

# Code of Ordinances



## City of Mansfield, Georgia

*Prepared by  
the  
Northeast Georgia Regional Development Center*

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**ADOPTING ORDINANCE**

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# **GENERAL PROVISIONS**



# CHAPTER 1: GENERAL PROVISIONS

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### **Section 1-101                    How Code Designated and Cited**

The provisions embraced in the following chapters and sections shall constitute and be designated "The Code of the City of Mansfield, Georgia, 2001," and may be so cited.

### **Section 1-102                    Rules of Construction**

In the construction of this code and of all sections, the following rules shall be observed unless such construction would be inconsistent with the manifest intent of the Mayor and City Council.

- 1. 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.
- 2. Gender -- Singular and Plural.** Every word in any code provision or section importing the masculine gender shall extend to and be applied to females as well as males; and every word importing the singular number only shall extend and be applied to several persons or things as well as to one person or thing; and every word importing the plural number only shall extend and be applied to one person or thing as well as to several persons or things.
- 3. Tenses.** The use of any verb in the present tense shall include the future when applicable.
- 4. Joint Authority.** All words purporting to give a joint authority to three (3) or more City officers or other persons shall be construed as giving such authority to a majority of such officers or other persons unless it shall be otherwise expressly declared in the law giving the authority.
- 5. Delegation of Authority.** Whenever a provision required the head of a department or other officer of the City to do some act or perform some duty, it shall be construed to authorize subordinates to do the required act or perform the required duty unless the terms of the provision designate otherwise.
- 6. Computation of Time.** The time within which an act is to be done as provided in any code provision or section or in any order issue pursuant to any section, when expressed in days, shall be computed by excluding the first day and including the last, except that if the last day is a Saturday, Sunday or a legal holiday it shall be excluded; and when any such time is expressed in hours the whole of Sunday, from midnight to midnight, shall be excluded. When the period of time prescribed is less than seven (7) days, intermediate Saturdays, Sundays, and legal holidays shall be excluded in the computation.
- 7. Overlapping Provisions.** Where any provision of this code imposes greater restrictions upon the subject matter than any general provisions imposed by this code, the provision imposing the greater restriction or regulation shall be applicable.

**Section 1-103                      Definitions**

Words and phrases used in this code shall have the following meanings, unless otherwise specified.

1.     **Advice and Consent.** Whenever the term "advice and consent" of the City Council is used in this code it shall be construed to mean an affirmative vote of the majority of the entire City Council.
2.     **City.** The Words "the City" or "this City" shall mean the City of Mansfield, Georgia.
3.     **City Council, Council.** The words "City council" or "the council" shall mean the City Council of the City of Mansfield, Georgia.
4.     **County.** The words "the county" or "this county" shall mean Newton County, Georgia.
5.     **Court.** The word "court" shall mean the Municipal Court of the City.
6.     **Governing Authority, Governing Body.** The words "governing authority" or "governing body" shall mean the Mayor and City Council of the City of Mansfield, Georgia.
7.     **Judge or Recorder.** The words "judge" or "recorder" shall mean the Judge of the Municipal Court of the City.
8.     **Mayor.** The word "mayor" shall mean the Mayor of the City of Mansfield, Georgia.
9.     **Mayor and City Council.** The term "mayor and City council" shall mean the Mayor and City Council of the City of Mansfield Georgia.
10.    **Misdemeanor.** The term "misdemeanor" shall mean a violation of the state criminal law punishable by a fine not in excess of one thousand dollars (\$1,000.00) or confinement in a county or other jail for a term not exceeding twelve (12) months, or by both such fine and imprisonment.
11.    **Municipality.** The word "municipality" shall be construed as synonymous with the term "City," "City," or "municipal corporation."
12.    **Oath.** The word "oath" shall be construed to include an affirmation in all cases in which, by law, an affirmation may be substituted for an oath, and in such cases the words "affirm" and "affirmed" shall be equivalent to the words "swear" or "sworn."
13.    **Ordinance.** The word "ordinance" shall mean a legislative act of the municipal governing body of a general and permanent nature.
14.    **Owner.** The word "owner" when applied to a building or to land, shall include any part owner, joint owner, tenant in common, joint tenant by the entirety, of the whole or a part of such building or land.
15.    **Person.** The word "person" shall include a corporation, firm, agency, partnership, association, organization, government, and any other group acting as a unit, as well as an individual.
16.    **Personal Property.** The term "personal property" shall include every specie of property except real property, as hereinafter defined.
17.    **Preceding, Following.** The words "preceding" and "following" shall mean next before and next after, respectively.
18.    **Property.** The term "property" means anything of value, including but not limited to real estate, tangible and intangible personal property, contract rights, services, choses in action, and other interests in or claims to wealth admission or transportation tickets captured or domestic animals, food and drink, and electric or other power.
19.    **Real Property.** The words "real property" shall include lands, tenements, and hereditaments.
20.    **Reasonable Time or Notice.** Reasonable time or notice shall be deemed to mean only such time as may be necessary for the prompt performance or the act required.
21.    **Resolution.** The word "resolution" shall mean a legislative act of the municipal governing body of a special or temporary character.
22.    **Sidewalk.** The word "sidewalk" shall mean any portion of a street between the curb line and the adjacent property line, intended for the use of the pedestrians, but shall not include any unimproved areas between the curb line and improved walkways.
23.    **Signature, Subscription.** The word "signature" or "subscription" shall include a mark intended as such when the person cannot write.
24.    **State.** The words "state" or "this state" shall mean the State of Georgia.
25.    **Street.** The word "street" shall mean and include any public way, road, highway, street, avenue, boulevard, parkway, alley, viaduct or bridge, and the approach thereto, within the City.
26.    **Tenant or Occupant.** The word "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.
27.    **City.** The words "the City" or "this City" shall mean the City of Mansfield, Georgia.

28. **City Council.** The words "City council" or "the council" shall mean the City Council of the City of Mansfield, Georgia.
29. **Week.** The word "week" shall mean seven (7) calendar days.
30. **Writing or Written.** The words "writing" and "written" shall include printing and any other mode of representing words and letters.
31. **Year.** The word "year" shall mean a calendar year.

**Section 1-104                      Section Headings**

The underlined headings of the several sections and subsections of this code are intended as mere captions to indicate the contents of the section or subsection and shall not be deemed or taken to be titles of such sections, nor as any part of the section or subsection, nor unless so expressly provided, shall they be so deemed when any of such sections or subsections, including the headings, is amended or re-enacted.

**Section 1-105                      Effect of Repeal or Expiration of Code Section or Ordinance**

1. The repeal of a code section or ordinance, or its expiration by virtue of any provision contained therein, shall not affect any right accrued or any offense committed, any penalty or punishment incurred, or any proceeding commenced before the repeal took effect or the ordinance expired.
2. When any ordinance repealing a former code section, ordinance, clause or provision, shall be itself repealed, such repeal shall not be construed to revive such former code section, ordinance, clause, or provision, unless it shall be expressly so provided.

**Section 1-106                      Amending Code**

1. All ordinances passed subsequent to this code which amend, repeal or in any way affect this code shall be numbered in accordance with the numbering system of this code and printed for inclusion herein. In the case of repealed chapters, sections, and subsections or any part thereof, by subsequent ordinances, such repealed portions may be excluded from the code by omission from reprinted pages affected thereby. The subsequent ordinances as numbered and printed, or omitted in the case of repeal, shall be prima facie evidence of such subsequent ordinances until such time as the code and subsequent ordinances omitted are readopted as a new code by the City Council.
2. Amendments to any of the provisions of this code may be made by specific reference to the section number of this code in the following language: "That section \_\_\_\_\_ of the Code of Ordinances, City of Mansfield, Georgia 2001, is hereby amended to read as follows . . . ." The new provisions may then be set out in full as desired.
3. In the event a new section not heretofore existing in the code is to be added, the following language may be used. "The Code of Ordinances of the City of Mansfield\_, Georgia 2001, is hereby amended by adding a section (or subsection chapter) to be numbered \_\_\_\_\_, which section reads as follows . . . ." The new provision shall then be set out in full as desired.
4. All sections, chapters, or provisions sought to be repealed must be specifically repealed by section, chapter, or provision number, as the case may be.

**Section 1-107                      Altering Code**

It shall be unlawful for any person to change or amend by additions or deletions any part or portion of this code, or to insert or delete pages or portions thereof, or to alter or tamper with such code in any manner whatsoever, except by ordinance or resolution or other official act of the Mayor and City Council.

**Section 1-108                      Severability**

The sections, paragraphs, sentences, clauses, and phrases of this code are severable, and if any phrase, clause, sentence, paragraph, or section of this code shall be declared unconstitutional or otherwise invalid by the valid judgment or decree of a court of competent jurisdiction, such unconstitutionality or invalidity shall not affect any of the remaining phrases, clauses, sentences, paragraphs, and sections of this code.

**Section 1-109                      Penalty Where No Penalty Provided**

1. Whenever in this code or in any ordinance of the City any act is prohibited or is declared to be unlawful, or whenever in such code or ordinance the doing of any act is declared to be unlawful, and no specific penalty is provided therefore, the violation of such provision of this code or any ordinance shall subject the person committing the violation to a fine not exceeding one thousand dollars (\$1,000.00 ) and costs or to imprisonment for a term not exceeding ninety ( 90 ) days, or to both such fine and imprisonment, any or all of such penalties to be imposed at the discretion of the Judge of the Municipal Court.
2. The infliction of a penalty under the provisions of this section shall not prevent the revocation of any permit or license or the taking of other punitive or remedial action where called for or permitted under the provisions of the City's charter or code.

# **PART I: ORGANIZATION OF THE GOVERNMENT**



# CHAPTER 2: ELECTIONS

Section

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## Article I. IN GENERAL

### Section 2-101 Adoption of State Rules and Regulations

The rules and regulations promulgated by the State Election Board which pertain to municipal elections, together with the provisions of the "Georgia Municipal Election Code" contained in Title 21 of the Official Code of Georgia Annotated, are hereby adopted as the rules, regulations, and provisions that shall govern the conduct of municipal general and special elections in this city.

**Section 2-102 Authority to Conduct Municipal Elections**

The governing authority of any municipality may conduct the election or they may authorize any county within which that municipality wholly or partially lies to conduct any or all elections. In the event a municipality shall by ordinance authorize such county to conduct elections, such municipality may request such county to perform any or all of the functions enumerated in the contract. Such county shall have authority to conduct elections in any and all counties in which any part of such municipality may lie. (See Municipal Election Code, O.C.G.A. § 21-2-1 et. seq.)

**Section 2-103 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 2-201 Registrars and Deputy Registrars**

1. **Appointment.** Registrars and deputy registrars shall be appointed by the Mayor and City Council as necessary, and shall serve at the pleasure of same. One such appointee shall be designated as chief registrar, and such person shall serve as the Chief Administrative Officer of the Board of Registrars and shall generally supervise and direct the administration of the affairs of said board. Compensation of the registrars shall be fixed by the governing authority.

All appointments shall be entered on the minutes of the city council meeting at which they are made.

The Mayor and City Council may furnish such employees and facilities as it deems necessary for the operation of the office and the affairs of the registrars.

2. **Qualifications.** Registrars and deputy registrars shall be able to read, write, and speak the English language. The office of any person who is a registrar, deputy registrar, or member of a board of elections shall be vacated immediately upon such person filing a notice of candidacy for any nomination or office to be voted for at a primary or election or upon such person's giving notice of such person's intent to be a write-in candidate; provided, however, that this ineligibility shall not apply to a chief deputy registrar who is also an elected public officer and who seeks to qualify for reelection to the public office such chief deputy registrar is presently holding. However, nothing contained in this code section shall preclude a registrar, deputy registrar, or member of a municipal board of elections from qualifying for office, having such officer's name placed on the ballot, or holding office in a political party or body or serving as a presidential elector. No registrar, deputy registrar, or member of a board of elections, while performing the duties of such office, shall engage in political activity on behalf of a candidate, political party or body, or question, including, but not limited to, distributing campaign literature, engaging in any communication that advocates or criticizes a particular candidate, officeholder, or political party or body while on duty, and wearing badges, buttons, or clothing with partisan messages.
3. **Oath.** Prior to entering upon his duties, each registrar and deputy registrar shall take the following oath before some officer authorized by law to administer oaths under the laws of the state:

*"I do solemnly swear that I will faithfully and impartially discharge, to the best of my ability, the duties imposed upon me by law as (deputy) registrar."*

4. **Term of Office.** Persons appointed to the position of registrar or deputy registrar shall serve at the pleasure of the Mayor and City Council.
5. **Powers.** The registrars and deputy registrars shall exercise those powers and duties and shall be subject to such regulations as are set forth in the "Georgia Municipal Election Code," Title 21 of the O.C.G.A.
6. **Resignation or Removal.** Any registrar or deputy registrar shall have the right to resign at any time by submitting a resignation to the Mayor and City Council. The Mayor and City Council shall have the right at any time to remove one (1) or more of such registrars for cause after notice and hearing. If any registrar resigns or is removed for cause, his duties and authority as such shall terminate immediately. In the event of death, resignation, or removal of a registrar or deputy registrar, the Mayor and City Council shall appoint a successor. Each such appointment shall be entered on the minutes of the city council meeting at which the appointment is made.

**7. Training.**

- A.** The election superintendent and at least one (1) registrar shall attend a minimum of twelve (12) hours training biennially as may be selected by the Secretary of State.
- B.** The basis for the minimum requirement of training shall be two (2) calendar years.
- C.** A waiver of the requirement of minimum training, either in whole or in part, may be granted by the Secretary of State, in his/her discretion, upon the presentation of evidence by the election superintendent or registrar that the individual was unable to complete such training due to medical disability, providential cause, or other reason deemed sufficient by the Secretary of State.
- D.** The cost of the training shall be borne by the municipal governing authority from municipal funds.
- E.** The minimum training required under this section shall not apply to deputy registrars.

**Section 2-202 Elector Qualifications**

Any person desiring to vote in any municipal, general, or special election must:

- 1.** Register as an elector in the manner prescribed by law;
- 2.** Be a citizen of the State of Georgia and of the United States;
- 3.** Be at least eighteen (18) years of age;
- 4.** Be a resident of this (municipality/county); and
- 5.** Be possessed of all other qualifications prescribed by law:
  - A.** No person who has been convicted of a felony involving moral turpitude may register, remain registered, or vote except upon completion of the sentence.
  - B.** No person who has been judicially determined to be mentally incompetent may register, remain registered, or vote unless the disability has been removed.
  - C.** Any person who possesses the qualifications of an elector except those concerning age shall be permitted to register to vote if such person will acquire such qualifications within six (6) months after the day of registration; provided, however, that such person shall not be permitted to vote in a primary or election until the acquisition of such qualifications.

**Section 2-203 Registration List and Records**

On January 1, 1995, all municipalities maintaining their own voter registration lists shall transfer such lists along with all voter registration cards and other registration documentation to the county board of registrars who shall compare such lists with the list of electors for the county. If any person's name listed on the municipal list does not appear on the county list of electors, such person's name shall be added to the list of electors of the county.

**Section 2-204 Challenge of Registration List**

- 1.** Any elector of the municipality may challenge the right of any other elector of the municipality, whose name appears on the list of electors, to vote in an election. Such challenge shall be in writing and specify distinctly the grounds of such challenge. Such challenge may be made at any time prior to the elector whose right to vote is being challenged voting at the elector's polling place or, if such elector cast an absentee ballot, prior to the close of the polls on the day of the election.
- 2.** Upon the filing of such challenge, the county board of registrars shall immediately consider such challenge and determine whether probable cause exists to sustain such challenge. If the registrars do not find probable cause, the challenge shall be denied. If the registrars find probable cause, the registrars shall notify the poll officers of the challenged elector's precinct or, if the challenged elector voted by absentee ballot, notify the poll officers at the absentee ballot precinct and, if practical, notify the challenged elector and afford such elector an opportunity to answer.
- 3.** If the challenged elector appears at the polling place to vote, such elector shall be given the opportunity to appear before the registrars and answer the grounds of the challenge.
- 4.** If the challenged elector does not cast an absentee ballot and does not appear at the polling place to vote and if the challenge is based on grounds other than the qualifications of the elector to remain on the list of electors, no further action by the registrars shall be required.
- 5.** If the challenged elector cast an absentee ballot and it is not practical to conduct a hearing prior to the close of the polls and the challenge is based upon grounds other than the qualifications of the elector to remain on the list of electors, the absentee ballot shall be treated as a challenged ballot pursuant to O.C.G.A. § 21-3-291. No further action by the registrars shall be required.

6. If the challenged elector does not cast an absentee ballot and does not appear at the polling place to vote and the challenge is based on the grounds that the elector is not qualified to remain on the list of electors, the board of registrars shall proceed to hear the challenge pursuant to O.C.G.A. § 21-2-229.
7. If the challenged elector cast an absentee ballot and the challenge is based upon grounds that the challenged elector is not qualified to remain on the list of electors, the board of registrars shall proceed to conduct a hearing on the challenge on an expedited basis prior to the certification of the consolidated returns of the election by the election superintendent. The election superintendent shall not certify such consolidated returns until such hearing is complete and the registrars have rendered their decision on the consolidated returns. If the registrars uphold the challenge, the name of the challenged elector shall be removed from the list of electors and the ballot of the challenged elector shall be rejected and not counted and, if necessary, the returns shall be adjusted to remove any votes cast by such elector. The elector making the challenge and the challenged elector may appeal the decision of the registrars in the same manner as provided in subsection (e) of O.C.G.A. § 21-2-229.
8. If the challenged elector appears at the polls to vote and it is practical to conduct a hearing on the challenge prior to the close of the polls, the registrars shall conduct such hearing and determine the merits of the challenge. If the registrars deny the challenge, the elector shall be permitted to vote in the election notwithstanding the fact that the polls may have closed prior to the time the registrars render their decision and the elector can actually vote, provided that the elector proceeds to vote immediately after the decision of the registrars. If the registrars uphold the challenge, the challenged elector shall not be permitted to vote and, if the challenge is based upon the grounds that the elector is not qualified to remain on the list of electors, the challenged elector's name shall be removed from the list of electors.
9. If the challenged elector appears at the polls to vote and it is not practical to conduct a hearing prior to the close of the polls or if the registrars begin a hearing and subsequently find that a decision on the challenge cannot be rendered within a reasonable time, the challenged elector shall be permitted to vote by having the word "Challenged" and the elector's name written across the back of the elector's ballot notwithstanding the fact that the polls may have closed prior to the time the registrars make such a determination, provided that the elector proceeds to vote immediately after such determination of the registrars. In such cases, if the challenge is based upon the grounds that the challenged elector is not qualified to remain on the list of electors, the registrars shall proceed to finish the hearing prior to the certification of the consolidated returns of the election by the election superintendent. If the challenge is based on other grounds, no further action shall be required by the registrars. The election superintendent shall not certify such consolidated returns until such hearing is complete and the registrars have rendered their decision on the challenge. If the registrars deny the challenge, the superintendent shall proceed to certify the consolidated returns. If the registrars uphold the challenge, the name of the challenged elector shall be removed from the list of electors and the ballot of the challenged elector shall be rejected and not counted and, if necessary, the returns shall be adjusted to remove any votes cast by such elector. The elector making the challenge and the challenged elector may appeal the decision of the registrars in the same manner as provided in subsection (e) of O.C.G.A. § 21-2-229.

**Section 2-205                      Permanency of Registration**

Registration of an elector will remain permanent if the elector votes in at least one (1) election every three (3) years. If such person does not vote in at least one (1) general or special election or primary in a three (3) year period and does not specifically request continuation of his registration, then the elector's name will be removed from the registration list and he shall be required to re-register in the manner provided for original registration.

