmental health department, health officer or building inspector that such property is a health or safety hazard shall constitute prima facie evidence that such property is in violation of this section.

State law reference - Similar provisions, O.C.G.A. §41-2-7.

4. Unlawful to own structures or property not compliant with this section.

(a) It is the duty of the owner of every dwelling, building, structure or property in the County to construct and maintain such dwelling, building, structure or property in conformance with this section and all applicable codes in force in the County including such regulations which regulate and prohibit activities on property and which declare it to be a public nuisance to construct or maintain any dwelling, building, structure or property in violation of such codes or regulations.

(b) It shall be unlawful and a misdemeanor for any owner to own any dwelling, building, structure or property which: is unfit for human habitation or is unfit for its current commercial, industrial or business use and not in compliance with applicable codes, or is vacant and being used in connection with the commission of drug crimes, or constitutes an endangerment to the public health or safety as a result of unsanitary or unsafe conditions, or is otherwise in violation of this section.

5. Enforcement Procedure.

(a) When a request is filed with the public officer by a public authority or by at least five residents of the County charging that any dwelling, building, structure or property is unfit for human habitation or for commercial, industrial or business use or when it appears to the public officer (on his own motion) that any dwelling, building, structure or property is unfit for human habitation or is unfit for its current commercial, industrial or business use and not in compliance with applicable codes, or is vacant and being used in connection with the commission of drug crimes, or constitutes an endangerment to the public health or safety as a result of unsanitary or unsafe conditions, the public officer shall make an investigation or inspection of the specific dwelling, building, structure, or property.

If the officer's investigation or inspection identifies that any dwelling, building, structure, or property is unfit for human habitation or for commercial, industrial, or business use and not in compliance with applicable codes, or is vacant and being used in connection with the commission of drug crimes, or constitutes an endangerment to the public health or safety as a result of unsanitary or unsafe conditions, the public officer may issue a complaint in rem against the lot, tract, or parcel of real property on which such dwelling, building, or structure is situated or where such public health hazard or general nuisance exists. The following described action shall then be taken.

The officer shall issue and cause to be served upon the owner and any parties in interest in such dwelling, building, structure or property summons and a complaint containing a notice that a hearing will be held in Magistrate Court not less than 15 days nor more than 45 days after the serving of the complaint; that the owner and any parties in interest shall be given the right to file an answer to the complaint and to appear in person, or by attorney, and give testimony at the place and time fixed in the complaint. The complaint shall identify the subject real property by appropriate street address and official tax map reference; identify the owner and parties in interest; state with particularity the factual basis for the action; and contain a statement of the action sought by the public officer to abate the alleged nuisance.

(b) If, after the hearing, the court determines that the dwelling, building, structure, or property under consideration is unfit for human habitation or is unfit for its current commercial, industrial or business use and not in compliance with applicable codes; or is vacant and being used in connection with the commission of drug crimes; or constitutes an endangerment to the public health or safety as a result of unsanitary or unsafe conditions, the court shall state in writing its findings of fact in support of such determination and shall issue and cause to be served upon the owner and any parties in interest that have answered the complaint or appeared at the hearing an order:

(1) If the repair, alteration, or improvement of such dwelling, building, structure, or property can be made at a reasonable cost in relation to the present value of the dwelling, building, structure, or property, requiring the owner, within the time specified in the order, to repair, alter or improve such dwelling, building, structure, or property so as to bring it into full compliance with the applicable codes relevant to the cited violation and, if applicable, to secure the structure so that it cannot be used in connection with the commission of drug crimes; or

(2) If the repair, alteration, or improvement of such dwelling, building, structure, or property in order to bring it into full compliance with applicable codes relevant to the cited violations cannot be made at a reasonable cost in relation to the present value of the dwelling, building, structure, or property, requiring the owner within the time specified in the order, to remove or demolish such dwelling, building or structure and all debris from the property.

(3) If the court finds there is a condition or use of real estate other than addressed above, which renders adjacent real estate unsafe or inimical to safe human habitation and the court further finds that such use is dangerous and injurious to the health, safety and welfare of the people and a public necessity exists for repair of such condition or the cessation of such use, the court may order the cleaning or removal of debris, trash and other materials present and accumulated which create a health or safety hazard in or about any dwelling, building or structure, and the order may require the abatement of the public health hazard or general nuisance to eliminate the endangerment to the public health or safety.

For the purposes of this Code section, the court shall make its determination of "reasonable cost in relation to the present value of the dwelling, building or structure" without consideration of the value of the land on which the structure is situated; provided however, that costs of the preparation necessary to repair, alter, or improve a structure may be considered. Income and financial status of the owner shall not be a factor in the court's determination.

The present value of the structure and the costs of repair, alteration, or improvement may be established by affidavits of real estate appraisers with a Georgia appraiser classification as provided in Chapter 39A of Title 43, qualified building contractors, or qualified building inspectors without actual testimony presented. Costs of repair, alteration, or improvement of the structure shall be the cost necessary to bring the structure into compliance with the applicable codes relevant to the cited violations in force in the County.

(c) If the owner fails to comply with an order to repair, alter, improve or demolish the dwelling, building, structure, or property, or to abate the nuisance to eliminate the endangerment to the public health or safety, the public officer may cause such dwelling, building, structure, or property to be repaired, altered or improved or to be vacated and closed or demolished. Such abatement action shall commence within 270 days after the expiration of time specified in the order for abatement by the owner. Time during any court stay on abatement shall not count toward said 270 days. The public officer shall cause to be posted on the main entrance of the building, dwelling, structure, or property a placard with the following words:

"This building is unfit for human habitation or commercial, industrial, or business use and does not comply with the applicable codes or has been ordered secured to prevent its use in connection with drug crimes; or constitutes an endangerment to public health or safety as a result of unsanitary or unsafe conditions. The use or occupation of this building is prohibited and unlawful."

(d) The amount of the cost of any repair, alteration, improvement, removal or demolition, including all court costs, appraisal fees, administrative costs incurred by the tax commissioner, and all other costs necessarily associated with the abatement action, including restoration to grade of the real property after demolition, shall be a lien against the real property upon which cost was incurred. Credit for salvaged materials sold, per 5(e) below, shall be given. Such lien shall attach to the real property upon the filing of a certified copy of the order in the office of the Clerk of Hancock County Superior Court and shall relate back to the date of the filing of the lis pendens notice required under this section.

The clerk shall record and index such order in the deed records and enter the lien on the general execution docket. The lien shall be superior to all other liens on the property, except liens for taxes, and shall continue in force until paid. After filing the order with the clerk, and within 90 days of the repair, demolition or closure, the public officer shall forward a copy of the order and notice given to the owner and parties in interest and a final settlement of costs to the county tax commissioner.

It shall be the duty of the county tax commissioner to collect the amount of the lien in conjunction with the collection of ad valorem taxes on the property per O.C.G.A. §48-5-359.1, and to collect the amount of the lien as if it were a real property ad valorem tax, using all methods available for collecting real property ad valorem taxes, including specifically Chapter 4 of Title 48; provided, however, that the limitation of Code Section 48-4-78 which requires 12 months of delinquency before commencing a tax foreclosure shall not apply.

The tax commissioner shall remit the amount collected to the County. Thirty days after imposition of the lien, the unpaid lien amount shall bear interest and penalties in the same amount as applicable to interest and penalties on unpaid real property ad valorem taxes.

(e) If the dwelling, building or structure is removed or demolished by the public officer, reasonable efforts shall be made to salvage and sell reusable materials at private or public sale, and the proceeds of such sale shall be credited against the cost of the removal or demolition, and proper records shall be kept showing application of sales proceeds. Such sale may be made without public advertisement and bid. The public officer and County shall have no liability related to such sale, including due to defects. Nothing in this section shall be construed to impair or limit in any way the power of the County to define and declare nuisances and to cause their removal or abatement by summary proceedings or otherwise.

(f) The County may waive and release any such lien imposed on property upon the owner of such property entering into a contract with the County agreeing to a timetable for rehabilitation of the real property or the dwelling, building, or structure on the property and demonstrating the financial means to accomplish such rehabilitation.

(g) The redemption amount shall be the full amount of costs as determined above, plus interest, penalties and costs incurred by the County and the tax commissioner in the enforcement of such lien. Redemption of property from the lien shall be per O.C.G.A. §§48-4-80, 81.

State law reference - Abatement procedures, O.C.G.A. §41-2-9.

6. Standards for Determination by Public Officer.

The public officer may determine that a dwelling, building, structure, or property is unfit for human habitation or is unfit for its current commercial, industrial or business use and not in compliance with applicable codes; is vacant and being used in connection with the commission of drug crimes; or constitutes an endangerment to the public health or safety as a result of unsanitary or unsafe conditions if he finds that conditions exist in or on such building, dwelling, structure, or property which are dangerous or injurious to the health, safety or welfare of the occupants or of other residents. Such conditions may include without limitation:

- (a). dilapidation and non-compliance with applicable codes;
- (b). defects increasing the hazards of fire, accidents, or other calamities;
- (c). lack of adequate ventilation, light, or sanitary facilities;
- (d). other conditions exist rendering such dwellings, buildings, structures, or property unsafe or unsanitary, or dangerous or detrimental to the health, safety, or welfare, or otherwise inimical to the welfare of the residents of such municipality such as:
 - (1). disrepair, structural defects or uncleanness;
 - (2). the interior walls or other vertical structural members list, lean or buckle so that a plumb line passing through the center of gravity of the structural members falls outside of its base so as to create a hazardous condition to the occupants of the structure or the population of the surrounding area;
 - (3). due to their unsafe condition the supporting structure and/or nonsupporting enclosing or outside walls must be replaced;
 - (4). the floors or roofs have improperly distributed loads or oversized loads or are so weakened as to be unsafe for their present or intended use;
 - (5). the structure has been damaged by wind, fire or other causes so as to imperil the safety or the health of the structure's occupants or of the people of the County;
 - (6). there are abandoned wells, shafts, basements or excavations, abandoned refrigerators or motor vehicles, or any structurally unsound fences or any lumber, trash, fences, debris or vegetation, or any condition which may cause lack of safe ingress or egress to the structure(s);
- (e). vacant dwellings, buildings, or structures in which drug crimes are being committed;
- (f). there exists an endangerment to the public health or safety as a result of unsanitary or unsafe conditions to those persons residing or working in the vicinity.

State law reference - Similar provisions, O.C.G.A. §41-2-7, 41-2-10.

7. Powers of public officers.

The public officer shall exercise such powers as may be necessary or convenient to carry out and effectuate the purpose and provisions of this section, including, among others granted herein, the power to:

- (a). Investigate the dwelling conditions in the County in order to determine which dwellings, buildings, structures, or property therein are unfit for human habitation or are unfit for current commercial, industrial, or business use, and not in compliance with applicable codes, or are vacant and being used in connection with the commission of drug crimes, or endanger the public health or safety as a result of unsanitary or unsafe conditions;
- (b). Enter upon premises for the purpose of making examinations; provided, however that such entries shall be made in such manner as to cause the least possible inconvenience to the persons in possession;

- (c). Appoint and fix duties of officers, agents and employees as he deems necessary to carry out this section; and
- (d). Delegate any of his functions and powers under this section to such officers and agents as he may designate.

State law reference - Similar provisions, O.C.G.A. §41-2-11.

8. Service of complaints or orders upon parties in interest and owners of unfit buildings or structures.

(a) A copy of the complaint and summons shall be conspicuously posted on the subject dwelling, building, structure or property within three business days of filing of the complaint and at least 14 days prior to the date of the hearing. A copy of the complaint and summons shall also be served in the following way: At least 14 days prior to the hearing, the Public Officer shall send the complaint and summons via certified mail, return receipt requested, or statutory overnight delivery to all interested parties whose identity and address are reasonably ascertainable. Copies of the complaint shall also be mailed by first-class mail to the property address to the attention of the occupants of the property, if any. For any owner or party in interest whose mailing address is unknown, a notice stating the date, time, and place of hearing shall be published in the newspaper in which the sheriff's advertisements appear in the County once a week for two consecutive weeks prior to the hearing.

(b) A notice of lis pendens shall be filed in the office of the Clerk of the Hancock County Superior Court at the time of filing the complaint. Such notice shall have the same force and affect as other lis pendens notices provided by law.

(c) Orders and other filings made subsequent to service of the initial complaint shall be served in the manner provided in this section on the owner and any party in interest who answers the complaint or appears at the hearing. Any party who fails to answer or appear at the hearing shall be deemed to have waived all further notice in the proceedings.

State law reference - Similar provisions, O.C.G.A. §41-2-12.

9. Use of revenues, grants and donations to repair, close or demolish unfit buildings or structures.

The County may make such appropriations from its revenues as it may deem necessary and may accept and apply grants or donations to assist it in carrying out this section.

State law reference - Similar provisions, O.C.G.A. §41-2-15.

10. Deteriorated structures and premises as nuisances.

(a) All structures and/or the surrounding property of the structures determined to be in violation of this section are declared to be public nuisances. In those instances where there is an imminent threat to life or safety, the public officer shall be authorized to immediately post the structure as "unsafe for human habitation."

(b) If such finding of the public officer is contested by the occupants, then the public officer shall request an immediate hearing before the judge of the magistrate court to secure an order requiring any occupants to vacate. The public officer shall then proceed as set forth in this section.

11. Construction of this Section with Local Legislation and other laws, ordinances and regulations; Appeal.

Nothing herein shall abrogate or impair the powers of the courts or of any department of the County to enforce any provisions of the Local Legislation or its ordinances or regulations, nor to prevent or punish violations thereof; and the powers conferred herein shall be in addition to and supplemental to the powers conferred by any other law or ordinance. Appeal from the Magistrate Court shall be per O.C.G.A. §5-3-29.

Section 7-009 Timber Harvesting: Required Notice; Bonds or Letters of Credit

1. Intent. The purpose of this Section is to regulate timber harvesting in the County, consistent with O.C.G.A. §12-6-24 (b).

2. Prior Notice of Harvesting Required. All persons or firms harvesting standing timber in the County for delivery as pulpwood, logs, poles, or wood chips to any wood yard or processing plant shall provide notice of such harvesting operations to the Building Inspector in writing, in person, by transmission of an electronic record via facsimile or by mail, prior to cutting timber. Said prior written notice shall be required for each separate tract to be harvested, and shall include:

a. A map of the area which identifies the location of the tract to be harvested and, as to those trucks which will be traveling to and from such tract picking up and hauling loads of cut forest products, the main point of ingress to such tract from a public road and, if different, the main point of egress from such tract to a public road;

b. A statement as to whether the timber will be removed per a lump sum sale, per unit sale, or owner harvest for purposes of ad valorem taxation under Code Section 48-5-7.5;

c. The name, address, and daytime telephone number of the timber seller if the harvest is per a lump sum or per unit sale or of the timber owner if the harvest is an owner harvest; and

d. The name, business address, business telephone number, and nighttime or emergency telephone number of the person or firm harvesting such timber.

3. Bond or Letter of Credit. The persons or firms shall deliver a bond or letter of credit per this paragraph, and notice shall not be or remain effective for such harvesting operations unless and until the person or firm providing such notice has delivered to the Building Inspector a valid surety bond, executed by a surety corporation authorized to transact business in this state, protecting the County against any damage caused by such person or firm in an amount of \$5,000 or, at the option of the person or firm harvesting timber, a valid irrevocable letter of credit issued by a bank or savings and loan association, as defined in Code Section 7-1-4, in the amount of and in lieu of such bond. For purposes of this paragraph, any such surety bond or letter of credit shall be valid only for the calendar year in which delivered.

4. Duration of Permission and Change in Facts. Notice shall be effective for such operation on such tract upon receipt of the same by the Planning and Zoning Administrator and compliance with paragraph 3 of this section and until such time as the person or firm giving such notice has completed the harvesting operation. Provided, however, that any subsequent change in the facts required to be provided for purposes of such notice shall be reported to the Planning and Zoning Administrator within 3 business days after such change.

5. Fine. Violation of the requirements of this section shall be punishable by a fine not exceeding \$500.

6. Notice. The form below, which is set forth in GA Administrative Code, 224-2-.01, shall be used.

NOTICE OF TIMBER HARVESTING ACTIVITY

Official Code of Georgia Annotated, Section 12-6-24 Georgia Forestry Commission

County: _____ Timber Sale Acreage: _____ Date Submitted: _____

Check Appropriate: ☐ Landowner ☐ Timber Seller ☐ Legal Representative

Name: _____

Address: _____

County: _____ State: _____ Zip Code: _____

Daytime Phone No.: _____

Timber Buyer Information

Logger/Harvester Information

Name: _____

Name: _____

Business Name: _____

Business Name: _____

Business Address: _____

Business Address: _____

County: _____ State & Zip: _____

County: _____ State & Zip: _____

Business Phone No.: _____

Business Phone No.: _____

Night/Emergency Phone No.: _____

Night/Emergency Phone No.: _____

Timber Sale Type: ☐ Lump Sum ☐ Unit/Load ☐ Owner Harvest

Please attach/draw a map to identify (1) tract location, and (2) point(s) of ingress & egress from public road(s). Include identified points of reference, such as streams, public roads, right of ways, landmarks, map/parcel number, distances, etc., to ensure acknowledgement and understanding of location.

State law reference - O.C.G.A. Sec. 12-6-24.

Section 7-010 Residential Occupancy Limitations.

Dwelling units shall be constructed and occupied per these Residential Occupancy Limitations.

1. Privacy. Dwelling units, hotel units, and rooming units shall provide privacy and be separate from other adjoining spaces.

2. Minimum Room Dimensions. A habitable room, other than a kitchen, shall not be less than 7 feet in width or length. Kitchens shall have a clear passageway of not less than 3 feet between counter fronts and appliances or counter fronts and walls.

3. Minimum Ceiling Heights. Habitable spaces, hallways, corridors, laundry areas, bathrooms, toilet rooms and habitable basement areas shall have a clear ceiling height of not less than 7'.

Exceptions:

- (a) In one and two family dwellings, beams or girders spaced not less than 4' on center may project not more than six inches below the required ceiling height;
- (b) Basement rooms in one and two family dwellings occupied exclusively for laundry, study or recreation purposes, may have a ceiling height of not less than 6'8" with not less than 6'4" of clear height under beams, girders, ducts and similar obstructions;
- (c) Rooms occupied exclusively for sleeping, study or similar purposes and may have a sloped ceiling over all or part of the room, with a clear ceiling height of at least 7'6" over not less than 50 percent of the required minimum floor area. In calculating floor area of such rooms, only portions of the floor area with a clear ceiling height of 5' or more shall be included.

4. Bedroom Requirements. Every bedroom occupied by one occupant shall contain at least 70 square feet of floor area, and every bedroom occupied by more than one occupant shall contain at least 50 square feet of floor area for each occupant thereof. Kitchens and uninhabitable spaces (i.e. bathrooms, toilet rooms, closets, halls, storage or utility spaces) shall not be used for sleeping purposes.

5. Overcrowding. Dwelling units shall not be occupied by more occupants than permitted by the minimum area requirements of the following Minimum Occupancy Area Table:

Minimum Occupancy Area Table

Minimum Occupancy Area Requirements			
Space	Minimum Area in Square Feet		
	1-2 Occupants	3-5 Occupants	6 or more Occupants
Living Room (see notes a, b)	No requirements	120	150
Dining Room (see notes a, b)	No requirements	80	100
Kitchen (see note b)	50	50	60
Bedrooms	Shall comply with section 4 above		

Note a. *Sleeping area.* The minimum occupancy area required by the Minimum Occupancy Area Table shall not be included as sleeping areas in determining minimum occupancy area for sleeping purposes. All sleeping areas shall comply with Section 4.

Note b. *Combined spaces.* Combined living and dining spaces comply with the Minimum Occupancy Area Table if the total area is equal to that required for separate rooms and the space is located to function as a combination living room/dining room.

6. Occupancy Limit. No more than eight individuals, unrelated by blood or marriage, shall occupy any dwelling unit. The number of occupants of a dwelling unit may be further limited based upon septic system limitations and parking regulations.

Chapter 8: TRAFFIC AND PARKING

Section 8-001 Rules of the Road

1. Georgia Rules of the Road Adopted

1.1 Intent. This Section is to regulate traffic on public streets of the County.

1.2 Incorporation by Reference. Per Chapter 6 of Title 40 of O.C.G.A., Sections 40-6-372 through 40-6-376, and 40-6-1 to 40-6-395 of that chapter known as the Uniform Rules of the Road, and the definitions in Code Section 40-1-1, are hereby adopted as and for the traffic regulations of the County with like effect as if recited herein.

2. Penalties. Unless another penalty is expressly provided by law, every person convicted of a violation of any provision of this Section shall be punished by a fine up to \$1,000, imprisonment up to 60 days, or both.

Section 8-002 Parking and Speed Restrictions

1. Parking Limitations. Reserved

2. Speed Limits

O.C.G.A. 40-6-183 permits alteration of speed limits by local authorities. When a county determines on the basis of an engineering and traffic investigation that the maximum vehicle speed permitted is greater than is reasonable and safe under the conditions found to exist upon a highway or part of a highway under its jurisdiction, it may determine and declare a reasonable and safe maximum vehicle speed limit thereon which: 1) Decreases the limit at intersections; 2) Decreases the limit outside an urban or residential district, but not to less than 30 miles per hour; 3) Decreases the limit within an urban or residential district, but not to less than 25 miles per hour; or 4) Decreases any speed limit where a special hazard or condition exists that requires lower speed for compliance with 40-6-180.

Not more than 6 alterations shall be made per mile, except reduced limits at intersections. The difference between adjacent limits shall not be more than ten miles per hour, except for reductions for school speed zones, which may be not more than 20 miles per hour when a warning sign is placed 700 feet in advance of the point at which the speed reduction is required. The following speed zones are established based on a Traffic Engineering Investigation per Georgia Law:

SAMPLE LANGUAGE FROM MORGAN FOLLOWS- NEED TO INSERT PROPER HANCOCK LANGUAGE

On-System.

- 1) State Route 12 (U.S. 278) from the Walton County line (M.L. 0.00) to the west city limit of Rutledge (M.L. 1.65), 0.71 mile west of Nunnally Street (M.L. 2.36), a distance of 1.65 miles to be zoned 55 mph.
- 2) State Route 12 (U.S. 278) from the east city limit of Rutledge (M.L. 3.53), 0.46 mile east of Centennial Drive (M.L. 3.07), to the west city limit of Madison (M.L. 9.95), 0.42 mile west of State Route 83 (M.L. 10.37), 6.42 miles to be zoned 55 mph.
- 3) State Route 12 (U.S. 278) from the east city limit of Madison (M.L. 13.09) to State Route 24 (M.L. 13.46), 0.37 mile to be zoned 45 mph.
- 4) State Route 12 from State Route 24 (M.L. 13.46) to the Green County line (M.L. 20.01), 6.55 miles to be zoned 55 mph.
- 5) State Route 24 (U.S. 441) from the Putnam County line (M.L. 0.00) to the south city limit of Madison (M.L. 7.64), 0.42 mile south of Pierce Dairy Road (M.L. 8.06), 7.64 miles to be zoned 55 mph.
- 6) State Route 24 runs common with State Route 12 from State Route 24 (M.L. 10.51) to State Route 12 (M.L. 12.71), __miles to be zoned 40 mph.

Off-System.

- 1) County Road #240-Newborn Road from the Rutledge city limit to I-20, a distance of 1.63 miles to be zoned 55 mph.
- 2) County Road #241-Parks Mill Road from the Buckhead city limit, 0.1 mile west of Shore Road, to County Road #146-Parks Mill Road, 4.42 miles to be zoned 55 mph.
- 3) County Road #242-Sandy Creek Road from County Road #243-Fairplay Road to State Route 83, 4.75 miles to be zoned 55 mph.
- 4) County Road #243-Fairplay Road from the Bostwick city limit, 0.00 miles south of Nunn Lane, to County Road #240-Prospect Road, 4.46 miles to be zoned 55 mph.
- 5) County Road #246-Brownwood Road from State Route 12 to County Road #79-Knight Road, 5.12 miles to be zoned 55 mph.
- 6) County Road #251-Seven Islands Road from the Buckhead city limit, 0.4 mile south of Park Hill Road, to State Route 24, a 7.65 miles to be zoned 55 mph.

Section 8-003 Solicitation of Charitable Contributions

A. Charitable organizations registered per OCGA 43-17-5 and such organizations exempt from registration per 43-17-9 are authorized to solicit for contributions on streets and highways in the County, subject to compliance with this Section.

B. Charitable organizations seeking a permit shall file an application with the County Clerk, which shall include name, address and telephone number of organization, officers of the organization, date(s), time(s) and place(s) of proposed solicitation and must include an agreement by the organization to hold harmless and indemnify the County from liability for damage or injury arising out of the solicitation. Such application must be executed by an authorized officer of said organization. Such organization must provide a copy of the declaration page of an insurance policy which provides liability insurance coverage, with limits of at least \$1 million per occurrence, for the solicitation. Such policy shall include an endorsement listing the County as a named insured.

C. The cost of the permit for solicitation shall be \$10 per day.

D. Solicitation for contributions on the streets and highways contrary to this Section is a misdemeanor and may be punished by a fine not to exceed \$100 per violation, each instance being considered a separate violation.

Chapter 9: GENERAL OFFENSES

Section 9-001 Abandoned, Wrecked, Dismantled or Inoperative Motor Vehicles- Reserved

Section 9-001.5 Animal Control Main Provisions

1. Definitions.

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

At large means any animal not under control as provided in this Chapter.

Commercial Kennel means any establishment, other than an animal shelter, where dogs or cats are maintained for boarding, breeding, holding, training, or similar purposes for a fee or compensation.