**Section 2-206                      Absentee Registration**

1. Not more than one hundred eighty (180) days prior to the date of the primary or election, or runoff of either, in which the elector desires to vote, any absentee elector may make, either by mail, by facsimile transmission, or in person in the registrar's office, an application to the board of registrars of the county of the elector's residence for an official ballot of the elector's precinct to be voted at such primary, election, or runoff. In the case of an elector residing temporarily out of the county or a physically disabled elector residing within the county, the application for the elector's absentee ballot may, upon satisfactory proof of relationship, be made by such elector's mother, father, grandparent, aunt, uncle, sister, brother, spouse, son, daughter, niece, nephew, grandchild, son-in-law, daughter-in-law, mother-in-law, father-in-law, brother-in-law, or sister-in-law of the age of eighteen (18) or over. The application shall be in writing and shall contain sufficient information for proper identification of the elector; the permanent or temporary

address of the elector to which the absentee ballot shall be mailed; the identity of the primary, election, or runoff in which the elector wishes to vote; the reason for requesting the absentee ballot; the name and relationship of the person requesting the ballot if other than the elector. Except in the case of physically disabled electors residing in the county, no absentee ballot shall be mailed to an address other than the permanent mailing address of the elector as recorded on the elector's voter registration record or a temporary out of county address. Relatives applying for absentee ballots for electors must also sign an oath stating that facts in the application are true. If the elector is unable to fill out or sign such elector's own application because of illiteracy or physical disability, the elector shall make such elector's mark, and the person filling in the rest of the application shall sign such person's name below it as a witness; provided, however, that one timely and proper application for an absentee ballot for use in a primary shall be sufficient to require the mailing of the absentee ballot to an eligible absentee elector who lives outside the county in which the election is held and is also a member of the armed forces of the United States, a member of the merchant marine of the United States, or a spouse or dependent of a member of the armed forces or the merchant marine residing with or accompanying said member or overseas citizen. Any elector meeting criteria of advanced age or disability specified by rule or regulation of the Secretary of State may request in writing on one application a ballot for a primary as well as for any runoffs resulting therefrom. If not so requested by such person a separate and distinct application shall be required for each primary, run-off primary, election, and run-off election. Notwithstanding the foregoing, a separate and distinct application for an absentee ballot shall be required of the presidential preference primary held pursuant to Article 5 of O.C.G.A. § 21-2-381 and for any special election or special primary.

### **Section 2-207                    Elector Identification**

1. Each elector shall present proper identification to a poll worker at or prior to completion of a voter's certificate at any polling place and prior to such person's admission to the enclosed space at such polling place. Proper identification shall consist of any one of the following:
  - A. A valid Georgia driver's license;
  - B. A valid identification card issued by a branch, department, agency, or entity of the State of Georgia, any other state, or the United State authorized by law to issue personal identification;
  - C. A valid United States passport;
  - D. A valid employee identification card containing a photograph of the elector and issued by any branch, department, agency, or entity of the United States government, this state, or any county, municipality, board, authority, or other entity of this state.
  - E. A valid employee identification card containing a photograph of the elector and issued by any employer of the elector in the ordinary course of such employer's business;
  - F. A valid student identification card containing a photograph of the elector from any public or private college, university, or postgraduate technical or professional school located within the State of Georgia;
  - G. A valid Georgia hunting or fishing license;
  - H. A valid Georgia license to carry a pistol or revolver;
  - I. A valid pilot's license issued by the Federal Aviation Administration or other authorized agency of the United States;
  - J. A valid United States military identification card;
  - K. A certified copy of the elector's birth certificate;
  - L. A valid social security card;
  - M. Certified naturalization documentation; or
  - N. A certified copy of court records showing adoption, name, or sex change.
2. If an elector is unable to produce any of the items of identification listed above, he or she shall sign a statement under oath in a form approved by the Secretary of State, separate and distinct from the elector's voter certificate, swearing or affirming that he or she is the person identified on the elector's voter certificate. Such person shall be allowed to vote without undue delay. Falsely swearing or affirming such statement under oath shall be punishable as a felony, and the penalty shall be distinctly set forth on the face of the statement.

## **Article III.    CANDIDATES**

### **Section 2-301                    Notice of Candidacy, Name on Ballot**

1. **Filing.** Each candidate desiring to have his name placed on the ballot for an office to be filled in a municipal, general, or special election shall file personally, or by his agent, notice of his candidacy in the manner and accompanied by the documents and information required below.
  - A. Each candidate or a designee shall file a notice of candidacy in the office of the municipal superintendent of such candidate's municipality during the municipality's qualifying period. Each municipal superintendent shall designate the days of the qualifying period, which shall be no less than three (3) days and no more than five (5) days. The days of the qualifying period shall be consecutive days. Qualifying periods shall comply with the following:
    - (1) In the case of a general election held in an odd-numbered year, the municipal qualifying period shall commence no earlier than 8:30 a.m. on the second Monday in September immediately preceding the general election and shall end no later than 4:30 p.m. on the following Friday.
    - (2) In the case of a general election held in an even-numbered year, the municipal qualifying period shall commence no earlier than 8:30 a.m. on the last Monday in August immediately preceding the general election and shall end no later than 4:30 p.m. on the following Friday; and
    - (3) In the case of a special election, the municipal qualifying period shall commence no earlier than the date of the call and shall end no later than twenty-five (25) days prior to the election.

The hours of qualifying each day shall be from 8:30 a.m. until 4:30 p.m. with one hour allowed for the lunch break; provided, however that municipalities which have normal business hours which cover a lesser period of time shall conduct qualifying during normal business hours for each such municipality. Except in the case of a special election, notice of the opening and closing dates and the hours for candidates to qualify shall be published at least two weeks prior to the opening of the qualifying period..
2. **Designation of Office Sought.** In the event a candidate seeks one (1) of two (2) or more public offices of the city, each having the same title and to be filled at the same election by the vote of the same electors, charter or ordinance provisions shall govern whether such candidate shall designate the specific office he is seeking. If required to designate the specific office, the candidate shall name his incumbent or give other appropriate designation. Such designation shall be entered on the ballot and ballot labels in such manner that in the ensuing primary or election such candidate shall only oppose the other candidate or candidates, if any, designating the same specific office.

**Section 2-302 Notice of Candidacy, Write-in Vote**

1. No person elected on a write-in vote shall be eligible to hold office unless notice of his or her intention of candidacy was given no earlier than January 1 and no later than the Tuesday after the first Monday in September prior the election in the case of a general election or at least twenty (20) or more days prior to a special election by the person to be a write-in candidate or by some other person or group of persons qualified to vote in the subject election, as follows:
  - A. In a general or special election of county officers, to the superintendent of elections in the county in which he or she is to be a candidate and by publication in the official organ of the same county; or
  - B. In a municipal general or special election, to the superintendent and by publication in the official gazette of the municipality holding the election.
2. In addition to the requirements contained in subsection 1 of this section, the person or persons giving notice of intention of candidacy for a write-in candidate shall also file, with the appropriate official specified in paragraph A or B of subsection 1 of this section, a copy of the notice as published with an affidavit stating that the notice has been published and including the name of the newspaper and the date of publication, not later than the fifth day after the deadline for filing and publishing such notice. The affidavit may be made by the person giving notice of intention of candidacy or by the publisher of the newspaper in which the notice was published or by an employee of the newspaper designated by the publisher.
3. No person shall be eligible as a write-in candidate in a special or general primary, a special or general primary runoff, or in a special or general election runoff.
4. No person shall be eligible as a write-in candidate in a general or special election if such person was a candidate for nomination or election to the same office in the immediately preceding primary.

5. The Secretary of State or appropriate municipal official shall certify to the election superintendent of each county affected at least ten (10) days prior to the general or special election the names of all persons who have filed notices of intention to be write-in candidates with the Secretary of State.
6. The governing authority of any county or municipality, not later than February 1 of any year in which a general primary, nonpartisan primary, or general election is to held, and at least twenty (20) days prior to the special primary or election in the case of a special primary or special election, shall fix and publish a qualifying fee for each county office to be filled in the upcoming primary or election. Such fee shall be three percent (3%) of the total gross salary of the office paid in the preceding calendar year including all supplements authorized by law if a salaried office; provided, however, that for the offices of clerk of the superior court, judge of the probate court, sheriff, tax commissioner, and magistrate, the qualifying fee shall be three percent (3%) of the minimum salary provided by general law for the office, exclusive of cost-of-living increases and longevity increases. If not a salaried office, a reasonable fee shall be set by the governing authority of such county or municipality, such fee not to exceed three percent (3%) of the income derived from such office by the person holding the office for the preceding year or more than thirty-five dollars (\$35.00) for a municipal office.
7. Qualification fees paid to the superintendent of a municipality:
  - A. If the person qualified as a candidate of a political body, fifty percent (50%) shall be transmitted to the state executive committee of the appropriate political body and fifty percent (50%) shall be retained by the superintendent of the municipality; and
  - B. If the person qualifies as an independent or nonpartisan candidate, the superintendent of the municipality shall retain the entire amount of the fees. Such fees shall be transmitted as soon as practicable by the superintendent of the governing authority of the municipality, to be applied toward the cost of holding the election.

### **Section 2-303 Campaign Financing Disclosure**

Every elected municipal official shall file with the municipal clerk of the municipality of election or, if there is no clerk, with the chief executive officer of such municipality, not before the first day of January nor later than July 1 of each year in which such public officer holds office other than the year in which an election is held for such public office, a financial disclosure statement for the preceding calendar year. Each person who qualifies as a candidate for election as a public officer shall file with the municipal clerk of the municipality of election or, if there is no clerk, with the chief executive officer of such municipality, no later than the fifteenth day following the date of qualifying as a candidate, a financial disclosure statement for the preceding calendar year.

A public officer shall not, however, be required to file such a financial disclosure statement for the preceding calendar year in a year in which there occurs qualifying for election to succeed such public officer, if such public officer does not qualify for nomination for election to succeed himself or herself or for election to any other public office subject to this chapter. For purposes of this subsection, a public officer shall not be deemed to hold office in a year in which the public officer holds office for less than fifteen (15) days.

## **Article IV. VOTING**

### **Section 2-401 Election Officials**

1. **Appointment.** The following election officials shall be appointed by the Mayor and City Council and shall receive such compensation as is provided by same:
  - A. Municipal Election Superintendent
  - B. Chief Manager
  - C. Two (2) Assistant Managers
  - D. Clerks, as necessary
2. **Qualifications and Powers.** The Municipal Election Superintendent and all poll officers shall meet such qualifications and exercise all such powers and duties as are provided in Title 21 of the O.C.G.A.

### **Section 2-402 Election Districts**

Each municipal election district shall constitute a separate precinct. The governing authority of the municipality in which precincts are located may divide or redivide any precinct so as to suit the convenience of the electors and

to promote the public interests. All voting precincts which are established or altered after April 15, 1994 must conform with the following requirements.

1. All voting precincts established or altered on or April 15, 1994, shall consist of areas which are bounded on all sides only by:
  - A. Visible features which are readily distinguishable upon the ground (such as streets, railroad tracks, streams, lakes, and ridges) and which are indicated upon official Department of Transportation maps, current census maps, city or county planning maps, current census maps, city or county planning maps, official municipal maps, official county maps, or any combination of such maps;
    - (1) The boundaries of public parks;
    - (2) The boundaries of public school grounds;
    - (3) The boundaries of churches; or
  - B. The boundaries of counties and incorporated municipalities.
2. The governing authority shall notify the board of registrars within ten (10) days after such changes are adopted.
3. The governing authority shall file with the Secretary of State:
  - A. A map reflecting any changes in precincts within twenty (20) days after the changes are made;
  - B. A copy of any communications to or from the United States Department of Justice relating to any precincts within twenty (20) days after such communication is sent or received;
  - C. A copy of any pleading initiating a court action potentially affecting any precincts within thirty (30) days after it is filed;
  - D. A copy of any court order affecting any precincts within twenty (20) days after it is entered; and
  - E. Any other documentation necessary to allow the Secretary of State to maintain a current listing of all precincts in the state.

**Section 2-403                      Polling Places**

The polling place within the precinct shall be the City Hall.

**Section 2-404                      Date of Election**

All general municipal elections to fill municipal offices shall be held on the Tuesday next following the first Monday in November and on such day biennially thereafter.

**Section 2-405                      Write-in Votes**

In elections, electors shall be permitted to cast write-in votes, but no write-in votes may be cast in a run-off primary or run-off election. The design of the ballot card shall permit the managers, in counting the write-in votes, to determine readily whether an elector has cast any write-in vote not authorized by law. The Secretary of State, in specifying the form of the ballot, and the State Election Board, in promulgating rules and regulations respecting the conduct of elections, shall provide for ballot secrecy in connection with write-in votes.

**Section 2-406                      Absentee Ballots**

Absentee ballots shall be used in all municipal elections, and such use shall be governed by the provisions of Chapter 21 of the O.C.G.A.

**Section 2-407                      Vote Required for Election**

Candidates for nomination for any public municipal office in any primary, and candidates for any public municipal office in any election shall be nominated or elected by a plurality of the votes cast to fill such nomination or public office. Plurality shall mean the receiving by one candidate alone of the highest number of votes cast.

Where the municipal charter does not provide for nomination or election by plurality and no candidate receives a majority of the votes cast, a run-off primary or election shall be held between the candidates receiving the two highest numbers of votes. In the case of a general primary or general election, such runoff shall be held on the twenty-first day after the day of holding the first primary or election, unless such run-off date is postponed by court order. In the case of a special primary or special election, such runoff shall be held not earlier than the fourteenth day and not later than

the twenty-first day after the holding of the first special primary or special election, on a date specified by ordinance or resolution, unless such run-off date is postponed by court order.

**Section 2-408 Contested Elections**

1. **Petition of Contest.** Any person wishing to contest the results of a primary or election shall file a petition with the City Clerk within five (5) days after the results of the election are certified to the Mayor and City Council, which petition shall set forth in writing one (1) or more of the following grounds:
  - A. Malconduct, fraud or irregularity by any election official sufficient to change or place in doubt the results;
  - B. When the defendant is ineligible for the nomination or office in dispute;
  - C. Illegal votes received, or legal votes rejected, sufficient to change or place in doubt the result;
  - D. An error in counting the votes or in declaring the result of an election, if such error would change the result; or
  - E. Any other cause which shows that another was the person legally nominated, elected, or eligible to compete in a run-off primary or election.
2. **Notice and Hearing.** Upon the filing of the contest petition, a hearing shall be set before the Mayor and City Council and written notice stating the time and place of the hearing and containing a copy of the contest petition shall be given to all affected candidates. The hearing will take place not less than seven ( 7 ) nor more than fifteen ( 15 ) days after service of the notice upon the affected candidates, and shall be conducted in an informal manner.
3. **Determination by Mayor and City Council.** The Mayor and City Council shall examine the qualifications of electors concerning their right to vote, order a recount of ballots, examine the registration lists, and perform such acts and conduct such examination as may be deemed necessary to determine the validity of a contest of an election, except that any member of the governing authority included in the contest shall disqualify himself from judging the contest.
4. **Appeal.** The final determination of the Mayor and City Council may be appealed to the Newton County Superior Court in the manner of appeal from a court of probate, except that such appeal shall be made within ten (10) days after determination of the contest by the Mayor and City Council.



# CHAPTER 3: ADMINISTRATION

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**Article I. IN GENERAL**

**Section 3-101 Exercise of Governmental Authority**

In addition to the other powers which it may have, the governing body of any municipal corporation shall have the following powers, under this chapter, relating to the administration of municipal government:

1. The power to establish municipal offices, agencies, and employments;
2. The power to define, regulate, and alter the powers, duties, qualifications, compensation, and tenure of all municipal officers, agents, and employees, provided that the members of the municipal governing body shall not have the right to fix or change their own terms or the terms of their successors, nor to alter their own salaries or compensation, except pursuant to the authority of O.C.G.A. § 36-35-4, nor to alter such duties or responsibilities as are specifically given to a particular elective official by charter;
3. The power to authorize any of the offices, agents, and employees of the municipal corporation to serve, in any manner prescribed by applicable law; any process, summons, notice, or order on all persons, as defined in O.C.G.A. § 1-3-3 therein named, when:
  - A. The paper to be served rises out of or relates to an activity or condition conducted or maintained by such person within the territorial jurisdiction of the municipal corporation in violation of an applicable law or ordinance; and
  - B. The paper to be served originates in or is issued under the authority of the department or branch of municipal government employing such officer, agent, or employee.

Where any such paper names one or more persons who reside outside the territorial jurisdiction of the municipal corporation, the several sheriffs, marshals, and constables of the several counties of this state are authorized and directed to serve any such paper and make appropriate return of such service by them, as other process is served and returned, on such named persons residing in their respective jurisdictions, upon receipt of a written request to make such service, for the fees allowed for service of process issued by the superior courts of this state;

4. The power to establish merit systems, retirement systems, and insurance plans for all municipal employees and to establish insurance plans for school employees of independent municipal systems and to provide the method or methods of financing such systems and plans;
5. The power to contract with any state department or agency or any other political subdivision for joint services or the exchange of services; to contract with such agencies or subdivisions for the joint use of facilities or equipment; and to contract with any state agency or political subdivision to perform any service or execute any project for such agency or subdivision in which the municipal corporation has an interest;
6. The power to legislate, regulate, and administer all matters pertaining to absentee voting in municipal elections; and

7. The power to grant franchises to or make contracts with railroads, street railways, or urban transportation companies, electric light or power companies, gas companies, steam-heat companies, telephone and telegraph companies, water companies, and other public utilities for the use and occupancy of the streets of the City, for the purpose of rendering utility services, upon such conditions and for such time as the governing authority of the municipal corporation may deem wise and subject to the Constitution and the general laws of this state.

### Section 3-102 Code of Ethics

1. **Prohibited Conduct.** Public officials and employees of the City shall treat all citizens with courtesy, impartiality, fairness, and equality under the law, and shall avoid both actual potential conflicts between their private self-interest and the public interest. Prohibited conduct of each such official and employee shall include, but not be limited to, the following:
  - A. Granting or making available to any person any special consideration, treatment, advantage, or favor beyond that which it is the general practice to grant or make available to the public large;
  - B. Requesting, using, or permitting the use of any publicly-owned or publicly-supported property, vehicle, equipment, labor, or service for the personal convenience or the private advantage of himself or any other person, except as otherwise allowed by law;
  - C. Participating in the deliberation of or voting on any matter involving his financial or personal interest;
  - D. Engaging in private employment with, or rendering services for, any private person who has business transactions with the City, unless he has made full public disclosure of the nature and extent of such employment or services;
  - E. Appearing on behalf of any private persons, other than himself, before any public body in the City;
  - F. Accepting any gift, whether in the form of money, thing, favor, loan, or promise, that would not be offered or given to him if he were not an official or employee;
  - G. Disclosing any confidential information concerning any official or employee, or any other person, or any property or governmental affairs of the City, without prior formal authorization of the governing body;
  - H. Using or permitting the use of confidential information to advance the financial or personal interest of himself or any other person; or
  - I. Appointing or voting for the appointment of any person related to him 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.
2. **Hearings and Determinations.** Upon the sworn complaint of any person alleging facts which if true would constitute a violation of this section, the City Council shall conduct a public hearing at which the accused shall be given an opportunity to be heard, either personally or through City Council. At the conclusion of said hearing, the City Council shall, in written findings of fact and conclusions based thereon, make a determination concerning the propriety of the conduct of the official or employee in question.

### Section 3-103 Administrative Policy and Procedures

1. **Officers.** Each officer shall perform all duties required of his office by state law, the charter, and this code, and such other duties not in conflict therewith as may be required by the Mayor.
2. **Department Heads.** All department heads shall:
  - A. Be immediately responsible to the Mayor 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 inaugurate, with the approval of the Mayor, such new practices as appear to be of benefit to the service and to the public;
  - C. Submit quarterly and annual reports of the activities of their respective department to the Mayor;
  - 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 the periodic reports to the Mayor;
  - E. Have power, when authorized by the Mayor, to appoint and remove, subject to personnel regulations, all subordinates under him; and
  - F. Be responsible for the proper maintenance of all City property and equipment used in their respective departments.

3. **Departments.** Each department shall cooperate with every other department and shall furnish, upon the direction of the Mayor, any other department such service, labor, and materials as may be requisitioned by the head of each department, as its own facilities permit.
4. **Records.** All municipal records, except those which by order of a state court or by law are prohibited from being open to public inspection, shall be open for personal inspection by any citizen of Georgia during the hours of operation of the administrative service herein below prescribed.
5. **Operation of Administrative Service.** All units in the administrative service shall:
  - A. **Office Hours.** Be open between the hours of 8:30 a.m. and 4:30 p.m. on Monday, Tuesday, Thursday and Friday; 8:30 until Noon on Saturday and shall be closed Sunday, and legal holidays.
  - B. **Make Daily Deposit.** Made a daily deposit with the City Treasurer of any monies received directly from the public.
  - C. **Payment of Monies.** Pay out monies belonging to the City only in the manner prescribed herein.

**Section 3-104 Oaths**

1. All officers and employees required by charter 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][affirm] that I will faithfully perform the duties of [Mayor] [Councilmember] of this City and that I will support and defend the charter thereof as well as the constitution and laws of the State of Georgia and of the United States of America.”
2. In addition to the above oath all officers and employees shall take the following oath:
  - A. Take the oath of office;
  - B. Take any oath prescribed by the Constitution of Georgia;
  - C. Swear that he or she is not the holder of any unaccounted for public money due this state or any political subdivision or authority thereof;
  - D. Swear that he or she is not the holder of any office of trust under the government of the United States, any other state, or any foreign state which he or she is by the laws of the State of Georgia prohibited from holding;
  - E. Swear that he or she is otherwise qualified to hold said office according to the Constitution and laws of Georgia;
  - F. Swear that he or she will support the Constitution of the United States and of this state; and
  - G. If elected by any circuit or district, swear that he or she has been a resident thereof for the time required by the Constitution and laws of this state.

**Section 3-105 Bonds**

Except as otherwise provided by law, the Mayor and City Council may require any department head, City official, or employee, before entering upon the discharge of his duties to give good and sufficient bond in any amount decided by the Mayor and City Council. Said bond shall be payable to the City of Mansfield for the faithful performance of said duties and to secure against corruption, malfeasance, misappropriation, or unlawful expenditures in office. Said surety bonds shall be obtained from a surety company licensed to do business in the State of Georgia and approved by the Mayor and City Council. The premiums thereon shall be paid by the City.

**Section 3-106 Compensation**

Each officer and employee of the City shall receive such compensation as be provided from time to time by resolution.

**Article II. THE MAYOR AND City COUNCIL GENERALLY**

**Section 3-201 Election**

Elections shall be in accordance with § 2.10 and § 2.11[d] of the Charter.

**Section 3-202 Qualifications for Office**

Any person whose principal place of residence is within the corporate limits of the City twenty-four [24] months immediately preceding election and who is both a qualified voter of the City and at least eighteen (18) years of age at the time of election shall be eligible for the office of mayor or City council member. Should the Mayor or any member of City Council cease to maintain his principal place of residence within the City during his term of office, his office shall thereby become vacant.

**Section 3-203 Vacancies**

In case of a vacancy in the office of mayor or City council from failure to elect, death, removal, or any cause whatsoever, such vacancy shall be filled by a special election ordered by the City Council provided, however, if such vacancy occurs within six [6] months of the expiration of the term of that office, the City council or those members remaining shall appoint a successor for the remainder of the term. The special election shall be held and conducted in accordance with Chapter 3, Title 21 of the O.C.G.A.

**Section 3-204 Meetings**

1. **Meetings.** The City Council shall hold regular meetings on the second Monday of the month at 7:00 p.m. at the City Hall, unless otherwise ordered by the City Council; provided, that the Mayor may convene the City Council whenever in his opinion the public business requires it, and he shall do so upon the application of three (3) members of the City Council. All meetings at which official actions are to be taken shall be open to the public.
  - A. **Notice.** The Mayor and City Council shall prescribe the time, place, and dates of regular meetings of the Mayor and City Council. Such information shall be available to the general public and a notice containing such information shall be posted and maintained in a conspicuous place available to the public at the regular meeting place of the agency. Meetings shall be held in accordance with a regular schedule, but nothing in this subsection shall preclude an agency from canceling or postponing any regularly scheduled meeting. Whenever any meeting required to be open to the public is to be held at a time or place other than at the time and place prescribed for regular meeting, the Mayor and City Council shall give due notice thereof. "Due notice shall be the posting of a written notice for at least twenty-four (24) hours at the place of regular meetings and giving of written or oral notice at least twenty-four (24) hours in advance of the meeting to the legal organ in which notices of sheriff's sales are published in the county where regular meetings are held or at the option of the Mayor and City Council to a newspaper having a general circulation in said county at least equal to that of the legal organ; provided, however, that in counties where the legal organ is published less often than four times weekly "due notice" shall be the posting of a written notice for at least twenty-four (24) hours at the place of regular meetings 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 twenty-four (24) hours in advance of the called meeting. When special circumstances occur and are so declared by the Mayor and City Council, the Mayor and City Council may hold a meeting with less than twenty-four (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 twenty-four (24) hours and the nature of the notice shall be recorded in the minutes. Whenever notice is given to a legal organ or other newspaper, that publication shall immediately make the information available upon inquiry to any member of the public. Any oral notice required or permitted by this subsection may be given by telephone.
  - B. **Agenda and Minutes.** An agenda of the subjects acted on and those members present at a meeting of the Mayor and City Council shall be written and made available to the public for inspection within two (2) business days of the adjournment of a meeting of the Mayor and City Council. The minutes of a meeting of the Mayor and City Council 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 of the Mayor and City Council; provided, however, nothing contained in this chapter shall prohibit the earlier release of minutes, whether approved by the Mayor and City Council 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. In the case of a roll-call vote, the name of each person voting for

or against a proposal shall be recorded and in all other cases it shall be presumed that the action taken was approved by each person in attendance unless the minutes reflect the name of the persons voting against the proposal or abstaining. Official minutes of the meetings of a county governing authority shall be maintained in the offices of the county governing authority. Copies of contracts, maps, or similar material or documents related to actions taken by a county governing authority 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 county governing authority.

*NOTE: "Meeting" means the gathering of a quorum of the members of the governing body of an agency or of any committee of its members created by such governing body, whether standing or special, pursuant to schedule, call, or notice of or from such governing body or committee or an authorized member, at a designated time and place at which any public matter, official business or policy of the agency is to be discussed or presented or at which official action is to be taken or, in the case of a committee, recommendations on any public matter, official business or policy to the governing body are to be formulated or discussed. The assembling together of a quorum of the members of a governing body or committee for the purpose of making inspections of physical facilities under the jurisdiction of such agency or for the purposes of meeting with the governing bodies, officers, agents, or employees of other agencies at places outside the geographical jurisdiction of an agency and at which no final official action is to be taken shall not be deemed a "meeting."*

**C. Closed Meetings.**

- (i) When any meeting of the City Council 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 of the City Council 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.
- (2) When any meeting of the City Council is closed to the public pursuant to subsection (1) of this section, the chairperson or other person presiding over such meeting 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.

2. **Duty to Attend.** It shall be the duty of each member of the City Council to attend each meeting of the City Council, unless he or she is prevented by some unavoidable circumstance.

**Section 3-205 Standing Committees**

Standing committees of the City Council may be appointed from time to time by the Mayor and Council.

**Section 3-206 Rules for the Conduct of Business**

Except as otherwise provided in this section, Roberts' Rules of Order shall govern the conduct of City council meetings.

1. **Call to Order.** All meetings of the City Council shall be open to the public. The Mayor, or in his absence, the Mayor pro tempore, shall take the chair at the hour appointed for any regular, temporarily adjourned, special, or called meeting; and shall immediately call the City council meeting to order.
2. **Roll Call.** Before proceeding with the business of the City Council, the City Clerk or his deputy shall call the roll of the members, and the names of those present shall be entered in the minutes.
3. **Quorum.** A majority of all the members elected to the City Council shall constitute a quorum at any regular or special meeting of the City Council and an affirmative vote of a majority of such number shall be sufficient to permit the conduct of all business except that for which a larger vote has been mandated by this code.
4. **Order of Business.** The business of the City Council shall be taken up for consideration and disposition in the following order:
  - A. call to order by presiding officer

- B. roll call
  - C. approval of minutes of previous meeting
  - D. petitions and communications
  - E. reports of standing committees
  - F. reports of special committees
  - G. unfinished business
  - H. new business
  - I. adjournment
5. **Reading of Minutes.** Unless a reading of the minutes of a City council meeting is requested by a member of the City Council, such minutes may be approved without a reading if the City Clerk has previously furnished each member with a copy thereof.
6. **Reports By Committees.** Any business coming before the City Council concerning the subject matter of which any standing or special committee has jurisdiction, may be referred to the proper committee for investigation and report. It shall be the duty of each standing or special committee, whenever required by the Mayor or by the City Council, or any member of the City Council, to examine any matter referred to such committee, and make a report thereof at the next regular meeting of the City Council, or show good cause why no report is made, such reports shall not be in writing unless so directed by the presiding officer. Each standing committee shall examine the matters within its jurisdiction, and make such reports and recommendations from time to time as may be necessary.
7. **Manner of Addressing Council.** No member, while the City Council 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 City Council.** Any person not a member of City Council who desires to address the City Council shall first secure the permission of the presiding officer, and then shall step up in front of the rail, give his name and address in an audible tone of voice for the record, and direct his remarks to the City Council as a body rather than to any particular member, limiting such remarks to five (5) minutes unless additional time is granted by City Council.
9. **Ordinances, Resolutions, Regulations, Contracts and Inter-local Agreements.** Unless otherwise provided in this code, all ordinances, resolutions, contracts, and inter-local agreements of the City shall be prepared, approved, introduced, and adopted in the following manner:
- A. **Preparation.** All ordinances shall be prepared by the City Attorney. No ordinance shall be prepared for presentation to the City Council unless ordered by a majority vote of the City Council, or requested in writing by the Mayor, or prepared by the City Attorney on his own initiative.
  - B. **Administrative Staff Approval.** All ordinances, resolutions, and contract documents shall, before presentation to the City Council, have been approved as to form and legality by the City Attorney or his authorized representative, and shall have been examined and approved for administration by the Mayor or his authorized representative where there are substantive matters of administration involved. All such instruments shall have first been referred to the head of the department under whose jurisdiction the administration of the subject matter of the ordinance, resolution, or contract document would involve and be approved by said department head; provided, however, that if approval is not given, then the same shall be returned to the Mayor with a written memorandum of the reasons why such approval is withheld. In the event the questioned instrument is not redrafted to meet a department head objection, or objection is not withdrawn and approval in writing given, then the Mayor shall so advise the City Council and give the reasons advanced by the department head for withholding approval.
  - C. **Introduction and Adoption.**
    - (1) Every proposed ordinance shall be introduced in writing and in the form required for final adoption. No ordinance shall contain a subject which is not expressed in its title. The enacting clause shall be "the Council of the City of Mansfield hereby ordains. . ." and every ordinance shall so begin.
    - (2) An ordinance may be introduced by any member of the City Council and be read at a regular or special meeting of the City Council. Upon introduction of any ordinance, the City Clerk shall, as soon as possible, distribute a copy to the Mayor and to each member of the City Council and shall file a reasonable number of copies in the office of the City clerk and at such other public places as the City Council may designate.
    - (3) No ordinance shall be put on its final passage on the same day it is introduced.
    - (4) All ordinances shall have three (3) separate readings, but the second and third readings shall never be had on the same day.

- (5) No ordinance shall relate to more than one (1) subject, which shall be clearly expressed in its title, and no ordinance, or section thereof, shall be amended or repealed unless the new ordinance contains the title of the ordinance or section amended or repealed, and when practicable all ordinances shall be introduced as amendments to this code.
  - (6) An ordinance, resolution, or contract shall be deemed, adopted, or rejected by the City Council in accordance with the rules which the City Council shall establish. Such ordinances adopted by the City Council shall have the full force and effect of law.
- D. Effective Date.** Except where applicable in Section 3-206(9)(E) of this chapter, no ordinance shall take effect until five (5) days after the date of its publication, except a public emergency ordinance necessary for the protection of public health, public safety, public property, or the public peace, may be made effective upon adoption.
- E. Emergencies.** To meet a public emergency affecting life, health, property, or public peace, the City Council may convene on call of the Mayor or three (3) members of the City Council and may promptly adopt an emergency ordinance, but such ordinance shall not levy taxes; grant, renew, or extend a franchise; regulate the rate charged by any public utility for its services; or authorize the borrowing of money except for loans to be repaid within thirty (30) days. An emergency ordinance shall be introduced in the form prescribed for ordinances generally, except that it shall be plainly designated as an emergency ordinance and shall contain, after the enacting clause, a declaration stating that an emergency exists and describing the emergency in clear and specific terms. An emergency ordinance may be adopted, with or without amendment, or rejected at the meeting at which it is introduced, but the affirmative vote of at least three (3) members of the City Council shall be required for adoption. It shall become effective upon adoption or at such later time as it may specify. Every emergency ordinance shall automatically stand repealed thirty (30) days following the date upon which it was adopted, but this shall not prevent reenactment of the ordinance in the manner specified in this section if the emergency continues to exist. An emergency ordinance shall also be repealed by adoption of a repealing ordinance in the same manner specified in this section for adoption of emergency ordinances.
- 10. Recording Vote.** Whenever any member shall request it the yeas and nays of the members present shall be recorded on the minutes on any question taken.
- 11. Questions of Order.** The presiding officer shall decide all questions of order, but any council member who is dissatisfied with the decision may appeal to the City Council in the manner provided by Roberts' Rules of Order for appealing from decisions of presiding officers.
- 12. Elections.** All elections by the City Council shall be by ballot, and a majority vote of the whole City Council shall be necessary to an election.
- 13. Executive Session.** The City Council may, at any time, upon call therefore by the presiding officer or upon motion duly carried by a council member, meet in executive session. Attendance at such sessions shall be limited to the Mayor and members of City Council and such invites as shall be invited with the unanimous consent of the Mayor and City Council.

## **Section 3-207 Legislative Authority Generally**

The City Council shall exercise the legislative functions of the City, and may pass any ordinance or resolution that deems best for the government of the City in the manner set forth in this chapter; provided, that same is not in conflict with the charter of the City, the Constitution or laws of the State of Georgia, or the Constitution or laws of the United States.

## **Article III. THE MAYOR**

### **Section 3-301 General Authority**

The Mayor shall be the chief executive and administrative officer of the City government, shall enforce the laws of the City, and shall require the faithful performance of all administrative duties.

### **Section 3-302 Duties**

The Mayor shall have the following duties:

- 1. Preside at Meeting.** To preside at all meetings of the City Council, but the Mayor shall not be allowed to vote at such meetings except in the case of a tie vote by the City Council on any question;

2. **Head of the City.** To act as the head of the City for the purpose of service of process and for ceremonial purposes and be the official spokesperson for the City and the chief advocate of policy;
3. **Oaths and Affidavits.** To administer oaths and to take affidavits;
4. **Appointment of Standing Committees.** To appoint at the first meeting each year, or as soon thereafter as expedient, standing committees for that year; but the Mayor may at any time alter the committees and make such changes as the interest of the City may require;
5. **Appointment of Officers and Employees.** To appoint, by and with the advice and consent of the City Council, all officers and employees of the City whose election or appointment is not otherwise provided for;
6. **Dismissal, Suspension, and Discipline of Officers and Employees.** To dismiss, suspend, or discipline for cause all officers and employees appointed or elected by the Mayor and City Council provided that for the purposes of this section "cause" shall be construed to mean:
  - A. negligence or inefficiency in performing the duties of the position held;
  - B. unfitness to perform assigned duties;
  - C. insubordination;
  - D. misconduct;
  - E. conduct reflecting discredit on the department;
  - F. failure to report for work without justifiable cause;
  - G. chronic absenteeism; or
  - H. political activity in violation of municipal regulations;
7. **Preparation of Annual Report.** To prepare and present to the City Council an annual report of the City's affairs including a summary of reports of department heads, and such other reports as the City Council shall require; and
8. **Executing Legal Documents.** To sign on behalf of the City all contracts, deeds, codes, ordinances, and other instruments executed by the City which by law are required to be in writing.

### Section 3-303 Powers

The Mayor shall have the following powers:

1. **Rule Making.** To prescribe such rules and regulations as may be deemed necessary or expedient for the conduct of administrative agencies subject to his authority, and to revoke, suspend or amend any rule or regulation of the administrative service by whomever prescribed;
2. **Investigation.** To investigate and to examine or inquire into, either by himself or by any officer or person designated for the purpose by him, the affairs or operation of any department, including the power to employ consultants and professional counsel when so authorized by the City Council to aid in such investigations, examinations, or inquiries;
3. **Overriding.** To set aside any action taken by a department head and to supersede him in the functions of his office; and
4. **Delegation.** To direct any department to perform the work for any other department, and to authorize any department head or officer responsible to him to appoint and remove subordinates serving under such person.

### Section 3-304 Mayor pro tempore

By a majority vote, the City council shall elect a councilmember to act as Mayor pro tempore, who during such absence or disability shall possess the powers of Mayor.

### Section 3-305 Acting Mayor

In the event of a vacancy in the office of mayor the City Council may appoint one [1] of its members as acting mayor to serve until the vacancy is filled at a regular or special election as provided by law.

### Section 3-306 Removal

The Mayor may be removed from office for any one or more of the following causes:

1. By an order of the Newton County Superior Court following a hearing on a complaint seeking such removal brought by any resident of the City of Mansfield;
2. By recall pursuant to Georgia Law; or

3. Pursuant to the terms of general law.

**Section 3-307 Procedure for Removal**

Removal of any elected officer from office shall be brought about in accordance with O.C.G.A. § 45-11-4 and shall be brought in the Newton County Superior Court.

**Section 3-308 Compensation**

The Mayor shall receive compensation, expenses, and benefits as provided by ordinance and in accordance with Chapter 35, Title 36 of the O.C.G.A.

**Article IV. THE CITY CLERK/TREASURER**

**Section 3-401 Election**

The City Council shall at its first regular meeting after election and qualification elect/appoint a City Clerk/Treasurer.

**Section 3-402 Term of Office**

The City Clerk/Treasurer shall hold his office for one (1) year, subject to removal for cause, and until his successor is elected and qualified.

**Section 3-403 Bond**

Before entering upon the duties of his office, the City Clerk/Treasurer shall give a good and sufficient bond, payable to the City Council, such bond to be fixed and approved by the City Council.

**Section 3-404 Duties of City Clerk**

The City Clerk/Treasurer shall have the following duties in his capacity as City Clerk:

1. To attend all meetings of the City Council;
2. To keep correct and full minutes of the proceedings of City Council together with all ordinances and resolutions passed by it, in a properly indexed book or register kept for that purpose;
3. To receive all applications or petitions made to the City and to place them before the Mayor and City Council at the meeting of the City Council next succeeding the receipt thereof;
4. To issue all licenses, and keep a record thereof, and all badges and permits authorized by the City Council;
5. To attend all sessions of the Municipal Court;
6. To keep an execution docket, in which he shall enter the names of all persons tried and fined by the Municipal Court, the nature of the offense, date of trial, amount of fine, and return of the police officer thereon;
7. To issue all summonses, processes, and subpoenas to witnesses that may be necessary in the enforcement of this code or other rules, regulations, and ordinances of the City Council;
8. To be the custodian of the City seal and affix its impression on documents whenever required; and
9. To carefully preserve the records and documents belonging to the City 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.

**Section 3-405 Duties of City Treasurer**

The City Clerk/Treasurer shall have the following duties in his capacity as City Treasurer:

1. To receive all money due the City Council, including taxes, licenses, fees, and other moneys belonging to the City and pay out the same only upon orders passed by the City Council and signed by the Mayor, or in his absence, the Mayor pro tempore;

2. To keep a book of accounts showing all money received on behalf of the City and the source and disposition thereof, which book shall be open for inspection by the public and members of the City Council;
3. To maintain a uniform system of accounts and keep such other records and accounts as may be required by statute or ordinance;
4. To furnish the City Council with quarterly statements detailing all receipts and payments of funds for the quarter; and
5. To enforce all laws of Georgia relating to the collection of delinquent taxes and sale or foreclosure for nonpayment of taxes to the City.