Cruelty means act, omission or neglect resulting in unjustifiable pain, suffering, maiming or death to any animal. OCGA 16-12-4.

Dangerous dog means any dog that:

- (1) has without provocation inflicted severe injury on a human being on public or private property; or
- (2) aggressively bites, attacks or endangers the safety of humans without provocation after the dog has been classified as a potentially dangerous dog and after the owner has been notified of such classification.

Dangerous dog control law is as contained in O.C.G.A. 4-8-20 et seq.

Dog means any member of the canine genus, including wolves.

Fowl means any warm-blooded, feathered, flying or nonflying animal.

Humane manner means care of an animal to include adequate heat, ventilation, sanitary shelter, wholesome food, and access to fresh, clean water at all times, consistent with the normal requirements and feeding habits of the animal's size, species and breed.

Livestock means any animal that has hooves.

Nuisance means an animal which: 1) damages property other than the property of the owner of the animal; 2) soils, defiles or defecates on property other than the property of the owner of the animal provided, however, that if the Owner immediately removes any defecation, the animal shall not constitute a nuisance; 3) causes unsanitary, dangerous or offensive conditions; 4) causes a disturbance by excessive barking or other noise making, as further described hereinafter; 5) molests, attacks or interferes with persons on public or private property, unless the animal is a guard dog actively performing its duties while confined to the property of the owner or responsible person; or 6) chases vehicles or attacks other animals.

Owner means any person or any entity owning, possessing, harboring, keeping or having custody or control of an animal or fowl within this state. An animal shall be deemed to be harbored if it is fed and/or sheltered for three (3) consecutive days or more.

Pet means any animal kept by an owner, excluding livestock.

Potentially dangerous dog means any dog with a known propensity, tendency or disposition to attack unprovoked, to cause injury, or to otherwise threaten the safety of human beings or any dog that when unprovoked: 1) inflicts bites on a human being; or 2) chases or approaches a human being off its owner's property in a vicious or terrorizing manner in an apparent attack.

Private Kennel means any establishment, other than an animal shelter, where dogs or cats are maintained for boarding, breeding, holding, training, or similar purposes, not for a fee or compensation.

Severe injury means any physical injury that results in broken bones or disfiguring lacerations requiring multiple sutures or cosmetic surgery or a physical injury that results in death.

Under control means: 1) confined by fence, pen, cage, or secure enclosure to the premises of its owner; 2) secured by a leash, chain or lead of sufficient strength to prevent it from escaping from the premises of the owner; or 3) under the immediate physical control of a responsible person, if a dog consistently heeds its owner's verbal commands, it need not be leashed to be under control, if it is within sight of its owner and remains responsive to its owner's verbal commands.

Vicious animal means any animal that attacks or attempts to attack without provocation a human being or domestic animal. This phrase shall not be construed to include dogs that are part of a governmental operation, nor a professionally trained certified guard dog in the performance of its duties while confined to the property of the owner or responsible person.

Wild and exotic animals means any Wild Animal, Wildlife, vertebrate or invertebrate recognized by the State of Georgia as Wild Animal, Wildlife, Exotic or Hybrid or regulated in O.C.G.A. 27-5-5 irrespective of its actual or asserted state of docility, domesticity, tameness or intended use and/or capable of causing Severe Injury by means of, venoms, poisons, toxins, constriction or bite, and includes without limitation any monkey or other primate, raccoon, black and white skunk, wolf, squirrel, fox, leopard, panther, tiger, lion, lynx, bear, wild rabbit, wild rodent and reptiles, including crocodiles, alligators, snakes, caiman and gavials, and any other animal so designated by the animal control unit. "Wild and Exotic Animal" shall not include, psittaciformes, ferrets, miniature pigs, hamsters, guinea pigs, gerbils, chinchilla, Dogs, Cats or Llamas, any other animals recognized by the State of Georgia as customarily and legally obtained and kept as a pet, or snakes that are Exotic Animals and are recognized as pets by Georgia (Boa, Python, etc.) less than 8 feet in length.

2. Enforcement responsibility. The Georgia Animal Protection Act authorizes the County to enact and enforce animal protection ordinances, O.C.G.A. 4-11-18; dead animal disposal, O.C.G.A. 4-5-3, 4-5-5. The provisions hereof shall be enforced by the animal control unit and/or law enforcement. No person shall interfere with, hinder or prevent them in the performance of duty or to seek to release any animal in the custody thereof, except as otherwise specifically provided herein.

3. Right of entry. The animal control units and other enforcement units of the County are authorized to enter on any property for seizing and impounding any animal found therein or thereon in violation hereof. The unit may use any force necessary to remove any animal locked in a closed vehicle. The operator of the vehicle may be charged with cruelty to animals. No legal action may be had against the County for such use of force.

4. Equipment. The unit is authorized to employ equipment it deems necessary to enforce this Chapter, including wire box traps. The unit may lend such traps to private persons for preventing nuisances resulting from animal running at large.

5. Dangerous Dog Control. The County enforces O.C.G.A. 4-8-20, et seq, the "Dangerous Dog Control Law" and 4-8-40 et. seq., regarding vicious dogs, known as "Mercedes' Law."

(a) Actions of animal control officer.

(1) Each officer is authorized to make investigations and inquiries necessary to identify dangerous dogs and their owners.

(2) When an officer classifies a dog as a dangerous dog, the officer shall notify the dog's owner in writing by certified mail to the owner's last known address. Such notice shall be deemed complete upon its mailing.

(3) A person carrying out the duties of an animal control officer shall not be authorized to make arrests unless the person is a law enforcement officer having the powers of arrest.

(b) Procedures.

(1) The procedures in this section shall not be an essential element of any crime provided for in this article.

(2) When a dangerous or potentially dangerous dog is classified as such, the officer shall notify the dog's owner.

(3) The notice to the owner shall meet the following requirements:

a. The notice shall be in writing and mailed by certified mail to the owner's last known address;

b. The notice shall include a summary of the officer's findings that formed the basis for the dog's classification;

c. The notice shall be dated and state that the owner, within 15 days after the date on the notice, has a right to request a hearing on the officer's determination that the dog is a dangerous or potentially dangerous dog;

d. The notice shall state that the hearing, if requested, shall be before the Board of Commissioners;

e. The notice shall state that if a hearing is not requested, the animal control officer's determination that the dog is a dangerous dog or a potentially dangerous dog will become effective for all purposes under this section on a date specified in the notice, which shall be after the last day on which the owner has a right to request a hearing; and

f. The notice shall include a form to request a hearing before the governing body and shall provide specific instructions on mailing or delivering such request to the agency.

(4) When the governing body receives a request for a hearing, it shall hold such within 30 days. The governing body shall notify the dog owner in writing by certified mail of the date, time and place of the hearing, and such shall be mailed to the owner at least ten days prior to the hearing. At the hearing, the owner shall be given the opportunity to testify and present evidence and the governing body shall receive such other evidence and hear such other testimony as the governing body may find reasonably necessary to make a determination either to sustain, modify or overrule the officer's classification of the dog.

(5) Within 10 days of the hearing, the County shall notify the owner in writing by certified mail of its determination. If such is that the dog is a dangerous or potentially dangerous dog, the notice shall specify the date the determination is effective.

(c) *Requirements.*

(1) It is unlawful for an owner to have or possess within the County, a dangerous or potentially dangerous dog without a registered dog license issued per this section.

(2) Subject to the additional requirements below for dangerous dogs, the animal control officer shall issue a registered dog license to the owner of such dog if the officer finds sufficient evidence of:

- a. A proper enclosure to confine the dangerous dog or potentially dangerous dog; and
- b. The posting of the premises where the dangerous or potentially dangerous dog is located with clearly visible signs warning there is a dangerous dog on the property and containing a symbol designed to inform children of a dangerous dog.

(3) In addition to the requirements, the owner of a dangerous dog shall present to the animal control officer evidence of:

- a. A policy of insurance in the amount of at least \$15,000 issued by an insurer authorized to transact business in this state insuring the owner of the dangerous dog against liability for any personal injuries inflicted by the dangerous dog; or
- b. A surety bond in the amount of \$15,000 or more issued by a surety company authorized to transact business in Georgia payable to any person or persons injured by the dangerous dog.

(4) The owner of a dangerous dog or potentially dangerous dog shall notify the animal control officer within 24 hours if the dog is on the loose, is unconfined, has attacked a human, has died, or has been sold or donated. If the dog has been sold or donated, the owner shall also provide the officer with the name, address and telephone number of the new owner.

(5) An officer is authorized to make whatever inquiry is deemed necessary to ensure compliance with this section.

(6) All owners of dogs shall be required to obtain an annual dog license per animal per the Schedule of Fees. All owners of dangerous or potentially dangerous dogs shall pay an additional annual fee per the Schedule of Fees.

(d) *Restraint.*

(1) It is unlawful for an owner of a dangerous dog to permit the dog outside a proper enclosure unless the dog is muzzled and restrained by a substantial chain or leash and under the physical restraint of a responsible person. The muzzle shall be made to prevent it from biting any person, but will not cause injury to the dog or interfere with its vision or respiration.

(2) It is unlawful for the owner of a potentially dangerous dog to permit the dog to be outside a proper enclosure unless the dog is restrained by a substantial chain or leash and is under the restraint of a responsible person.

(3) A proper enclosure must keep a dangerous dog or potentially dangerous dog securely confined indoors or in a securely enclosed and locked pen, fence or structure designed to prevent the dog from escaping and suitable to prevent the entry of young children. Any such pen or structure shall have secure sides and a secure top, and, if the dog is enclosed in a fence, all sides of the fence shall be of sufficient height and the bottom of the fence shall be constructed to prevent the dog's escape. Any such enclosure shall be at least 25' from any water or gas meter point to protect the meter reader. Any such enclosure shall also provide protection from the elements for the dog.

(e) *Confiscation.*

(1) A dangerous dog shall be immediately confiscated by the officer or another person authorized by the officer if the:

- a. Owner of the dog does not secure liability insurance or bond required by this section.
- b. Dog is not validly registered as required by this section;
- c. Dog is not maintained in a proper enclosure; or
- d. Dog is outside a proper enclosure in violation of this section.

(2) A potentially dangerous dog shall be confiscated in the same manner as a dangerous dog if the dog is:

- a. Not validly registered as required by this section;
- b. Not maintained in a proper enclosure; or
- c. Outside a proper enclosure in violation of this section.

(3) Any dog confiscated under subsection (1) or (2) of this section shall be returned to its owner upon the owner's compliance with this section and payment of reasonable confiscation costs. If the owner has not complied with this section within 20 days of the date the dog was confiscated, said dog shall be destroyed in an expeditious and humane manner.

(f) *Violations.*

(1) The owner of a dangerous dog who violates this section or whose dangerous dog is subject to confiscation under this section shall be guilty of a misdemeanor of high and aggravated nature. In addition to any confinement that might be imposed for a

conviction under this subsection, for the second conviction a fine of not less than \$500 shall be imposed and for a third or subsequent conviction a fine of not less than \$750 shall be imposed.

(2) The owner of a potentially dangerous dog who violates this section or whose potentially dangerous dog is subject to confiscation under this section shall be guilty of a misdemeanor. In addition to any confinement that might be imposed for a conviction under this subsection, for a second conviction a fine of not less than \$150 shall be imposed and for a third or subsequent conviction a fine of not less than \$300 shall be imposed.

(3) If an owner who has a previous conviction for a violation of this section knowingly and willfully fails to comply with the provisions of this section, such owner shall be guilty of a misdemeanor of high and aggravated nature if the owner's dangerous dog attacks or bites a human under circumstances constituting another violation of this section. The owner of a dangerous dog convicted for a violation of this subsection shall be punished by a fine of not less than \$1,000 or by imprisonment for not less than one year or by both.

(4) An owner who knowingly and willfully fails to comply with this section shall be guilty of a misdemeanor of high and aggravated nature if the owner's dangerous dog aggressively attacks and causes severe injury or death of a human being under circumstances constituting a violation of this section. The owner of a dangerous dog who is convicted for a violation of this subsection shall be punished by a fine of not less than \$1,000 or by imprisonment for not less than one year or by both.

(5) The dangerous dog under 3 or 4 above shall be immediately confiscated by an officer or another person authorized by the officer and placed in quarantine for the proper length of time as determined by the county board of health, and, thereafter, the dangerous dog shall be destroyed in an expeditious and humane manner.

(6) No owner of a dangerous dog shall be held criminally liable under this section for injuries inflicted by said owner's dog to any human being willfully trespassing on the owner's property.

(g) Exceptions

A dog that inflicts an injury upon a person when the dog is being used by a law enforcement officer to carry out the officer's official duties shall not be a dangerous dog or potentially dangerous dog. A dog shall not be a dangerous dog or a potentially dangerous dog if the injury inflicted by the dog was sustained by a person who, at the time, was committing a willful trespass or other tort or was tormenting, abusing or assaulting the dog or had in the past been observed or reported to have tormented, abused or assaulted the dog or was committing or attempting to commit a crime.

6. Wild and Exotic Animals: Prerequisites for keeping. No person or entity shall own, keep, harbor, or permit to be kept or harbored a wild or exotic animal, other than licensed persons or businesses approved in writing by the unit, which licensed may be granted upon evidence satisfactory to the unit that appropriate safeguards for protection of the public and the animal are maintained. The provisions of this section for licensure shall not apply to any person or entity required to be licensed and permitted by state and/or federal agencies for keeping and maintaining wild or exotic animals, where it appears that such person or entity is in fact continuously so licensed and/or permitted.

7. Wild and Exotic Animals: Sales. An animal establishment approved by the unit offering for sale any wild and exotic animal, shall post conspicuously at the place of sale or display a notice approved by the unit that no person may lawfully own, keep, harbor or permit to be kept or harbored any wild and exotic animal in the County, without first obtaining a license.

8. Wild and Exotic Animals: Impoundment. The unit may impound any wild or exotic animal that is owned, kept or harbored in violation of this Chapter, and may destroy or rehabilitate any such animal upon conviction of its owner or other responsible person for a violation of this article, notwithstanding the impoundment provisions of this Chapter, provided no such animal may be destroyed without first obtaining approval of the Board of Commissioners or its designee. Any wild or exotic animal impounded per this article shall remain impounded or confined by the unit until a final order is entered by a court.

9. Fowl and Livestock. Keeping and slaughtering. Horses, cattle, sheep, goats and chickens are allowed to the extent permitted under the zoning regulations. The slaughtering and processing of animals in the County is permitted

10. Fowl and Livestock. Adequate and sanitary housing. Animals must have adequate and sanitary housing. The houses, hutches, pens, stables, sheds, stalls and/or enclosures must have a proper floor. Adequate floor space must be provided. Housing shall not be nearer to any residence than 100 yards (200 yards for commercial chicken houses), except for the residence of the owner. The violation of this distance requirement is deemed a nuisance likely to endanger the public health. Enclosed livestock shall have no less than 150 square feet per animal. Whoever fails to maintain in an appropriate condition, free from unreasonably objectionable odor, any and all structures, pens, other housing, yards and adjacent areas where an animal is kept, shall be in violation. Such violation is declared to be a nuisance likely to endanger public health.

11. Fowl and Livestock. Manure disposal. Reserved.

12. Fowl and Livestock. Adequate drainage, etc. Places where poultry, fowl or livestock are kept shall have adequate drainage to prevent standing water in yards or pens. Yards or pens shall be limed as needed, to prevent nuisances.

13. Disease prevention. It shall be unlawful for any person to keep an animal with a contagious disease.

14. Nuisance. When animals are kept as to constitute a nuisance, a proceeding may be brought by the party aggrieved, or by the County. Animal(s) found by the court to be a nuisance may be impounded by the County if the owner, after reasonable opportunity granted by the court to do so, fails to abate the nuisance as ordered by the court.

(a) *Noise.* The owner of any animal which allows such animal to habitually bark, whine, howl, scream, yowl, or cause other objectionable noise, which constitutes a continual repetitive noise which a person inside a residence can clearly hear and distinguish from the background ambient noise, and which can be identified as to its source, or which allows any animal to cause serious annoyance to a neighboring residence or interfere with the reasonable enjoyment of a neighbor's property, is deemed to create a nuisance, and is in violation of this section.

(b) *Excrement.* An owner shall, upon request, remove excrement deposited by their dog on someone else's property.

(c) *Dead animals.* Per Georgia Administrative Code 40-13-5-.04, the owner shall remove the animal without delay and bury it within 24 hours of discovery of the animal, more than 100' away from any wells and water supply lines, 15' away from the edge of any embankment, and 100' away from the seasonal high water level of any pond, lake, tributary, stream, or other body of water including wetlands. Burial sites must be in soil with moderate or slow permeability and must be at least 1' above the seasonal high groundwater elevation. Burial sites must not be in areas with gullies, ravines, dry stream beds, natural and/or man made drainage ways, sink holes, and/or other similar conditions, including the 100-year flood plain. Dead animals that are buried must be at least 3' below ground level and have not less than 3' of earth over the carcass.

(d) *Nuisance, other.* When an animal attacks persons or animals on property other than the owner's or chases vehicles, the owner shall be in violation, unless the animal is a guard dog actively performing its duties on the property of the owner. Any animal which attacks or attempts to attack a human without provocation is a public nuisance and may be impounded.

15. Maintenance of areas. The owner of property shall maintain in a reasonably clean condition, and free from extreme and unreasonably objectionable odor, all structures, pens, yards, and areas adjacent thereto, wherein any animal is kept.

16. Enclosures. Domestic animals, fowl or livestock may only be kept under the following conditions:

(a) Any housing or enclosure shall be well drained, free from accumulations of animal excrement and objectionable odors and otherwise reasonably clean.

(b) Animal excrement shall be disposed of in a manner approved by the board of health.

(c) A proper enclosure for a dangerous dog or a potentially dangerous designated dog shall be as described in the section pertaining to such animals.

17. Confinement. Dogs shall not run at large off their owner's property.

(a) *Control of dogs off owner's premises.* When a dog is off the premises of the owner, it must be controlled by leash, but if a dog consistently heeds its owner's verbal commands, it need not be leashed if it is within sight of its owner and remains responsive to its owner's verbal commands.

(b) *Preventing dogs or cats from becoming a danger and/or trespassing.* An owner of a dog or cat shall prevent such dog or cat from becoming a danger or trespassing on another person's property.

(c) *Preventing dog from running at large.* No dog may run at large upon the streets or public places in the County.

(d) *Confinement of dogs or cats in heat.* Every dog or cat in heat shall be confined so it cannot come into contact with another dog or cat, except for intentional breeding purposes.

(e) *Fowl, livestock, etc., prohibited from running at large.* No chickens, ducks, horses, cows, goats, pigs, or any other type of animal, livestock or other fowl may run at large or be a menace or nuisance to neighbors or the public in general.

(f) *Impoundment.* Any animal in violation is subject to impoundment at the discretion of the officer.

(g) *Entrance into food places prohibited; exception.* No dog or cat may enter any food store, restaurant or place where food is exhibited for sale except those animals trained for the blind, hearing impaired, handicapped and law enforcement.

18. Prohibited treatment. It shall be unlawful for any person to:

(a) Override, overload, overwork, torture, beat, kill needlessly, confine in an inhumane manner or mistreat, any animal.

(b) Fail to provide an animal with proper food and veterinary care.

- (c) Fail to provide an animal needing shelter with access to shelter.
- (d) Fail to provide an animal with access to good fresh water at all times.
- (e) Abandon an animal.
- (f) Intentionally poison any domestic animal.
- (g) Allow or promote any fight between animals.
- (h) Allow an animal to be kept in unsanitary conditions.
- (i) Keep or confine an animal in other than a humane manner.

This section does not apply to the killing of animals raised to be hunted in compliance with the game and fish laws of this state. The killing or injuring of any animal for humane purpose or medical or scientific research is justifiable.

19. Commercial kennels. All commercial kennels shall also meet these standards:

- (a) Enclosure must be provided for protection against the weather. Floors, runs and walls shall be impervious to permit proper cleaning and disinfecting.
- (b) Building temperature shall be maintained at a comfortable level. Adequate ventilation shall be maintained.
- (c) Each animal shall have sufficient space to stand, lie down and turn around without touching the side or top of cages.
- (d) Cages are to be of material and construction that permit cleaning and sanitizing.
- (e) Cage floors shall be of an impervious surface and shall have a resting board or some type of bedding.
- (f) Runs shall provide adequate exercise area and protection from the weather. Runs shall have an impervious surface.
- (g) All animal quarters and runs shall be kept clean, dry and sanitary.
- (h) The food shall be wholesome, palatable and of sufficient quantity and nutritive value to meet the normal daily requirements for the condition and size of the animal.
- (i) All animals shall have fresh water at all times.

20. Standards for private kennels. Additional standards for private kennels are as follows:

- (a) All animals shall have adequate space for proper exercise and proper shelter against all types of weather at all times.
- (b) All kennel area shall be maintained as not to constitute either a private nuisance to adjoining property owners or a nuisance to the public generally. Kennel areas shall be cleaned regularly, so they are kept free from offensive odors which would disturb any person residing within 300' of such premises. The animals shall be housed so as to avoid continual repetitive noise which a person inside a residence can clearly hear and distinguish from the background noise, and which can be identified as to its source.
- (c) Proper food of sufficient quantity and nutritive value to meet the normal daily requirements for condition and size of each animal shall be provided.
- (d) Fresh water shall be available at all times.
- (e) It shall be unlawful for any private kennel structure to be located nearer than 100 feet to the nearest property line.

21. Standards for pet shops. Additional standards for pet shops are as follows:

- (a) *Water.* There shall be available hot water at a minimum temperature of 160 degrees for washing and disinfecting, and cold water available to all species of animals at all times. Containers are to be cleaned and disinfected each day.
- (b) *Room temperature.* The room temperature shall be maintained at a level healthful for every species of animal kept.
- (c) *Cages and enclosures.* All cages and enclosures are to be of a nonporous material for easy cleaning and disinfecting. Each cage must be of sufficient size that the animal will have room to stand, turn and stretch out to full length.

22. Standards for humane societies and organization. Additional standards for pet shops are as follows:

- (a) Enclosure must be provided for adequate protection against weather extremes. Floors of building, runs and walls shall be an impervious material to permit proper cleaning and disinfecting.
- (b) Building temperature shall be maintained at a comfortable level. Adequate ventilation shall be maintained.
- (c) Each animal shall have sufficient space to stand up, lie down and turn around without touching sides or tops of cages.
- (d) Cages are to be of material and construction that permit cleaning and sanitizing.
- (e) Cage floors shall be impervious and have a resting board or some type of bedding.
- (f) Runs shall provide adequate exercise area and protection from the weather. Runs shall have an impervious surface.
- (g) All animal quarter and runs are to be kept clean, dry and in a sanitary condition.
- (h) The food shall be free from contamination and shall be wholesome, palatable and of sufficient quantity and nutritive value to meet the normal daily requirements for the condition and size of the animal.
- (i) All animals shall have fresh water available at all times.
- (j) Any facility operated, owned or maintained by humane society, animal welfare society or other nonprofit for welfare, protection and humane treatment of animals must have a permit, but such shall be at no charge.

23. Animals as prizes forbidden. It shall be unlawful to offer a prize or give away any animal, including fowl, in any contest, raffle or lottery or as enticement for fund raising or for entry into any place of business unless care and health certified by a veterinarian licensed in the state. The validity of the certificate will extend for a maximum of seven days from issuance.

24. Impoundment authorized.

(a) Any animal at large or otherwise in violation may be impounded in a humane manner. The owner must claim the animal within three days. The Owner of an impounded Animal shall be liable for the cost of maintenance of said Animal during such impoundment. In addition, per O.C.G.A. 4-11-9.3(c), said Owner shall be liable for all other actual expenses of the County including, but not limited to, Veterinarian fees. All said costs shall be payable prior to the Owner retrieving said Animal, or upon the disposal of such Animal, whichever event first occurs.

(b) The following animals may be impounded, but are not limited solely to the following:

- (1) Animals running at large,
- (2) Animals, the ownership of which is unknown,
- (3) Female dogs/cats in heat and off the premises of their owners,
- (4) Dogs/cats which have bitten a person or animal or which have been bitten by an dog or animal suspected of rabies,
- (5) Dogs/cats not vaccinated for rabies as required.
- (6) Dogs/cats which have strayed from the premises of their owners,
- (7) Dogs/cats suspected of having rabies, and,
- (8) Unconfined dogs/cats in quarantine areas.

(c) If an animal impounded has not been reclaimed by its owner or representative within 3 days, such animal shall become the absolute property of the County, which may convey ownership of such animal to any responsible person on such conditions as it may prescribe or it may humanely destroy such animal.

25. Entry on private property. An officer may follow an animal seen running at large onto private property to impound that animal. No injunction, action or claim for damage may be brought against the County with respect to such.

26. Notice. The County shall make an effort to notify the owner of any animal impounded, of how the animal may be reclaimed, that the animal shall become the property of the County and be adopted, and that the animal may be destroyed.

27. Notice of proposed destruction. Following impoundment of an animal, which animal has on it its owner's address, and prior to its destruction, the County shall give the owner 5 days' notice of proposed destruction by certified mail. If the Owner of a Cat or Dog is not unknown, service of notice shall be made by posting the notice in a conspicuous place where the Cat or Dog was impounded and by publishing a notice once in the newspaper of general circulation in the County. An Owner of the Cat or Dog may request a hearing within 30 days of the date of publication by serving the request upon the County. The hearing shall be limited to whether impounding the Cat or Dog was authorized. Within 5 days of the hearing, the hearing officer shall render a decision. If the Cat or Dog was impounded properly, the Cat or Dog shall become the property of the County, and may be disposed of accordingly. If no Owner has requested a hearing within 30 days of publication, the Cat or Dog shall become the property of the County, and may be disposed of per Georgia Law. O.C.G.A. 4-11-9.4—4-11-9.6

28. Holding animals due to quarantine or evidence of prosecution. The County may refuse to release an animal impounded for rabies or contagious disease quarantine or for evidence of criminal prosecution.

29. Disease, overcrowding, or likelihood of danger or injury. The County may humanely destroy any animal impounded when it reasonably believes destruction of the animal is necessary to prevent disease or injury to the animal or to humans, due to overcrowding, the presence or threatened presence of contagious disease, the likelihood of danger or injury to humans or animals, or any other condition.

30. Injured or diseased animal. The County may humanely destroy any animal impounded when it reasonably believes the animal has sustained injury or disease which will likely result in maiming, prolonged and/or severe suffering or death.

31. Reclaiming impounded animals. Unless the Owner failed to provide proper care to an Animal, committed cruelty to Animals, or engaged in Dog fighting, the Animal may upon presenting satisfactory evidence of compliance with all provisions of

this Section, and on payment by the Owner of all costs of impoundment, be returned to the Owner. Such fees and charges shall not be in lieu of any fine or penalty otherwise provided by law. The County may condition the Cat or Dog's return to the Owner by requiring execution by the Owner of a contract stating that this Section will be complied with and the Cat or Dog will receive proper care. If the Cat or Dog was impounded improperly, the Cat or Dog shall be returned to the Owner. Fees for reclaiming impounded animals shall be as established in the adopted Schedule of Fees. The owner of an animal impounded in the animal shelter shall be liable for the fees and charges notwithstanding the destruction or adoption of the animal.

32. Adoption. The County may convey ownership of any animal which has become the property of the County, except dogs which have been designated as dangerous and potentially dangerous, to a responsible person subject to such conditions as may be prescribed, including:

- (a) Payment of an adoption fee and any vaccination, licensing or veterinary costs.
- (b) Evidence satisfactory to the animal control unit that the animal has been, or will be, examined by a veterinarian and required vaccinations, tests and permits be administered.
- (c) Evidence satisfactory to the animal control unit that the animal has been, or will be, neutered or spayed.

33. Draft Animals- reserved

34. Penalties for violations. Except as otherwise expressly provided any violator shall be guilty of a misdemeanor and punished as provided herein. Each violation shall constitute a separate offense.

Section 9-002 Rabies Control

1. Purpose. OCGA 31-19-3 requires each county, in the control of rabies, to require regulation or licensing of animals. Per OCGA 31-19-5, county boards of health shall adopt regulations requiring canines and felines to be inoculated against rabies and to prescribe the intervals and means of inoculation, the fees to be paid in county sponsored clinics, and that procedures comply with recommendations of the National Association of State Public Health Veterinarians for identifying inoculated canines and felines. 31-19-7 requires the county board of health to appoint a person to be the county rabies control officer. The rabies control officer shall enforce this Section. This Section is to prevent, control and report rabies by establishing regulations for vaccination, tagging and certification of animals; and to provide for improvement and control of animals, collection of fees and for other purposes.

2. Definitions

- 2.1 Board.** Board means the Hancock County Board of Health.
- 2.2 Department.** Department means the Department of Human Resources
- 2.3 Director.** Director means the Chief Executive of the County.
- 2.4 Dog.** The word dog shall mean a member of the canine species.
- 2.5 Vaccine.** An injectable material containing inactivated or attenuated rabies virus, licensed by the USDA, Biological Control Section and approved by the Georgia DHR. Vaccine shall be stored at the temperature prescribed on the label. Outdated vaccine or vaccine showing any signs of spoilage or appearing otherwise unfit shall not be used.
- 2.6 Vaccinate/Inoculate.** The injection of anti-rabies vaccine by a veterinarian into the proper site of the animal. The injected dose shall be per the amount and schedule prescribed by the manufacturer's instructions.
- 2.7 Veterinarian.** Any person who holds a license to practice veterinary medicine in Georgia.
- 2.8 Vaccination Tag.** The tag furnished by the Georgia DHR and to be worn by the rabies vaccinated dog.
- 2.9 Certificate.** Certificate of vaccination on a form furnished by the Georgia DHR.
- 2.10 Person.** Any individual, firm, entity, municipality, county, society or association.
- 2.11 Owner.** Owner shall mean any person having the right of possession of a dog, or other animal or any person exercising powers of control or care of a dog or other domesticated animal which remains on his premises.
- 2.12 Animal Shelter.** Facilities operated for the County for confining dogs or other animals

3. Vaccination of Dogs

3.1 Dogs to be Vaccinated. The owner of a dog 3 months or older shall cause such dog to be vaccinated against rabies and if such dog is less than 1 year upon vaccination it shall be revaccinated at least one year from the original vaccination.

When dogs 1 year of or older are vaccinated with a vaccine approved by the Department as providing three year protection, such animals shall be revaccinated in 3 years. When other approved vaccines are used, yearly inoculations shall be required.

3.2 New Dogs to be Vaccinated; Exceptions. The owner of any dog brought into the County shall cause such dog to be vaccinated, but when the owner produces evidence that such dog has been vaccinated in a manner comparable to the requirements of this regulation, then a County certificate of vaccination may be issued in lieu of revaccination.

3.3 Visiting Dogs. Any dog brought into the County for not exceeding 14 days shall be confined on a leash at all times.

4. Certificate of Vaccination. Any veterinarian shall issue certificates and vaccination tags. The certificate with each item answered shall be prepared in triplicate, signed by the veterinarian. He shall furnish one copy to the owner, one to the County and retain one for his files. The certificates furnished the County by the veterinarian shall be maintained in an orderly, indexed file.

5. Vaccination Tags

5.1 Tags to be Issued by Veterinarians. The veterinarian shall also furnish to the owner a serially numbered tag bearing the same number and year thereon as the certificate bears.

5.2 Tags to be Worn at all Times. Every dog shall wear a current vaccination tag.

5.3 Other. It shall be unlawful for any person to attach a vaccination tag to the collar of any animal for which it was not issued, or to remove such tag from any animal without the consent of its owner or possessor.

6. Fee. The veterinarian shall collect, in addition to the charges for vaccination, 50 cents for each dog vaccinated, to be delivered to the County by the veterinarian within 30 days from the end of each calendar year.

7. Clinics

7.1 Clinics Required. The Director shall cause to be operated county sponsored rabies clinics for vaccination of dogs against rabies. These clinics shall be operated at least annually, and at such other times as the Director may establish.

7.2 Vaccinations Performed by Veterinarians. Vaccination shall be performed by a licensed veterinarian at the clinics.

7.3 Fees, Notices, etc. Vaccination fees for such clinics shall be predetermined by the County Board of Health. Public notice of the clinics shall be given in advance. Such notice shall include the day, hour, place and vaccination fee.

8. Rabies Control Officer

8.1 Control Officer Position Established. Unless otherwise directed by the Board, an employee of the Hancock County Health Department shall be the Rabies Control Officer.

8.2 Job Duties. The duties of the Rabies Control Officer are:

- (A) to investigate and maintain a record of animal bites in the County;
- (B) to insure prompt confinement or other disposition of an animal involved in a bite, or if the animal is dead, to submit the animal's head for laboratory examination;
- (C) to enforce proper disposition of animals exposed to known rabid animals;
- (D) to assist in the planning and coordination of Rabies Vaccination Clinics;
- (E) to assist in impoundment and disposition of animals not properly vaccinated or without vaccination tags; and
- (F) such other duties necessitated by these rabies control regulations or as ordered by the Director.

9. Dogs and Other Animals Involved in Bites or Having Contact with Suspected or Known Rabid Animals

9.1 Authority. The Rabies Control Officer will enforce all regulations pertaining to confinement or other disposition.

9.2 Confinement in All Bite Cases. The owner shall confine said animal, which has bitten a person or other animal, for 10 days following the bite. For wild animals for which no safe confinement period has been established and for stray dogs or cats or by consent of owner, the animal shall be destroyed promptly, decapitated and its brain tissue analyzed for rabies.

9.3 Signs of Rabies Present. An animal having signs of rabies, as described in Advances in Veterinary Science, shall be kept in isolation until death, and released only if symptoms have disappeared as adjudged by a veterinarian. If confinement is not appropriate or practical, the animal shall be destroyed and brain tissue analyzed for evidence of rabies.

9.4 Bitten Animal Not Vaccinated. An animal which has not been vaccinated or was vaccinated less than one month prior to being bitten by a known rabid animal shall be immediately destroyed, or if the owner is unwilling to destroy the bitten animal, it shall be confined in strict isolation for 6 months. The confined animal must be vaccinated five months after the bite.

9.5 Other Cases. Any animal for which rabies vaccination effectiveness has been established and having current vaccination at least 1 month prior to being bitten by a known rabid animal, may be revaccinated and then confined 30 days; thereafter, it shall be released if the animal exhibits no signs of rabies as adjudged by a veterinarian.

10. Establishment of Infected Area Quarantine. Whenever the DHR may declare Hancock County or any area therein an infected area per O.C.G.A. 31-19-2, then every dog in said area shall be confined to the owner's premises during the quarantine.

11. Confinement Area or Facility

11.1 Definition. A confinement area or facility to which an animal is confined shall be either an animal shelter, kennel, animal hospital or such other place as designated by the Director or in certain cases may be a private residence per 11.2.

11.2 When Biting Dog or Animal Has Certification. A dog or cat which has a current certificate and has bitten a person or animal may be confined to the owner's residence for 10 days following the bite. Where residential confinement is allowed the owner shall confine such animal to a fenced-in area, enclosed outbuilding, or in the owner's personal dwelling to prevent contact between the confined animal and other animals or persons other than the owner.

11.3 Confinement Area or Facility Standards. Unless otherwise authorized by the Director, unvaccinated biting animals, and animals to be confined as prescribed herein, shall be confined in an animal shelter, kennel or animal hospital at the owner's expense. Such facility shall provide for the following:

- (A). Construction and management to keep the animal dry, clean, prevent escape and prevent contact with people and animals;
- (B). a procedure for identification of the animal and recording of the date of its admission to the area or facility;
- (C) assurance that the animal will have safe and adequate water and food;
- (D) adequate space for the animal's exercise;
- (E) protection against excessive heat and cold; and
- (F) space, cages, pens and other necessary equipment to isolate the animal against injury and infectious disease.

12. Animal Impoundment and Control

12.1 Procedures for Handling Impounded Animals. When a dog's owner can be readily identified and located, the Rabies Control Officer shall notify the owner that such dog has been impounded. If not claimed within 72 hours of being impounded, such dog shall be disposed of in a manner approved by the Rabies Control Officer; provided, that animals under observation for rabies shall remain as long as the Rabies Control Officer may deem necessary to protect the public. The Rabies Control Officer may offer for adoption any dog not claimed in 72 hours, to any person desiring the dog, but only after such person has complied with all applicable provisions of this regulation and has paid the animal shelter and vaccination fee.

12.2 Fees Required Prior to Release of Impounded Animal. Before being released, the owner of any unvaccinated dog shall pay \$12.50, \$7 of which shall be an animal shelter fee and the balance of \$5.50 shall apply toward the vaccination. Dogs that have been vaccinated before becoming impounded shall be released to their owners within 3 days after capture upon payment of the animal shelter fee, if the Rabies Control Officer is of the opinion such release will not impair the safety of the public. In addition to the animal shelter fee, the Rabies Control Officer shall charge a boarding fee of \$2 per day for dogs boarded in excess of 24 hours after notification to the owner. Every animal impounded which is diseased and injured, and whose owner is unknown or relinquishes ownership in writing, shall be immediately destroyed if not accepted by an organization approved by the Rabies Control Officer which signs a receipt for the animal.

12.4 Rabid Impounded Animals Destroyed. Every animal showing clinical signs of rabies as determined by a veterinarian shall be immediately destroyed and the head of such animal shall be sent to the laboratory of the Georgia DHR.

12.5 Control Officer Not Responsible for Impounded Animals. The Rabies Control Officer shall exercise reasonable care to prevent injury, illness, death, escape or pilfering of any animal, but shall not be responsible for any such occurrence.

12.6 Officer Responsible for Fees. The Rabies Control Officer shall maintain an accurate record of all funds received for animal shelter and vaccination fees and shall remit the same to the County Board of Health each month.

13. Reporting

13.1 Owners to Report Rabid Animals. The owner of any animal having signs suggestive of rabies shall confine the animal and immediately notify the Director, reporting any information regarding any person or animal bitten or attacked.

13.2 Bitten Persons and Owners to Report Bites. Any person bitten by a dog or other animal or any owner of a dog or warm blooded animal which has bitten a person shall report the bite to the Health Department within 24 hours, giving all known relevant information to an investigation of the incident by the Rabies Control Officer.

13.3 Doctors to Report Bites. Physicians or other medical personnel including those responsible for hospital emergency rooms shall report animal bites treated by them to the Health Department within 24 hours.

13.4 Director's Reporting Responsibilities. The Director shall report accumulated data relating to rabies in the County to the Department when rabies is prevalent or likely to become prevalent to the extent that quarantine is indicated.

14. Violations & Fines. Any person who violates this Section shall be guilty of a misdemeanor and upon conviction thereof, shall be punished as provided by law, by a fine not to exceed \$500 or by confinement in jail not to exceed 60 days, or both.

Section 9-004 Bird and Squirrel Regulations- reserved

Section 9-005 Disorderly Conduct and Loitering

1. Restrictions

1.1 Per OCGA 16-11-39, Disorderly conduct is prohibited by the County, and per state law is defined as follows:

A person commits the offense of disorderly conduct when such person commits any of the following:

(1) Acts in a violent or tumultuous manner toward another person whereby such person is placed in reasonable fear of the safety of such person's life, limb, or health;

(2) Acts in a violent or tumultuous manner toward another person whereby the property of such person is placed in danger of being damaged or destroyed;

(3) Without provocation, uses to or of another person in such other person's presence, opprobrious or abusive words which by their very utterance tend to incite to an immediate breach of the peace, that is to say, words which as a matter of common knowledge and under ordinary circumstances will, when used to or of another person in such other person's presence, naturally tend to provoke violent resentment, that is, words commonly called "fighting words"; or

(4) Without provocation, uses obscene and vulgar or profane language in the presence of or by telephone to a person under the age of 14 years which threatens an immediate breach of the peace.

1.2 Fights, Brawls, etc. Prohibited. It shall be unlawful for any person to cause, provoke or engage in any fight, brawl or riotous conduct so as to endanger the life, limb, health or property of another, or to endanger the lawful pursuits of another.

1.3 Conduct Within a Crowd. It shall be unlawful to assemble with other(s) for provoking or engaging in any fight or brawl; or jostling or roughly crowding or pushing any person in any public place; or collecting for unlawful purposes as defined by the ordinances or regulations of the County and the State laws; or intending to engage in gaming.

1.4 Fraudulent Schemes Illegal. It shall be unlawful to frequent any public place with intent to obtain money from other persons by illegal and fraudulent schemes, tricks, artifices or devices; or to engage in any fraudulent scheme, device or trick, to obtain any valuable thing in any place or from any person, or to aid or abet therein.

1.5 Patronizing Illegal Gaming & Alcoholic Beverage Places. It shall be unlawful to frequent any place where illegal gaming activities or illegal sales of alcoholic beverages or narcotics or dangerous drugs are allowed. See OCGA 16-12-20

1.6 Printing/Publishing Treasonous Materials. It shall be unlawful to introduce, or cause to be circulated, or be instrumental in any manner in introducing or circulating any writing for inciting persons to resist the laws of the County.

1.7 Blocking Traffic Flow. It shall be unlawful to congregate with another or others in or on any public way so as to halt vehicular or pedestrian traffic or refuse to clear such public way when ordered by law enforcement.

1.8 Loitering. See OCGA 16-11-36. A person commits the offense of loitering or prowling when he is in a place at a time or in a manner not usual for law-abiding individuals under circumstances that warrant a justifiable and reasonable alarm or immediate concern for the safety of persons or property in the vicinity.

Among the circumstances which may be considered in determining whether alarm is warranted is the fact that the person takes flight upon the appearance of a law enforcement officer, refuses to identify himself, or manifestly endeavors to conceal himself or any object. Unless flight by the person or other circumstances make it impracticable, a law enforcement officer

shall, prior to any arrest for an offense under this Code section, afford the person an opportunity to dispel any alarm or immediate concern which would otherwise be warranted by requesting the person to identify himself and explain his presence and conduct. No person shall be convicted of an offense under this Code section if the law enforcement officer failed to comply with the foregoing procedure or if it appears at trial that the explanation given by the person was true and would have dispelled the alarm or immediate concern.

It shall be unlawful for any person to loiter in or near any thoroughfare or place open to the public in a manner and under circumstances manifesting the purpose of inducing, enticing, soliciting or procuring another to commit an act of prostitution or sodomy. Among the circumstances which may be considered in determining whether such purpose is manifested are: that such person is a known prostitute, pimp, or sodomist, repeatedly beckons to, stops or attempts to stop, or engages passers-by in conversation, or repeatedly stops or attempts to stop motor vehicle operators by hailing, waving of arms or any bodily gesture. No arrest shall be made for a violation of this subsection unless the arresting officer first affords such person an opportunity to explain such conduct, and no one shall be convicted of violating this subsection if it appears at trial that the explanation given was true and disclosed a lawful purpose.

A person committing the offense of loitering or prowling shall be guilty of a misdemeanor.

2. Penalties. Any person found in violation of this Section shall be guilty of a misdemeanor and upon conviction, shall be subject to a fine not to exceed One Thousand Dollars (\$1,000.00) or sixty (60) days in jail, or both.

Section 9-006 Marijuana Possession

This section is to provide the Magistrate Court with jurisdiction to try and dispose of cases in which a person is charged with possession of marijuana, 1 ounce or less. Every person convicted shall be punished by a fine of not more than \$1,000 or imprisonment up to 1 year or both.

Section 9-007 Noise Regulations

1. Purpose. This Section is to prevent certain loud or excessive noises, plainly audible from 300 feet and detrimental or annoying to the public. This Section shall not prohibit supervised shoots under the Georgia DNR supervision on DNR property.

2. Sound Amplifying Devices Regulated. Except under Section 12-002, it shall be unlawful to speak through any horn, megaphone, sound box or amplifier or play any radio or other mechanical or electrical device where the sound is amplified, where the sound is plainly audible from a distance of 300 feet and is detrimental or annoying to the public.

2.1 Exceptions. Paragraph 2 above shall not restrict the playing of radios or musical instruments for the amusement, instruction or education of himself, members of his family or guests, within the limits in section 5 below, and as long as the sound is not plainly audible from a distance of 300 feet and detrimental or annoying to the public. Nor shall said Paragraph restrict noises made by participants in a parade for which a permit has been obtained.

3. Motor Vehicles. No person shall slow a road tractor, dump truck or other truck over 10,000 pounds Gross Vehicle Weight Rating by downshifting. The brakes shall be used instead. It shall be unlawful for any person to operate a motor vehicle without a proper muffler, in good working order and in constant operation, to prevent excessive or unusual noise. No person shall use a muffler cutout, bypass or similar device for noise making. This subsection shall not apply to farm tractors.

4. Noise from Automotive Shops. It shall be unlawful to perform or permit to be performed maintenance or repairs on automobiles, motorcycles or other motor vehicles or to operate or permit to be operated a machine shop, if such activity results in excessive noises detrimental or annoying to the public and plainly audible from 300 feet.

5 Nuisance, May be Abated. Violation of this Section is a nuisance and the Judge may issue an order directing abatement.

5.1 Notice. If a violation exists, a notice shall be served on the violator, notifying of the violation, requesting abatement.

5.2 Time. The violator shall have 14 days to comply. Otherwise, the County shall sue for abatement in Court and seek the fines provided for below.

6. Covered Area and Establishments. This Section shall only apply within residential areas.

7. Violations & Fines. Any violator this section shall be subject to a civil fine up to \$200 per offense. Each time such violation is committed shall be deemed a separate offense.

Section 9-009 Graffiti

1. Purpose and Intent. OCGA 17-15A-2 and following are followed and enforced by the County. 17-15A-3 notes that Criminal street gang activity is a serious and continuing public safety concern; Criminal trespass and criminal damage to property in the

second degree caused by graffiti being placed unlawfully upon private property are crimes frequently associated with criminal street gang activity; and It is in the public interest, not only in the pursuit of justice but also as a means of combating such criminal street gang activity and of contributing to the general public welfare by improving the esthetics of public views, to compensate as provided in this Section those private property owners who are the innocent victims of such criminal trespass or criminal damage to property in the second degree by using inmate labor to remove or obliterate graffiti unlawfully placed on private properties when such graffiti is visible from public roads or other public property. Per 17-15A-4, the County authorizes use of labor by inmates from any penal institution or jail under its authority to remove or obliterate graffiti when such graffiti is visible from any public road or other public property. Graffiti promotes blight and must be abated to avoid detrimental impact and to prevent further spread of graffiti. Without prompt removal, other properties become the target of graffiti, and entire neighborhoods are affected and become less desirable places to live and work.

2. *Nuisance.* Graffiti is a public and private nuisance and may be abated per this section and applicable laws.
3. *"Graffiti"* means any inscriptions, words, figures, paintings, or other defacements that are written, marked, etched, scratched, sprayed, drawn, painted, or engraved on or otherwise affixed to any surface of real property or improvements thereon without prior authorization of the owner or occupant of the property by means of any aerosol paint container, broad-tipped marker, gum label, paint stick, graffiti stick, etching equipment, brush, or other device capable of scarring or leaving a visible mark on any surface.
4. *"Occupant"* means any person or sub-lessee, successor or assignee that has control over property.
5. *"Owner"* means any person, agent or entity having a legal or equitable interest in a property.
6. *"Permit"* means knowingly allowing graffiti or any failure, refusal or neglect to remove.
7. *"Property"* means any real or personal property and that which is affixed incidental or appurtenant to real property but not limited to any premises, house, building, fence, structure or any separate part thereof, whether permanent or not.
8. *Prohibited Acts.* It is unlawful to apply graffiti or for any Owner or Occupant to permit graffiti on property.
9. *Notice of removal.* The County may serve a written notice directing the Owner/Occupant to remove such graffiti and advising of the appeal procedure. The notice may be served in person or by U.S. Mail, return receipt requested. If the Owner/Occupant cannot be found, the notice may be served by posting in a conspicuous place on the property for 3 days.
10. *Abatement of nuisance.* It shall be unlawful for the Owner/Occupant to fail to remove the graffiti within 5 days of notice if service is made in person or by certified mail. If service is made by posting, the Owner/Occupant shall remove the graffiti within 5 days of the first day that the property is posted.
11. *Appeal.* An appeal may be taken to the County Board of Commissioners by the Owner/Occupant to prevent the removal of any graffiti, within 5 days of having received the notice from the County. Appeals shall be in writing and state the reasons for the appeal. The County shall not remove or obscure any graffiti during the pendency of an appeal. If the party filing the appeal requests a hearing, such hearing shall be held within 45 days. If the County Board of Commissioners determines the graffiti must be removed, such must be accomplished within 5 days of the hearing.
12. *Removal.* If the graffiti is not completely removed by the Owner/Occupant within 5 days, the County may have it removed, and the County and/or its private contractor or inmates may enter upon such premises to remove such graffiti. If the Owner/Occupant applied the graffiti, the Owner/Occupant shall be liable to the County for all such expenses. The County shall record the expenses incurred in abating graffiti and shall provide a statement of such costs to the Owner/Occupant. If any expenses remain unpaid after 30 days, the County may sue in a court of competent jurisdiction to recover all such expenses incurred by the County in removing the graffiti, including attorney fees and court costs associated with the action.
13. *Penalty.* Any person convicted of violating this section may be punished by a fine of \$500 to \$1,000 per instance, plus may be required to reimburse the County for the expenses to remove the graffiti. The court may suspend or probate a portion or its entire sentence upon such conditions to include but not be limited to the restoring of the property so defaced, damaged or destroyed, or other remedial action.
14. *Alternate enforcement.* Nothing herein shall prevent County from commencing any other available civil or criminal proceedings to abate a public nuisance under state law or County ordinance as an alternative, or in addition to, this section.

Section 9-010 Utility Theft

Illegally obtaining electricity, gas and water creates a dangerous situation that can result in the loss of life or property. This section is cumulative of O.C.G.A. 16-7-25, criminal damage to property, and is enacted per O.C.G.A. 16-7-25(c). It shall be unlawful for any person to: 1) Cut, remove or in any manner make ineffective any seal, locking band or lock on an electric, gas, water or other utility meter; 2) Restore utility service by any means after service has been terminated, or to obtain electricity, gas, water or other utility service without making the proper deposit with a utility or receiving proper authorization from a utility; 3) Obtain electricity, gas, water or other utility service by use of jumper wires, or by any other means which bypass a metering device either partially or completely; 4) Damage or tamper in any manner with any part of a metering device belonging to a utility; 5) Change or alter the normal installed position of a metering device in any fashion which causes the normal accurate recording of utility service received to be altered and inaccurate; 6) Obtain electricity, gas or water or other utility service by use of a metering device which is

not authorized by a utility; 7) Interfere with the automatic registration, recording and transmission of electricity, gas or water consumption or other utility service when readings are recorded and/or transmitted electronically; 8) Fraudulently obtain, or attempt to obtain, service from a utility by using a false name or identification; 9) Fraudulently obtain, or attempt to obtain, service from a utility by placing the account in the name of someone else after the service has been disconnected for nonpayment or theft of service while the person in whose name the service was in when disconnected is still living at the location of the service; or 10) Receive electrical power, gas service or water service or other utility service without proper authorization from a utility.