**Section 3-406 Compensation**

The City Council shall provide for the compensation of the City Clerk/Treasurer.

**Article V. RESERVED**

**Article VI. OFFICERS AND EMPLOYEES**

**Section 3-601 The City Attorney**

1. **Appointment and Qualifications.** The City Attorney shall be appointed by the Mayor, by and with the advice and consent of the City Council, and shall serve until a successor is appointed and has qualified. No person shall be so appointed unless he is a member in good standing of the State Bar of Georgia and has been actively engaged in the practice of law for at least three (3) years preceding his appointment.
2. **Oath.** Before entering upon the duties of his office, the City Attorney shall take the oath prescribed by this code for City officers.
3. **Powers and Duties.** The City Attorney shall be the legal advisor and representative of the City and in such capacity shall:
  - A. Advise the City Council or its committees or any City officer, when thereto requested, upon all legal questions arising in the conduct of City business;
  - B. Prepare or revise ordinances when so requested by the City Council or any committee thereof, and keep the code of ordinances of the City up-to-date and properly indexed;
  - C. Give his opinion upon any legal matter or question submitted to him by the City Council, or any of its committees, or by any City officer;
  - D. Attend all meetings of the City Council as directed for the purpose of giving the City Council any legal advice requested by its members;
  - E. Prepare for execution all contracts and instruments to which the City is a party and approve, as to form, all bonds required to be submitted to the City;
  - F. Prepare, when authorized by the City Council, all charges and complaints against, and appear in the Municipal Court in the prosecution of every person charged with a violation of this code or City charter, and see to the full enforcement of all judgments or decrees rendered or entered in favor of the City;
  - G. Represent and defend any and all suits and actions at law or equity brought against the City, unless otherwise directed by the City Council;
  - H. Make immediate reports to the Mayor and City Council of the outcome of any litigation in which the City has an interest;
  - I. Make an annual report to the Mayor and City Council of all pending litigation in which the City has an interest and the status thereof;
  - J. Have the power to adjust, settle, compromise or submit to arbitration, any action, causes of action, accounts, debts, claims, demands, disputes, and matters in favor of or against the City or in which the City is concerned as debtor or creditor, now existing or which may hereafter arise not involving or requiring payment to exceed an amount as determined by Mayor and Council;
  - K. Keep complete and accurate records of the following, which records shall forever remain the property of the City:
    - (1) all suits in which the City had or has an interest, giving the names of the parties, the nature of the action, the disposition of the case or its status, if pending, and the briefs of counsel; and

- (2) all written opinions prepared by the City Attorney and all certificates or abstracts of titles furnished by him to the City, or any department or official thereof.
- L. Render such other legal services as may be required by the Mayor or City Council.
4. **Compensation.** The City Attorney shall submit to the City Council a monthly bill for his services, itemizing the type of work performed for the City and the number of hours engaged in each type of work during the month.

**Section 3-602                    The City Engineer**

1. **Appointment.** The City Engineer shall be appointed by the Mayor, by and with the advice and consent of the City Council, and shall serve until a successor is appointed and has qualified.
2. **Oath.** Before entering upon the duties of his office, the City Engineer shall take the oath prescribed by this code for City officers.
3. **Duties.** The City Engineer shall advise the City Council and City officials on all engineering matters referred to him and shall, from time to time as required by the Mayor or City Council, make reports regarding public improvement, repairs of streets, bridges, and sidewalks, and prepare such other reports as the Mayor or City Council may request. He shall keep accurate maps, plats, and records of all public works, lands, or property owned by the City, and perform such other duties as may be imposed upon him by the Mayor or City Council.
4. **Compensation.** The City Engineer shall submit to the City Council a monthly bill for his services, itemizing the type of work performed for the City and the number of hours engaged in each type of work during the month.

**Section 3-603                    Public Officers and Employees - Labor Practices; Strikes by Public Employees Prohibited**

1. As used in this section, the term:
  - A. **Public Employee.** Any person holding a position by appointment or employment in the government of this state or any person holding a position which provides essential public services without which the public health, safety, welfare, or morals would be without which the public health, safety, welfare, or morals would be endangered, by appointment or employment in the government of a county, municipality, school system, or other political subdivision of this state or in any agency, authority, board, commission, or public institution of this state or political subdivision thereof.
  - B. **Public Employment.** The appointment or employment in the government of this state or the government of a county, municipality, school system, or other political subdivision of this state or in any agency, authority, board, commission, or public institution of this state or political subdivision thereof.
  - C. **Strike.** The failure to report for duty, the willful absence from one's position, the stoppage or deliberate slowing down of work, or the withholding in whole or in part of the full, faithful, and proper performance of the duties of employment for the purpose of inducing, influencing, or coercing change in the conditions, compensation, rights, privileges, or obligations of public employment; provided, however, that nothing in this article shall limit or impair the right of any public employee to express or communicate a complaint or opinion on any matter related to the conditions of public employment so long as the same is not designed to and does not interfere with the full, faithful, and proper performance of the duties of employment.
2. No public employee shall promote, encourage, or participate in any strike. Provided, however, that no right to collective bargaining currently recognized by law is abridged by this act.
3. No person exercising any authority, supervision, or direction over any public employee shall have the power to authorize, approve, or consent to a strike by one or more public employees; and such person shall not authorize, approve, or consent to such strike.
4. Any public employee who violates Code Section 45-19-2 shall be deemed to have terminated his or her employment; shall forfeit his or her civil service status, job rights, seniority, and emoluments, if any; and subsequent to such violation shall not be eligible for appointment or reappointment or employment or preemployment in public employment for a period of three (3) years after such violation except upon the following conditions:
  - A. His or her direct or indirect compensation shall in no event exceed that received by him or her immediately prior to the time of such violation;

- B. His or her direct or indirect compensation shall not be increased for three (3) years after such subsequent appointment or reappointment or employment or preemployment; and
  - C. He or she shall be on probation for period of five (5) years following such appointment or reappointment or employment or preemployment, during which period he or she shall serve without tenure and at the pleasure of the appointing or employing officer of body.
5. Any person who is not a public employee and who shall knowingly incite, agitate, influence, coerce, persuade, or picket to urge a public employee to strike shall be guilty of a misdemeanor and, upon conviction thereof, shall be punished by imprisonment not to exceed one year, or by a fine of not less than one hundred dollars (\$100.00) nor more than one thousand dollars (\$1,000.00) or both.

**Section 3-604                      Reserved**

**Article VII. DEPARTMENTS**

**Section 3-701                      Departmental Organization**

- 1. **Departments.** The administrative service of the City shall be divided into the following departments and heads thereof:  
  
  - Police Department . . . . . Police Chief
- 2. **Appointment of Directors.** All directors shall be appointed by the Mayor, by and with the advice and consent of City Council. Each director shall, subject to the direction and supervision of the Mayor, be responsible for the administration and direction of the affairs and operations of his department or agency.
- 3. **Removal of Directors.** The Mayor may suspend or remove directors under his supervision but such suspension or removal shall not be effective for ten (10) calendar days following the Mayor's giving written notice of such action and the reason therefore to the director involved and to the City Council. The director may appeal to the City Council which, after a hearing, may override the Mayor's action by a vote of three (3) council members.
- 4. **Compensation.** All directors of departments shall receive such compensation as prescribed by ordinance.

**Section 3-702                      Reserved**

**Section 3-703                      Reserved**

**Section 3-704                      Reserved**

**Section 3-705                      Police Department**

- 1. The Policy and Procedures are adopted by reference as if fully set out herein.

**Section 3-706                      Reserved**

**Section 3-707                      Reserved**

**Section 3-708                      Reserved**

**Article VIII. BOARDS, AGENCIES, AND COMMISSIONS**

**Section 3-801                      Planning Commission**

- 1. **Purpose.** The Planning Commission of the City of Mansfield, Georgia is hereby established. The Mansfield Planning Commission, hereinafter referred to as Planning Commission, is intended to guide and accomplish a coordinate and rational development of the incorporated area of the City of Mansfield, Georgia, in accordance with existing and future needs which best promote public health, safety, order, convenience, prosperity and the general welfare in the process of development.
- 2. **Membership.** The Planning Commission is composed of five (5) members, appointed by the Mayor and the City Council.. One (1) member of the Planning Commission may also serve as Mayor or as a member

of the City council. One (1) member will be resident of the City of Mansfield. Members may be appointed to the Planning Commission indefinitely.

3. **Terms.** Each member of the Planning Commission will serve for three (3) years. Appointments will be made in December of each year, with the members assuming office January 1 of the next year. Until such time as the rotation of members is fully underway, two (2) members will be appointed for three (3) years, two (2) members will be appointed for two (2) years and one (1) member will be appointed for one (1) year.

## Article IX. LOCAL GOVERNMENT AUTHORITIES

### Section 3-901 Registration of Local Government Authorities

1. This Code Section shall be known and may be cited as the "Local Government Authorities Registration Act."
2. The General Assembly finds that there is a need for the state to create and maintain a record of all local government authorities. Such a record can best be maintained through annual registration of all local government authorities.
3. The purpose of this Code section is to prescribe a registration process for all local government authorities authorized to operate in the State of Georgia by general statute, local law, or local constitutional amendment.
4. As used in this Code section, the term:
  - A. 'Debt' includes all long-term or short-term credit obligations including, but not limited to, mortgages, bonds, loans, notes, interest bearing warrants, and advances. For the purposes of this Code section, debt shall also include lease-purchase obligations.
  - B. 'Local government authority' includes without limitation instrumentalities of one or more local governments created to fulfill a specialized public purpose or any other legally created organization that has authority to issue debt for a public purpose independent of a county or municipality, not to include state authorities. Local government authorities include joint authorities, regional authorities, hospital authorities, housing authorities, residential care facilities for the elderly authorities, resource recovery development authorities, solid waste management authorities, down City development authorities, airport authorities, industrial, payroll and other development authorities, transit authorities, water and sewer authorities, parking authorities, recreation authorities, stadium and coliseum authorities, building authorities, public service authorities, or any other local government authority regardless of name. Such local government authorities may have been created by local constitutional amendment, general statute, or local law.
5. All local government authorities authorized to operate in the State of Georgia must register annually with the Department of Community Affairs.
6. Any local government authority which fails to register with the Department of Community Affairs shall not incur any debt or credit obligations until such time as it meets the registration requirement. Failure to register shall not have any adverse affect on any outstanding debt or credit obligation.
7. The Department of Community Affairs shall establish registration and reporting procedures for local government authorities. Such procedures shall include, but are not limited to, information on the authority's legal name, function, date and means of creation, contact person, address, and telephone number.
8. The Department of Community Affairs shall establish reasonable fees for the work related to administration and enforcement of this Code section; provided, however, no fee shall be charged or allowed for the annual registration as required in this Code section.
9. The Department of Community Affairs shall maintain a certified list of registered local government authorities, available on request. The department shall forward annually to the judge of the probate court in any affected county the registration information for all authorities operating in that county.
10. Local government authorities shall initially register on or before January 1, 1996, and shall register on or before January 1 of each year thereafter.

## Article X. MUNICIPAL PROPERTY

### Section 3-1001 Motor Vehicles

Every motor vehicle which is owned or leased by any county, municipality, regional development center, county or independent school system commission, board, or public authority or which has been purchased or leased by any public official or public employee with public funds shall have affixed to the front door on each side of such vehicle a clearly visible decal or seal containing the name of or otherwise identifying such governmental entity. The requirements of O.C.G.A. § 36-89-1 shall not apply to: (1) any vehicle used for law enforcement or prosecution purposes; or (2) any vehicle owned or leased by a county or municipality expressly excepted from the provisions of O.C.G.A. § 36-89-1 by a resolution or ordinance adopted by the governing authority of a county or municipality following a public hearing on the subauthority of a county or municipality following a public hearing on the subject held no more than fourteen (14) days prior to the adoption of the ordinance or resolution.

**Section 3-1002                      No Smoking**

Smoking is prohibited in City Hall as well as all City vehicles.

*[Adopted 7/8/96]*

# CHAPTER 4: REVENUE AND FINANCE

Section

## ARTICLE I. TAXES

4-101	Reserved
4-102	Reserved
4-103	Reserved
4-104	Reserved
4-105	Reserved
4-106	Reserved
4-107	Reserved
4-108	Gross Direct Premiums Tax
4-109	Reserved
4-110	Reserved
4-111	Public Utility Franchise Tax
4-112	Local Option Sales Tax
4-113	Local Option Income Tax
4-114	Municipal Tax Sales
4-115	Occupation Tax
4-116	RESERVED

## ARTICLE II. MUNICIPAL BONDS

4-201	Preliminary Review by Finance Committee
4-202	Bond Ordinances
4-203	Bond Sales
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4-205	Registration of Bonds
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## ARTICLE III. BUDGET

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4-302	Requirement of Annual Balanced Budget
4-303	Adoption of Budget Ordinances or Resolutions
4-304	Budget Officer
4-305	Procedures for Adoption of Budget
4-306	Form and Content of Budget
4-307	Adoption
4-308	Effective Date
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4-311	Audits Required
4-312	Conduct of Audits
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4-314	Forwarding Audits to State Auditor
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4-316	Annual Report, Submitted to the Department of Community Affairs
4-317	Capital Program
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**Article I. TAXES**

**Section 4-101 Reserved**

**Section 4-102 Reserved**

**Section 4-103 Reserved**

**Section 4-104 Reserved**

**Section 4-105 Reserved**

**Section 4-106 Reserved**

**Section 4-107 Reserved**

**Section 4-108 Gross Direct Premiums Tax**

1. **Rate of Levy on Life, Accident, and Sickness Insurers.** There is hereby set and levied for the year 1996 and for each calendar year thereafter upon each company authorized to write life, accident, and sickness insurance and to write life, accident, and sickness insurance and which is doing business within the municipal corporate limits an annual tax equal to one percent (1%) of the annual gross direct premiums received during the preceding calendar year from policies insuring persons residing within the corporate limits of the municipality.

The term "gross direct premiums" as used in this section shall have the same meaning as that used in O.C.G.A. § 33-8-4. The tax levied by this subsection is in addition to any license fee imposed by this code.

2. **Rate of Levy on All Other Insurers.** There is hereby set and levied for the calendar year 20 , and for each calendar year thereafter, upon each insurance company not taxed under the provisions of the preceding subsection (1) and which is doing business within the municipal corporate limits, an annual tax equal to two and one-half percent (2.5%) of the annual gross direct premiums received during the preceding calendar year from policies insuring persons residing within the municipal corporate limits. The tax levied by this subsection is in addition to any license fee imposed by this code.
3. **Due Date and Required Report.** The gross direct premiums tax levied herein shall be due and payable upon the effective date of this code and then on the first (1st) day of January in each calendar year. Payment shall be made to the City Clerk/Treasurer and shall be accompanied by a report showing the names and addresses of the agents representing the insurance company in the city, the classes of insurance written, the premiums received for each class, and such other reasonable information as may be required. The required report shall be made on forms prescribed by the City Clerk/Treasurer and made out over affidavit of an officer of the company. Payments shall be deemed delinquent if not received within forty-five (45) calendar days from the due date.
4. **False Information.** It is hereby declared to be a violation of this section for any person, firm, corporation, or agents thereof to knowingly give false or incomplete information on any report herein required to be filed.
5. **Confidentiality of Information.** All reports required to be filed under this section shall be confidential and the information contained therein shall be used solely by the officers of the city responsible for the administration of this section.
6. **Enforcement.** The taxes levied by this section may be enforced by execution in the same manner as other taxes of this municipality.

**Section 4-109 Reserved**

**Section 4-110 Reserved**

**Section 4-111 Public Utility Franchise Tax**

1. **Rate of Levy.** There is hereby set and levied on each electric light and power company, gas company, telephone and telegraph company, water company, and any other public utility making use of the streets, alleys, or other public ways or places in the City of Mansfield for the purpose of rendering utility services, a franchise tax in the amount of three percent (3%) of the annual gross revenue received from residential commercial, and industrial sales.
2. **Due Date and Required Report.** The public utility franchise tax shall be paid on or before the twentieth (20th) day of the month following the calendar month in which the utility was provided and the sale was made, and payment by a report showing the volume of gross sales by service classification (residential, commercial, industrial) for said preceding month.

**Section 4-112                      Local Option Sales Tax**

The City Council is authorized to levy a local option sales tax in accordance with O.C.G.A. § 48-8-85.

**Section 4-113                      Local Option Income Tax**

The City Council is authorized to levy a local option income tax in accordance with O.C.G.A. § 48-7-144.

*NOTE:                      When a county or a municipality within a county levies a local sales and use tax, neither the county nor any municipality within the county may levy the local income tax authorized by this article during the same period of time. See O.C.G.A. § 48-7-199.*

**Section 4-114                      Municipal 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 this municipality shall be the same as that provided by law for sheriffs' sales for state and county taxes.
2. **Sale by Parcels.** When not impracticable, all property sold for municipal taxes shall be so offered for sale that the smallest amount that will bring the amount of taxes and costs shall alone be sold.
3. **Purchase by City.** The City Clerk/Treasurer shall attend all sales of property for taxes due the city and in the event no one person bids for the property put up to be sold as much as the tax due thereon, the City Clerk/Treasurer shall place a bid for such property for the city and, if the bid is accepted, take custody of the deed for the city. No property so purchased by the city shall ever be sold by the city except at a public sale thereof to the highest bidder.
4. **Redemption of Property Sold for Taxes.** Any person whose property is sold in obedience to an execution issued for the collection of municipal taxes shall have such rights of redemption of said property as are set forth in Chapter 4, Title 48 of the O.C.G.A. and any other provisions of law not inconsistent therewith.

**Section 4-115                      Occupation Tax**

1. **Occupation Tax Required; Occupation Tax Required For Business Dealings With The City.**
  - A. For the year 1995 and succeeding years thereafter, each person engaged in any business, trade, profession or occupation in the City of Mansfield, Georgia, whether with a location in the City of Mansfield, or in the case of an out-of-state business with no location in Georgia exerting substantial efforts within the state pursuant to O.C.G.A. § 48-13-7, shall pay an occupation tax for said business, trade, profession or occupation; which tax and any applicable registration shall be displayed in a conspicuous place in the place of business, if the taxpayer has a permanent business location in the City of Mansfield, Georgia. If the taxpayer has no permanent business location in the City of Mansfield, Georgia, such business tax registration shall be shown to the Marshal or their deputies or to any police officer of said City of Mansfield, Georgia upon his or their request.
2. **Construction of Terms; Definitions.**
  - A. Wherever the term "**City of Mansfield**" is used herein, such term shall be construed to mean "City of Mansfield, Georgia"; wherever the term "city" is used herein, it shall be construed to mean "City of Mansfield, Georgia".
  - B. As used in the Section, the term:

- (i) **“Administrative Fee”** means a component of an occupational tax which approximates the reasonable cost of handling and processing the occupation tax.
- (2) **“Location of Office”** shall not include a temporary worksite which serves a single customer or project.
- (3) **“Occupation Tax”** means a tax levied on persons, partnerships, corporations or other entities for engaging in an occupation, profession or business for revenue raising purposes.
- (4) **“Regulatory Fees”** means payments, whether designated as license fees, permit fees or by another name, which are required by a local government as an exercise of its police power and as a part of or as an aid to regulation of an occupation, profession or business. The amount of a regulatory fee shall approximate the reasonable cost of the actual regulatory activity performed by the city. A regulatory fee may not include an administrative fee. Development impact fees as defined by paragraph 8 of O.C.G.A. § 36-71-2, or other costs or conditions of zoning or land development are not regulatory fees.
- (5) **“Dominant Line”** means the type of business within a multiple line business that the greatest amount of income is derived from.
- (6) **“Person”** wherever used in this Section shall be held to include sole proprietors, corporations, partnerships, or any other form of business organization.
- (7) **“Practitioner of Profession or Occupation”** is one who by state law requires state licensure regulating such profession or occupation.
- (8) **“Practitioners of Professions and Occupations”** shall not include a practitioner who is an employee of a business, if the business pays an occupation tax.

**3. Administrative and Regulatory Fee Structure; Occupation Tax Structure.**

- A. A non-prorated, non-refundable administrative fee of five dollars (\$5.00) shall be required on all business occupation tax accounts for the initial start up, renewal or re-opening of those accounts.
- B. A regulatory fee will be imposed as provided under O.C.G.A. § 48-13-9 on those applicable businesses. A regulatory fee does not include an administrative fee.
- C. The regulatory fee schedule for persons in occupations and professions are set forth in Sec. 1-4-BI.

**4. Occupation Tax Levied; Restrictions.**

- A. An occupation tax shall be levied upon those businesses and practitioners of professions and occupations with one or more locations or offices in the unincorporated part of the county or within the corporate limits of the City of Mansfield, Georgia or upon the applicable out-of-state businesses with no location or office in Georgia pursuant to O.C.G.A. § 48-13-7 based upon the following criteria.
  - (1) The number of employees of the business or practitioner.
- B. Occupation tax schedule:
  - (1) Number of Employees

NUMBER OF EMPLOYEES	TAX RATE
1-4	\$ 40.00
5-10	80.00
10 or more	120.00

**5. Paying Occupation Tax of Business With No Location In Georgia.**

- A. Registration and the assessment of an occupation tax is hereby imposed on those businesses and practitioners of professions with no location or office in the state of Georgia if the business' largest dollar volume of business in Georgia is in the City of Mansfield, Georgia and the business or practitioner.
  - (1) Has one or more employees or agents who exert substantial efforts within the jurisdiction of the City of Mansfield, Georgia for the purpose of soliciting business or serving customers or clients; or
  - (2) Owns personal or real property which generates income and which is located in within the jurisdiction of the City of Mansfield, Georgia.

**6. Each Line of Business To Be Identified On Business Registration.**

The Business registration of each business operated in the city shall identify the dominant line of business that the business conducts.

**7. The Number Of Businesses Considered Operating In City.**

Where a person conducts business at more than one fixed location, each location or place shall be considered a separate business for the purpose of occupation tax.

- 8. Professional As Classified in O.C.G.A. § 48-13-9(0), Paragraphs 1 Through 18.**  
The occupation tax based on number of employees.
- 9. Practitioners Exclusively Practicing For The Government.**  
Any practitioner whose office is maintained by and who is employed in practice exclusively by the United States, the state, a municipality or county of the state, instrumentalities of the United States, the state or a municipality or county of the state, shall not be required to obtain a license or pay an occupation tax for that practice.
- 10. Purpose And Scope of Tax.**  
The occupation tax levied herein is for revenue purposes only and is not for regulatory purposes, nor is the payment of the tax made a condition precedent to the practice of any such profession, trade or calling. The occupation tax that only applies to those businesses and occupations which are covered by the provisions of O.C.G.A. §§ 48-13-5 TO 48-13-26. All other applicable businesses and occupations are taxed by the local government pursuant to the pertinent general and/or local law ordinance.
- 11. When Tax Due And Payable; Effect Of Transacting Business When Tax Delinquent.**
- A.** Each such occupation tax shall be for the calendar year 1995 and succeeding calendar years thereafter unless otherwise specifically provided. Said registration and occupation tax shall be payable January 1 of each year and shall be delinquent if not paid by March 1 of each year, be subject to penalties for delinquency as prescribed in Section \_\_\_ of this Chapter. On any new profession, trade or calling begun in the City of Mansfield, Georgia in 1995 or succeeding years thereafter, the registration and tax shall be delinquent if not obtained immediately upon beginning business and a ten percent (10%) penalty imposed. The tax registration herein provided for shall be issued by the Clerk of the City of Mansfield, Georgia and if any person, firm or corporation whose duty it is to obtain a registration shall after said registration or occupation tax becomes delinquent, transact or offer to transact, in the City of Mansfield, Georgia any of the kind of profession, trade or calling in this Section specified without having first obtained said registration such offender shall, upon the conviction of the City Judge be punished by a fine not to exceed five hundred dollars (\$500.00), or imprisonment to exceed thirty (30) days either or both in the discretion of the Judge as set forth in Section 1-8 In addition to the above remedies, the marshal may proceed to collect in the same manner as provided by law for tax executions.
- B. Revocation.** The Mayor of the City shall have the right to revoke any license issued whenever a person doing business under such license shall violate any law or ordinance of the United States, or the State of Georgia or the City of Mansfield in pursuance of such business conducted under such license or when it shall be proven before the Mayor that the health, morals, interest and convenience of the public demand the revocation of license, of the person, firm or corporation holding such license was issued, and said Mayor shall report this revocation of such license to the next regular meeting of the City Council for their ratification or rejection and should the action of the Mayor be sustained by the Council, then the said license shall be permanently revoked, otherwise it shall be restored and remain in full force.
- C. Transfer Of Licenses.** Licenses, with the exception of TAXI CAB and TAXI DRIVERS permit licenses, shall be transferable to any other person, firm, or corporation doing the same business at the same place or places of business, upon the written approval of such transfer, by the Mayor of this City, who shall have full discretion to approve or disapprove such transfer.
- D. Negligence of Payment.** If any person or party, subject to any license fee or tax herein, fail or neglect to pay same, the said clerk may issue execution therefore as an additional remedy, and collection hereof shall be made in the same manner as provided for other taxes, regardless of provisions herein for other penalties.
- 12. Exemption On Grounds That Business Operated For Charitable Purpose.**  
No business on which a business registration or occupation tax is levied by this Section shall be exempt from said registration or tax on the ground that such business is operated for a charitable purpose, unless fifty percent (50%) or more of the entire proceeds from said business are devoted to such purpose.
- 13. Evidence Of State Registration Required If Applicable; State Registration To Be Displayed.**
- A.** Each person who is licensed by the Secretary of State pursuant to Title 43 of the Official Code of Georgia Annotated shall provide evidence of proper and current state licensees before the city registration may be issued.
- B.** Each person who is licensed by the state shall post the state license in a conspicuous place in the licensee's place of business and shall keep the license there at all times while the license remains valid.

- C. Applications for Free Permits. Even though a person may be exempt under state or other law from paying a license tax, or fee; nevertheless such person must apply to said Clerk for a free permit to engage in or carry on any business, occupation, or use herein provided for and submit proper and lawful credentials, exempting applicant from paying said City license tax or license fee; and such applicant must comply with the City rules and regulations pertaining to or governing such business occupation, or use; otherwise such person, or applicant shall be subject to penalties herein provided.
- 14. Evidence Of Qualification Required If Applicable.**
- A. Any business required to obtain health permits, bonds, certificates of qualification, certificates of competency or any other regulatory matter shall first, before the issuance of a city business registration, show evidence of such qualification.
  - B. Prohibition of Distribution of Handbills. It shall be unlawful for any person or persons to distribute handbills of any type from door to door within the limits of the City of Mansfield.
- 15. Liability Of Officers And Agents; Registration Required; Failure To Obtain.**  
All persons subject to the occupation tax levy pursuant to this ordinance shall be required to obtain the necessary registration for said business as described in this ordinance, and in default thereof the officer or agent soliciting for or representing such persons shall be subject to the same penalty as other persons who fail to obtain a registration. Every person commencing business in the City of Mansfield, Georgia after January 1 of each year shall likewise obtain the registration herein provided for before commencing the same; and any person transacting, or offering to transact in the City of Mansfield, Georgia any of the kinds of business, trade, profession or occupation without first having so obtained said registration, shall be subject to penalties provided thereof.
- 16. When Registration And Tax Due And Payable; Effect of Transacting Business When Tax Delinquent.**
- A. Each such registration shall be for the calendar year in which the registration was obtained unless otherwise specifically provided. There is hereby imposed a penalty upon each business which fails to apply for and obtain an appropriate business registration and pay all tax and fees as provided herein before March 1 of each year, on the second day of March of each year hereafter. Every person commencing business in the City of Mansfield, Georgia after January 1 of each year shall obtain the registration required before commencing such business. Any person transacting or offering to transact in the City of Mansfield, Georgia any business, trade, profession or occupation without first having obtained said registration shall be subject to the penalties provided in Sec. 1-8. Said penalties shall be in addition to all other penalties, civil and criminal herein provided; and may be collected by the remedies herein provided for collection of the occupation tax, and shall have the same lien and priority as the occupation tax to which the penalty is applied.
  - B. The registration herein provided for shall be issued by the Clerk of the City of Mansfield and if any person, firm or corporation whose duty it is to obtain a registration shall, after said occupation tax becomes delinquent, transact, in the City of Mansfield any of the kind of business, trade, profession or occupation without having first obtained said registration, such offender shall be subject to the penalties provide thereof.
- 17. Penalty Of Section Violation.**  
Any person violating any provisions of this Section shall upon conviction before the City Judge be fined in an amount not exceeding two hundred dollars (\$200.00) or imprisoned not exceeding thirty (30) days either or both, in the discretion of the City Judge.
- 18. Clerk City of Mansfield, Georgia; Subpoena And Arresting Powers;**  
The City of Mansfield and its duly designated officer and inspectors or its successors shall be classified as deputy marshal-business inspector with full subpoena and arresting powers in conjunction with any violation pertaining to the Business Tax Ordinance for 1995 and succeeding years thereafter.
- 19. Businesses Not Covered By This Section.** The following businesses are not covered by the provisions of this Section but may be assessed an occupation tax or other type of tax pursuant to the provisions of other general laws of the State of Georgia or by act of local law.
- A. Those businesses regulated by the Georgia Public Service Commission.
  - B. Those electrical service businesses organized under Chapter 3 of title 46 of the Official Code of Georgia Annotated.
  - C. Any farm operation for the production from or on the land of agricultural products, but not including agribusiness.
  - D. Cooperative marketing associations governed by O.C.G.A. § 2-10-105.
  - E. Insurance companies governed by O.C.G.A. § 33-8-8, et seq.

- F. Motor common carriers governed by O.C.G.A. § 46-7-15.
  - G. Those businesses governed by O.C.G.A. § 48-5-355.
  - H. Agricultural products and livestock raised in the state of Georgia governed by O.C.G.A. § 48-5-356.
  - I. Depository financial institutions governed by O.C.G.A. § 48-6-93.
  - J. Facilities operated by a charitable trust governed by O.C.G.A. § 48-13-55.
20. **When Occupation Tax Due And Payable; Payment Options.** The amount of occupation tax shall be payable to the said city, at the office of the treasurer, on January 1 each year and delinquent if not paid on or before March 1 each year .
21. **Returns Confidential.** Except in the case of judicial proceedings or other proceedings necessary to collect the occupation tax hereby levied, it shall be unlawful for any officer, employee, agent or clerk of the City of Mansfield, Georgia or any other person to divulge or make known in any manner the amount of gross receipts or any particulars set forth or disclosed in any occupation tax return required under this Section. All contents of said return shall be confidential and open only to the officials, employees, agents or clerks of the city using said returns for the purpose of this occupation tax levy and the collection of the tax. Independent auditors or bookkeepers employed by the city shall be classed as "employees", nothing herein shall be construed to prohibit the publication by the City officials of statistics, so classified as to prevent the identification of particular reports or returns and items thereof, or the inspection of the records by duly qualified employees of the tax departments of the State of Georgia or of the United States, and other local governments.
22. **Inspections Of Books And Records.** In any case the City Marshal through its officers, agents, employees or representatives, may inspect the books of the business for which the returns are made. The revenue collection officer shall have the right to inspect the books or records for the business of which the return was made in the City of Mansfield, Georgia, and upon demand of the City Marshal such books or records shall be submitted for inspection by a representative of the City of Mansfield, Georgia within thirty (30) days. Failure of submission of such books or records within thirty (30) days shall be grounds for revocation of the tax registration currently existing to do business in the City of Mansfield, Georgia. Adequate records shall be kept in the City of Mansfield, Georgia, for examination by the City Marshal at his discretion. If after examination of the books or records, it is determined that a deficiency occurs as a result of under reporting, a penalty of one hundred and twenty five percent (25%) of the prime interest rate times the amount deficient will be assessed for the period delinquent. For purposes of this section, the prime interest rate shall be that which is published by The Wall Street Journal on the first business day of the year in which the under reporting is identified. Sec. 1-24
23. **Execution For Delinquent Occupation Tax.** In addition to the other remedies herein provided for the collection of the occupation tax herein levied, the City Marshal of the City of Mansfield, Georgia, upon any tax or installment of said tax becoming delinquent and remaining unpaid, shall issue execution for the correct amount of said tax against the persons, partnership or corporation liable for said tax, which said execution shall bear interest at the rate of twelve percent (12%) annum from the date when such tax or installment becomes delinquent, and the lien shall cover the property in the City of Mansfield of the person, partnership or corporation liable for said tax, all as provided by the ordinances and charter of said city and the laws of Georgia. The lien of said occupation tax shall become fixed on and date from the time when such tax or any installment thereof becomes delinquent. The execution shall be levied by the City Marshal of said city upon the property of defendant located in said city, and sufficient property shall be advertised and sold to pay the amount of said execution, with interest and costs. All other proceedings in relation thereto judgement it may seem necessary to determine whether the registration held is the proper one for the business sought to be transacted thereunder.
24. **Provisions To Remain In Full Force And Effect Until Changed By Council.** This Section shall remain in full force and effect until changed by amendment adopted by the Council. All provisions hereto relating to any form of tax herein levied shall remain in full force and effect until such taxes have been paid in full.
25. **Requirement Of Public Hearing Before Tax Increase.** After January 1, 1996 , the governing Mayor and Council shall conduct at least one public hearing before adopting any ordinance or resolution which will increase the rate of occupation tax as set forth in this ordinance.
26. **Option To Establish Exemption Or Reduction In Occupation Tax.** The Council may by subsequent ordinance or resolution provide for an exemption or reduction in occupation tax to one or more types of businesses or practitioners of occupations or professions as part of a plan for economic development or attracting or encouraging selected types of businesses or practitioners of selected occupations or professions. Such exemptions or reductions in occupations tax

shall not be arbitrary or capricious and the reasons shall be set forth in the minutes of the City of Mansfield.

27. **Conflicts Between Specific.** Where there is an apparent conflict in this Section between specific and general provisions, it is the intention hereof that the specific shall control.

(Adopted 12/7/94)

**Section 4-116                    RESERVED**

**Article II.    MUNICIPAL BONDS**

**Section 4-201                    Preliminary Review by Finance Committee**

Prior to any issue of bonds by the city, the proposal for such issue shall be referred to the standing finance committee, which committee shall give careful consideration to the proposal and submit a recommendation to the City Council for approval or disapproval, with applicable reasons therefor.

**Section 4-202                    Bond Ordinances**

1. **Contents of Bond Ordinances.** Any bond ordinance introduced for adoption as provided in this section shall contain in substance the following:
  - A. An authorization for the issuance of obligations, stating in brief and general terms sufficient for reasonable identification the purpose or purposes for which the obligations are to be issued, a statement of the estimated maximum amount of bonds or notes to be issued, and the estimated cost of such purpose or purposes, but related improvements of properties may be treated as one improvement or property;
  - B. A determination of the period of usefulness of the purpose according to its reasonable life computed from the date of the bonds or, if issued for several purposes, a determination of the average period of usefulness, taking into consideration the respective amounts of obligations authorized for the said several purposes;
  - C. A determination that the obligations authorized by the bond ordinance will be within the debt limitations prescribed by state law; and
  - D. A statement of the aggregate cost of the improvement or property sought to be financed, which cost may include the following:
    - (1) interest on obligations until the end of the fiscal year in which the obligations are issued or until six (6) months after the completion of construction or acquisition;
    - (2) architect's fees, accounting, engineering, and inspection costs;
    - (3) costs of issuing and selling obligations;
    - (4) legal expenses;
    - (5) preliminary planning expenses;
    - (6) test and survey expenses; and
    - (7) a reasonable proportion of the compensation and expenses of municipal employees in connection with the construction or acquisition of said improvement or property.
2. **Procedure for Adoption of Bond Ordinances**
  - A. **Introduction.** All bond ordinances shall be introduced in writing at a regular meeting of the Mayor and City Council, and at such meeting shall receive a first reading, which may be by title.
  - B. **Publication, Hearing, and Adoption.** Any bond ordinance introduced as hereinabove provided shall be published after first reading, together with notice of the date, time, and place set for further consideration and final passage. Such publication shall be at least ten (10) days after introduction and first reading and at least seven (7) days prior to the date for further consideration. At the time and place so advertised, or at any time and place to which such meeting or further consideration shall from time to time be adjourned, such bond ordinance may be read by its title, if:
    - (1) At least one (1) week prior to such date or further consideration, there shall have been posted, on a bulletin board or other place upon which public notices are customarily posted in the municipality:
      - (a) A copy of such bond ordinance, and
      - (b) A notice that copies of such bond ordinance will be made available during such week and up to and including the date of such meeting or further consideration to the

- members of the general public of the municipality who shall request such copies, naming the place at which such copies will be so made available; and
- (2) Such copies of said bond ordinance shall have been made available accordingly, but otherwise such bond ordinance shall be read in full. All persons interested shall then be given an opportunity to be heard, and the Mayor and City Council shall proceed to amend the bond ordinance and thereupon finally adopt or reject it, with or without amendments.
- C. Final Adoption and Publication.** A bond ordinance shall be finally adopted by the recorded affirmative votes of at least two-thirds (2/3) of the full membership of the municipal governing authority.
- 3. Effective Date of Bond Ordinances.** Unless otherwise provided for, such resolution or resolutions shall take effect immediately and shall not be laid over or published or posted.

**Section 4-203                      Bond Sales**

- 1. Private Sale - When Authorized.** All bonds shall be sold at public sale upon sealed proposals, except that bonds may be sold at private sale:
  - A. Without any previous public offering:**
    - (1) If constituting all or part of an authorized issue of twenty thousand dollars (\$20,000.00) or less, or
    - (2) If sold to any board, body, agency, commission, instrumentality, district, authority, or political subdivision of any local unit, the state, or the federal government; or
  - B.** If no legally acceptable bid is received at advertised public offering, such bonds or any of them may be sold within thirty (30) days after the advertised date for public bidding; provided, however, that no bonds shall bear interest at any rate of interest which is higher than the rate or maximum rate specified in the notice of sale, or contain substantially different provisions from those specified in said notice.

Any purchaser of bonds at private sale, other than a public body, shall deposit a certified or cashier's or treasurer's check drawn upon a bank or trust company in an amount equal to five percent (5%) of the amount of bonds purchased and such amount shall be applied as in the case of a deposit made at public sale. Any private sale of bonds as permitted hereunder shall be made or confirmed by resolution of the Mayor and City Council adopted by not less than a two-thirds vote of the full membership thereof, which such resolution shall set forth the date, maturities, interest rate, and price of the bonds and the name of the purchaser.

- 2. Publication of Notice of Bond Sale.** A public sale of bonds shall be advertised at least once and at least seven (7) days prior thereto in a newspaper of general circulation in the municipality and in a publication carrying municipal bond notices and devoted primarily to financial news or the subject of state and municipal bonds and published in the State of Georgia.
- 3. Contents of Notice of Bond Sales.** A notice of public sale of bonds shall set forth:
  - A.** The principal amount, date, denomination, and maturities of the bonds offered for sale;
  - B.** The rate or rates of interest or maximum rate or rates of interest to be borne by the bonds;
  - C.** The terms and conditions of such public sale; and
  - D.** Such other provisions as may be determined by the Mayor and City Council.
- 4. Procedure for Public Sale of Bonds.**
  - A.** All bidders shall be required to deposit a certified or cashier's or treasurer's check drawn upon a bank or trust company, equal to not less than two percent (2%) of the bonds to secure the municipality in part from any loss resulting from the failure of the bidder to comply with the terms of his bid, or as liquidated damages for such failure.
  - B.** All bids for bonds shall be publicly opened and announced at the advertised time and place of sale. Such bids as comply with the terms of the notice of sale shall be considered, and any bid not complying with the terms of such notice may be rejected. All bids received may be rejected.
  - C.** Bonds of two (2) or more issues may be sold on the basis of combined maturities, or the maturities of each issue offered for sale.
  - D.** Bonds may be offered for sale at a single rate of interest, or bidders may be requested to name a single rate of interest, but no proposal shall be considered which offers to pay less than the principal amount of bonds offered for sale or which names a rate of interest higher than the lowest rate of interest stated in any legally acceptable proposal. As between proposals naming the same lowest rate of interest, the proposal offering to accept the least amount of bonds shall be accepted,

the bonds to be accepted shall be those first maturing, and as between such proposals, the proposal offering to pay the greatest premium bid for the bonds shall in no event exceed one thousand dollars (\$1,000.00) for the principal amount of bonds offered for sale. In order to effect the foregoing, a sufficient number of the last maturing bonds shall be of the denomination one thousand dollars (\$1,000.00) or less.