Any person in possession of any premises found to have a utility service meter tampered with or altered or receiving utility service as a result of any of the methods described above shall be presumed to have knowingly violated the terms of this section. Such receipt of service shall be deemed prima facie evidence of an intent to defraud or deprive the utility of recovering proper charges for payment for such service. Any person found guilty shall be fined a \$250 to \$1,000 on each count. Each day that the violation continues is a separate count. In addition to any penalties the Court shall order full restitution for the cost of the services stolen, for damage to equipment and for all associated costs of the investigation.

Chapter 10: ALCOHOL REGULATIONS

Section 10-001 Regulations for the Sale, Tax and Control of Malt Beverages and Wine

ARTICLE I. IN GENERAL. State Law reference— Georgia Alcoholic Beverage Code, O.C.G.A. § 3-1-1 et seq.; county governing authority given power to regulate alcoholic beverages permitting and licensing, O.C.G.A. § 3-3-2.

1. Definitions.

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

Alcohol means ethyl alcohol, hydrated oxide of ethyl, or spirits of wine, from whatever source or by whatever process produced and includes all alcohol, distilled spirits, beer, malt beverage, wine or fortified wine. Distilled spirits are prohibited from sale, distribution or serving in the County, and references herein to "Alcohol" or "Alcoholic beverage" do not permit sale, distribution or serving of such. *Alcoholic beverage* means and includes all alcohol, distilled spirits, beer, malt beverage, wine or fortified wine. Distilled spirits are prohibited from sale, distribution or serving in the County, and references herein to "Alcohol" or "Alcoholic beverage" do not permit sale, distribution or serving of such.

County means the Board of Commissioners, or alternatively, where the context demands such, the area in the County.

Church means a building primarily used for public religious worship on a regular basis.

Distilled spirits means alcohol by distillation or more than 21 percent alcohol, including but not limited to all fortified wines. These are prohibited from sale, distribution or serving in the County.

Fortified wine means any alcohol more than 21 percent alcohol made from fruits, berries or grapes, by natural fermentation or by natural fermentation with brandy added. The term includes but is not limited to brandy. These are prohibited from sale, distribution or serving in the County.

Governing authority or County means Board of Commissioners, provided, however, where the context demands such, County means the geographical area in the County.

License in Article II means authorization to sell alcohol by the package not for consumption on the premises.

Licensee in Article II means any person selling, at retail, any alcohol in unbroken packages not for consumption on the premises.

License in Article III means the authorization to engage in the sale of alcohol for consumption on the premises.

Licensee in Article III means any person engaged in selling, at retail, alcohol for consumption on the premises.

Lounge means a separate room where alcoholic beverages are served by the drink connected with or adjacent to a restaurant. No lounges shall be permitted.

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

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

Permit means the authorization for a wholesaler or wholesale distributor for wholesale sales of alcohol to retail licensees.

Place of business means the premises described in a license issued pursuant to this chapter.

Premises means the location where a licensee is authorized to sell alcoholic beverages.

Restaurant means any place held out to the public where meals are actually and regularly served, without sleeping accommodations. Such place shall be air-conditioned and contain adequate and sanitary kitchen and dining equipment and seating capacity for at least 40 people, and have sufficient employees to cook and serve food for its patrons. At least one meal per day shall be served at least 4 days a week, except holidays, vacations and periods of redecorating. Serving of such meals shall be the principal business, with the serving of alcohol consumed on the premises as only incidental to such business. A restaurant shall derive at least 60 percent of its

total annual gross food and beverages sales from the sale of prepared meals or prepared food and shall have food sales in excess of \$50,000 per year.

School means building used for teaching and includes below the first grade usually serving pupils of the four to six age group and fostering their natural growth and social development through constructive play, including pre-K and kindergarten.

Wholesaler or wholesale distributor means distributor or seller to retailers for resale any alcoholic beverage.

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

2. Posting of Warning in Licensee's Establishment.

A licensee under this chapter shall post in a conspicuous place in his establishment a sign in letters at least four inches high reading: "SALE OF ALCOHOLIC BEVERAGES TO PERSONS UNDER 21 YEARS OF AGE STRICTLY PROHIBITED." The licensee shall also post in a conspicuous place in the licensed premises a sign in letters at least four inches high reading: "WARNING, DRINKING ALCOHOLIC BEVERAGES DURING PREGNANCY CAN CAUSE BIRTH DEFECTS."

ARTICLE II. BEER AND WINE: PACKAGE SALES

32. Off-premises consumption.

Alcohol under this Article will be for consumption only off the premises of the licensee.

33. Licensee Qualifications.

(a) No license shall be granted unless such person is at least 25 years and has been a resident of the state for a minimum of one year prior to filing an application. If a corporation or LLC applicant, it shall designate a person responsible for all business matters.

(b) No official or employee or member of the County shall be eligible for a license; however, any nonprofit corporation whose earnings are purely civic and for community purposes may be organized or owned by or operated by members of the County, and/or by officials or employees of the County as the case may be.

(c) Per 3-3-21, no license shall be granted to any person unless the entire business premises of the proposed location is situated beyond 100 yards from the property line of any housing authority property and beyond 100 yards from the property line of any school ground or college campus and not less than 100 yards from any building used as an alcohol rehabilitation center. The distance shall be measured by most direct route of travel on the ground. Each application license shall include a scale drawing of the location of the proposed premises showing distance to nearest housing authority property, school and alcohol rehabilitation center or a certificate of a registered surveyor that such location complies with this section.

(d) A separate license shall be required for each place of business.

(e) No license shall be issued unless the building is complete and detailed plans of the building and outside premises are attached to the application, unless proposed plans and specifications and a building permit of a proposed building comply with all ordinances of the County, all regulations of the state revenue commissioner, and all the laws of the state. The proposed building shall also be subject to final inspection and approval when completed by the building inspector. Each building in which the business will be located shall contain sufficient lighting so the building and the premises on all sides shall be readily visible at all times from the street. The lighting shall illuminate the inside retail area and all the outside premises. Each applicant shall attach evidence of ownership or a copy of the lease if the applicant is leasing.

(f) The licensee shall not have been convicted of or pled nolo to a felony or a misdemeanor involving moral turpitude within ten years of the date of application. As to entity applicants, including without limitation LLC's corporations, and partnerships, the foregoing requirements, regarding no such convictions, apply to any owners who own a 20 percent or more interest in the entity. All such owners, and all applicant's managers, shall furnish picture ID and a complete set of fingerprints for state and federal law enforcement background check. The manager(s) shall also submit a complete set of fingerprints and will be photographed by the County.

(g) The licensee shall be responsible for the management and operation of the business for which the license is granted.

(h) The applicant shall make a sworn statement of his qualifications according to this section and shall place the statement on file with the County clerk before any license is issued.

(i) If the application covers a partnership, all members of the partnership must be qualified to obtain a license and must make sworn statements of these qualifications.

(j) If the application covers a corporation or LLC, the manager of the proposed licensed premises must be qualified to obtain a license and must make sworn statements of these qualifications. A corporate license applicant shall appoint and designate to the County an agent authorized to receive service of process under state law. If no such designation is made, the County may serve or notify the applicant or license holder at any address of the applicant or license holder known to the County.

- (k) The County, in its reasonable discretion, may objectively consider any and all relevant circumstances regarding location history and proximity to residential which may reflect favorably or unfavorably on the applicant, the application or the proposed location of the business. If in its reasonable judgment circumstances are such that the granting, suspension or revocation of the license would or would not be in the best interest of the general public, such circumstances may be grounds for the decision of the County.
- (l) Any misstatement or concealment shall be grounds for revocation and make the applicant liable to prosecution for perjury.
- (m) When the County shall deny an application, applicant shall have 10 days after notice of the denial to request a hearing before the County. The applicant shall be entitled at such a hearing to present evidence and cross examine opposing witnesses.

34. Application for a Package Sales License.

Application shall be made on forms furnished by the County as follows:

- (1) All applications shall be presented in person.
- (2) Each applicant shall attach a completed application for a state license. Upon applicant's receipt of the state license, it shall be promptly forwarded to the County.
- (3) Per 3-3-2 (c) applicant shall furnish fingerprints for search of the GCIC and NCIC for criminal activity of the last 10 years.
- (4) Before any license is granted, the applicant must post with the County a performance bond with an insurance company as surety. This bond shall require the faithful observance and performance by the licensee of the rules and regulations in this article. Upon the violation the amount of bond to be forfeited will be determined by the seriousness of the violations as determined by the County. The bond is to be approved by the County and shall be properly executed. The bond is to be in the amount of \$100 for a wholesale license and \$1000 for package sales of beer and wine.
- (5) A license shall be valid only for the calendar year on the license, and not renewed. A licensee who desires to continue in business must make a new application for next year by December 15 of the present year. The prior year's application may be used, with complete supplementation addressing any and all changed circumstances. The accuracy of the original application and any supplemental information shall be certified under oath.

35. License Fee.

The fee for a new license is \$1500 for beer and wine package sales, and shall be paid prior to the issuance of any license and shall be cash or a bank certified check. A holder of a current license is only required to pay \$1000 when applying for a license the next year. All licenses shall expire December 31 of the year for which they were granted. No license fee shall be prorated.

Each new licensee shall complete an alcohol training class, approved by County after investigation of the proposed program and test by County, within 6 months of license approval. Every person working on a licensee's premises who may ever provide alcohol to a customer shall complete an alcohol training class, approved by the County after investigation of the proposed program and test by the County, within 6 months of license approval, and within 6 months of a new employee's hiring date and renew such every 3 years. Licensee shall supply proof of such at the time of permit application.

36. Licensee Regulations.

No licensee, any agent or employee of the licensee, nor any other person, shall do any of the following:

- (1) Sell or deliver any alcohol to any person except in the licensee's place of business.
- (2) Open his place of business, or furnish, sell or offer for sale any alcohol at any of the following times:
 - a. At any time in violation of a local ordinance or regulation or of a special order of the County; or
 - b. On any day before 8 a.m. or after 11 p.m. or on Sunday.
- (3) Sell or possess for sale any alcohol where such person does not have a license to sell or possess for sale.
- (4) Receive alcohol at the premises other than by a wholesale dealer with a permit granted by the County.
- (5) Knowingly and intentionally offer for sale, sell, barter, exchange, give, provide or furnish alcohol to any person confined in any jail, penal institution, correctional facility, prison camp, penitentiary or other lawful place of confinement, or to any person who is a patient or inmate of the Central State Hospital, or to any person who is noticeably intoxicated, or who is of unsound mind, or is an habitual drunkard whose intemperate habits are known to the licensee.
- (6) Fail to post in a conspicuous place in the licensed premises the signs required by section 2.
- (7) Fail to maintain on the licensed premises at all times a telephone in good working order.
- (8) Knowingly allow any person with a criminal record for violence or disorder to frequent or loiter on the premises.
- (9) Knowingly allow any person to frequent the licensee's premises for soliciting prostitution.
- (10) Fail to report to the police at the earliest possible time any known incident of a criminal nature. It shall be unlawful for any licensee to willfully withhold from the police any information pertaining to any crime on the premises.
- (11) Knowingly allow any criminal act to be committed on the premises.

37. Limitations.

- (a) Reserved.

- (b) All licensees shall sell or offer to sell in the original unbroken package only and shall sell no package less than half pint.
- (c) No licensee shall keep in stock, display, sell or offer to sell at any place of business licensed under this article any other product or commodity except the following:
 - (1) Wines, when properly licensed;
 - (2) Malt beverages, when properly licensed;
 - (3) Nonalcoholic beverages commonly used to dilute distilled spirits;
 - (4) Tobacco products;
 - (5) Ice, to be sold in sealed containers only and not to be opened on the premises;
 - (6) Paper, Styrofoam or plastic cups; and
 - (7) Convenience products, groceries and household goods.

Beverages containing no alcohol and commonly used to dilute distilled spirits may be dispensed through the use of vending machines, but no alcohol shall be dispensed through such vending machines.

- (d) No licensee shall keep any alcohol in any bonded or other type warehouse in the County, nor enter into any type of arrangement whereby alcohol is stored by any wholesaler. A licensee shall keep no inventory or stock of alcohol at any place except licensed place of business, and within licensed place of business storage space for alcohol shall be immediately adjacent to the display area.

38. Display of License.

Licenses shall be displayed prominently at all times on the premises.

39. Wholesale Permits.

Any wholesale distributor licensed by the state may be granted a permit to distribute in the County upon making application for such permit to the County clerk and on the presentation of evidence satisfactory to the County that the applicant understands and will comply fully with all terms and conditions and provisions of this article, and on payment of an annual fee of \$100.

40. Taxes.

- (a) There is levied an excise tax per state law.
- (b) Each wholesale distributor shall furnish to the County a summary of all purchase invoices sold to each retailer in the County by the 20th day of each month following such purchases. This shall show the amount of excise tax paid.

41. Financial Responsibility.

All applicants must show financial responsibility. Selling alcohol is a privilege, not a right, and financial responsibility requirements are reasonable. All applicants shall, at time of application and periodically after, on request of the County, submit to the County Clerk or designee, evidence of financial responsibility. The evidence or certification shall include without limitation:

- a) Financial statements and other proof of the finances of the business, which may be provided at the business for confidentiality reasons, the review to be at the licensee's expense, and/or a sworn certification from applicant's CPA, CEO, CFO, or owner that the licensee is a viable going concern, being operated in a fiscally responsible manner, which maintains reasonable reserves and maintains and follows a responsible business plan, and that the licensee is therefore "financially responsible" and meets that requirement of the County alcohol regulations.
- b) Proof of liability insurance coverage in the amount of no less than \$500,000 per occurrence, \$1,000,000 aggregate with a company listed on the U.S. Treasury Circular 570;
- c) A \$2,500 performance bond with an insurance company as surety, approved by the County and properly executed, requiring the faithful observance and performance by the licensee of the rules and regulations in this ordinance.
- d) Proof the applicant is the owner or lessee of the business (a fully executed deed in recordable form or a copy of the lease);
- e) An affidavit from applicant that it has adequate financial participation in the business to direct and manage its affairs, and is not a mere surrogate for a person who would not otherwise qualify for a license for any reason whatsoever, and/or a sworn certification from applicant's CPA, CEO, CFO, or Owner, based on their familiarity with and review of all the relevant documentation, that said financial responsibility requirement has been met;
- f) Payment of the applicable license fee;
- g) Proof upon request of a minimum of \$1,000 stock of the types of alcohol typically sold, to prevent undercapitalized businesses and to demonstrate the financial viability of the business, which shall be subject to inventory audit at the end of each month, and/or a sworn certification from applicant's CPA, CEO, CFO, or Owner, based on their familiarity with and review of all the relevant documentation, that said financial responsibility requirement has been met;
- h) Certified copies of the sales and use tax monthly reports filed with the state department of revenue for each month during the prior year (presentation of such, including with totals for the year, to the County Clerk or designee at the business shall be deemed lawful compliance with any report filing requirement in this article), and/or a sworn certification from applicant's CPA, CEO, CFO, or Owner, based on their familiarity with and review of all the relevant documentation, that said financial responsibility requirement has been met;

- i) An affidavit certifying that all state and local excise taxes were charged and paid the prior year, and/or a sworn certification from applicant's CPA, CEO, CFO, or Owner, based on their familiarity with and review of all the relevant documentation, that said financial responsibility requirement has been met;
- j) Written acknowledgement that the County shall have the right to subpoena all or any part of the records, books, documents, reports or invoices of the applicant for auditing the records of such applicant or licensee, securing compliance by such licensee with the provisions of this ordinance, proving or disproving violation of any part of this ordinance by any licensee, or to show payment or nonpayment of any taxes, fees, charges or the like due hereunder. If the County has a reasonable suspicion that an affidavit/certification is inaccurate, it may insist upon tender of the actual backup documentation.

42. Transferability.

- (a) Except as otherwise stated, no license shall be transferable to any person or location; if a licensed business is sold or closed, licensee shall immediately surrender the license. Under no circumstances will the license fee be refunded.
- (b) No license shall be transferred during the year in which the license was obtained except in the case of death. In such a case, the executor or administrator may continue to operate for up to six months.
- (c) Upon the sale of any licensed business, the new owner may operate under the old license, but in no event for longer than 60 days or until his application is granted or denied, whichever shall first occur.
- (d) All holders of licenses shall, within six months, open for business the establishment referred to in the license. Failure to do so shall serve as a forfeiture of the unused license, and no refund of the license fee shall be made.

43. Inspections.

The business shall be open to inspection at all times by officers or officials authorized to conduct such inspections.

44. Gambling.

There shall be no gambling, betting, games of chance, punchboards, slot machines, lotteries, tickets or chances therein or any schemes for hazarding money or any other thing of value, or in any adjoining room owned, leased or controlled by licensee; however, the sale of Georgia lottery tickets in compliance with 50-27-1 et seq. is permitted.

45. Compliance with Laws.

Each licensee shall comply with all laws, and all rules and regulations of the state revenue commissioner; any violation shall subject the licensee to suspension or revocation and also may subject the licensee to criminal prosecution.

46. Sales to Minors.

- (a) "Minor" shall mean any person under the age of 21 years, or as defined in 3-3-23 or by other state laws.
- (b) It shall be unlawful for a minor to attempt to purchase or for any other person to purchase alcohol for a minor.
- (c) It shall be unlawful for a minor to exhibit fake, forged or borrowed ID to obtain alcohol.
- (d) No person shall make or permit to be made any sale of alcohol to minors. Upon violation, the licensee shall generally be treated as follows: upon a first offense by the licensee, a suspension for 7 consecutive days of sales of alcoholic beverages; proof of attendance and successful completion by all sales clerks and servers at the approved alcohol awareness class designated by the Board of Commissioners, such proof to be provided to the County within 75 days of the first day of the suspension of the license; a \$500 civil penalty; and on the first day of the suspension, the posting at the premise's entrance of a sign notifying patrons of the nature and length of the suspension. Upon a second offense by the licensee, within three years of a prior offense, a suspension of 60 consecutive days of sales of alcoholic beverages; proof of attendance and successful completion by all sales clerks and servers at the approved alcohol awareness class designated by the County, such proof to be provided to the County within 75 days of the first day of suspension of the license; a \$1,000 civil penalty; removal of all alcoholic beverages from the premises; on the first day of the suspension, the posting at the premise's entrance of a sign notifying patrons of the nature and length of the suspension; and probationary status for one year. Upon a third offense in three years, by the licensee, the license shall be revoked for 1 full year.
- (e) Upon receipt of letter of notification of penalty, licensee has 10 days to file a written request for a hearing to appeal the fine, suspension, attendance at an approved alcohol awareness class, and/or the starting date of suspension of sales.
- (f) If no written request for a hearing is filed within 10 days of receipt of notification of penalty letter, the fine and suspension will begin on the eleventh day after the receipt of the notification of penalty letter unless the 11th day is a Saturday, in which case the suspension will begin on the next day of the establishment's operation during which alcoholic beverages would normally be available. Additionally, proof of attendance and successful completion by all sales clerks and servers at the approved alcohol awareness class designated by the County, to be provided to the County within 75 days of the receipt of the notification of penalty. Failure to timely present such proof shall be cause for a determination by the Board of Commissioners of non-compliance and a suspension of alcohol sales until the next meeting of the Board of Commissioners after presentation of proof of compliance.

(g) Schedule if Appeal Hearing Conducted: the fine and/or suspension will commence within 5 days thereafter, on a date set at the appeal hearing by the Board of Commissioners. Proof of attendance and successful completion by all sales clerks and servers at the approved alcohol awareness class designated by the County, such proof to be provided to the County within 75 days after the hearing. Failure to timely present such proof shall be cause for a determination by the Board of Commissioners of non-compliance and a suspension of alcohol sales until the next meeting of the Board of Commissioners after proof of compliance.

47. Violations.

Any person violating this article shall, upon conviction, be punished as provided in County Code. In addition, such violation may be a cause for revocation or suspension of the license of a licensee by the County.

48. Suspension or Revocation of License.

(a) Any license issued under this article shall be subject to suspension or revocation upon any of the following grounds:

- (1) The making of any false statements on an application for a license;
- (2) A violation of the regulations in this article and/or the laws of the United States and/or the state and/or the County;
- (3) The failure to have the financial responsibility upon which issuance of the license was conditioned;
- (4) Default in any obligation, of any kind whatsoever, lawfully owing to the County;
- (5) Suspension or revocation of a state license;
- (6) Any violation of this article; or
- (7) For any other legal and sufficient case.

(b) Any action taken by the County to suspend or revoke a license shall not preclude and may be in addition to any criminal prosecution by a proper authority per the laws and/or ordinances of the County, the state and/or the U.S. Whenever any action is taken by the County to suspend or revoke any license, County shall provide written notice to the licensee of the action taken. The notice shall set forth the reasons for such action. The licensee shall have ten days following notification of such action to request a hearing before the County. The licensee shall be entitled at such hearing to present evidence and cross examine opposing witnesses.

49. Production of Records.

In conjunction with any license or the revocation, suspension or cancellation of any license or the hearings or payment or nonpayment of any excise tax levied or to be collected under this article, the County shall have the right to subpoena all or any part of the records, books, documents, reports or invoices of any applicant or licensee. This shall be for auditing the records of such applicant or licensee, securing compliance by such licensee with the provisions of this article, proving or disproving violation of any part of this article, or to show payment or nonpayment of any taxes, fees, charges or the like.

50. Conditions of Premises.

- (a) All premises for the sale of alcohol and/or for the storage of alcohol shall be kept sanitary and in full compliance with the regulations of the health department.
- (b) All premises shall be subject to inspection by the health department, fire department, building inspector, and any authorized law enforcement officers to determine if the premises are in compliance with all rules, regulations, laws and codes.

51. Incorporation of State Law.

The state laws and/or regulations relating to the sale and/or distribution of alcohol within the state are incorporated in and made a part of this article as if fully set out in this article.

52. Employees.

- (a) Every licensee shall maintain at all times on the premises a list of all persons employed, which shall show the full legal name, alias, date of birth, current address, current home telephone number, and social security number of each employee.
- (b) The employee list shall be available during reasonable hours for inspection by any law enforcement officer or official or his designee. If so required by such person, an employee must submit to a fingerprint identification and criminal history check.
- (c) No minors shall be employed in any capacity. However, persons under 18 employed in supermarkets and drugstores may sell or handle malt beverages and wine.
- (d) The licensee shall not employ anyone who in the last 10 years has been convicted of a felony or misdemeanor of moral turpitude.

53. Copy of Article.

Licensees shall keep a copy of this article on the licensed premises and instruct any person working there to read and follow this article, and all persons selling alcohol shall at all times be familiar with the terms of this article. The licensee shall be held responsible for any acts of his employees. Each new licensee shall complete an alcohol training class, approved by the County after careful investigation of the proposed program and test, within 6 months of license approval. Failure to timely present such proof shall be cause

for a determination by the Board of Commissioners of non-compliance and a suspension of alcohol sales until the next meeting of the Board of Commissioners after presentation of proof of compliance. Every person working on a licensee's premises who may ever provide alcohol to a customer shall complete an alcohol training class, approved by the County after careful investigation of the proposed program and test, within 6 months of license approval, and within 6 months of a new employee's hiring date and renew such every 3 years. Failure to timely present such proof shall be cause for a determination by the Board of Commissioners of non-compliance and suspension of alcohol sales until the next meeting of the Board of Commissioners after presentation of proof of compliance. Licensee shall supply proof at the time of permit application.

54. Prohibited Sales.

No licensee shall furnish, sell or offer to sell any alcohol to any person in any jail or other lawful place of confinement, or to any person who is a patient or inmate of the Central State Hospital, or to any person who is noticeably intoxicated, or is of unsound mind, or is an habitual drunkard whose intemperate habits are known to the licensee or his agent or employee.

55. Lock and Key.

All malt beverages and/or wine shall be under lock or fully covered by opaque material during those hours when their sale is not permitted. All malt beverages and/or wine owned or possessed contrary to the provisions of this article are contraband and shall be seized by the proper authorities.

ARTICLE III. POURING LICENSES FOR ALCOHOLIC BEVERAGES

302. Unlawful Sales without License.

As used in this article, defined words shall have the meanings specified unless the context in which the word or term is used clearly requires that a different meaning be used. It shall be unlawful for any person to sell or offer to sell any alcoholic beverages for consumption on the premises without first complying with the regulations in this article. The business of selling or otherwise dealing in or possessing alcoholic beverages is declared to be a privilege, not a right, and such privilege shall not be exercised in the County except as licensed under this article.

303. Applications.

No alcohol shall be sold for consumption on the premises except under a license granted by the County. Application for a pouring license may be made only on behalf of restaurants, on forms provided by the County, subject to the following:

(a) A pouring license shall be valid only for the calendar year indicated and not renewed. A licensee who desires to continue in business must make a new application for next year on or before December 15 of the preceding year.

(b) The owner and/or manager of each applicant shall be photographed, and shall furnish picture identification, a separate form of identification, and a complete set of fingerprints, which shall be forwarded to law enforcement, who shall institute a search of GCIC/NCIC for criminal activity within the 10-years preceding the application. Law enforcement shall make such other investigations as are appropriate in the judgment of law enforcement. All new owners and/or managers shall also immediately undergo this procedure. As to entity applicants, the foregoing requirements, regarding no such convictions during the prior 10 years, apply to any owners who own a 20 percent or more interest in the entity. All such owners, and all of applicant's managers, shall furnish picture identification and a complete set of fingerprints for state and federal law enforcement background check. The manager(s) shall also submit a complete set of fingerprints and will be photographed by the County.

(c) Each applicant shall attach a completed form with all attachments and requirements for a state license.

(d) Before a license is granted, the applicant must post with the County, along with his application, a performance bond with an insurance company as surety. Said bond is to be conditioned requiring the faithful observance and performance by the licensee of the rules and regulations contained in this article. Upon the violation of this article, or any part thereof, the amount of the bond to be forfeited will be determined by the seriousness of the violation as determined by the County. Said bond is to be approved by the County and shall be properly executed. Said bond shall be in the amount of \$2,500.

(e) All applications for a license shall be presented in person.

(f) At the time an application is made for a license, the County clerk shall give notice to the applicant of the date on which the County shall consider the application. The County clerk shall then give notice of the making of such an application by advertisement, once a week for two consecutive weeks prior to consideration by the Board of Commissioners on such application, in the newspaper in which legal advertisements for the county are published. The notice shall state the address of the proposed business, give the name of the applicant, and if a partnership, the names of all partners, and if a corporation or LLC, the names of the officers and stockholders or members, and day and time the Board of Commissioners will consider such application.

304. Legal Age, Residency and Ownership.

No license shall be granted unless such person is at least 25 and been a resident of Georgia for one year prior to filing an application. If a corporation or LLC should be an applicant and has not been allowed to do business by the secretary of state in Georgia for said one-year period, then the incorporator or managing member and the owners of at least 80 percent of the stock or interests shall all have been residents of Georgia for at least one year prior to filing an application.

305. Standards of Issuance.

The following standards shall be applied to all decisions pertaining to the issuance or denial of licenses:

- (1) All applicants must show financial responsibility. All applicants shall, at the time of application and periodically after, on request of the County, submit to the County Clerk evidence of financial responsibility. The evidence or certification shall include:
 - a) Financial statements and other proof of the finances of the restaurant, which may be provided at the restaurant for confidentiality reasons, the review to be at the licensee's expense, and/or a sworn certification from applicant's CPA, CEO, CFO, or Owner that the licensee is a viable going concern, being operated in a fiscally responsible manner, which maintains reasonable reserves and maintains and follows a responsible business plan, and that the licensee is therefore "financially responsible" and meets that requirement of the County alcohol regulations.
 - b) Proof of liability insurance coverage in the amount of no less than \$500,000 per occurrence, \$1,000,000 aggregate with a company listed on the U.S. Treasury Circular 570;
 - c) A \$2,500 performance bond with an insurance company as surety, approved by the County and properly executed, requiring the faithful observance and performance by the licensee of the rules and regulations in this ordinance.
 - d) Proof the applicant is the owner or lessee of the restaurant (a fully executed deed or a copy of lease);
 - e) An affidavit from applicant that it has adequate financial participation in the restaurant to direct and manage its affairs, and is not a mere surrogate for a person who would not otherwise qualify for a license for any reason whatsoever, and/or a sworn certification from applicant's CPA, CEO, CFO, or Owner, based on their familiarity with and review of all the relevant documentation, that said financial responsibility requirement has been met;
 - f) Payment of the applicable license fee;
 - g) Proof of quarterly and annual food sales (with totals) of 60 percent or more of total gross sales, and annual food sales in excess of \$30,000 via a confidential non-public sworn statement of the true and correct sales during the preceding calendar quarter and year respectively on forms approved by the County, which reflect the gross dollar sales amount for: total sales for the quarter and year, sales of alcohol for the applicable calendar quarter and year, and sales of food items for the quarter and year (presentation of the statement to the County Clerk or designee at the restaurant shall be deemed lawful compliance with any statement filing requirement in this ordinance) and/or a sworn certification from applicant's CPA, CEO, CFO, or Owner, based on their familiarity with and review of all the relevant documentation, that said requirement has been met;
 - h) Proof, upon request, via purchase receipts and sales records, of ongoing maintenance of two weeks supply (consistent with past sales) of the types of alcohol typically sold, to prevent undercapitalized restaurants and to demonstrate the financial viability of the restaurant, and/or a sworn certification from applicant's CPA, CEO, CFO, or Owner, based on their familiarity with and review of all the relevant documentation, that said financial responsibility requirement has been met;
 - i) Certified copies of the sales and use tax monthly reports filed with the state department of revenue for each month during the prior year (presentation of such, including with totals for the year, to the County Clerk or designee at the business shall be deemed lawful compliance with any report filing requirement in this article), and/or a sworn certification from applicant's CPA, CEO, CFO, or Owner, based on their familiarity with and review of all the relevant documentation, that said financial responsibility requirement has been met;
 - j) An affidavit from the CPA, CEO, CFO, or Owner, based on their familiarity with and review of all the relevant documentation, certifying that all state and local excise taxes were charged and paid the prior year;
 - k) Written acknowledgement that the County shall have the right to subpoena all or any part of the records, books, documents, reports or invoices of the applicant for auditing the records of such applicant or licensee, securing compliance by such licensee with the provisions of this ordinance, proving or disproving violation of any party of this ordinance by any licensee, or to show payment or nonpayment of any taxes, fees, charges or the like due hereunder. If the County has a reasonable suspicion that an affidavit/certification is inaccurate, it may insist upon and be entitled to tender of the actual backup documentation.
- (2) No officials or employees of the County or members of its County shall be eligible to receive a license.
- (3) All applicants for a license must be the owner or lessee of the premises and must provide evidence of ownership of the premises in the form of a fully executed deed or a copy of the lease.
- (4) All applicants for a license must be of good character as evidenced by no conviction within the last 10 years of misdemeanors involving moral turpitude or felonies, and all operators, managers, clerks, or other employees shall be of such good character. Furthermore, corporate or firm applicants shall also be of such good character, with all officers and members being of such good character. The application shall be sent within five business days of receipt to law enforcement for investigation of the applicants, employees, officers and members, then law enforcement shall timely present a written investigation report to the County.

- (5) A license may be denied to any applicant if it appears that the applicant would not have adequate financial participation in the proposed business to direct and manage its affairs, or if it appears that the applicant is intended to be a mere surrogate for a person who would not otherwise qualify for a license for any reason whatsoever.
- (6) The County, in its reasonable discretion, may objectively consider any extenuating circumstances regarding location history and proximity to residential that may reflect favorably or unfavorably on the applicant, application or the proposed location of the business. If in the reasonable judgment of the County circumstances are such that the granting of the license would not be in the best interest of the general public, such circumstances may be grounds for denying the application.
- (7) A corporate applicant shall designate to the County an agent authorized to receive service of process under the laws of Georgia. If no such designation is made, the County may serve or notify the applicant or license holder at any address known to the County.
- (8) The County shall give notice in writing to the applicant of any decision to deny an application and give reasons for the decision. When the County shall deny an application, applicant shall have ten days from notice of denial to request a hearing before the County. The applicant shall be entitled at such a hearing to present evidence and cross-examine opposing witnesses.

306. Transfer.

No license shall be transferable and if a licensed business is sold or closed, it shall be the duty of licensee to immediately surrender said license to the County, and under no circumstances will the license fee be refunded to the holder; provided, however, license transfer and temporary licensing can occur subject to the following conditions:

- (a) If the owner of a license desires to transfer, or a 50 percent or greater interest in the business is sold or otherwise transferred, then the purchaser or transferee shall make a new application to the County as for an original license, before the date on which such sale or transfer is made. Ownership of such license shall remain unchanged until the application is approved by the County and all proper fees and taxes are paid.
- (b) Upon the sale or other transfer of 50 percent or more interest in the business for which the license was issued, the purchaser or transferee shall be entitled to continue to operate such business for 30 days, pending the a new license, but only if such purchaser or transferee has filed a complete application with the County as required in subsection (a).
- (c) In case of the death of any natural person the license may be transferred to the administrator, executor or the lawful heir or devisee by filing a new application for the change in license ownership within 30 days of such death. The business may continue to operate until disposition of the application is determined as for an original license. No additional fees shall be charged above what would be due if the business, or portion thereof, remained under the deceased person's ownership.
- (d) All holders of licenses shall within 6 months after the issuance of such license open for business the establishment. Failure to open shall serve as a forfeiture of the unused license, and no refund of the license fee shall be made.

307. Separate License.

A separate license shall be required for each pouring location of each place of business. Each license will enable the licensee to sell the licensed alcoholic beverages only in the areas of the premises permitted by state laws and regulations.

308. Building.

No license shall be issued to any person unless complete, detailed diagrams of the building and outside premises are attached, or unless proposed plans and specifications and a building permit of a proposed building are attached. The building shall comply with ordinances of the County, regulations of the state revenue commissioner, and the laws of Georgia. On completion, the building shall be subject to final inspection and approval by the building inspector. Each applicant shall attach evidence of ownership or a copy of the lease. Licensees shall provide adequate sanitary toilet facilities as required by health and building codes and the building shall be adequately illuminated so all hallways, passageways and open areas may be clearly seen by customers therein.

309. Distance Requirements.

No license shall be granted unless the front door of the building is situated not less than 40 yards from the property line of any school ground or college campus, and not less than 20 yards from any church building or 100 yards from any housing authority property or any building used as an alcohol rehabilitation center. This distance is to be measured by the most direct route of travel on the ground. Each application shall include a scale drawing of the location of the proposed premises showing the distances or a certificate of a registered surveyor that such location complies.

310. Hours of Operation.

No alcohol may be served before noon (12:30 Sunday) on any day or after last call, which will be at 11:00 p.m. Sunday through Thursday and 12 midnight on Fridays and Saturdays. Provided, however, when December 31 is Sunday - Friday, alcohol service may, in the discretion of the licensee, be extended to 1 a.m. of the following day. Saturdays must still observe 12 midnight as the conclusion of service, to avoid service on Sunday morning. No licensee shall furnish alcohol at any of the following times:

- (1) At any time in violation of a local ordinance or regulation or of a special order of the County; or

(2) At any time in violation of state law or regulation.

(3) At any time more than one hour after the restaurant shuts down the kitchen for the evening.

However, the wholesale or retail sale of alcohol shall be lawful during the polling hours of any election, except that the sale of alcoholic beverages within 250 feet of a polling place is unlawful during such hours that the polls are open.

311. Minimum Age of Consumption; Exceptions.

No licensee nor any agent or employee of a licensee shall give, furnish, sell or offer to sell any alcoholic beverage(s) to a person under 21. Licensee shall post in a conspicuous place in the establishment a sign in letters at least four inches high reading as follows: "SALE OF ALCOHOLIC BEVERAGES TO PERSONS UNDER 21 YEARS OF AGE STRICTLY PROHIBITED" and "WARNING: DRINKING ALCOHOLIC BEVERAGES DURING PREGNANCY CAN CAUSE BIRTH DEFECTS." It shall be unlawful for a minor to exhibit fake, forged, or borrowed ID to obtain alcoholic beverages.

312. Furnishing Alcoholic Beverages to Certain Persons Prohibited.

No licensee shall furnish, sell or offer to sell any alcohol to any person confined in any jail or other lawful place of confinement, or to any person who is a patient or inmate of the Central State Hospital, or to any person who is noticeably intoxicated, or is of unsound mind, or is a habitual drunkard whose intemperate habits are known to said person.

313. Certain Employment Prohibited.

No licensee shall employ, require or permit a person under 18 to sell or take orders for any alcohol.

314. Containers.

The sale of alcohol in unbroken packages or in any quantity for other than consumption on the premises is prohibited.

315. Annual Fees.

(a) The fee for a license shall be \$1000, and shall be paid prior to issuance of any license. Said fee shall accompany the application and shall be either a cash payment or a bank check.

(b) No annual fee shall be prorated.

(c) Wholesalers shall be exempt from said fee unless payment of said fee is required under O.C.G.A. § 48-5-354.

S316. Excise tax.

(a) *Distilled Spirits.* Not permitted to be sold

(b) *Malt Beverages.* Taxation is per O.C.G.A.

(c) *Wine.* Taxation is per O.C.G.A.

317. Responsibility.

Any holder of an license shall keep a copy of this article on the premises and shall instruct any person working there to read and follow such, and each licensee and the licensee's agents and employees selling alcohol by the drink shall at all times be familiar with the terms hereof. The licensee shall be held responsible for any acts of the licensee's agents and/or employees in any violation hereof and/or of the laws of Georgia and/or the rules and regulations of the revenue commissioner.

Each new licensee shall complete an alcohol training class, approved by County after careful investigation of the proposed program and test, within 6 months of license approval. Failure to timely present such proof shall be cause for a determination by the Board of Commissioners of non-compliance and a suspension of alcohol sales until the next meeting of the Board after proof of compliance. Every person working on a licensee's premises who may ever provide alcohol to a customer shall complete an alcohol training class, approved by the County after careful investigation of the proposed program and test, within 6 months of license approval, and within 6 months of a new employee's hiring date and renew such every 3 years. Failure to timely present such proof shall be cause for a determination by the Board of Commissioners of non-compliance and suspension of alcohol sales until the next meeting of the Board after presentation of proof of compliance. Licensee shall supply proof of such at the time of permit application.

318. Inspection.

The business premises of the holder of a license shall be available for inspection at any and all times by officers or officials authorized to conduct such inspections, including without limitation law enforcement and County staff.

319. Production of Records.

In conjunction with any license application or any license issued hereunder, or the revocation, suspension or cancellation of any license or any of the hearings contemplated by this article, or the payment or nonpayment of any excise tax levied or to be collected hereunder, the County shall have the right to subpoena any records, books, documents, reports or invoices of any applicant

or licensee. Said subpoena right shall be had for auditing the records of such applicant or licensee, securing compliance with this article, proving or disproving violation of any part of this article by any licensee, or to show payment or nonpayment of any taxes, fees, charges or the like due hereunder.

320. False statement.

The making of any false statement on an application shall constitute grounds for revocation of said license.

321. Gambling.

There shall be no gambling, betting, games of chance, slot machines, lotteries or tickets of chance or operation of any schemes for hazarding money or any other thing of value, nor in any room adjoining owned or controlled by licensee.

322. Soliciting.

No licensee shall require, permit, or induce any person to solicit the purchase of any drink or money with which to purchase the same; nor shall any licensee pay a commission or any other compensation to any person to solicit for himself or for others, the purchase by the patron of any drink.

323. Display of License.

A license issued under this article shall be displayed prominently at all times on the premises for which it was issued.

324. Delivery.

It shall be unlawful for any licensee to make delivery of any alcoholic beverage, except inside of the premises or area licensed for the sale thereof. It shall be unlawful to sell alcoholic beverages by the drink for consumption off the premises.

325. Criminal Record.

It shall be unlawful for any licensee to knowingly allow any person with a criminal record for violence or disorder to frequent the premises or loiter on the premises.

326. Prostitution; Adult Entertainment.

It shall be unlawful for any licensee to allow any person to frequent the licensee's premises for soliciting prostitution. Based on the experiences of other counties and municipalities, which experiences are relevant to the problems faced by the County, the Board of Commissioners note the conditions and occurrences generally associated with adult entertainment establishments. It is the finding of the Board of Commissioners that adult entertainment establishments, particularly those where alcoholic beverages are served, result in an increase in criminal behavior and create undesirable community conditions. An increase in disorderly conduct, public drunkenness, prostitution, drug trafficking and loitering of individuals with criminal histories has been the experience of other counties and municipalities that permit adult entertainment establishments, particularly those in which alcoholic beverages are served. The Board of Commissioners also find that the increase in criminal behavior which accompanies adult entertainment establishments causes undesirable community conditions. Conditions experienced in other counties and municipalities are depression of property values in neighborhoods surrounding the adult entertainment establishment, community blight, an increased burden on and expenditure for law enforcement, and an increase in the criminal case load in the judicial system due to more arrests because of the above problems.

In addition to the prohibitions under Georgia law at 3-3-41, no alcoholic beverages may be sold in any restaurant which features performances by topless dancers, go-go dancers, strippers or similar entertainers whose performances involve erotic dancing including simulation of sexual activities and/or erotic or lewd touching. No such adult entertainment may be located within 1,000 feet of any restaurant selling alcoholic beverages. For the purpose of this subsection, distance shall be by direct measurement between property lines, using the closest property lines of the parcels of land involved.

327. Police Reports.

It shall be unlawful for any licensee to fail to report to the police at the earliest possible time known incidents of a criminal nature that happen on the licensee's premises. It shall be unlawful for any licensee to willfully withhold from the police any information pertaining to any crime that may have happened on the premises.

328. No Employees with Criminal records.

It shall be unlawful for any licensee to employ on the premises any person who in the preceding ten years has been convicted of a felony or of a misdemeanor involving moral turpitude. It shall also be unlawful for any licensee to allow any criminal act to be committed on the premises. No applicant or licensee shall have been convicted of or have pled nolo to, within 10 years of the date of application, a felony or of a misdemeanor involving moral turpitude, or any crime relating to the sale of alcohol. If the applicant or

licensee is a partnership, all members of such partnership must meet this requirement. If the applicant or licensee is a corporation or LLC, all stockholders and officers and members must meet this requirement.

329. Advertising.

It shall be unlawful to display on the outside of the premises any form of signs or lettering using brand names or words or advertisements indicating or have the connotation of promoting or advertising the sale of alcoholic beverages.

330. Minors.

- (a) The term "minor" as used in this article shall mean any person under 21, or as defined in 3-3-23 or by other state laws.
- (b) It shall be unlawful for a minor to attempt to purchase or for any other person to purchase alcohol for a minor.
- (c) It shall be unlawful for a minor to exhibit fake, forged or borrowed ID to obtain alcohol to which he is not legally entitled.
- (d) No person shall make or permit to be made any sale of alcohol to minors. Upon violation, the licensee shall generally be treated as follows: upon a first offense by the licensee, a suspension for 7 consecutive days of sales of alcoholic beverages; proof of attendance and successful completion by all sales clerks and servers at the approved alcohol awareness class designated by the Board of Commissioners, such proof to be provided to the County within 75 days of the first day of the suspension of the license; a \$500 civil penalty; and on the first day of the suspension, the posting at the premise's entrance of a sign notifying patrons of the nature and length of the suspension. Upon a second offense by the licensee, within three years of a prior offense, a suspension of 60 consecutive days of sales of alcoholic beverages; proof of attendance and successful completion by all sales clerks and servers at the approved alcohol awareness class designated by the Board of Commissioners, such proof to be provided to the County within 75 days of the first day of the suspension of the license; a \$1,000 civil penalty; removal of all alcoholic beverages from the premises; on the first day of the suspension, the posting at the premise's entrance of a sign notifying patrons of the nature and length of the suspension; and probationary status for one year. Upon a third offense within 3 years, by the licensee, the license shall be revoked for 1 full year.
- (e) Upon receipt of letter of notification of penalty, licensee has ten (10) days to file a written request for a hearing to appeal the fine, suspension, attendance at an approved alcohol awareness class, and/or the starting date of suspension of sales.
- (f) If no written request for a hearing is filed within ten (10) days of receipt of notification of penalty letter, the fine and suspension will begin on the eleventh day after the receipt of the notification of penalty letter unless the eleventh (11th) day is a Saturday, in which case the suspension will begin on the next day of the establishment's operation during which alcoholic beverages would normally be available. Additionally, proof of attendance and successful completion by all sales clerks and servers at the approved alcohol awareness class designated by the Board of Commissioners, to be provided to the County within 75 days of receipt of letter of notification of penalty. Failure to timely present such proof shall be cause for a determination by the Board of Commissioners of non-compliance and a suspension of alcohol sales until the next meeting of the Board after presentation of proof of compliance.
- (g) Schedule if Appeal Hearing Conducted: the fine and/or suspension will commence within 5 days thereafter, on a date set at the appeal hearing by the County. Proof of attendance and successful completion by all sales clerks and servers at the approved alcohol awareness class designated by the Board of Commissioners, such proof to be provided to the County within 75 days after the hearing. Failure to timely present such proof shall be cause for a determination by the Board of Commissioners of non-compliance and a suspension of alcohol sales until the next meeting of the Board of Commissioners after proof of compliance.

331. Containers.

It shall be unlawful for licensees or their agents to add to the contents of a bottle or to refill empty bottles or in any manner to misrepresent the quantity, quality or brand name of any alcoholic beverage.

332. Conditions of Premises.

- (a) All premises for the sale and consumption of alcoholic beverages and/or for the storage of alcoholic beverages shall be kept in a sanitary condition and in full compliance with the regulations of the Health Department.
- (b) All premises shall be inspected by the Health Department, the Fire Department, the building inspector, and law enforcement officers to determine if the premises are in compliance with all rules, regulations, laws, and codes.

333. Telephone.

A licensee shall maintain on the premises at all times a telephone in good working order.

334. Incorporation of State Law.

The state laws and/or regulations relating to the sale and/or distribution of alcoholic beverages within Georgia are hereby incorporated herein and made a part of this article as if fully set out herein.

335. Employees.

- (a) Every licensee shall maintain at all times on the premises a list of all persons employed by such licensee, which list shall show the full legal name, alias, date of birth, address, home telephone number and social security number of each employee.
- (b) The employee list shall be available during reasonable hours for inspection by any law enforcement person or government official or his designee. Upon reasonable grounds for making such request, an employee must submit to a fingerprint identification and criminal history check. Every retail licensee shall cause each of the licensee's employees during the hours of employment to be identified by a conspicuous label or badge on which shall appear the employee's first name.
- (c) No person under 16 shall be employed in any capacity in any place of business licensed hereunder.

336. Promotions.

No licensee shall engage in any of the following in connection with sale or other disposition of alcohol:

- (a) Giving away a ticket, token or any other item that can be exchanged for any alcohol on purchase of any other beverage;
- (b) The sale of two or more beverages for a single price or at the substantially same price as customarily charged for one;
- (c) The sale of one beverage with a ticket, token or any other items redeemable for a subsequent beverage;
- (d) The sale of all alcohol a customer can or desires to drink at a single price;
- (e) The sale of alcohol during any special period of the day or the week, at prices lower than those customarily charged;
- (f) Encouraging purchase of a second beverage at the same time another is purchased, or before the first is consumed; and
- (g) Conducting or allowing promotions which have as their primary purpose the increasing of consumption of alcohol.

337. Prohibited Acts.

No licensee or business shall authorize or permit anyone to bring onto the premises any alcohol, nor shall any such licensee let anyone take out of the premises any alcohol. No licensee shall authorize or permit any patron or customer to bring or carry any deadly weapon or firearm on the premises except a law enforcement officer or other person authorized by law to bring or carry such on the premises, nor shall licensee act as a keeper, bailee or custodian of any deadly weapon or firearm for anyone.

338. Clearing Service Areas.

All licensees shall cause to be removed from the area utilized by customers all alcoholic beverages within 1/2 hour after the last call. To discourage customers from trying to evade this requirement, at no time shall licensees give customers multiple drinks or "doubles" or similar, or provide a new drink or refill before the customer finishes the current drink.

339. Lock and key.

All alcoholic beverages shall be under lock or behind closed doors or fully covered by opaque material when their sale is not permitted. All alcoholic beverages owned or possessed contrary to this article are contraband and shall be seized by proper authorities.

340. Grounds for Suspension or Revocation of License.

No person shall sell alcohol without first complying with this article. Any license shall be subject to suspension or revocation, and/or any licensee subject to civil penalty, upon any of the following grounds:

- (a) The making of any false statement on an application for a license issued hereunder;
- (b) A violation of the regulations in this article and/or the regulations of the U.S. and/or Georgia and/or the County;
- (c) The failure to have the financial responsibility upon which issuance of the license was conditioned;
- (d) Default in any obligation, of any kind whatsoever, lawfully owing to the County;
- (e) Suspension or revocation of a state license; or
- (f) For any other legal and sufficient cause.

Any action taken by the County to suspend or revoke a license shall not preclude and may be in addition to any criminal prosecution by a proper authority. Whenever any action is taken by the County to suspend or revoke any license, it shall provide written notice to the licensee of the action and set forth the reasons for such action. The licensee shall have ten days from notification of such action to request a hearing before the County. The licensee shall be entitled at such hearing to present evidence and cross-examine witnesses.

6-341. New Restaurant; Temporary Licenses; Nonprofit Organization; Caterers.

- (a) A person may apply as a qualified restaurant if the establishment has not yet been in operation for the previous 12 months. Because it is not possible to determine if such restaurant has annual food sales which are 60 percent or more of its total gross sales and it is not possible to determine if such restaurant has annual food sales in excess of \$30,000, the County may in its reasonable discretion consider the size and seating capacity of the restaurant, the size and type of kitchen facilities and all other relevant factors to determine if it appears substantially likely that the restaurant will qualify for a license. If the County anticipates that the establishment will qualify, it may vote to award the applicant a temporary license not to exceed 90 days. At or before the conclusion of the 90-day period, the County shall use a pro rata analysis to determine if the applicant is operating a qualified restaurant. If the County has determined that the restaurant is qualified under this article, the applicant may make application for a license under section 303.