- E. Bonds may be offered for sale at different rates of interest of the same issue or different rates of interest for different issues, or parts thereof, or bidders may be requested to name any such rates of interest. No proposal shall be considered which offers to pay an amount less than the principal amount of bonds offered for sale or under which the total loan is made at an interest cost higher than the lowest net interest cost to the local unit under any legally acceptable proposal. Such net interest cost shall be computed in each instance by adding to the total principal amount of bonds bid for the total interest cost to maturity in accordance with such bid, and by deduction therefrom of the amount of premium bid, if any.
  - F. Additional terms or conditions of sale may be established by the Mayor and City Council.
5. **Sale of Bonds at One Time or in Installments.** Any issue of bonds may be sold at one time or in installments at different times. The maturities of an installment of bonds offered for sale, when combined with all maturities of the issue previously sold, shall be such as to comply with requirements as to maturities of a single issue of bonds. Any unsold part of an issue or installment may be sold notwithstanding that the maturities thereof, when considered alone, do not comply with such requirements.
6. **Power of Sale.** The Director of Finance of the city is hereby authorized and empowered to sell and award bonds in accordance with the advertised terms of public sale. Such officer shall report in writing to the Mayor and City Council at the next meeting thereof following such sale, which report shall indicate the principal amount, interest rate, and maturities of the bonds sold, the price obtained, and the name of each purchaser.
7. **Attorney's Fees.** Any qualified and practicing attorney at law who renders services in connection with the issuance and sale of bonds for this municipality shall be compensated for such services in an amount not exceeding one-tenth of one percent (.1%) of the amount of the bonds issued or proposed to be issued, provided that said fee shall not be less than as determined by Mayor & Council with respect to any one bond issue.
8. **Application of Proceeds.** The proceeds of the sale of municipal bonds shall be applied only to the purposes for which such obligations are authorized. If, for any reason, any part of such proceeds are not necessary for such purposes, such part shall be used to pay any outstanding obligations or to finance the cost of any other purpose of purposes which may be deemed proper by the Mayor and City Council.
9. **Prohibited Agreements.** In the issuance or sale of bond obligations, it shall be unlawful for the Mayor and City Council or any member thereof or any official:
- A. To pay or agree to pay, directly or indirectly, any bonus, commission, fee, or other compensation or consideration for the issuance or for the sale of such obligations, and any amount so paid may be recovered for the municipality;
  - B. To make any agreement with any purchaser or bidder, or his representative, regarding the deposit or disposition of any monies received or to be received from such sale and every such agreement shall be void;
  - C. To make any agreements pertaining to the sale of bond obligations which contains provisions as to any other matter, and such sale and any such agreement shall be void;
  - D. To make any agreement or "service contract" with respect to publication of notice of sale and printing of bonds or notes, the providing of a legal opinion or for any of such services, whether or not accompanied by an offer to bid for or purchase such obligations. Any such agreement or contract shall be void, and any amount so paid may be recovered for the municipality; except, however, agreements made directly with a newspaper, bond printer, or an attorney licensed to practice law in the state in which he has his office.

A municipal bond dealer, banker, or financial expert may be engaged or employed as financial advisor to provide financial services in connection with the sale of bond obligations, including the preparation of a bidding circular or prospectus, but no such financial advisor shall purchase any such obligations at any public or private sale, but any such purchase shall not affect the validity of the obligations and the municipality shall recover any compensation and profit to such financial advisor resulting therefrom.

A complete description of each bond issued by the city shall be kept by the City Clerk/Treasurer in a suitable book, which book shall be open to public inspection during regular business hours.

**Section 4-205                      Registration of Bonds**

1.     **Application for Registration.** Any holder of a bond issued by the city may register such bond as to principal and interest, or as to principal only, by making written application for such registration to the City Clerk/Treasurer and presenting the bond desired to be registered. Each application shall state (a) the number of bonds presented, (b) the issue, (c) the date, (d) the amount, (e) the date due, and (f) to what extent the bonds are to be registered; and each application shall be signed by the applicant who, if holding the bonds in any capacity other than for himself, shall sign the application in the name of the party for whose benefit he holds the bonds, state the capacity in which he signs, and attach proof of such capacity.
2.     **Bond Register.** A bond register shall be kept on file in the office of the city clerk/treasurer in which, upon written application and presentation of the bond by the holder thereof as herein above provided, shall be entered a description of each bond so presented. Such description shall state (a) the bond number, (b) the nature of the issue, (c) the face amount, (d) the date issued, (e) the date of maturity, (f) the rate and due dates of interest, (g) whether the bond is registered as to principal and interest or as to principal only, (h) the name and mailing address of the bond holder, (i) the name of the person registering the bond, and (j) the capacity in which such person registered the bond. All bonds registered in compliance with this section shall be non-negotiable to the extent registered.
3.     **Statement of Registration and Form.** Upon registration of any bonds as herein above provided, the City Clerk/Treasurer shall stamp, print, or write upon each bond so registered a statement of the registration in the following form, inserting in the blanks the matter applicable to each transaction:

Registered by \_\_\_\_\_ . Non-negotiable. Principal [ and interest ] to be paid only to \_\_\_\_\_ located at \_\_\_\_\_. This \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

City of

\_\_\_\_\_  
City Clerk/Treasurer

4.     **Procedure for Transfer After Registration.** In order to transfer any bond which may have been registered under the provisions of this section, the holder thereof shall present the same to the City Clerk/Treasurer and shall authorize such transfer in writing, giving the name of the transferee, the number of the bond, of what issue, and the dates of issue and maturity. Such authority shall be signed and acknowledged in the presence of a notary public or some other officer authorized by law to administer oaths, and such notary public or other officer shall certify, in writing and under seal of his office, that such authority was signed and acknowledged in this presence. In addition to giving such written authority, the holder shall enter a statement of the transfer on the face of each bond, properly dated and signed. Thereupon the City Clerk/Treasurer shall enter the transfer of each bond opposite the original entry of registration in the bond register, giving the name of the transferee and date of the transfer, and shall enter the same on each bond over his official signature. The transferee may thereafter, in the manner herein prescribed, also transfer such bond.

**Section 4-206                      Lost, Destroyed, or Defaced Bonds**

Lost, destroyed, or defaced bonds may be reissued in the form and tenor of the original obligations upon the Mayor and City Council being supplied to its satisfaction with the following:

1.     Proof of ownership;
2.     Proof of loss, destruction, or defacing of the obligations;
3.     Adequate surety bond; and
4.     Payment of the cost of preparation of the new obligations.

All such new obligations shall be issued pursuant to resolution of the Mayor and City Council setting forth the written request of the holder or owner, or his authorized attorney or legal representative, of the lost, destroyed, or defaced obligations and the date, maturity, interest rate, denomination, and numbers of such obligations, and the amount and term of the surety bond.

**Section 4-207                    Disposition of Bonds and Coupons**

Whenever the City Clerk/Treasurer pays any bond or coupon of the city, he shall forthwith stamp, print, or write upon such bond or coupon the word "PAID" and shall notify the standing finance committee that he has in hand such canceled paper, whereupon the finance committee shall take possession of the same after giving the City Clerk/Treasurer a receipt for the bonds and coupons. Such bonds and coupons shall thereafter be destroyed by the finance committee in the presence of the City Clerk/Treasurer, who shall then make an entry to that effect on the receipt given him.

**Section 4-208                    Sinking Fund**

1.    **Establishment.** All taxes collected for the payment of principal and interest on city general obligation bonds shall be kept by the City Clerk/Treasurer as a separate fund to be known as the "sinking fund." Under no circumstances shall funds be paid out by the City Clerk/Treasurer for any other purpose than for the payment of the interest and principal on the bonds for which it was collected or for the purpose of investment as provided by law and city ordinance.
2.    **Certification of Amount.** Prior to adoption of the annual budget, the amount to be included in the sinking fund for the prospective fiscal year shall be certified by the municipal auditor as an amount sufficient to pay all principal and interest coming due in such fiscal year, and the sinking fund as certified shall be included in the annual budget.
3.    **Investment of Sinking Fund.** It shall be and it is hereby made the duty of the City Clerk/Treasurer, to promptly make arrangements for the investment of the sinking fund in the manner provided by law and, upon approval of such arrangements by the City Council, promptly to make such investment.

**Article III.    BUDGET**

**Section 4-301                    Fiscal Year**

The city shall operate on a fiscal year which shall begin on the first day of January and end on the last day of December.

**Section 4-302                    Requirement of Annual Balanced Budget**

The municipality 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.

Each unit of local government shall adopt and operate under a project-length balanced budget for each capital projects fund in use by the government. The project-length balanced budget shall be adopted by ordinance or resolution in the year that the project initially begins and shall be administered in accordance with this article. The project-length balanced budget shall appropriate total expenditures for the duration of the capital project.

**Section 4-303                    Adoption of Budget Ordinances or Resolutions**

The municipality shall adopt and utilize a budget ordinance or resolution.

**Section 4-304                    Budget Officer**

The municipality may appoint a budget officer to serve at the will of the Mayor and City Council. If no budget officer is appointed the Mayor and City Council shall perform the duties. The municipality may use an executive budget utilizing a chief executive and a budget officer.

**Section 4-305                    Procedures for Adoption of Budget**

1.    By the date established by the governing authority, in such manner and form as may be necessary to effect this article, and consistent with the city's accounting system, the budget officer shall prepare a proposed budget for the city for the ensuing fiscal year.

2. 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 by the budget officer or the Mayor and City Council. The budget document, at a minimum, 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.
3. No later than \_\_\_\_\_, the proposed budget shall be submitted to the Mayor and City Council for review prior to enactment of the budget ordinance or resolution.
4. On the day that the budget is submitted to the Mayor and City Council, a copy of the budget shall be placed in a public location which is convenient to the residents of the city. The Mayor and City Council 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 news media.
5. (a) At the time of submission of the budget to the Mayor and City Council, a statement advising the residents of the City of the availability of the budget shall be published in a newspaper of general circulation in the city. The notice shall be published during the week in which the proposed budget is submitted to the governing authority. The statement **shall also advise residents the public hearing will be held at which time any persons wishing to be heard on the budget may appear.** The statement shall be a prominently displayed advertisement or news article and shall not be placed in that section of the newspaper where legal notices appear.  
(b) **The Mayor and Council shall give notice of the time and place of the required budget hearing at least one (1) week before the budget hearing is held.**
6. At least one (1) week prior to adoption of the budget ordinance or resolution, the Mayor and City Council shall conduct a public hearing, at which time any persons wishing to be heard on the budget may appear.
7. Nothing in this section shall be deemed to preclude the conduct of further budget hearings if the Mayor and City Council deem such hearings necessary and complies with the requirements of subsection (5).

#### **Section 4-306 Form and Content of Budget**

The municipal budget 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 of the city, 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 City Council. The total of proposed expenditures shall not exceed the total of anticipated revenue.

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."*

#### **Section 4-307 Adoption**

After the conclusion of the hearing and no later than \_the first regular meeting in January\_ of the fiscal year the Mayor and City Council shall adopt a budget ordinance or resolution making appropriations for the fiscal year in such sums as the Mayor and City Council may deem sufficient, whether greater or less than the sums presented in the proposed budget. The budget ordinance or resolution shall be adopted at a public meeting which shall be advertised in accordance with the procedures set forth in Section 4-305(5) at least one (1) week prior to the meeting.

The budget may be prepared in any form that the Mayor and City Council deems most efficient in enabling it to make the fiscal policy decisions embodied in the budget, but such budget shall show anticipated revenues and appropriations by fund.

**Section 4-308 Effective Date**

No Act of any of the types specified in this subsection shall be effective until the first day of January following passage of the Act. This requirement shall apply with respect to any Act which:

1. Requires that a county or municipality create one or more new personnel positions the cost of which will be paid from county or municipal funds;
2. Requires an increase in the salary, employment benefits, or other compensation of one or more personnel positions the cost of which will be paid from county or municipal funds; or
3. Requires any capital expenditure which will be paid from county or municipal funds.

This Code section shall not apply with respect to Acts affecting local school systems.

This section shall not apply with respect to a local Act when passage of the Act with an earlier effective date has been requested by the governing authority of the affected county or municipality and such request is evidenced by attachment of the request to the Act as provided for in paragraph (3) of subsection (b) of O.C.G.A. § 28-1-14.

Any local Act which contains a stated effective date in violation of the requirements of this section as presently or formerly amended shall not be invalid. Any local Act becoming law before or after the effective date of O.C.G.A. § 1-3-4.1 section, which local Act contains an effective date in violation of the requirements of this section as presently amended, shall become effective on the first day of January following its enactment. Any local Act becoming law prior to the effective date of this section, which local Act at the time of its becoming law contained an effective date in violation of the former requirements of this section but not in violation of the current requirements of this section, shall become effective on the later of the effective date specified in such Act or the effective date of this section.

**Section 4-309 Budget Message**

When introduced to the City Council for approval, the municipal budget shall be accompanied by a budget message which shall explain the budget both in fiscal terms and in terms of the work programs. The budget message shall outline the proposed financial policies of the city for the ensuing fiscal year; describe the important features of the budget; indicate any major changes from the current year in financial policies, expenditures, and the revenues, together with the reasons for such change; summarize the city's debt position; and include such other material as will provide a complete synopsis of the financial condition of the city.

**Section 4-310 Amendments**

1. The City Council 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 one percent (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 ten percent (10%); or
  - C. Increase the amount needed to be raised by taxes by more than five percent (5%).
2. Notice of hearing on any amendment shall be advertised at least three (3) days before the date set therefor. Any such amendment must be published in full in the same manner as an original publication and must be read in full at the hearing and before adoption. (See O.C.G.A. § 36-81-3(d)).

**Section 4-311 Audits Required**

1. **Annual Audit.** The Mayor and City Council of each unit of local government having a population in excess of one thousand five hundred (1,500) persons according to the latest estimate of population by the United States Bureau of the Census or its successor agency or expenditures of one hundred seventy-five thousand dollars (\$175,000.00) or more shall provide for and cause to be made an annual audit of the financial affairs and transactions of all funds and activities of the local government for each fiscal year of the local government.

**Section 4-312 Conduct of Audits**

The audits of the city shall be conducted in accordance with generally accepted auditing standards. Each audit shall also contain a statement of any agreement or arrangement under which the city has assumed any actual or

potential liability for the obligations of any governmental or private agency, authority, or instrumentality. Such statement shall include the purpose of the agreement or arrangement, shall identify the agency, authority, or instrumentality upon whose obligations the city is or may become liable, and shall state the amount of actual liability and the maximum amount of potential liability of the city under the agreement or arrangement. To the extent that the state auditor is able to provide comparable auditing services, the governing body may contract with the state auditor.

#### **Section 4-313                    Contents of Audit Reports**

Whenever an audit of the financial affairs of a county or municipal corporation or of an officer, board, department, unit, or other political subdivision of a county or municipal corporation is made pursuant to a requirement or to an authorization otherwise provided by law, the audit report shall include the auditor's unqualified opinion upon the presentation of the financial position and the result of the operations of the governmental unit or office which is audited. If the auditor is unable to express an unqualified opinion, he or she shall so state and shall further detail the reasons for qualification or disclaimer of opinion. All such audits shall be conducted in conformity with generally accepted government auditing standards.

#### **Section 4-314                    Forwarding Audits to State Auditor**

Each annual audit report of a local unit of government shall be completed and a copy of the report forwarded to the state auditor within one hundred eighty (180) days after the close of the unit's fiscal year. In addition to the audit report, the local unit of government shall forward to the state auditor, within thirty (30) days after the audit report due date, written comments on the findings and recommendations in the report, including a plan for corrective action taken or planned and comments on the status of corrective action taken on prior findings. If corrective action is not necessary, the written comments should include a statement describing the reason it is not. In the case of units provided for in paragraph (2) of subsection (a) of this code section, the audit reports for both fiscal periods shall be submitted within one hundred eighty (180) days after the close of each second fiscal year and the written comments shall be submitted within thirty (30) days after the audit report due date.

#### **Section 4-315                    Public Inspection of Audits**

A copy of the report and of any comments made by the state auditor shall be maintained as a public record for public inspection during the regular working hours at city hall. Those cities not having a principal office shall provide a notification to the public as to the location of and times during which the public may inspect the report.

#### **Section 4-316                    Annual Report, Submitted to the Department of Community Affairs**

The city shall submit an annual report of local government finances to the Department of Community Affairs. The report shall include the revenues, expenditures, assets, and debts of all funds and agencies of the city, and other such information as may be reasonably requested by the department. Each local independent authority shall submit an annual report of indebtedness to the Department of Community Affairs. Such report shall include the revenues, expenditures, assets, and debts of all funds of the local independent authority and shall describe any actions taken by such local independent authority to incur indebtedness. The local government finance report and the local independent authority indebtedness report shall be filed on forms promulgated by the department and shall be submitted within the requested time periods established by the department.

#### **Section 4-317                    Capital Program**

A five (5) year capital program may be submitted to the City Council at the same time that the budget and budget message are introduced for approval. Such capital program shall include:

1. A clear general summary of its contents;
2. A list of all capital improvements which are proposed to be undertaken for the five (5) fiscal years next ensuing, with appropriate supporting information as to the necessity for such improvements;
3. Cost estimates, method of financing, and recommended time schedules for each such improvements; and
4. The estimated annual cost of operation and maintaining the facilities to be constructed or acquired.

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

**Section 4-318                      Transfer of Appropriations**

The Mayor, may, at any time during the fiscal year, transfer part or all of any unencumbered appropriation balance among programs within a department or office, and the City Council may, by ordinance, transfer part or all of any unencumbered appropriation balance from one department or office to another, except that 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.

**Section 4-319                      Emergency Appropriations**

Notwithstanding any other provision of this article, the City Council 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 unappropriated revenues or surplus. If there is no surplus, then temporary borrowing in notes may be made, provided that any such borrowed amounts are included as an appropriation in the next succeeding year's budget.

**Section 4-320                      Lapse of Appropriations**

Every appropriation, except an appropriation 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 in force until the purpose for which it was made has been accomplished or abandoned; the purpose of any such appropriation shall be deemed abandoned if three (3) years pass without any disbursement from or encumbrance of the appropriation.

*NOTE:                      Each annual budget should be able to exist for twenty-four (24) months, so that any bills arriving after the close of the fiscal year can be paid out of such budget.*

**Section 4-321                      Uniform Chart of Accounts**

The municipality shall adopt and use the Uniform Chart of Accounts developed by the Georgia Department of Community Affairs.



# CHAPTER 5: MUNICIPAL COURT

## Section

5-101	Scope of Jurisdiction
5-102	Appointment and Qualifications of Judge
5-103	Required Training for Judges of Municipal Courts
5-104	Bailiff
5-105	Record of Cases
5-106	Limitations
5-107	Service of Summons
5-108	Subpoenas
5-109	Failure to Obey Summons or Subpoena
5-110	Arrest and Bond
5-111	Forfeiture of Bond
5-112	Court Cost
5-113	Malicious Prosecution
5-114	Collection of Fines
5-115	Appeal
5-116	Contracting for Municipal Court Services
5-117	Local Government Code Enforcement Boards



### **Section 5-101                      Scope of Jurisdiction**

The Municipal Court of this municipality shall try violations of municipal ordinances and shall have the power and authority to impose fines upon persons convicted of said offenses, with the alternative of other punishment allowed by law if such fines are not paid. City courts shall function according to guidelines found in O.C.G.A. § 36-32-1 et seq.