(b) Nonprofit Organization. A nonprofit organization which has at least 75 members regularly paying monthly, quarterly, semiannual or annual dues and has received and has maintained approval from the IRS as a 501(c)(3) organization, may apply for a temporary 3-day special event license for consumption of malt beverages and wine. In addition to the County requirements below, such organizations must file an application with and pay a fee of \$25 to the commissioner of the state department of revenue, and receive approval and issuance of the state license. No more than 6 licenses may be issued to an organization in any one calendar year pursuant to this code section. It shall be unlawful for a licensee to distribute or sell alcohol during any hours in which the sale of alcoholic beverages by the drink for consumption only on the premises is not permitted in the jurisdiction. It shall be unlawful for a licensee to employ any person under 18 who would dispense, serve, sell, or handle alcoholic beverages. To make application for such license, the organization must:

- (1) Make application at least 14 days prior to the proposed license date(s);
- (2) Pay a fee of \$25 per licensed event;
- (3) Not hold more than 18 days and/or nights of such sales per calendar year. A license shall only be granted for not to exceed 3 days and/or nights per event;
- (4) All sales must be for fundraising, or to directly further the purpose of the organization, or made with service of a meal;
- (5) All sections of this article must be complied with except sections 303, 305, 306, 308, 315 and 342;
- (6) Only one such license shall be issued for any one location in the County, and such location shall be stated in the application. Licenses issued pursuant to this Code section shall be valid only for the place specified in the license;
- (7) All applicants for a license must be of good character, as evidenced by no conviction within the last 10 years of misdemeanors involving moral turpitude or felonies, and all operators, managers, clerks or other employees shall be of such good character, and entity applicants shall also be of good business reputation, with all officers and members being of such good character; the application shall be sent within 5 business days of receipt to law enforcement for investigation of the applicants, employees, officers and members, then law enforcement shall timely present a written investigation report to the County.
- (8) Whenever the County shall deny an application for a license, the applicant shall have ten days after notice of denial to request a hearing before the County; the applicant shall be entitled at such a hearing to present evidence and cross-examine witnesses; and
- (9) No license under this section shall be transferable or assignable to any person or other location. Under no circumstances will the temporary license fee be refunded to the organization.
- (10) A person who willfully, knowingly, and unlawfully sells, furnishes, or serves alcoholic beverages to a person who is not of lawful drinking age, knowing that such person will soon be driving a motor vehicle, or who knowingly sells, furnishes, or serves alcoholic beverages to a person who is in a state of noticeable intoxication, knowing that such person will soon be driving a motor vehicle, may become liable for injury or damage caused by or resulting from the intoxication of such minor or person when the sale, furnishing, or serving is the proximate cause of such injury or damage.

(c) A state-approved alcoholic beverage caterer who additionally holds a valid license from the County which authorizes the licensee to sell alcohol by the drink for consumption on the premises may be issued from the County an off-premises license which authorizes such licensed alcoholic beverage caterer to sell malt beverages and wine (not distilled spirits) by the drink off premises and in connection with a specifically designated catered function. Such shall be known as a "special event license". A "licensed alcoholic beverage caterer" means any retail dealer who has been licensed per O.C.G.A. § 3-4-2, 3-5-2, or 3-6-2. In addition to the County requirements below, such organizations must file an application with and pay a fee of \$25 to the commissioner of the state department of revenue, and receive approval and issuance of the state license. It shall be unlawful for a licensed alcoholic beverage caterer to distribute or sell malt beverages or wine during any hours in which the sale of alcohol by the drink for consumption only on the premises is not permitted in the jurisdiction. It shall be unlawful for a licensed alcoholic beverage caterer to employ any person under 18 who, in the course of such employment, would dispense, serve, sell, or handle malt beverages and wine. To make application for such license, the organization must comply with and agree to all the following:

- (1) Make application at least 14 days prior to the first date of the proposed license period. The application shall include the name of the caterer; the date, address, and time of the event; and the licensed alcoholic beverage caterer's license number;
- (2) Pay a fee of \$250 annually;
- (3) Reserved.
- (4) All sales of malt beverages and wine must be for fundraising, or to directly further the purpose of the organization, or made in conjunction with service of a meal;
- (5) All sections of this article must be complied with except sections 303, 305, 306, 308, 315 and 342;
- (6) Only one such license shall be issued for any one location within the County and such location shall be stated in the application. Licenses issued pursuant to this code section shall be valid only for the place specified in the license;
- (7) All applicants for a license must be of good character as evidenced by no conviction of misdemeanors involving moral turpitude or felonies, and all operators, managers, clerks or other employees shall be of such good character, and entity applicants shall also be of good business reputation, with all officers and members of such good character; the application shall be sent 5 five business days of

receipt to law enforcement for investigation of the applicants, employees, officers and members, then law enforcement shall timely present a written investigation report to the County;

(8) Whenever the County shall deny an application for a license, the applicant shall have 10 days from notice of denial to request a hearing before the County; the applicant shall be entitled at such a hearing to present evidence and cross-examine witnesses; and

(9) No license under this section shall be transferable or assignable to any person or other location. Under no circumstances will the temporary license fee be refunded to the organization.

(10) All sales of malt beverages and wine in connection with an authorized catered event, shall be cash at the time of delivery or not more than 5 days in advance of the authorized catered event. All other malt beverages and wine sales will be subject to restrictions and requirements imposed by department of revenue regulations. The acceptance of checks and credit cards shall be deemed the same as cash and are subject to the requirements and restrictions imposed by department of revenue regulations.

(11) All sales are final and in no case will broken packages of beverage alcohol be removed or returned by the licensed beverage alcohol caterer from the site of the authorized catered event to his place of business or any other location. All returns of unbroken packages must be documented on the quantity-destination report. Under no circumstances will malt beverages or wine be returned to caterer's inventory on Sunday. Returns of unbroken packages of beverage alcohol will be handled as no sale.

(12) Leftover broken packages of malt beverages and wine shall be the property of the event sponsor.

(13) The licensed beverage alcohol caterer must provide such personnel as needed to handle all malt beverages and wine at the authorized catered event. This shall include bartending services, dispensing, serving, providing, or furnishing beverage alcohol. Employees of a licensed alcohol beverage caterer must be 18 years of age or older in order to handle malt beverages and wine at such authorized catered event.

(14) The licensed beverage alcohol caterer shall notify the state revenue commissioner in writing of the site of the authorized catered event. The notification will also contain such other information as the commissioner may require. Such notification must be received five working days prior to such authorized catered event.

(15) The licensed beverage alcohol caterer will keep on file at his place of business, all beverage alcohol quantity/destination reports, local catering event permits and all other documents, records and reports required by Georgia Law and other department of revenue regulations for a time period prescribed by those laws and regulations.

(16) The licensed beverage alcohol caterer is required to notify sponsors of authorized catered events of the authority of the state revenue commissioner or his agents to enter upon the premises which is the site of an authorized catered event for the purpose of inspection and enforcement of these regulations and all other laws and regulations pertaining to the sale, possession and dispossession and distribution of beverage alcohol.

(17) Delivery of malt beverages and wine by a licensed beverage alcohol caterer shall be made only in connection with an authorized catered event. Delivering not meeting the requirements as set forth in these regulations shall be a violation of these regulations and department of revenue regulations governing the transportation of beverage alcohol by retail dealers and alcohol pouring licensees and shall be cause for the suspension or revocation of licensee's beverage alcohol licenses and forfeiture of licensee's bond or both by the state revenue commissioner. All beverage alcohol transported in violation of these regulations shall be declared contraband and subject to seizure by the state revenue commissioner or his agents.

(18) Vehicles used by a licensed beverage alcohol catering establishment for the transportation and delivery of beverage alcohol in connection with an authorized catered event will be marked only with the state license number two inches high and one inch wide. No other wordage or advertisement pertaining to the catering service will be permitted.

(19) While transporting and delivering beverage alcohol in connection with an authorized catered event, the licensee or the employee of the licensed beverage alcohol catering establishment shall have in his possession a copy of the establishment's valid state beverage alcohol license, a copy of the establishment's valid local beverage alcohol catering license, a copy of the establishment's valid local beverage alcohol catering event permit from the local governing authorities in the jurisdiction the event is being held along with the department of revenue alcohol beverage catering quantity/destination report.

(20) Delivery of all beverage alcohol by a licensee to an authorized catered event must be made in unbroken containers. Subsequent serving of all beverage alcohol at the authorized catered event must be by the drink.

(21) A person who willfully, knowingly, and unlawfully sells, furnishes, or serves alcoholic beverages to a person who is not of lawful drinking age, knowing that such person will soon be driving a motor vehicle, or who knowingly sells, furnishes, or serves alcoholic beverages to a person who is in a state of noticeable intoxication, knowing that such person will soon be driving a motor vehicle, may become liable for injury or damage caused by or resulting from the intoxication of such minor or person when the sale, furnishing, or serving is the proximate cause of such injury or damage.

342. Reports.

(a) Each licensee under this section shall as a condition of maintaining such license, file with the clerk within 30 days after the end of each calendar year evidence of financial responsibility required under Section 305 (1)

(b) The statements shall be confidential and shall not be open for public inspection except as otherwise required by law. Said documentation shall be used solely by the County for determination of whether the licensee remains qualified to hold its license. Failure

to timely file such documentation including evidence of financial responsibility shall be a violation of a County ordinance punishable by a civil penalty of up to \$500 and cause for suspension or revocation of the license granted hereunder.

343. "Brown bag" and "Bring Your Own Bottle" Practices Prohibited.

It shall be unlawful to bring alcoholic beverages into any restaurant or similar eating facility within the County or for any person to permit such. It shall also be unlawful for any establishment to charge a "corkage fee" or wine bottle opening fee or similar.

Chapter 11: REGULATIONS OF COUNTY OWNED UTILITY SYSTEMS

Section 11-001 Regulations of Water System- Reserved

Section 11-002-3 Regulations of Sewer System- reserved

Section 11-004 Identify Theft Prevention Program- Red Flag Regulations- Reserved

Chapter 12: MISCELLANEOUS REGULATIONS

Section 12-001 Tax Sales Provisions- reserved

Section 12-002 Use of Public Property & Roads for Parades, Filming, Etcetera- reserved

Section 12-003 Skateboard Regulations- reserved

Section 12-005 Bed and Breakfast Regulations- reserved

Sec. 12-006 Yard Sales- reserved.

CHAPTER 13- Reserved

CHAPTER 14: NATURAL GAS- Reserved

CHAPTER 15: CABLE TELEVISION FRANCHISE

Section 15-001.

1.1 Definitions. For purposes of this Chapter, the following terms, phrases, words and their derivations shall have the meanings set forth in this Section, unless the context clearly indicates that another meaning is intended. When not inconsistent with the context, words used in the present tense include the future, words used in the plural number include the singular number and words used in the singular number include the plural number.

1.1.01 "Cable Services" means "cable services" as in the Communications Act of 1934, as amended by the Cable Communications Policy Act of 1984 and the Cable Television Consumer Protection and Competition Act of 1992, and as may be further amended (the "Cable Act"). If "cable services" is no longer defined in the Cable Act or the definition in the Cable Act otherwise becomes inapplicable, "Cable Services" shall mean "cable services" as defined in the Cable Act immediately prior to such term no longer being defined in the Cable Act or such definition otherwise becoming inapplicable.

1.1.02 "Cable System" means any "Cable System" as defined in the Cable Act.

1.1.03 "Franchise" means an initial authorization, or renewal thereof, issued by the County, whether such authorization is designated as a franchise, permit, license, resolution, contract, certificate, agreement or otherwise, which authorizes the occupation and use of the Streets to provide Telecommunications Services.

1.1.04 "Grantee" means the legal entity to which is granted the right, authority and responsibility to construct, install, operate and maintain a system of equipment as necessary to furnish, supply and distribute cable or telecommunications services or both, to inhabitants within the franchise area.

1.1.05 "Streets" means the surface of, and the spaces above and below, all streets, alleyways, avenues, highways, boulevards, driveways, bridges, tunnels, parks, parkways, public grounds or waters, and other public rights-of-way within or belonging to the County.

1.1.06 "Telecommunications Services" means the receipt and/or distribution, through any means, including, without limitation, coaxial cable, optical fiber, or satellite or microwave transmission, of one or more audio, voice or data signals. Telecommunications Services includes both Cable Services and non-cable telecommunications services.

2.1 Granting Authority

2.1.01 No Person shall provide Cable Services or operate a Cable System without a Franchise granted per the provisions of this Section and no Person shall use or occupy the Streets to provide any Telecommunications service other than Cable Services without a franchise granted per the provisions of this Section.

2.1.02 The Board of Commissioners may grant one or more Franchises per this Section, provided that the Board of Commissioners reserves the right to modify any provision of this Section by amendment hereof.

2.1.03 The grant of any Franchise shall be made by adoption of a separate ordinance by the Board of Commissioners and shall be on such terms and conditions as may be specified in said separate ordinance and/or a franchise agreement between the County and the franchisee.

2.1.04 Any Franchise granted shall be nonexclusive. The County specifically reserves the right to grant, at any time, such additional Franchises as it deems appropriate and or itself engage in the provision of telecommunications services.

2.1.05 A Franchise may be granted for all or any defined portion of the County and for all or less than all Telecommunications Services, and for Telecommunications Services for all or less than all purposes.

2.1.06 The grant of Franchises by the County shall be subject to the provisions of applicable law, such as the provisions in the Communications Act of 1934, as amended, governing cable television franchises and renewals thereof.

2.2 Franchise Applications

2.2.01 Applications for Franchises shall be submitted in such form and be issued on such terms and conditions as the Board of Commissioners may determine, subject to applicable laws and regulations.

2.2.02 Any Application for a Franchise shall contain and/or require the following information with respect to the proposed Franchise and such other information as the Board of Commissioners shall deem necessary or appropriate:

(i) The applicant's name, address, telephone number, and federal employer identification number or social security number; copy of applicant's corporate Local Legislation or partnership agreement as applicable; and any trade names (and registrations) used by applicant;

(ii) a detailed statement of the corporation or business entity organization of the applicant, including but not limited to the following, and to whatever extent required by the County:

(a) the names and the residence and business addresses of all officers, members and directors of the applicant;

(b) the names, residence, and business addresses of all persons and entities having any share of the ownership of the applicant and the respective ownership share of each person or entity;

(c) the names and address of any parent or subsidiary of the applicant, namely, any other business entity owning or controlling applicant in whole or in part or owned or controlled in whole or in part by the applicant, and a statement describing the nature of any such parent or subsidiary business entity, including but not limited to telecommunications or cable systems owned or controlled by the applicant, its parent, and subsidiary, and the areas served thereby;

(d) a detailed and complete financial statement of applicant, certified by an independent certified public accountant, for the fiscal year immediately preceding the date of the application hereunder, or a letter or other acceptable evidence in writing from a recognized lending institution or funding source, addressed to both the applicant and the Board of Commissioners, setting forth the basis for a study performed by such lending institution or funding source, and a clear statement of its intent as a lending institution or funding source to provide whatever capital shall be required by the applicant to construct and operate the proposed telecommunications or cable system in the County, or a statement from an independent certified public accountant certifying the applicant has available sufficient free, net, and uncommitted cash resources to construct and operate the proposed cable or telecommunications system in the County;

(e) a detailed financial plan (pro forma) describing for each year of the franchise, the projected number of subscribers, rates, all revenues, operating expenses, capital expenditures, depreciation schedules, income statements, and a sources and uses of funds statement; and

(f) a statement identifying, by place and date, any other cable system or Telecommunication franchise(s) awarded to the applicant, its parent or subsidiary; the status of said franchise(s) with respect to completion thereof;

the total cost of completion of such franchised cable or Telecommunication system(s); and the amount of applicant's and its parent's or subsidiary's resources committed to the completion thereof;

(iii) a detailed description of the proposed plan of operation of the applicant which shall include, but not be limited to, the following:

- (a) a description of the Cable Services and any other Telecommunications Services proposed to be provided;
 - (b) a detailed map indicating all areas proposed to be served, and a proposed time schedule for the installation of all equipment necessary to become operational throughout the entire area to be serviced;
 - (c) a statement or schedule setting forth all proposed classifications of rates and charges to be made against subscribers and all rates and charges as to each of said classifications, including installation charges, cable service charges, and any other Telecommunications service charges;
 - (d) a detailed, informative, and referenced statement describing the actual equipment and operational standards proposed by the applicant;
 - (e) a copy of the form of any agreement, undertaking, or other instrument proposed to be entered into between the applicant and any subscriber to Cable or Telecommunications Services; and
 - (f) a detailed statement setting forth in its entirety any and all agreements and undertakings, whether formal or informal, written, oral, or implied, existing or proposed to exist between the applicant and any person, firm, or corporation which materially relate or pertain to or depend upon the application and the granting of the franchise;
- (iv) a copy of any agreement covering the franchise area, if existing between the applicant and any utility providing for the use of any facilities of the utility, including but not limited to, poles, lines, or conduits; and
- (v) any other details, statements, supplementary information, or references pertinent to the subject matter of such application which shall be required or requested by the Board of Commissioners, or by any other provision of law or regulation.

2.2.03 Non-refundable Application Fees for New Franchises

No application for a new franchise shall be considered without payment by the applicant of the application fees as provided in this Section. If a franchise is granted, the application fees will not be deemed a credit towards any other fees or sums due by the Grantee. If an application is denied, the application fee will not be refunded.

(a) Purpose of Application Fees. The application fees provided by this Section will serve to cover the direct and indirect costs incurred by the County in processing the application, evaluating the applicant, and granting a franchise, and shall include, but not be limited to, administrative, engineering, publication, legal, and consultant's expenses.

(b) Application Fee. The applicant will be expected to pay the reasonable costs of the County in evaluating the application. Notwithstanding any other requirement of this Section, each applicant must furnish with its proposal a non-refundable application fee in the amount of \$2000 by certified check or cashier's check payable to the County.

2.3 Responsibilities of Applicants.

It shall be the responsibility of each applicant for a Franchise to comply with all applicable laws, ordinances, resolutions, rules, regulations and other directives of the County and any federal, state or local governmental authority having jurisdiction.

2.4 Public Availability of Applications.

To the extent required by law, applications for Franchises, including any additions, modifications or amendments thereto, shall be available for public inspection at a designated County office during normal business hours.

2.5 Evaluation Criteria.

In making any determination hereunder as to any application for a Franchise, the Board of Commissioners may consider such factors as it deems appropriate and in the public interest, including, without limitation:

- (i) the adequacy of the proposed compensation to be paid to the County, including the value of any facilities and Telecommunications Services offered by the applicant to the County;
- (ii) the legal, financial, technical and other appropriate qualifications of the applicant;
- (iii) the ability of the applicant to maintain property of the County in good condition throughout the Franchise;

(iv) The value and efficiency to the County and its residents of the Cable Services and other Telecommunications Services to be provided, including the type of Telecommunications Services to be provided as well as alternatives to those Services and services that may be precluded by the grant of the Franchise;

(v) the willingness and ability of the applicant to meet construction and physical requirements and to abide by all purpose and policy conditions, limitations and requirements with respect to the Franchise; and

(vi) any other public interest factors or considerations deemed pertinent by the Board of Commissioners for safeguarding the County and the public.

2.6 Procedure for Consideration of and Action on Applications

2.6.01 The County may make such investigations and take or authorize the taking of such other steps as the Board of Commissioners deems necessary or appropriate to consider and act on applications for Franchises and determine whether a Franchise should be granted to an applicant, and may require the applicant to furnish additional information and data for this purpose. In considering applications, the Board of Commissioners may seek advice from other County officials or bodies, from such other advisory bodies as it may establish or determine appropriate, and/or from the public, and may request the preparation of one or more reports to be submitted to the Board of Commissioners, which may include recommendations with respect to such applications.

2.6.02 If the Board of Commissioners, after considering such information as it determines to be appropriate, elects to further consider one or more applications, the Board of Commissioners shall set one or more public hearings for consideration of the application(s), fixing and setting forth a day, hour and place certain when and where any persons having any interest therein or objections thereto may file written comments and appear before the Board of Commissioners and be heard, and providing notice of such public hearing(s) per applicable law.

2.6.03 The Board of Commissioners may authorize negotiations between County officials and applicants to determine whether the County and such applicants are able to reach agreement on the terms of the proposed Franchise.

2.6.04 Upon completion of the steps deemed appropriate by the Board of Commissioners, the Board of Commissioners may grant the Franchise, and may specify the conditions under which the Franchise is granted. Alternatively, the Board of Commissioners may reject any and all applications from whatever source and whenever received except that a franchising authority may not grant an exclusive franchise and may not unreasonably refuse to award an additional competitive franchise. The Board of Commissioners also reserves the right to waive any or all requirements when it determines that the best interests of the County may be served thereby and may, if it so desires, request new or additional proposals.

2.7 Terms and Conditions of Franchise

2.7.01 The terms and conditions applicable to any Franchise granted per this Section shall be set forth in the separate ordinance granting the Franchise or in a separate written agreement. Such separate ordinance or written agreement, among other things, shall address the following subjects:

(i) the term of the Franchise;

(ii) the Franchise area and the Cable Services and other Telecommunications Services and purposes of such other Telecommunications Services, if any, which are the subject of the Franchise;

(iii) the compensation to be paid to County, which may include the payment of fees or the provision of facilities or services, or both;

(iv) The circumstances upon which the Franchise may be terminated or cancelled;

(v) the mechanisms, such as performance bonds, security funds or letters of credit, to be put in place to ensure the performance of the Franchisee's obligations under the Franchise;

(vi) the County's right to inspect the facilities and records of the Franchisee;

(vii) insurance and indemnification requirements applicable to the Franchisee;

(viii) the obligation of the Franchisee to maintain complete and accurate books of account and records, and the County's inspection rights with respect thereto;

(ix) provisions to ensure quality workmanship and construction methods;

(x) provisions to ensure that the Franchisee will comply with all applicable County, state and federal laws, regulations, rules and policies, including, without limitation, those related to employment, purchasing and investigations;

- (xi) provisions to ensure adequate oversight and regulation of the Franchisee by the County;
- (xii) provisions to restrict the assignment or other transfer of the Franchise without the prior written consent of the County;
- (xiii) remedies available to the County to protect the County's interest if the Franchisee's failure to comply with terms and conditions of the Franchise;
- (xiv) provisions to ensure that Franchisee will obtain all necessary licenses and permits from and comply with all laws, regulations, rules and policies of any governmental body having jurisdiction over Franchisee, including the Federal Communications Commission;
- (xv) provisions to ensure Franchisee will protect property of County and the delivery of public services from damage or interruption of operations resulting from construction, operation, maintenance, repair or removal of improvements related to the Franchise;
- (xvi) provisions designed to minimize the extent to which the public use of the Streets of the County are disrupted in connection with the construction of improvements relating to the Franchise; and
- (xvii) such other provisions as the County determines are necessary or appropriate in the furtherance of the public interest.

3.1 Delegation. Consistent with applicable law, the Board of Commissioners shall have the right to delegate and re-delegate, and to revoke any such delegation or re-delegation, from time to time, any of its rights or obligations under this Section to any body, organization or official. Any such delegation, re-delegation or revocation, no matter how often made, shall not be deemed an amendment to this Section or to require the consent of any applicant for a Franchise or Franchisee. The Board of Commissioners may also establish and appoint one or more advisory boards, with such duration and such number of members as the Board of Commissioners shall determine, to advise it on such of the matters which are the subject of this Section.

Section 15-002. Regulations for Satellite Receivers Stations

(A) The County has become aware of the availability for residential use of dish type satellite signal receiving stations, and, it is the desire of the County to both permit reasonable use of property owners of their property and to protect the rights of other property owners. The County is aware of its duty to protect the health, safety and welfare of the residents of the County, and the County will not prohibit the use of such receiving stations, but will permit their use subject to reasonable regulations. The placement of such stations shall be only in the rear portion of the property, and such stations shall be otherwise regulated.

(B) Dish type satellite receiving stations (hereinafter referred to as "stations"), subject to the following regulations, may be located in the County.

(C) Stations shall not be linked to receivers not located on the same lot or property as the station.

(D) Stations shall be located in the rear yard only, and behind the principal dwelling or structure located on the lot, and shall be located so that however turned or otherwise used, all parts of the station will be set back at least six (6) feet from the side yard lines and shall be set back from the rear lot line no less than six (6) feet or one-half the depth of the rear yard, whichever is greater.

(E) The height of the station, with the dish antennae turned perpendicular to the ground, shall not extend beyond 15 feet, and the maximum diameter of any dish antennae shall not exceed 12 feet.

(F) No installation or erection of the station shall commence before a permit is obtained from the County Building Inspector or his designee.

(G) All stations, together with all other structures, patios, decks and impervious surfaces (excluding driveways), may occupy an area of land no larger than 50% of the rear yard.

(H) Vegetation screening and/or fencing with a minimum height of six (6) feet shall be required between the station and residential properties which abut the rear yard, between the antennae and any street that borders the front or corner side yard of the property in question, and between the antennae and residential property across such a front or side street, so as to screen the station from the view of persons inside nearby residential properties and from persons on those public streets.

(I) As an additional remedy, the unauthorized or improper operation or maintenance of any dish type satellite signal receiving station shall be deemed and is declared to be a public nuisance and may be subject to abatement summarily by a restraining order or injunction issued by a competent court of jurisdiction.

(J) Any person violating any portion of this Section shall be deemed guilty of a misdemeanor and following conviction thereof shall be fined in an amount not exceeding \$100.00. Each day such violation is committed or permitted to continue, shall constitute a separate offense and shall be punishable as such hereunder.

Section 15-003. Utility Use of Public Right of Way and Permits and Registration.