### **Section 5-102                      Appointment and Qualifications of Judge**

The Mayor and City Council is authorized to appoint a judge of the municipal court who shall serve in lieu of the mayor or other members of the Mayor and City Council. Any person appointed as a judge shall possess such qualifications and shall receive such compensation as shall be fixed by the Mayor and City Council and shall serve at the pleasure of the governing authority.

### **Section 5-103                      Required Training for Judges of Municipal Courts**

1. All judges of the municipal courts shall periodically satisfactorily complete a training course as provided in Article 2 of O.C.G.A. § 36-32-11.
2. If any municipal judge does not satisfactorily complete the required training in any year, the Georgia Municipal Courts Training Council shall promptly notify the Judicial Qualifications Commission, which shall remove the municipal judge from office unless the Judicial Qualifications Commission finds that the failure was caused by facts beyond the control of the municipal judge.
3. The reasonable costs and expenses of such training shall be paid by the governing authority of the municipality from municipal funds.
4. Any person who becomes a municipal judge on or after January 1, 1991, shall satisfactorily complete twenty (20) hours of training in the performance of his/her duties, prior to December 31, 1991, and shall attend the first scheduled training session held after the date of his/her election or appointment in order to become certified under this article. Any person serving as a municipal judge prior to January 1, 1991, shall be exempt from completing these twenty (20) hours of training.
5. In order to maintain the status of a certified municipal judge, each person certified as such shall complete twelve (12) hours of additional training per annum during each calendar year after the year of his/her initial certification in which he serves as municipal judge.

**Section 5-104 Bailiff**

The Bailiff of the Municipal Court shall be appointed by the Mayor, by and with the advice and consent of the City Council. The duties of the Bailiff shall consist generally of seeing that the courtroom is in proper condition for sessions of court, of assisting in keeping order while court is in session, and of doing such other acts of assistance as may be required of him by the Judge of the Municipal Court and the City Clerk/Treasurer.

**Section 5-105 Record of Cases**

A record of all cases heard in the Municipal Court for violation of this code or other municipal ordinances shall be kept in a suitable bound volume by the City Clerk/Treasurer. Such record shall contain the name of the defendant, the nature of the offense charged, the final disposition of the case, and the date of final disposition.

**Section 5-106 Limitations**

All prosecutions for violations of City ordinances shall be commenced within two (2) years after the commission of the crime.

**Section 5-107 Service of Summons**

Any person charged with violating any City ordinance shall receive notice by service of a summons as herein provided. Such summons may be issued by the City Clerk/Treasurer, the Building Inspector, or any police officer of the City. The summons shall be directed to the accused and shall distinctly state the offense charged, the time and place, as far as practicable, of the offense charged, and the day, hour, and place of trial, requiring the accused to appear before the Judge of the Municipal Court to answer accusations made. Service of the summons shall be made by a police officer of the City either by serving the accused personally or by leaving a copy at his/her most notorious place of abode, except that in the case of a summons issued for violation of laws or ordinances relating to the parking of motor vehicles, such summons may be directed to an unknown person as owner of an automobile designated in the summons and may be served upon such person by leaving a copy in or attached to such automobile.

**Section 5-108 Subpoenas**

The City Clerk/Treasurer shall issue subpoenas for the appearance of all witnesses necessary for the prosecution or for the defense in any case pending before the Municipal Court. All subpoenas shall be served in the same manner as a summons.

**Section 5-109 Failure to Obey Summons or Subpoena**

Any person who fails to appear at the time and place set out in any summons or subpoena served upon him shall be guilty of contempt of court and upon conviction thereof shall be punished for same.

**Section 5-110 Arrest and Bond**

When a police officer has arrested any person for violation of any provision of this code or any municipal ordinance and trial cannot be had immediately, the officer may take cash bond not exceeding the maximum fine for the offense, or a bond with a good security, for the appearance of such person before the Judge of the Municipal Court. If such person fails or refuses to give a bond, the officer may confine him or her in the City jail until a trial can be held, provided that the Mayor, in his/her discretion, may release such person on his/her own recognizance without security. No person shall be incarcerated in the City jail for more than seventy-two (72) hours without being tried by the Municipal Judge.

**Section 5-111 Forfeiture of Bond**

Upon the failure of a person to appear in the Municipal Court at the time and place fixed by the summons, unless legal excuse is offered in his/her behalf, the Judge of said court shall enter a judgment of forfeiture on any cash bond, or, in the case of a security bond, shall pass a rule requiring the principal and surety on such bond to show cause on the date named therein, which date shall not be less than ten (10) days from the passage of such ruling, why they should not be required to pay the amount of said bond. If no sufficient cause is shown, the Judge shall enter judgment against the principal and surety for the amount of the forfeited bond and shall direct the City Clerk/Treasurer to issue execution thereon.

**Section 5-112 Court Cost**

The costs which shall be charged against a defendant in the Municipal Court in the event of his/her conviction shall not exceed an amount as determined by Mayor and Council, which sum shall be paid into the City treasury.

**Section 5-113 Malicious Prosecution**

Whenever the Judge of the Municipal Court, after a fair and full trial, is satisfied that any case was frivolously or maliciously prosecuted, he shall assess the prosecution with the court costs and such punitive damages as he deems appropriate.

**Section 5-114 Collection of Fines**

When directed by the Judge of the Municipal Court, the City Clerk/Treasurer shall issue executions for fines imposed by said court, including the costs, which executions may be levied upon any goods or chattels, lands, or tenements of the person so fined.

**Section 5-115 Appeal**

Appeals from decisions of the Municipal Court shall be taken to the Newton County Superior Court or State Court in the manner provided for appeals under state law.

**Section 5-116 Contracting for Municipal Court Services**

Pursuant to O.C.G.A. § 15-7-80 *et.seq.*, the City of Mansfield may contract with the Newton County to furnish court services to the municipality.

**Section 5-117 Local Government Code Enforcement Boards**

1. Each municipality may, at its option, create or abolish by ordinance local government code enforcement boards.
2. A municipality may, by ordinance, adopt an alternate code enforcement system which gives code enforcement boards the authority to hold hearings and assess fines against violators of the [county or] municipal codes and ordinances.
3. **Definitions.**
  - A. **Code Inspector** means any authorized agent or employee of the [county or] municipality whose duty it is to assure code compliance.
  - B. **Municipal Codes and Ordinances** means zoning ordinances and resolutions, ordinances and resolutions enacting subdivision regulations, environmental ordinances and resolutions, state minimum standard codes provided for in O.C.G.A. § 8-2-25, ordinances and resolutions enacted pursuant to O.C.G.A. § 8-2-25, other ordinances and resolutions regulating the development of real property, and ordinances and regulations providing for control of litter and debris, control of junked or abandoned vehicles, and control of overgrown vegetation. Notwithstanding the above, the term '[county and] municipal codes and ordinances' shall not include:
    - (i) Those codes and ordinances requiring a permit, unless the alleged violator has failed to secure all necessary valid permits under said codes and ordinances; or

- (2) Any local amendments to the state minimum standard codes provided for in O.C.G.A. § 8-2-25 that have not been adopted in conformity with the requirements of subsection (c) of O.C.G.A. § 8-2-25.
  - C. Enforcement Board** means a local government code enforcement board.
  - D. Local Governing Body** means the governing authority of the municipality, however designated.
  - E. Local Governing Body Attorney** means the legal counselor for the [county or] municipality.
  - F. Violation Involving the Health or Safety of a Third Party** means a violation that creates a legitimate concern for the health and safety of a third party occupant of a dwelling place or that creates an immediate and substantial danger to the environment.
4. The Mayor and Council may appoint one or more code enforcement boards and legal counsel for the enforcement boards. The Mayor and Council may appoint code enforcement boards consisting of three, five, or seven members. The Mayor and Council may appoint up to two (2) alternate members for each code enforcement board to serve on the board in the absence of board members.
  5. Members of the enforcement boards shall be residents of the municipality. In making appointments to an enforcement board, the Mayor and Council shall make good faith efforts to appoint one or more individuals who have experience or expertise relevant to one or more of the municipal codes that are within the subject matter jurisdiction of the respective enforcement board, including individuals with property management and litter control experience; provided, however, that the authority and jurisdiction of an enforcement board shall not in any way be limited due to the absence from its membership of one or more individuals with such experience or expertise.
    - A. The initial appointments to a seven-member code enforcement board shall be as follows:
      - (1) Three (3) members appointed for a term of two (2) years each; and
      - (2) Four (4) members appointed for a term of four (4) years each.
    - B. The initial appointments to a five-member code enforcement board shall be as follows:
      - (1) Two (2) members appointed for a term of two (2) years each; and
      - (2) Three (3) members appointed for a term of four (4) years each.
    - C. The initial appointments to a three-member code enforcement board shall be as follows:
      - (1) One (1) member appointed for a term of two (2) years; and
      - (2) Two (2) members appointed for a term of four (4) years each.
    - D. Upon the expiration of the initial terms specified in paragraphs (A), (B), and (C) all terms shall be for three (3) years.
    - E. The Mayor and Council may reduce a seven-member code enforcement board to five (5) members, upon the simultaneous expiration of the terms of office of two (2) members of the board.
    - F. A member may be reappointed upon approval of the Mayor and Council.
    - G. An appointment to fill any vacancy on an enforcement board shall be for the remainder of the unexpired term of office. If any member fails to attend two (2) of three (3) successive meetings without cause and without prior approval of the chairperson, the enforcement board shall declare the member's office vacant, and the Mayor and Council shall promptly fill such vacancy.
    - H. The members shall serve in accordance with ordinances of the Mayor and Council and may be suspended and removed for cause as provided in such ordinances for removal of members of boards. The Mayor and Council may, with or without cause, refuse to reappoint any member of an enforcement board at the expiration of his or her term of office.
  6. The members of an enforcement board shall elect a chairperson, who shall be a voting member, from among the members of the board. The presence of four (4) or more members shall constitute a quorum of any seven-member enforcement board, the presence of three (3) or more members shall constitute a quorum of any five-member enforcement board, and the presence of two (2) or more members shall constitute a quorum of any three-member enforcement board. Members shall serve without compensation, but may be reimbursed for such travel, mileage, and per diem expenses as may be authorized by the local governing body or as otherwise provided by law.
  7. The City attorney shall either be counsel to an enforcement board or shall represent the municipality or county by presenting cases before the enforcement board, but in no case shall the local governing body attorney serve in both capacities.
  8. It shall be the duty of the code inspector to initiate enforcement proceedings pursuant to the various codes; however, no member of a board shall have the power to initiate such enforcement proceedings.
  9. Except as provided in subsection (10) and (11), if a violation of any code or ordinance is found, the code inspector shall notify the violator and give him or her a reasonable time to correct the violation. Should the violation continue beyond the time specified for correction, the code inspector shall proceed with enforcement through the appropriate court or shall proceed with enforcement through the appropriate

code enforcement board. If the code inspector proceeds through a code enforcement board, the code inspector shall notify an enforcement board and request a hearing. The code enforcement board shall schedule a hearing, and written notice of such hearing shall be hand delivered or made as provided in O.C.G.A. § 36-74-12 to said violator. At the option of the code enforcement board, notice may additionally be served by publication or posting as provided in O.C.G.A. § 36-74-12. If the violation is corrected and then recurs or if the violation is not corrected by the time specified for correction by the code inspector, the case may be presented to the enforcement board even if the violation has been corrected prior to the board hearing, and the notice shall so state.

10. If a repeat violation is found, the code inspector shall notify the violator but is not required to give the violator a reasonable time to correct the violation. The code inspector, upon notifying the violator of a repeat violation, shall notify an enforcement board and request a hearing. The code enforcement board shall schedule a hearing and shall provide written notice pursuant to O.C.G.A. § 36-74-12. The case may be presented to the enforcement board even if the repeat violation has been corrected prior to the board hearing, and the notice shall so state.
11. If the code inspector has substantial reason to believe a violation presents a serious threat to the public health, safety, and welfare or if the violation is irreparable or irreversible in nature, the code inspector shall make a reasonable effort to notify the violator and may immediately notify the enforcement board and request a hearing.
12. Upon request of the code inspector, or at such other times as may be necessary, the chairperson of an enforcement board may call a hearing of an enforcement board; a hearing also may be called by written notice signed by at least three (3) members of seven-member enforcement board or signed by at least two (2) members of a five-member enforcement board. Minutes shall be kept of all hearings by each enforcement board, and all hearings and proceedings shall be open to the public. The Mayor and Council may provide or assign clerical and administrative personnel to assist the enforcement board in the proper performance of its duties.
13. Each case before an enforcement board shall be presented by the City attorney or by a code inspector or other member of the administrative staff of the local governing body.
14. An enforcement board shall proceed to hear the cases on the agenda for that day. All testimony shall be under oath and shall be recorded. The enforcement board shall take testimony from the code inspector and alleged violator. Formal rules of evidence shall not apply, but fundamental due process shall be observed and shall govern the proceedings.
15. At the conclusion of the hearing, the enforcement board shall issue findings of fact, based on evidence of record and conclusions of law, and shall issue an order affording the proper relief consistent with powers granted in this chapter. The findings and conclusions shall be by motion approved by a majority of those members present and voting, except that at least four (4) members of a seven-member enforcement board, or three (3) members of a five-member enforcement board, or two (2) members of a three-member enforcement board, must vote in order for the action to be official. The order may include a notice that it must be complied with by a specified date and that a fine may be imposed if the order is not complied with by said date. A certified copy of such order may be recorded in the public records of the county and shall constitute notice to any subsequent purchasers, successors in interest, or assigns if the violation concerns real property, and the findings therein shall be binding upon the violator and, if the violation concerns real property, any subsequent purchasers, successors in interest, or assigns. If an order is recorded in the public records pursuant to this subsection and the order is complied with by the date specified in the order, the enforcement board shall issue an order acknowledging compliance that shall be recorded in the public records. A hearing is not required to issue such an order acknowledging compliance.
16. Each enforcement board shall have the power to:
  - A. Adopt rules for the conduct of its hearings, which rules shall, at a minimum, ensure that each side has an equal opportunity to present evidence and argument in support of its case;
  - B. Subpoena alleged violators and witnesses to its hearings, with the approval of the court with jurisdiction over a criminal violator of the county or municipal code or ordinance. Subpoenas may be served by the sheriff, marshal, or police department of the county or by the police department of the municipality or by any other individual authorized by O.C.G.A. § 24-10-23 to serve subpoenas;
  - C. Subpoena evidence to its hearings in the same way as provided in paragraph (B) of this section, with the approval of the court with jurisdiction over a criminal violator of the county or municipal code or ordinance;
  - D. Take testimony under oath; and



this section, shall be sufficient to show that the notice requirements of this Code section have been met, without regard to whether or not the alleged violator actually received such notice.



# CHAPTER 6: INTERGOVERNMENTAL AGREEMENT

## Section

6-101	Consecutive System Agreement
6-102	Intergovernmental Dispute Resolution



## Section 6-101 Consecutive System Agreement

1. This Agreement entered into and between Newton County, a political subdivision of the State of Georgia acting by and through its Board of Commissioners; The City of Porterdale, City of Covington, City of Oxford, City of Mansfield, City fo Newborn, all public bodies corporate and political of the State of the Newton County Water & Sewerage Authority a body created as a subdivision of the State of Georgia, pursuant to constitutional and statutory provisions of Georgia laws as to contracts and agreements between governmental bodies.
2. This Consecutive System Agreement between Newton County (Cornish Creek Water Treatment Facility or Parent System ID #2170097 Lab #029 (hereby referred to as the “County”)) and the consecutive water systems of Newton County Water and Sewerage Authority ID #2170004 (hereby referred to as “The Authority”), City of Oxford ID #2170020 (hereby referred to as “Mansfield”), City of Newborn ID #2170003 (hereby referred to as “Newborn”), City of Porterdale ID #2170014 (hereby referred to as “Porterdale”), and the City of Covington ID #2170001 (hereby referred to as “Covington”) “shall be operative and in effect for twenty five (25) years and administered as hereinafter set forth”.
  - A. The Consecutive water system obtains all of its water from a single source the County system ID#2170097.
  - B. Mansfield is the only system within the consecutive system with an emergency source of water. The two wells of Mansfield will not be used except for emergency basis and will notify the County System of such use as defined by the EPD, as to comply with emergency and consecutive system status.
  - C. The County System shall be responsible for all monitoring and reporting required by the Georgia Rules for Safe Drinking Water for each of the systems covered by the consecutive system agreement. The County System shall be responsible for all sampling procedures by the State and Federal Drinking Water Regulations. This shall include:
    - (i) The Total Coliform Rule
    - (2) Lead and Copper Rule
    - (3) Phase 2&5 Rule
    - (4) Surface Water Treatment Rule
    - (5) Disinfection By-Products Rule
    - (6) THM'sConsecutive System shall be responsible for notifying the County of updates of number of people served as required pertaining to their community.
  - D. Consecutive Systems shall be held responsible for violations of the rules found within their original communities. The individual .systems shall conduct the public notification, provide public notice certification to the County and be responsible for any and all civil penalties and payment of fines that are issued.

The County shall be responsible for providing proof of public notice certification by the consecutive system to the EPD and the collection and .submittal to EPD of penalties and fines issued by EPD.
  - E. Any and all treatment processes required by the Georgia Rules foe Safe Drinking Water shall be the responsibility of the County. The operation, maintenance, control, and method of application shall be the responsibility of the County. Any upgrades, and rule changes concerning treatment processes shall be addressed to the County and shall be the responsibility of the County to implement.
  - F. Any costs incurred by parent system as a result of administering the Consecutive System shall be funded by parties to Agreement. Each party shall pay as their portion of cost such percentage of total cost as their usage of water relates to the total production and use of water.

- G.** Consecutive systems status does not relieve original permittees from the following responsibilities:
- (1) Maintenance of distribution system including taps, repair, flushing and general upkeep of original system.
  - (2) Customer service requirements including meter reading and upkeep of meter system.
- All outside correspondence and communication shall be directed to Newton County through Newton County Cornish Creek Reservoir.

## **Section 6-102 Intergovernmental Dispute Resolution**

The City of Mansfield Georgia, a municipal corporation and a political subdivision of the State of Georgia, acting by and through its Mayor and City Council (the "City"), and Newton County, Georgia, a political subdivision of the State of Georgia, acting by and through its Board of Commissioners (the "County") hereby agree to implement the following process for resolving land use disputes over annexation, effective July 1, 1998.

1. Prior to initiating any formal annexation activities, the City will notify the County of a proposed annexation and provide information on location of property, size of area, and proposed land use or zoning classifications) of the property upon annexation, using the form attached hereto as Exhibit A, which is by this reference incorporated herein and made a part hereof. Within twenty working days following receipt of the above information, the County will forward to the City a statement either: (a) indicating that the county has no objections) to the city's proposed land use classification, providing supporting information, and listing any possible stipulations or conditions that would alleviate the county's objection(s), using the form annexed hereto as Exhibit B, which is by this reference incorporated herein and made a part hereof.
2. If the County has no objection to the City's proposed land use or zoning classification, the City shall be free to proceed with the annexation. If the County fails to respond to the City's aforesaid notice in writing within the twenty working day deadline, the City shall be free to proceed with the annexation and the County shall forfeit its right to invoke the dispute resolution process, stop the annexation or object to land use changes after the annexation.
3. If the County notifies the City that it has a bonafide land use classification objection, the City will respond to the County in writing within twenty working days of receiving the County's objection(s) by either: (a) agreeing to implement the County's stipulations and conditions and thereby resolving the County's objections); (b) agreeing with the County and stopping action on the proposed annexation; (c) disagreeing that the County's objection(s) are bonafide and notifying the County that the City will seek a declaratory judgment in court; or (d) initiating a 30-day (maximum) mediation process to discuss possible compromises. For purposes of this Agreement a "bonafide land use classification objection" shall mean an objection to the proposed change in the land use which results in a substantial change in the intensity of the allowable use of the property or a change to a significantly different allowable use.
4. If the City initiates mediation, the City and County will agree on a mediator, mediation schedule and determine participants in the mediation. The City and County shall share equally any costs associated with such mediation.
5. If no resolution of the county's bonafide land use classification objection(s) results from the mediation, the City will not proceed with the proposed annexation.
6. If the City and County reach agreement as described in subparagraph 3(a) hereof or as a result of such mediation, the City will draft an annexation agreement for execution by the City and County governments and the owners) of the property to be annexed. Regardless of future changes in land use or zoning classification, any site-specific mitigation or enhancement measures or site-design stipulations included in the agreement will be binding on all parties for the duration of the annexation agreement. The agreement shall become final when signed by the City, the County and the said property owner(s).