1. Intent and Purpose. Per the Local Legislation of the County, it is empowered to regulate roadside areas, including rights-of-way. The County is vitally concerned with the use, construction within, and occupancy of all Rights of Way in the County as such Rights of Way are a valuable and limited resource which must be utilized to promote the public health, safety, welfare, economic development of the County and to protect public work infrastructure. Per O.C.G.A. 36-76-1 et seq. known as the "Consumer Choice for Television Act" of 2007, the County retains regulatory powers over certain activity of cable and video providers with respect to public rights-of-way within or belonging to the County. Per O.C.G.A. 46-5-1 et seq. telephone companies shall comply with all applicable local laws and regulations, including municipal ordinances and regulations, regarding the placement and maintenance of facilities in the public rights of way that are reasonable, nondiscriminatory, and applicable to all users of the public rights of way within or belonging to the County. The County desires to establish reasonable nondiscriminatory regulations for the installation construction, maintenance, renewal, removal and relocations of Utility Facilities that are not more restrictive than equivalent regulations promulgated by the Georgia Department of Transportation with respect to Utilities on the state highway system under authority of O.C.G.A. 32-4-70. Therefore, the County, under the authority of the Laws and Constitution of the State of Georgia, including but not limited to Article 9, Section 1, paragraph 1 of the Georgia Constitution, O.C.G.A. 36-1-20 and O.C.G.A. 32-4-42(6), has adopted this ordinance for the purpose of regulating public and private entities which use the County Rights of Way.
2. Scope. The provisions of this Chapter shall apply to all Utilities and Facilities occupying the Rights of Way as provided herein.
3. Definitions. For the purposes of this Chapter, the following terms, phrases, words, and their derivations have the meanings set forth herein.
 - A. Construct means, but shall not be limited to, dig, bore, tunnel, trench, excavate, obstruct, install or remove signs, or Facilities, other than landscaping or ornamental plantings, in, on, above, within, over, below, under, or through any part of the Rights of Way. Construct shall also include the act of opening and/or cutting into the surface of any paved or improved surface that is any part of the Right of Way;
 - B. Construction means, but shall not be limited to, the act or process of digging, boring, tunneling, trenching, excavating, obstructing, installing or removing signs or Facilities, other than landscaping or ornamental plantings, in, on, above, within, over, below, under, or through any part of the Rights of Way. Construction shall also include the act of opening, boring and/or cutting into the surface of any part of the Right of Way;
 - C. Director means the Chairman or his/her designee;
 - D. Emergency means a condition that poses a clear and immediate danger to life, health, or safety of a person, or of significant damage or loss of real or personal property;
 - E. Facility or Facilities means any tangible thing, including but not limited to pipes, mains, conduits, cables, wires, poles, towers, traffic and other signals, and other equipment, appurtenances, appliances and future technology of any Utility in, on, along, over, or under any part of the Rights of Way within the County;
 - F. Facilities Representative(s) means the specifically identified agent(s)/employee(s) of a Utility who are authorized to direct field activities of that Utility and serve as official notice agent(s) for Facilities related information. Utility shall be required to make sure at least one (1) of its Facilities Representatives available at all times to receive notice of, and immediately direct response to, Facilities related emergencies or situations;
 - G. FCC means the Federal Communications Commission or any successor thereto;
 - H. Permit means an authorization which grants permission to conduct specific regulated activities on, in, over, under or within any public right-of-way, and which may be subject to conditions specified in a written agreement with the County or in a related provision of this Code of Ordinances;
 - I. Right(s) of Way means the surface and space in, on, above, within, over, below, under or through any real property in which the County has an interest in law or equity, whether held in fee, or other estate or interest, or as a trustee for the public, including, but not limited to any public street, boulevard, road, highway, freeway, lane, alley, court, sidewalk, parkway, or any other place, area, or real property owned by or under the legal or equitable control of

the County, now or hereafter, that consistent with the purposes for which it was dedicated, may be used for the purposes of constructing, operating, repairing or replacing Facilities;

J. Service(s) means the offering of any service by a Utility for a fee directly to the public, or to such classes of users as to be effectively available directly to the public, or alternatively, the provision of any service by a Utility between two or more points for a proprietary purpose to a class of users other than the general public;

K. Service Agreement means a valid license agreement, service agreement, franchise agreement, or operating agreement issued by the County or state per Law and accepted by a Utility or entered into by and between the County and a Utility, which allows such Utility to operate or provide service within the geographic limits of the County;

L. Street or Streets means the surface of, as well as the spaces above and below, any and all the streets, alleys, avenues, roads, bridges, tunnels and public places of the County within the corporate limits of the County, as the same now exist or may be hereafter extended or altered, and any location thereon, thereover or thereunder, and any portion thereof;

M. Transfer means the disposal by the Utility, directly or indirectly, by gift, assignment, sale, merger, consolidation, or otherwise, of more than 50% at one time of the ownership or controlling interest in the Facilities, or of more than 50% cumulatively over the term of a written approval of Registration of such interests to a corporation, partnership, limited partnership, trust, or association, or person or group of persons acting in concert;

N. Unused Facilities means Facilities located in the Rights of Way which have remained unused for 12 months and for which the Utility is unable to provide the County with a plan detailing the procedure by which the Utility intends to begin actively using such Facilities within the next 12 months, or that it has a potential purchaser or user of the Facilities who will be actively using the Facilities within the next 12 months, or, that the availability of such Facilities is required by the Utility to adequately and efficiently operate its Facilities;

O. Utility or Utilities means All privately, publicly, or cooperatively owned systems for producing, transmitting, or distributing communication, data, information, telecommunication, cable television, video services, power, electricity, light, heat, gas, oil, crude products, water/sewer, steam, fire and police signals, traffic control devices, and street lighting systems, and housing or conduit for any of the foregoing, which directly or indirectly serve the public or any part thereof. The term "utility" may also be used to refer to the owner, operator, Utility, service, contractor or subcontractor, or any agent thereof, of any above-described utility or utility facility.

4. Registration Required. Each Utility who occupies, uses or has Facilities in the Rights of Way at the time of passage of this Ordinance, including by lease, sublease or assignment, to operate Facilities located in the Rights of Way, unless specifically exempted by state or federal law or this Code, shall file a Registration Statement with the Department within 90 days of the effective date of this Ordinance.

5. Registration Procedure. The Registration information provided to the County shall be on a form approved by the County and include, but not be limited to:

A. The name, legal status (i.e. partnership, corporation, etc.), street address, email address, and telephone and facsimile numbers of the Utility filing the Registration Statement (the "Registrant"). If the Registrant is not the owner of the Facility in the Right of Way, the Registration shall include the name, street address, email address if applicable, and telephone and facsimile numbers of the owner;

B. The name, street address, email address if applicable and telephone and facsimile numbers of 1 or more Facilities Representative(s). Current information regarding how to contact the Facilities Representative(s) in an Emergency shall be provided at the time of filing a Registration and shall be updated as necessary to assure accurate contact information is available to the County at all times;

C. A copy, if requested, of the Utility's certificate of authority (or other acceptable evidence of authority to operate) from the Georgia Public Service Commission and/or the FCC and any other similar approvals, permits, or agreements.

D. A copy, if requested, of the Service Agreement, if applicable or other legal instrument that authorizes the Utility to use or occupy the Right of Way for the purpose described in the Registration.

6. Incomplete Registration. If a Registration is incomplete, the Director shall notify the Registrant and shall provide a reasonable period of time in which to complete the Registration.

7. Complete Registration. If a Registration is complete, the Director shall so notify the Utility in writing. Acceptance of the Registration shall not convey title in the Rights of Way. Acceptance of the Registration is only the nonexclusive, limited right to occupy Rights of Way in the County for the limited purposes stated in the Acceptance. Acceptance of the Registration does not excuse a Utility from obtaining Permits required by County ordinances nor from obtaining appropriate access or pole attachment agreements before using the Facilities of others, including the County. Acceptance of the Registration does not excuse a Utility from notifying the County of Construction as required herein.
8. Facilities in Place without Registration. Beginning one year after the effective date of this Chapter, any Facilities or part of a Facility found in a Right of Way for which registration is required but has not been obtained unless specifically exempted by law, and for which no valid Service Agreement exists with the County, may be deemed to be a nuisance and an unauthorized use of the Rights of Way. The County may exercise any remedies or rights it has at law or in equity, including, but not limited to abating the nuisance; taking possession of the Facilities, evicting the Utility from the Right of Way; prosecuting the violator; and/or any other remedy provided by County ordinance or otherwise allowed in law or in equity.
9. Permit Required. It shall be unlawful for any Utility to excavate or to construct, install, maintain, renew, remove or relocate Facilities in, on, along, over or under the roads of the County without a permit from the County per this Section.
10. Permit Procedure. Utility Permits shall be obtained from the Director (or such other person as the Chairman may designate) upon application made on forms prescribed by the County. The written application shall include the following:
- A. The name and address of the Utility;
 - B. The nature, extent, and location of any work proposed to be done, along with satisfactory plans as attachments showing in detail the location of the proposed Facility or operations as described in the Permit application. The plans shall show the size or capacity of Facilities to be installed; their relationship to Street features such as right-of-way lines, pavement edge, structures, etc., horizontal and vertical clearance to critical elements of the roadway and any other information necessary to evaluate the impact on the Street and its operation;
 - C. The name and address of the person or firm who is to do such work;
 - D. The name, street address, email address if applicable and telephone and facsimile numbers of 1 or more Facilities Representative(s).
 - E. The projected dates for the work to be started and finished;
 - F. An indemnity bond or other acceptable security in an amount to be set by the County to pay any damages to any part of the County road system or other County property or to any County employee or member of the public caused by activity or work of the Utility performed under authority of the permit issued;
 - G. A copy, if requested, of the Registrant's certificate of authority (or other acceptable evidence of authority to operate) from the Georgia Public Service Commission and/or the FCC and any other similar approvals, permits, or agreements; and
 - H. A copy, if requested, of the service agreement, if applicable or other legal instrument that authorizes the Utility to use or occupy the Right of Way for the purpose described in the application.
11. Permit Fees. Fees shall be determined by the Director, subject to the approval by resolution of the County Board of Commissioners. A fee schedule shall be available at the offices of the Director and the County Clerk and open for public inspection.
12. Issuance of Permit. If the Director determines the Applicant has satisfied the following requirements, the Director may issue a permit. Whether issuing of the approval will be consistent with this Chapter; Whether Applicant has submitted a complete Application and has secured all certificates and other authorizations required by law, if applicable, in order to construct Facilities in the manner proposed by the Applicant; and The impact on safety, visual quality of the streets, traffic flow, and other users of the right of way and the difficulty and length of time of the Project, construction or maintenance.
13. Emergency Situations. Each Utility shall, as soon as reasonably practicable, notify the Director of any event regarding its Facilities which is an Emergency. The Utility shall take whatever actions are necessary to respond to the Emergency. A Utility who engages in an emergency excavation shall take all reasonable precautions to avoid or minimize damage to any existing facilities. If the County becomes aware of an Emergency regarding Utility Facilities, the County may attempt to contact the affected Utility or Facilities Representative. The County may take whatever action it deems necessary in order to respond to the Emergency, including cut or move any of the wires, cables, amplifiers, appliances, or other parts of

the Facilities. The County shall not incur any liability to the Utility for such emergency actions, and the cost of such shall be paid by each Utility affected by the Emergency.

14. Effective Period of Permit. Each permit shall have a set commencement and expiration date based on information provided in the applicant's permit application. The Permit shall remain in place until Construction is completed or until its expiration date unless the Utility is in default. The Director may give written notice of default to a Utility if it is determined that a Utility has: Violated any provision or requirement of the issuance or acceptance of a Permit application or any law of the County, state, or federal government; Attempted to evade any provision or requirement of this Chapter; Practiced any fraud or deceit upon the County; or Made a material misrepresentation or omission of fact in its Permit application.

15. Cancellation for Cause. If a Utility fails to cure a default within 20 Working Days after such notice is provided to the Utility by the County, then such default shall be a material breach and County may exercise any remedies or rights it has at law or in equity to terminate the Permit. If the Director decides there is cause or reason to terminate, the following procedure shall be followed: County shall serve a Utility with a written notice of the reason or cause for proposed termination and shall allow a Utility a minimum of 15 calendar days to cure its breach. If the Utility fails to cure within fifteen 15 calendar days, the County may declare the Permit terminated.

16. Expiration of Permit. If work is not begun within 6 months of the date of issuance, the permit will automatically expire.

17. Utility Accommodation Manual Adopted. The 1988 Utility Accommodation Policy and Standards manual, including all references contained therein to codes, rules, regulations, schedules, forms and appendix items, except Appendix B (Permit Forms and supporting Documents), promulgated by the State of Georgia Department of Transportation, as may be amended from time to time, is hereby adopted by reference and incorporated as if fully set forth herein, subject to the amendments and modification herein. A copy of the manual shall be maintained at the offices of the Director or his designee and open for public inspection. Any conflicts between this ordinance and the manual shall be resolved in favor of the more stringent requirement. References to State personnel, agencies, and fees shall be interpreted, where required, as meaning the County municipal equivalents.

18. Protection of Traffic and Roadway. Unless specifically in the Permit, no Utility may occupy the County Rights of Way unless sufficient space is available so that the free flow and safety of traffic and other capCounty considerations are not unduly impaired and the installation does not prevent the Department from reasonably maintaining the streets, structures, traffic control devices and other appurtenant facilities, and further provided that maintenance and operations of the Facilities do not jeopardize the traffic, street structure, other users of the right of way or the right of way itself.

19. Grading. If the grades or lines of any street within the County Right of Way are changed at any time by the County during the term of the permit and this change involves an area in which the Utility's Facilities are located, then the Utility shall, at its own cost and expense and upon the request of the County upon at least 10 business days notice, protect or promptly alter or relocate the Facilities, or any part thereof, so as to conform with such new grades or lines. In the event the Utility refuses or neglects to so protect, alter, or relocate all or part of the Facilities, the County shall have the right to break through, remove, alter, or relocated all or any part of the Facilities without any liability to the Utility and the Utility shall pay to the County the costs incurred in connection with such breaking through, removal, alteration, or relocation.

20. Installation of Poles and Other Wireholding Structures and Relocation. Unless otherwise provided in a valid service agreement, no placement of any pole or wireholding structure of the Utility is to be considered a vested interest in the Right of Way, and such poles or structures are to be removed, relocated underground, or modified by the Utility at its own expense whenever the County determines that the public convenience or welfare would be enhanced thereby. The Facilities shall be so located and installed as to cause minimum interference with the rights and convenience of property owners.

21. Blasting. As provided in O.C.G.A § 25-9-6 (the Georgia Utility Facility Protection Act) and other applicable state law currently in place or as amended, no Utility shall commence, perform, or engage in blasting or in excavating with mechanized excavating facilities unless and until the Utility planning the blasting or excavating has given 48 hours' notice by submitting a locate request to the Utility Protection Center, beginning the next Working Day after such notice is provided, excluding hours during days other than Working Days.

22. Repair. Each Utility shall be responsible for the cost of repairing any Facilities in the Rights of Way and adjoining property or other Facilities which it or its Facilities damage. A Utility shall be liable, at its own cost and expense, to replace, restore or repair, any Street, Facilities or property or structure thereon, thereunder, thereover or adjacent thereto that may become disturbed or damaged as a result of the Construction or installation, operation, upgrade, repair or removal of Facilities to a condition as good as or better than its condition before the work performed by the Utility that caused such disturbance or damage. If the Utility does not commence such replacement or repair after 20 Working Days following written notice from the

County, the County or the owner of the affected structure or property may make such replacement or repair and the Utility shall pay the reasonable and actual cost of the same.

23. Inspection. The Utility shall make the Construction site available to the Director and to all others as authorized by Law for inspection at all reasonable times during the execution and upon completion of the Construction. At any time, including the time of inspection, the Director may order the immediate cessation of any work which poses a threat to the health, safety, or welfare of the public, violates any law, or which violates the terms and conditions of the Permit and/or this Chapter or issue an order to correct work which does not conform to the Permit and/or applicable standards, conditions or codes. When the Construction under any Permit is completed, the Utility shall notify the Department.

24. Additional Permits Required. The Utility shall obtain all construction, building or other permits or approvals as according to County ordinance, state and federal law. In addition, a Permittee shall comply with all requirements of laws, shall complete work in a way as to not cause any unnecessary or unauthorized obstructions of sidewalks, streets, waterways or railways, and is responsible for all work done in the Rights of Way. No Rights of Way obstruction or excavation may be performed when seasonally prohibited or when conditions are unreasonable for such work, except in the case of an Emergency as outlined above.

25. Abandonment. Facilities of a Utility who fails to comply with the above provision shall be deemed to be abandoned. Abandoned Facilities are deemed to be a nuisance. The County may exercise any remedies or rights it has at law or in equity, including, but not limited to abating the nuisance; taking possession of the Facilities, evicting the Utility from the Right of Way; prosecuting the violator; and/or any other remedy provided by County ordinance or otherwise at law or in equity.

26. Prohibitions and Penalties. No Utility shall use the Rights of Way to operate any Facilities that have not been authorized by the County per this Chapter. No Utility shall place or have placed any Facilities in, on, above, within, over, below, under, or through the Rights of Way, unless allowed under this Chapter. Each unauthorized use shall be deemed to be a violation and a distinct and separate offense. Each and every day any violation of this Chapter continues shall constitute a distinct and separate offense. No Utility shall fail to comply with this Chapter. Each failure to comply shall be deemed a distinct and separate offense. Each day any violation of this Chapter continues shall constitute a distinct and separate offense. Every Utility convicted of a violation of any provision of this chapter shall be punished by a fine not exceeding \$1,000 per violation. In addition to the penalty prescribed above, the County may pursue other remedies such as abatement of nuisances, injunctive relief and revocation of licenses or permits.

27. Reservation of Regulatory and Police Powers. The County by issuing a written approval of Registration under this Chapter, does not surrender or to any extent lose, waive, impair, or lessen the lawful powers and rights, which it has now or may be hereafter vested in the County under the Constitution and Laws of the United States, State of Georgia and the County Local Legislation, and under the provisions of the County's Codified Ordinances to regulate the use of the Rights of Way. The Utility by applying for and being issued a written Permit, is deemed to acknowledge that all lawful powers and rights, regulatory power, or police power, or otherwise as are or the same may be from time to time vested in or reserved to the County, shall be in full force and effect and subject to the exercise thereof by the County at any time. A Utility is deemed to acknowledge that its interests are subject to the regulatory and police powers of the County to adopt and enforce general ordinances necessary to the safety and welfare of the public and is deemed to agree to comply with all applicable general laws enacted by the County per such powers. In particular, all Utilities shall comply with County zoning and other land use requirements pertaining to the placement and specifications of Facilities.

28. Compliance. No Person shall be relieved of its obligation to comply with any of the provisions of this Chapter by reason of any failure of County to enforce compliance.

29. Appeal of Administrative Decisions. All appeals provided for by this chapter and any notification to the County required by this Chapter shall be in writing and sent via certified mail to the Director as specified in this Chapter.

30. Discontinuance. A Utility who has discontinued or is discontinuing operation of any Facilities in the County shall:

- A. Provide information satisfactory to the County that the Utility's obligations for its Facilities in the Rights of Way under this Section and any other provision in the Code or other laws have been lawfully assumed by another Utility; or
- B. Submit a written proposal to re-use its Facilities; or
- C. Submit a written proposal for abandonment of Facilities. Said proposal must be approved by the Director; or
- D. Remove its entire Facilities within a reasonable amount of time and in a manner acceptable to the County; or
- E. Submit to the County, in good faith and within a reasonable amount of time, a proposal for transferring ownership of its Facilities to the County. If a Utility proceeds under this clause, the County may, at its option do one or more of the

following: Purchase the Facilities; Accept donation of some or all Facilities, or Require the Utility to post a bond in an amount sufficient to reimburse the County for its reasonably anticipated costs to be incurred in removing the Facilities.

CHAPTER 16: DRUG AND ALCOHOL ABUSE PREVENTION

Section 16-001

1. Purpose. The County is dedicated to providing a healthy, safe working environment. In meeting these goals, it County policy to (1) assure that employees are not impaired in their ability to perform assigned duties in a safe, productive, and healthy manner; (2) create a workplace environment free from the adverse effects of drug abuse and alcohol misuse; (3) prohibit the unlawful manufacture, distribution, dispensing, possession, or use of controlled substances; and (4) encourage employees to seek professional assistance when alcohol or drug dependency adversely affects performance of assigned duties.

The purpose of this Chapter is to assure worker fitness for duty and to protect County employees and the public from the risks posed by the misuse of alcohol and use of prohibited drugs. This Chapter is also intended to comply with all applicable Federal regulations governing workplace anti-drug and alcohol programs in the transit industry. The Federal Transit Administration (FTA) of the U.S. Department of Transportation has published 49 CFR 655, as amended, that mandate urine drug testing and breath alcohol testing for safety-sensitive positions and prohibits performance of safety-sensitive functions when there is a positive test result. The U.S. Department of Transportation (DOT) has also published 49 CFR Part 40, as amended, that sets standards for the collection and testing of urine and breath specimens. In addition, the Federal government published 49 CFR Part 29, "The Drug-Free Workplace Act of 1988," which requires the establishment of drug-free workplace policies and the reporting of certain drug-related offenses to the FTA. This Chapter incorporates those requirements for all employees, including without limitation those performing safety-sensitive functions.

2. Applicability. This Chapter applies to all County employees, including without limitation those who perform safety-sensitive functions. This Chapter applies to off-site lunch periods or breaks when an employee is scheduled to return to work. Visitors, vendors, and contractor employees are governed by this Chapter while on County premises, and will not be permitted to conduct County business if found to be in violation of this Chapter.

A safety-sensitive function is any duty related to the safe operation of mass transit service including the operation of a revenue service vehicle (whether or not the vehicle is in revenue service), dispatch, maintenance of a revenue service vehicle or equipment used in revenue service, security personnel who carry firearms, and any other employees who hold a CDL.

All Employees, including without limitation those who perform safety-sensitive functions, are hereafter described as "Covered Employees." Covered Employees of the County of Hancock County include without limitation Fire Department employees, heavy equipment operators, the Building Inspector and any employees who hold a Commercial Driver's License.

3. Education and Training. Every Covered Employee will receive a copy of this Chapter and will have ready access to the corresponding federal regulations including 49 CFR Parts 653, 654 and 40. In addition, all Covered Employees will undergo a minimum of 60 minutes of training on the signs and symptoms of drug use including the effects and consequences of drug use on personal health, safety, and the work environment. The training also includes manifestations and behavioral cues that may indicate prohibited drug use.

All supervisory personnel who are in a position to determine employee fitness for duty will receive 60 minutes of reasonable suspicion training on the physical, behavioral, and performance indicators of probable drug use and 60 minutes of additional reasonable suspicion training on the physical, behavioral, speech, and performance indicators of probable alcohol misuse. Supervisory personnel will also be trained on how to intervene constructively, and how to effectively integrate an employee back into his/her work group following intervention and/or treatment.

4. Prohibited Substances. "Prohibited substances" addressed by this Chapter include the following:

(a) Illegally Used Controlled Substances or Drugs

The use of any illegal drug or any substance identified in Schedules I through V of Section 202 of the Controlled Substance Act (21 U.S.C. 812), as further defined by 21 CFR 1300.11 through 1300.15, is prohibited at all times, unless a legal prescription has been written for the substance. This includes, but is not limited to: marijuana, amphetamines, opiates, phencyclidine (PCP), and cocaine, as well as any drug not approved for medical use by the U.S. Drug Enforcement Administration or the U.S. Food and Drug Administration. Illegal use includes use of any illegal drug, misuse of legal prescribed drugs, and use of illegally obtained prescription drugs.

(b) Legal Drugs

The appropriate use of legally prescribed drugs and non-prescription medications is not prohibited. However, the use of any substance which carries a warning label that indicates mental functioning, motor skills, or judgment may be adversely affected must be reported by the Covered Employee to his/her supervisor. In addition, Covered Employees must obtain a written release from the attending physician releasing the person to perform their job duties any time they obtain a performance altering prescription.

A legally prescribed drug means that an individual has a prescription or other written approval from a physician for the use of a drug in the course of medical treatment. It must include the patient's name, the name of the substance, quantity to be taken, and the period of authorization. The misuse or abuse of legal drugs while on duty is prohibited.

(c) Alcohol

The use of beverages containing alcohol or substances, including any medication, mouthwash, food, candy, or any other substance such that alcohol is present in the body, is prohibited. The concentration of alcohol is expressed in terms of alcohol per 210 liters of breath as measured by an evidential breath testing device.

5. Prohibited Conduct.

(a) Manufacture, Trafficking, Possession, and Use

Covered Employees are prohibited from engaging in the unlawful manufacture, distribution, dispensing, possession, or use of illegal drugs on County premises, in County vehicles, in uniform or while on County business. Covered Employees who violate this provision will be subject to disciplinary action under the County personnel ordinance. Law enforcement shall be notified when criminal activity is reasonably suspected.

(b) Intoxication/Under the Influence

Any Covered Employee who is reasonably suspected of being intoxicated, impaired, under the influence of a prohibited substance, or not fit for duty shall be temporarily suspended pending an investigation and verification of condition. Covered Employees found to be under the influence of a prohibited substance or who fail to pass a drug or alcohol test shall be immediately removed from duty and be subject to disciplinary action. A drug or alcohol test is considered positive if the individual is found to have a quantifiable presence of a prohibited substance in the body above the minimum thresholds defined in 49 CFR Part 40, as amended.

(c) Alcohol Use and/or Possession

No Covered Employee may report for duty or remain on duty when his/her ability to perform duties is adversely affected by alcohol or when his/her breath alcohol concentration is 0.4 or greater. No Covered Employee may use or possess alcohol while performing job duties, or just before or just after performing a job duty. Covered Employees shall not use alcohol within four hours before reporting for duty, or during the hours they are on call. Violation of these provisions is prohibited and punishable by disciplinary action, per the County personnel policies.

(d) Compliance with Testing Requirements

All Covered Employees will be subject to urine drug testing and breath alcohol testing as a condition of employment. All testing shall be performed in compliance with all applicable federal requirements. Any Covered Employee who refuses to comply with a request for testing shall be immediately removed from duty. Refusal includes failure to provide a sufficient urine specimen, saliva sample, or breathe sample without a valid medical explanation, as well as a verbal declaration, obstructive behavior, dilution of a specimen, or physical absence resulting in the inability to conduct the test. Any Covered Employee who is suspected of providing false information in connection with a test, or who is suspected of falsifying test results (including dilution) will be required to undergo an observed collection. When the laboratory reports that a specimen is dilute, the MRO shall report to the DER that the specimen, in addition to being negative or positive, is dilute. The MRO shall check the "dilute" box (Step 6) on Copy 2 of the CCF. When the MRO reports a dilute specimen to the DER, the MRO must explain to the DER the employer's obligations and choices under Section 40.197, to include the requirement for an immediate recollection if the creatinine concentration of a negative-dilute specimen was greater than or equal to 2mg/dL but less than or equal to 5mg/dL. Any of the above violations will be cause for immediate removal from duty, and shall also be cause for disciplinary action per the County personnel policies.

The following are also considered a refusal to test if the employee:

Fails to appear for a test within a reasonable time, determined by the employer, after being directed to do so by the employer;

Fails to remain at the testing site until the testing process is complete;

Fails to provide a urine or breath specimen for any drug test required by this part or DOT agency regulations;

In the case of a directly observed or monitored collection in a drug test, fails to permit the observation or monitoring of the provision of a specimen;

Fails to provide a sufficient amount of urine or breath when directed, and it has been determined, through a required medical evaluation, that there was no adequate medical explanation for the failure;

Fails or declines to take a second test the employer or collector has directed the employee to take;

Fails to undergo a medical examination or evaluation, as directed by the MRO as part of the verification process, or as directed by the DER as part of the "shy bladder" or "shy lung" procedures;

Fails to cooperate with any part of the testing process (e.g., refuses to empty pockets when so directed by the collector, or behaves in a confrontational way that disrupts the collection process);

Adulterates or substitutes test results, as verified by the MRO.

Drug tests can be performed any time a safety sensitive employee is on duty. An alcohol test can be performed when the safety sensitive employee is actually performing a safety sensitive duty, just before, or just after the performance of a safety sensitive duty.

(e) Treatment Requirements

All employees should use the available resources for treatment of alcohol misuse and drug abuse problems. The employee or their insurance provider will pay the cost of any treatment or rehabilitation services. Employees who make self-referrals (i.e., no management intervention or positive test results) will be allowed to take accumulated sick leave and vacation leave to participate in the prescribed rehabilitation program. Employees that test positive will be referred to the Substance Abuse Professional designated by the County for assessment. Treatment may be required for those who test positive. The employee shall pay for any treatment obtained.

(f) Notice of Criminal Drug Conviction

All Covered Employees must notify the County system of any criminal drug conviction. The notice must be given in writing within five days after such conviction. Failure to comply with this provision shall be cause for disciplinary action per the County personnel policies.

(g) Proper Application of this Chapter

The County is dedicated to assuring fair and equitable application of this Chapter. Therefore, all aspects of this Chapter shall be enforced in an unbiased and impartial manner, and in compliance with all applicable federal regulations..

6. Testing Procedures.

(a) Alcohol and drug testing shall be conducted in a manner to assure a high degree of accuracy and reliability and using techniques, equipment, and laboratory facilities which have been approved by the U. S. Department of Health and Human Service (DHHS). All testing will be conducted in compliance with the requirements set forth in 49 CFR Part 40, as amended. The County recognizes its employees' privacy rights, and testing will be done in conformity with privacy requirements. Immediately prior to testing employees shall be told the test is required by federal regulations.

The drugs that will be tested for include marijuana, cocaine, opiates, amphetamines, and phencyclidine. An initial drug screen will be conducted on each urine specimen. For those specimens that are positive, a confirmatory Gas Chromatography/Mass Spectrometry (GC/MS) test will be performed. The test will be considered positive if the amounts present are above the minimum thresholds established in 49 CFR Part 40, as amended.

Tests for breath alcohol concentration will be conducted utilizing a National Highway Traffic Safety Administration (NHTSA)-approved testing device operated by a trained technician. If the initial test indicates an alcohol concentration of 0.02 or greater, a second test will be performed to confirm the results of the initial test. The confirmatory test will be performed using a NHTSA-approved evidential breath testing device (EBT) operated by a trained breath alcohol technician (BAT). A Covered Employee who has a confirmed alcohol concentration of 0.02 or greater but less than 0.04 will be removed from his/her position for 24 hours, unless a retest results in a concentration measure of less than 0.02. An alcohol concentration of 0.04 or greater is a positive alcohol test and in violation of this Chapter and the requirements set forth in 49 CFR Part 655 for Covered Employees.

The drugs that will be tested for include marijuana, cocaine, opiates, amphetamines, and phencyclidine. Urine specimens will be collected using the split specimen collection method described in 49 CFR Part 40. Each specimen will be accompanied by a DOT Chain of Custody and Control Form and identified using a unique identification number that attributes the specimen to the correct individual. An initial drug screen will be conducted on the primary urine specimen. For those specimens that are not negative, appear to be substitute, or adulterated, a confirmatory Gas Chromatography/Mass Spectrometry (GC/MS) test will be performed. The test will be considered positive if the amounts present are above the minimum thresholds established in 49 CFR Part 40, as amended. Attachment C lists the minimum thresholds established for each drug and/or its metabolites. The test results from the laboratory will be reported to a Medical Review Officer. A Medical Review Officer (MRO) is a licensed physician with detailed knowledge of substance abuse disorders and drug testing. The MRO will review the test results to ensure the scientific validity of the test and to determine whether there is a legitimate medical explanation for a confirmed positive test result, substitution or adulteration. The MRO will contact the employee, notify employee of the positive, substitute, or adulterated laboratory result, and provide employee with an opportunity to explain the confirmed test result. The MRO will then review the employee's medical history/medical records to determine whether there is a legitimate medical explanation for a positive, substitute or adulterated laboratory result. If no legitimate medical explanation is found, the test will be verified positive, substitute, or adulterated and reported to the company program manager. If a legitimate explanation is found, the MRO will report the test result as negative.

The split-specimen will be stored at the initial laboratory until the analysis of the primary specimen is completed. If the primary specimen is negative, the split will be discarded. If the primary is positive, the split will be retained for testing if so requested by the employee through the Medical Review Officer. The County reserves the right to test for additional drugs.

Observed collections. Per 49 CFR 40 collection under direct observation by a person of the same gender with no advance notice will occur if:

- (1) The laboratory reports to the MRO that a specimen is invalid, and the MRO reports to Program Manager (Chairman) that there was not an adequate medical explanation for the result; or
- (2) The MRO reports to the Program Manager that the original positive, adulterated, or substituted test result had to be cancelled because the test of the split specimen could not be performed.

Program Manager may direct a collection under direct observation of employee if the drug test is a return-to-duty test or a follow-up test.

The collector, must immediately conduct a collection under direct observation if:

They are directed by the Program Manager to do so; or

- (1) The collector observes materials brought to the collection site or the employee's conduct clearly indicates an attempt to tamper with a specimen or
- (2) The temperature on the original specimen was out of range or
- (3) The original specimen appeared to have been tampered with.

Employee Requested Testing

Any employee who questions the results of a required drug test hereunder may request that the split sample be tested. This test must be conducted at a different DHHS-certified laboratory. The test must be conducted on the split sample that was provided by the employee at the same time as the original sample. The split sample test will occur regardless of up-front payment, but the County reserves the right to seek reimbursement from the employee. The method of collecting, storing, and testing the split sample will be consistent with the procedures set forth in 49 CFR Part 40, as amended. The employee's request for a split sample test must be made to the Medical Review Officer within 72 hours of notice of the original sample verified test result. Requests after 72 hours will only be accepted if the delay was due to documentable facts that were beyond the control of the employee.

(c) Any Covered Employee that has a confirmed positive drug or alcohol test will be immediately removed from all duties, informed of educational and rehabilitation programs available, and referred to a Substance Abuse Professional (SAP) for assessment. A positive drug and/or alcohol test is cause for disciplinary action per the County personnel policies.

(d) Pre-Employment Testing

All candidates shall undergo urine drug testing immediately following the offer of employment or transfer into a new position. A negative drug test result is required prior to employment. Failure of a pre-employment drug test will disqualify

an applicant for employment for a period of 120 days. A Substance Abuse Professional's certification of the absence of drug dependency that meets with the approval of the County, and negative pre-employment drug tests, will be required prior to further consideration for employment. The cost for assessment and any subsequent treatment will be the sole responsibility of the applicant.

In addition, FTA requires all safety sensitive employees who have been off duty for 90 or more days for any reason are required to successfully pass a pre-employment drug test prior to the performance of a safety-sensitive function. A pre-employment/pre-transfer test will also be performed anytime an employee's status changes from an inactive status in a safety-sensitive position to an active status in a safety-sensitive position (i.e., return from Worker's Comp., return from leave of absence).

(e) Reasonable Suspicion Testing

All Covered Employees may be subject to urine and/or breath testing when there are reasons to suspect drug or alcohol use is adversely affecting job performance. A determination of reasonable suspicion for drug or alcohol testing must be based on specific, contemporaneous, articulable observations of appearance, speech, behavior and/or odors of the Covered Employee. Further evidence of reasonable suspicion includes, but is not limited to, the following:

1. Physical signs and symptoms consistent with prohibited substance use or alcohol misuse.
2. Evidence of the manufacture, distribution, dispensing, possession, or use of controlled substances, drugs, alcohol, or other prohibited substances.
3. Occurrence of a serious or potentially serious accident that may have been caused by prohibited substance abuse or alcohol misuse.
4. Fights, assaults, and violations of established safety, security, or other operating procedures.

Reasonable suspicion referrals must be made in writing by a supervisor who has received at least 60 minutes training to detect the signs and symptoms of drug and alcohol use, and who reasonably concludes that an employee may be adversely affected or impaired in his/her work performance due to possible prohibited drug or alcohol use. Alcohol testing must be accomplished within eight hours of a reasonable suspicion determination. If testing is not done within eight hours, test attempts shall cease, and a written report explaining the failure to test shall be made. Drug testing may be done any time a Covered Employee is on duty.

(f) Post-Accident Testing

All Covered Employees must undergo urine and breath testing if they are involved in an accident. Covered Employees whose performance could have contributed to the accident must be tested. A post-accident test will be conducted unless the employee's actions can be completely ruled out as a contributing factor to the accident.

Following an accident, the Covered Employees will be tested as soon as possible, but no later than 8 hours after the accident for alcohol testing and 32 hours after the accident for drug testing. After such times have elapsed, no further testing shall be attempted and the reasons for any failures to test shall be recorded. Any Covered Employee involved in an accident must refrain from alcohol use for eight hours following the accident or until he/she undergoes a post-accident alcohol test. Any Covered Employee who leaves the scene of the accident without justifiable explanation prior to submission to drug and alcohol testing will be considered to have refused the test and shall be subject to discipline under the County personnel policies.

(g) Random Testing

Covered Employees will be subject to random, unannounced testing. The selection of Covered Employees for random alcohol testing will be made using a scientifically valid method that ensures each Covered Employee of an equal chance of being selected each time selections are made. The random tests will be unannounced and spread throughout the year. Ten (10%) percent of Covered Employees will be tested each year for alcohol, and 50% of Covered Employees will be tested each year for drugs. Random drug tests may be conducted any time a Covered Employee is on duty.

(h) Return to Duty and Follow-up Testing

A negative drug and alcohol test is a requirement for return to duty. All Covered Employees who have returned to duty after removal for alcohol or drug use will be required to undergo frequent, unannounced random urine and/or breath testing. The testing will be performed for a period of one to five years, with a minimum of six tests to be performed the first year. Such testing shall also be performed after a Substance Abuse Professional determines a Covered Employee

needs help resolving drug or alcohol problems. Random alcohol tests and drug tests may be conducted any time a Covered Employee is on duty.

(i) Employee Requested Testing

Any employee who questions the results of a required drug test may request that the split sample be tested. This test must be conducted at a different DHHS-certified laboratory. The test must be conducted on the split sample that was provided by the employee at the same time as the original sample. The employee pays all cost for such testing unless the result of the split sample test invalidates the results of the original test. The method of collecting, storing, and testing the split sample will be in compliance with the requirements of 49 CFR Part 40, as amended. The employee's request for a split sample test must be made to the Medical Review Officer within 72 hours of notice of the original sample verified test result. Requests after 72 hours will only be accepted if the delay was due to documentable facts that were beyond the control of the employee. The Medical Review Officer (MRO) is Dr. Dan Drew, 7168 Graham Road, Suite 150, Indianapolis, IN 46250, 317-547-8620; the drug testing for all DOT employees will be performed by B C Drugs and Alcohol Testing, 4115 Columbia Road Suite 4-1656, Professional Bldg., Martinez Ga. 30907, 706-364-8300.

(j) Random alcohol and drug tests may be done anytime a Covered Employee is on duty.

7. Professional Evaluation; Discipline; Proper Application of the Policy. Any Covered Employee who tests positive for the presence of illegal drugs or alcohol above the minimum thresholds set forth in 49 CFR Part 40, as amended, will be referred for evaluation by a Substance Abuse Professional (SAP). A SAP is a licensed or certified physician, psychologist, social worker, employee assistance professional, or addiction counselor with knowledge of and clinical experience in the diagnosis and treatment of alcohol-related disorders. The SAP will evaluate each employee to determine what assistance, if any, the employee needs in resolving problems associated with prohibited drug use or alcohol misuse.

Evaluation by a SAP or participation in the County's Employee Assistance Program does not shield an employee from disciplinary action or guarantee employment or reinstatement with the County. County will not permit any covered employee to perform or continue to perform safety-sensitive functions if it has actual knowledge that the employee is using alcohol or illegal drugs. The employee can be placed on administrative leave pending disciplinary action. An employee who refuses an instruction to submit to a drug/alcohol test shall not be permitted to finish his or her shift and shall be terminated. A covered employee can be relieved of his/her responsibilities and subject to discipline for not fulfilling his/her responsibilities. Per County authority, violation of this substance abuse policy can result in termination of employment and/or exclusion from hire.

However, in the rare event an employee is reinstated with court order or other action beyond the control of the County, the employee must complete the return-to-duty process prior to the performance of safety-sensitive functions. All covered employees who previously tested positive on a drug or alcohol test or refused a test, must test negative for drugs and alcohol (below 0.02 for alcohol) and be evaluated and released by the Substance Abuse Professional before returning to work. For an initial positive drug test a Return-to-Duty drug test is required and an alcohol test is allowed. For an initial positive alcohol test a Return-to-Duty alcohol test is required and a drug test is allowed. Following the initial assessment, the SAP will recommend a course of rehabilitation unique to the individual. The SAP will recommend the return-to-duty test only when the employee has successfully completed the treatment requirement and is known to be drug and alcohol-free and there are no objective concerns for public safety.

Covered employees that have returned to duty following a positive or refused a test will be required to undergo frequent, unannounced drug and/or alcohol testing following their return-to-duty test. The follow-up testing will be performed for a period of one to five years with a minimum of six tests to be performed the first year. The frequency and duration of the follow-up testing, tests (beyond the minimums,) will be determined by the Substance Abuse Professional SAP reflecting the SAP's assessment of the employee's unique situation and recovery progress. All follow-up urine drug collections will be conducted as directly observed collections per 49 CFR Part 40.67, as amended. Follow-up testing should be frequent enough to deter and/or detect a relapse. Follow-up testing is separate and in addition to the random, post-accident, reasonable suspicion and return-to-duty testing.

The cost of any treatment or rehabilitation services will be paid by the employee or their insurance provider. Employees will be allowed to take accumulated sick leave and vacation leave to participate in the prescribed rehabilitation program.

County is dedicated to assuring fair and equitable application of this substance abuse policy. Therefore, supervisors/managers are required to use and apply all aspects of this policy in an unbiased and impartial manner. Any supervisor/manager who knowingly disregards the requirements of this policy, or who is found to deliberately misuse the policy in regard to subordinates, shall be subject to disciplinary action, up to and including termination.

8. Drug and Alcohol Abuse Prevention Contact Persons. Any questions regarding this Chapter should be directed to Cathy Jackson, HR Director, County Program Manager. The entity with knowledge of and experience in diagnosis and treatment of drug and alcohol abuse is the entity designated by the County as the Substance Abuse Professional (SAP), which is Dr. Dan Drew, 7168 Graham Road, Suite 150, Indianapolis, IN 46250, 317-547-8620; the drug testing for all DOT employees will be performed by B C Drugs and Alcohol Testing, 4115 Columbia Road Suite 4-1656, Professional Bldg., Martinez, Ga. 30907, 706-364-8300. Alcohol testing for the County of Hancock County will be performed by Dr. Dan Drew, 7168 Graham Road, Suite 150, Indianapolis, IN 46250, 317-547-8620; the testing for all DOT employees will be performed by BC Drugs, a qualified and approved laboratory that has agreed to comply with all applicable local, state and federal requirements for alcohol testing.

9. Employee Assistance Program. County shall provide educational materials to employees before alcohol and drug testing is started under this Chapter, in conformity with 40 CFR §199.239. Employee organizations will be given written notice of these materials. Such materials will include this Chapter and may include information about the effect of alcohol misuse and signs of an alcohol problem. Education shall also include intervention, evaluation and resolution of alcohol problems.

10. Disclosure of Information.

1. The County will securely maintain all testing information, including results and other related records, and shall not disclose that information except as required by law. Test results will not be placed in personnel files, unless required by law.

2. The County shall release information regarding a Covered Employee's record as directed by specific, written consent from the employee authorizing release of the information to an identified person.

3. A Covered Employee is entitled, upon written request, to obtain copies of any records pertaining to his/her use of prohibited substances, including any records pertaining to test results.

4. The County may disclose information that is required to be maintained to the decision maker in a lawsuit, grievance, or other proceeding initiated by or on behalf of the employee tested.

5. When requested by the National Transportation Safety Board as part of an accident investigation, the County shall disclose information related to its administration of drug and alcohol tests following the accident investigation.

6. Records shall be made available to subsequent employers upon written request from the Covered Employee.

7. The County shall disclose data for its drug and alcohol testing program when requested by the Secretary of Transportation or any DOT agency with regulatory authority over the County.

8. Attached as Exhibit "B" is information about the adverse consequences of alcohol use.

9. To be considered for employment, all applicants will be asked to consent to a background check of the applicant's previous DOT covered employer over the past two years. The information requested will include;

(a) Alcohol test results of 0.04 or higher alcohol concentration.

(b) Verified positive drug tests.

(c) Refusals to be tested (including verified adulterated or substituted drug test results.)

(d) Other violations of DOT agency drug and alcohol testing regulations.

(e) With respect to any employee who violated a DOT drug and alcohol regulation, documentation of the employee's successful completion of DOT return-to-duty requirements (including follow-up tests).

11. Record Maintenance. The County and the laboratory performing the testing will maintain the following testing records:

1. Records related to the testing process, including calibration documentation, documentation of training, documents generated in connection with decisions to administer reasonable suspicion tests, documents generated in connection with decisions to administer post Accident tests, and documents verifying existence of a medical explanation for the inability of Covered Employees to provide adequate breath or saliva for testing;

2. Records related to test results, including the County's copy of test forms, the results of the tests, documents related to the refusal of any Covered Employee to submit to a required test, and documents presented by a Covered Employee to dispute test results;

3. Records related to other violations outlined in this Chapter, and records of procedures to be followed if a test shows Alcohol Concentration of .02 or more or use of an illegal drug;

4. Records related to referrals and evaluations, including, but not limited to, determinations by a SAP of an employee's need for assistance, and records of an employee's compliance with a SAP's recommendation if the County requires the employee to follow said recommendations;

5. Records related to annual testing data and "missed test" information. The County shall submit testing data and "missed test" information as required by federal law;

6. Records related to education and training, including, material on alcohol and drug abuse awareness, a copy of this Chapter, documentation of compliance with requirements regarding information disclosure, documentation of training regarding reasonable suspicion determinations, and certification that training per this Chapter complies with the requirements of the Code of Federal Regulations.

12. Record Retention.

1. The following records will be retained for a minimum period of five (5) years: Records of positive drug tests and alcohol tests with results of .02 or greater, documentation of refusals to take required tests, calibration documentation, including records of the results of external calibration checks, employee referrals and evaluations, management information system (MIS) annual report data, and documents pertaining to "missed tests";

2. The following records will be retained for a minimum period of two (2) years: Records related to the collection process, training records, inspection and maintenance records of all equipment used in employee testing, documentation of compliance with the quality assurance procedure for all equipment used for testing, and training and proficiency testing records of each technician used in employee testing;

3. The following records will be retained for a minimum period of one (1) year: Records of employee alcohol test results showing an Alcohol Concentration below .02 grams, and negative drug test results."

Attachment A

Administration Covered Classifications

Title

Dispatchers

Testing Authority

County of Hancock County

Job Classifications

Title

Drivers

Testing Authority

County of Hancock County

Attachment B: Alcohol Fact Sheet

Alcohol is a socially acceptable drug that has been consumed throughout the world for centuries. It is considered a recreational beverage when consumed in moderation for enjoyment and relaxation during social gatherings. However, when consumed primarily for its physical and mood-altering effects, it is a substance of abuse. As a depressant, it slows down physical responses and progressively impairs mental functions.

Signs and Symptoms of Use: Dulled mental processes, Lack of coordination, Odor of alcohol on breath, Possible constricted pupils, Sleepy or stuporous condition, Slowed reaction rate, Slurred speech. (Note: Except for the odor, these are general signs and symptoms of any depressant substance.)

Health Effects: Chronic consumption of alcohol (average of three servings per day of beer [12 ounces], whiskey [1 ounce], or wine [6 ounce glass]) over time may result in the following health hazards: Decreased sexual functioning, Dependency (up to 10 percent of all people who drink alcohol become physically and/or mentally dependent on alcohol and can be termed "alcoholic", Fatal liver diseases, Increased cancers of the mouth, tongue, pharynx, esophagus, rectum, breast, and malignant melanoma, Kidney disease, Pancreatitis, Spontaneous abortion and neonatal mortality, Ulcers, Birth defects (up to 54 percent of all birth defects are alcohol related).

Social Issues: Two-thirds of all homicides are committed by people who drink prior to the crime. Two to three percent of the driving population is legally drunk at any one time. This rate is doubled at night and on weekends. Two-thirds of all Americans will be involved in an alcohol-related vehicle accident during their lifetimes. The rate of separation and divorce in families with alcohol dependency problems is 7 times the average. Forty percent of family court cases are alcohol problem related. Alcoholics are 15 times more likely to commit suicide than are other segments of the population. More than 60 percent of burns, 40 percent of falls, 69 percent of boating accidents, and 76 percent of private aircraft accidents are alcohol related.

The Annual Toll: 24,000 people will die on the highway due to the legally impaired driver. 12,000 more will die on the highway due to the alcohol-affected driver. 15,800 will die in non-highway accidents. 30,000 will die due to alcohol-caused liver disease. 10,000 will die

due to alcohol-induced brain disease or suicide. Up to another 125,000 will die due to alcohol-related conditions or accidents. Workplace Issues. It takes one hour for the average person (150 pounds) to process one serving of an alcoholic beverage from the body. Impairment in coordination and judgment can be objectively measured with as little as two drinks in the body. A person who is legally intoxicated is 6 times more likely to have an accident than a sober person.

Attachment C: Minimum Thresholds

INITIAL TEST CUTOFF LEVELS (ng/ml)	
Marijuana metabolites	50
Cocaine metabolites	300
Opiate metabolites	2,000
Phencyclidine	25
Amphetamines	1,000
CONFIRMATORY TEST CUTOFF LEVELS (ng/ml)	
Marijuana metabolites	15
Cocaine metabolites	150
Opiates:	
Morphine	2,000
Codeine	2,000
Phencyclidine	25
Amphetamines:	
Amphetamines	500
Methamphetamine	500
Delta-9-tetrahydrocannabinol-9-carboxylic acid.	
Benzoylcegonine-	Specimen must also contain amphetamine at a concentration 200 ng/ml.

CHAPTER 17: EFFECTIVITY AND VALIDITY OF CODE

1. This Code shall become effective immediately upon passage.
2. If any section, paragraph, clause, phrase or provision of this Code shall be adjudged invalid or held unconstitutional, such decision shall not affect the remaining portions of this Code.
3. The passage hereof shall not bar or affect the validity of, any actions or rights of the County taken or enforced, or to be taken or enforced, under applicable pre-existing regulations and/or Ordinances of the County.
4. Regulations and Ordinances not inconsistent with this Code shall survive passage hereof.
5. Unless otherwise expressly provided herein, conviction of any provision of this Code or of any other County regulation or Ordinance shall be punished by a fine of up to \$1000, incarceration of up to 60 days, or both. Each act of violation, and each day of violation, shall constitute separate offenses. Such penalties shall not bar the County from pursuing other remedies.

Read and approved the ___ day of May, 2012 for a first reading, and the ___ day of June, 2012 for a second and final reading.

HANCOCK COUNTY, GEORGIA

By: Chairman _____ (SEAL)

Commissioner _____ (SEAL)

Commissioner _____ (SEAL)

Commissioner _____ (SEAL)

Commissioner _____ (SEAL)

Attest: _____ (SEAL)

County Clerk
[AFFIX COUNTY SEAL]

Attachment C: Minimum Thresholds

	INITIAL TEST CUTOFF LEVELS (ng/ml)
Marijuana metabolites	50
Cocaine metabolites	300
Opiate metabolites	2,000
Phencyclidine	25
Amphetamines	1,000

	CONFIRMATORY TEST CUTOFF LEVELS (ng/ml)
Marijuana metabolites	15
Cocaine metabolites	150
Opiates:	
Morphine	2,000
Codeine	2,000
Phencyclidine	25
Amphetamines:	
Amphetamines	500
Methamphetamine	500
Delta-9-tetrahydrocannabinol-9-carboxylic acid.	
Benzoyllecgonine-	

Specimen must also contain amphetamine at a concentration 200 ng/ml.

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Read and approved the 8 day of May, 2012 for a first reading, and the 8 day of May, 2012 for a second and final reading.

HANCOCK COUNTY, GEORGIA

By: Chairman [Signature] (SEAL)

Commissioner [Signature] (SEAL)

Commissioner [Signature] (SEAL)

Commissioner [Signature] (SEAL)

Commissioner [Signature] (SEAL)

Attest: [Signature] (SEAL)

County Clerk
[AFFIX COUNTY SEAL]