This Agreement shall remain in force and effect until amended by agreement of each party or unless otherwise terminated by operation of law.

# CHAPTER 7: EMERGENCY MANAGEMENT

## Section

4-101	Definition
4-102	Office of the County Emergency Management Director
4-103	Covington-Newton County Emergency Management Agency
4-104	Powers During an Emergency or Disaster
4-105	Volunteers
4-106	Penalties
4-107	Liberality or Construction



### **Section 7-101                      Definition**

As used in this ordinance, the term "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 man-made 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 area, emergency welfare services, emergency transportation, plant protection, shelter, temporary restoration of public utility services, and other functions related to civilian population, together with all other activities necessary or incidental to total emergency and disaster preparedness for carrying out the foregoing functions.

### **Section 7-102                      Office of the County Emergency Management Director**

It is the desire and intent of the governing officials of the City of Mansfield, Georgia, that the City of Mansfield, Georgia, be a part of the Covington-Newton County Emergency Management Agency. The Chairman, County Commissioners of Newton County, with concurrence of the Mayors of cities within the county, shall nominate for appointment, by the governor, a Director of Emergency Management for the entire county. When appointed, the Emergency Management Director is charged with the following duties:

1. To represent the governing officials of the city on matters pertaining to emergency management.
2. To assist City officials in organizing city departments for emergency operations.
3. To develop, in conjunction with city and county departments, the Covington-Newton County plan for emergency functions set forth in Section I of this ordinance. Such plan will be in consonance with the Georgia Natural Disaster Operations Plan and Nuclear Emergency Operations Plan, and shall be submitted to the governing officials of Newton County and the cities therein for approval, and thence to the Georgia Emergency Management Agency for approval.
4. To maintain the Emergency Management Agency and carry out the day-to-day administration of the Covington-Newton County emergency management program, including the submission of required reports, to the Georgia Emergency Management Agency.
5. To submit reports as required by governing officials in keeping with good management practices, e.g., financial, daily activity, etc.
6. To obtain, with the authority of governing officials, a facility to be used as the Covington-Newton County Emergency Operating Center.
7. To coordinate the activities of the Covington-Newton County Emergency Operating Center staff during periods of an emergency, and under the supervision of Covington-Newton County governing officials.

### **Section 7-103                      Covington-Newton County Emergency Management Agency**

The Covington-Newton County Emergency Management Agency shall be established around existing city and county departments and the emergency functions described in Section 1 above are assigned as follows:

#### **Department/Agency**

#### **Functions**

1.	Mayor Chairman, County Commissioners	Direction and Control
2.	Communications Center	Communication and Warning
3.	Police Department Sheriff's Office	Police Service Evacuation
4.	Emergency Management Agency	Public Information State Military Support Training Preliminary Damage Assessment & Reporting Public Property Assistance Attack Preparedness Specific Hazards
5.	Fire Department	Search, Rescue and Recovery Fire Services Hazardous Materials Radiological Protection
6.	Public Works	Engineering Petroleum and Solid Fuel Services Utilities
7.	School Superintendent	Transportation Services Food Services
8.	Health Department	Health and Medical Services
9.	Clerk's Office	Administrative Services Resources Management
10.	Department of Family & Children Services	Social Services Shelter and Temporary Housing

(\*As appropriate to the local organization,, these functions can be assigned to existing departments or may be separate. Functions should be assigned consistent with the local Emergency Operations Plan.)

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

**Section 7-104 Powers During an Emergency or Disaster**

In the event of a man-made or natural disaster, actual enemy attack upon the United States, or any other emergency which may affect the lives and property of the citizens of Mansfield, the Mayor of Mansfield separately, or jointly with the Chairman, County Commissioners, or in their absences their legally appointed successors City Manager, County Administrative Assistant or Mayor Protem, may determine that an emergency or disaster exists and thereafter shall have and may exercise for such period as such emergency or disaster exists or continues, the following powers:

1. To enforce all rules, laws and regulations relating to emergency management, and to assume direct operational control over all emergency management resources;
2. To seize or take for temporary use, any private property for the protection of public;
3. To sell, lend, give, or distribute all or any such property or supplies among the inhabitants of the county and to maintain a strict accounting of property or supplies distributed and for funds received for such property or supplies;

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

**Section 7-105                    Volunteers**

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

**Section 7-106                    Penalties**

Any person violating any provision of this ordinance, or any rule, order, or regulation mad pursuant to this ordinance, shall, upon conviction thereof, be punishable for committing a misdemeanor.

**Section 7-107                    Liberality or Construction**

This chapter shall be construed liberally in order to effectuate its purpose.

*(Adopted 7/9/90)*



## CHAPTER 8: EMERGENCY ASSISTANCE

### Section

8-101	Term
8-102	Emergency Assistance
8-103	Compensation for Emergency Assistance
8-104	Indemnification
8-105	Participation of Electric Cities
8-106	Personnel of the City
8-107	Counterparts
8-108	Modification
8-109	Severability



WITNESS THIS AGREEMENT.- to be made effective the 14th day of January 1991 , by and between the City of the State of Georgia which has executed this Agreement as the party signatory hereto (herein the "City") for the benefit of each municipality who shall have also executed and delivered to Electric Cities of Georgia (herein "Electric . Cities") an identical Agreement for Emergency Assistance, and who shall not have terminated such Agreement, at the time emergency assistance is requested (herein referred to singularly as a "beneficiary" or collectively as the "Beneficiaries").

WHEREAS, the City and the Beneficiaries are authorized under the laws of the State of Georgia to. enter into Agreements with each other to provide mutual aid and assistance in restoring essential services in the event of natural disasters or other emergencies; and

WHEREAS, the mutual aid agreements may include provisions for furnishing personnel, equipment, apparatus, supplies and materials;  
and

WHEREAS, the City is willing to provide personnel, equipment, apparatus, supplies and materials to the Beneficiaries under the terms and provisions hereinafter provided.

NOW, THEREFORE, in consideration of the Beneficiaries executing and delivering identical Agreements for Emergency Assistance, IT IS AGREED:

### **Section 8-101                      Term**

The term of this Agreement shall commence upon the execution and delivery of this Agreement to Electric Cities by the City and shall continue until terminated by the City at any time by giving Electric Cities thirty (30) days prior written notice of its desire to so terminate this Agreement. Termination of this Agreement shall not affect the City's indemnification obligations under Sections 4 and 5 hereof, or any other accrued liability or obligation hereunder. including, without limitation, the obligation of a Beneficiary to pay amounts due hereunder.

### **Section 8-102                      Emergency Assistance**

In the event of a natural disaster or other emergency affecting a Beneficiary's electric system, the City, upon the request of said Beneficiary, shall furnish to said Beneficiary manpower, equipment, apparatus, supplies and materials from its electric department as required by said Beneficiary; provided, however, that the City shall not be required to imperil the operation of its electric system or other City services, and it shall be the sole and absolute judge of its ability and capacity to furnish manpower, equipment, apparatus, supplies and materials when requested; provided further, that nothing in this Agreement shall be construed to deprive the City of its discretion to decline to send its personnel, equipment, supplies, materials or apparatus in aid of a Beneficiary under any circumstances, whether or not obligated by contract to do so, and neither the City, nor any of its officers, agents, or employees may be held liable

in any civil or criminal action for declining to send personnel, equipment, apparatus, supplies or materials to a Beneficiary under this Agreement.

### **Section 8-103 Compensation for Emergency Assistance**

A Beneficiary receiving assistance from the City pursuant to this Agreement shall compensate the City as follows:

1. **Manpower.** A Beneficiary shall pay the City for the use of its officers, agents and employees of the city supplying Emergency Assistance under this Agreement an amount equal to the sum of the following;
  - A. For the first eight (8) hours per day, an amount equal to one and one-half times actual wages or salary, plus benefits paid to such officer, agent or employee by the City an amount equal to two times actual wages or salary, plus benefits paid to such officer, agent or employee by the Municipality for each hour after the first eight hours per day or for each hour worked on the weekend or holidays that they are actively involved in providing emergency assistance pursuant to this Agreement, or other pay rates as may be mutually agreed to by City and the Beneficiary; and
  - B. All out-of-pocket costs and expenses of the City in furnishing said manpower, including without limitation, transportation expenses for travel to and from the disaster area. Further, a Beneficiary receiving assistance under this Agreement in the form of manpower shall, if necessary, house and feed the personnel of the City actively involved in providing emergency assistance pursuant to this Agreement at its sole cost and expense.
2. **Equipment and Apparatus.** A Beneficiary shall pay the City for the use of all equipment and apparatus furnished by the City in the provision of emergency assistance pursuant to this Agreement at a rate or rates mutually agreed upon by the City and said Beneficiary negotiating in good faith; provided, however, that such rate shall not significantly exceed the prevailing rental rate(s) for similar equipment and apparatus.
3. **Materials and Supplies.** A Beneficiary shall pay to the City, for all supplies and materials provided by the City in rendering emergency assistance pursuant to this Agreement, the replacement cost of the supplies and materials so provided.

### **Section 8-104 Indemnification**

A Beneficiary receiving emergency assistance pursuant to this Agreement hereby agrees, to the fullest extent permitted by law, to release, indemnify, defend and hold harmless the City, and its officers, agents and employees from and against any and all loss, liabilities, claims, damages, fines, penalties, clean-up costs and other pollution-related damages, and all costs, fees (including attorneys' fees) and expenses related thereto, resulting or arising (directly or indirectly) out of, or in any way connected with the provision of emergency assistance to said Beneficiary hereunder, including, without limitation, those resulting or arising (directly or indirectly) from the acts or omissions (negligent or otherwise) of the City or its officers, agents or employees, except those resulting solely from the willful acts or omissions of the City or its officers, agents or employees.

### **Section 8-105 Participation of Electric Cities**

Electric Cities shall endeavor to notify the City and the Beneficiaries of those municipalities that have executed and delivered an Agreement for Emergency Assistance, and shall, from time to time, provide an updated list of municipalities that have executed identical Agreements for Emergency Assistance, and/or terminated their Agreement for Emergency Assistance. The City hereby acknowledges that Electric Cities shall not be responsible for the provision of emergency services hereunder or any liability hereunder and the City hereby agrees, to the fullest extent permitted by law, to release, indemnify, defend and hold harmless Electric Cities and its officers, agents, and employees from and against any and all loss, liabilities, claims and damages, fines, penalties, clean-up costs and other pollution-related damages and all costs, fees (including attorneys' fees) and expenses related thereto, resulting or arising (directly or indirectly) out of or in any way connected with the provision of any such list, or update thereof, the provision of emergency assistance by the City hereunder, or this Agreement, including, without limitation, those resulting or arising (directly or indirectly) from the acts or omissions (negligent or otherwise) of Electric Cities, or its officers, agents or employees.

**Section 8-106                    Personnel of the City**

Personnel furnished by the City pursuant to this Agreement shall be conclusively deemed, for all purposes, to remain officials and employees of the City and while providing aid hereunder, such personnel shall retain all rights, privileges, immunities and benefits, including without limitation, coverage under the applicable Workmen's Compensation Act, as they enjoy while performing their normal duties for the City.

**Section 8-107                    Counterparts**

Each of the Beneficiaries shall have executed and delivered to Electric Cities an identical Agreement for Emergency Assistance. During the term of this Agreement, the City shall be entitled to all the rights of a Beneficiary under such other Agreements for Emergency Assistance. The City shall also be subject to all the provisions of, and liable for all obligations incurred by it as a Beneficiary under, another Agreement for Emergency Assistance and the termination hereof shall not affect any accrued obligation or liability of the City hereunder.

**Section 8-108                    Modification**

This Agreement shall not be amended, modified, or otherwise changed except when done so in writing and upon the prior written consent of all the Beneficiaries, who at that time have not terminated their Agreements for Emergency Assistance, or given notice of the termination thereof. However, the City hereby acknowledges that each of the Beneficiaries may also provide or receive emergency assistance under understandings or agreements other than an Agreement for Emergency Assistance without in any way affecting the validity of this Agreement and without the necessity of obtaining the assent of any other Beneficiary.

**Section 8-109                    Severability**

If any provision of this Agreement or portion thereof is determined to be void or unenforceable by a court of competent jurisdiction, then such determination shall not affect any other provision of this Agreement or portions thereof, all of which other provisions and portions thereof shall remain in full force and effect.



## CHAPTER 9: RESERVED



## **PART II: PUBLIC HEALTH AND SAFETY**



# CHAPTER 10: FIRE PREVENTION AND PROTECTION

Section

10-101 State Minimum Fire Safety Standards



## **Section 10-101 State Minimum Fire Safety Standards**

The State Minimum Fire Safety Standards shall have state-wide effect and shall not require adoption by the City of Mansfield. The City of Mansfield 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 of the Standard Building Code Congress (Southern Standard Building Code), the code or standard of the National Fire Protection Association (National Fire Code and National Electric Code) 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.



# CHAPTER 11: TRAFFIC CONTROL

Section

- 11-101 Uniform Rules of the Road
- 11-102 Speed Limits



**Section 11-101 Uniform Rules of the Road**

1. **Adoption By Reference.** Pursuant to Chapter 6, Title 40 of O.C.G.A. § 40-6-372 through 40-6-376, §§ 40-6-1 to 40-6-395 (except for §§ 40-6-393 and 40-6-394), and Chapter 2, Title 40 of O.C.G.A. § 40-2-20 and Chapter 5, Title 40 of O.C.G.A. § 40-5-20, known as the Uniform Rules of the Road and the definitions contained in O.C.G.A. § 40-1-1 are hereby adopted as and for the traffic regulations of this municipality with like effect as if recited herein.
2. **Penalties.** Unless another penalty is expressly provided by law, any person convicted of a violation of any provision of this code section shall be punished by a fine of not more than one thousand dollars (\$1000.00) or imprisonment for not more than ninety (90) days or by both such fine and imprisonment.
3. Pursuant to O.C.G.A. § 4-5-121, the municipal court of the City of Mansfield shall be authorized to impose punishment in accordance with Georgia Law for convictions of driving while a license is suspended or revoked.

**Section 11-102 Speed Limits**

The following speed zones are hereby established based on an engineering and traffic investigation as prescribed by law.

**ON-SYSTEM**

State Route	Within the City/City Limits of and/or School Name	From	Mile Point	To	Mile Point	Length in Miles	Speed Limit
11	Mansfield	0.15 mi. south of CR 141 Loyd Road, (S.Mansfield City Limits)	3.30	0.02 mi. south of CS 576 Pine Street	3.56	0.26	45
11	Mansfield	0.02 mi. south of CS 576 Pine Street	3.56	0.02 mi. north of CR 147 Fifth Avenue	4.18	0.62	35
11 *** School Zone ***	Mansfield <i>Mansfield Elementary School</i> School Days Only	0.09 mi. south of CS 585 Third Avenue	3.92	0.04 mi. north of CS 587 Fourth Street	4.12	0.20	25

State Route	Within the City/City Limits of and/or School Name	From	Mile Point	To	Mile Point	Length in Miles	Speed Limit
11	Mansfield	0.02 mi. north of CR 147 Fifth Avenue	4.18	0.06 mi. south of CR 144 Carmel Church Road, (N. Mansfield City Limits)	4.38	0.20	45

**\*\*\*School Zones Hours Are Effective\*\*\***

*A.M.* From 45 minutes prior to commencement time to 15 minutes after commencement time-  
**School Days Only**

*P.M.* From 15 minutes prior to dismissal time to 45 minutes after dismissal time-  
**School Days Only**

**OFF-SYSTEM**

Broad Name	Within the City/City Limits of and/or School Name	From	To	Length in Miles	Speed Limit
Second Avenue CR #213	Mansfield	Mansfield city limit	CS 579 Hardiman Street	0.36	45
Second Avenue CR #213	Mansfield	CS 579 Hardiman Street	CS 588 Poplar Street	0.35	35
Second Avenue CR#213	Mansfield	CS 588 Poplar Street	Mansfield city limit	0.38	45
Second Avenue CR#213 School Zone	Mansfield <i>Mansfield Elementary School Days Only</i>	50' West of CS Ed Needham Drive	700' East of CS Poplar Street	0.3	25

*(Adopted 8/14/00)*

# CHAPTER 12: SOLID WASTE MANAGEMENT

## Section

12-101	Litter Control and Solid Waste Management
12-102	Health and Sanitation
12-103	Limb Policy



## Section 12-101 Litter Control and Solid Waste Management

1. **Purposes.** The Board of Commissioners of Newton County, a political subdivision of the State of Georgia, enact and adopt this ordinance in order to protect the public health, safety and welfare of the citizens of Newton County, to protect the environment, to enhance the physical quality of life in Newton County, and to contribute by these efforts to improving the quality of life in Georgia and enhancing the natural beauty of our State and County by establishing minimum standards for the storage, collection, transportation and disposal of solid wastes that originate in Newton County, or which originate outside of Newton County but are stored, transported or disposed of within Newton County, and by establishing the mechanism by which these standards are enforced.
2. **Title Clause.** This Regulation shall be known and may be cited as "The Litter Control and Solid Waste Management Ordinance of Newton County, Georgia."
3. **Definitions.**
  - A. **General.** Except as otherwise provided herein, all words shall have the customary dictionary meaning unless specifically defined in the Georgia Comprehensive Solid Waste Management Act of 1990 as now or hereafter amended, or in the Rules of the Georgia Department of Natural Resources Environmental Protection Division. The present tense includes the future tense. The singular number includes the plural and the plural includes the singular. The word "person" includes a firm, corporation, association, organization, trust or partnership. The use of the masculine gender includes the feminine, and the use of the feminine gender includes the masculine. The word "shall" is always mandatory. The word "may" is permissive and is not mandatory. The "Board of Commissioners" refers to the Board of Commissioners of Newton County, Georgia.
  - B. **Specific Definitions.** When used in this Ordinance, the following words and phrases shall have the meaning given in this Section:
    - (i) **"Biomedical Wastes"** means pathological waste, biological waste cultures and stocks of infection agents and associated biologicals, contaminated animal carcasses (body parts, their bedding, and other wastes from such animals), sharps, chemotherapy waste, discarded medical equipment and parts, not including expendable supplies and materials which have not been decontaminated, and other such waste materials.
    - (2) **"Business Trash"** means every waste accumulation of paper, sweepings, dust, rags, bottles, cans or other matter of any kind, other than garbage, which is usually attendant to business operations.
    - (3) **"Codes Enforcement Officer"** means the person or persons authorized by the Board of Commissioners to issue citations to violators of this Ordinance.
    - (4) **"Compactor"** means a bulk container used for the collection of garbage, refuse, trash and litter equipped with a device to compact such materials and thereby increase the storage capacity of the containers. Compactors have generally been used to replace dumpsters.
    - (5) **"Composting"** means the controlled biological decomposition of organic matter into a stable, odor free humus.
    - (6) **"Construction/Demolition Wastes"** means any material such as lumber, roofing material, brick, concrete block, plaster, gutters, sand, gravel or other substances used in repairs or alterations of existing buildings or construction of new buildings, or results from demolition of existing buildings.
    - (7) **"Construction/Demolition Wastes Landfill"** means any facility or disposal site where any treatment, utilization, processing, storage, or disposal of solid wastes, other than putrescible

- wastes, -occurs and such wastes are disposed of on land by placing an earth cover thereon.
- (8) "**County**" means the duly authorized governing body of Newton County, Georgia, or the geographical area of Newton County, Georgia, outside the corporate limits of any incorporated municipality therein.
  - (9) "**Dumpster**" means a bulk container used for the collection of garbage, refuse,, trash and litter. The use of this term is generic, and does not refer to a bulk container manufactured by a specific manufacturer.
  - (10) "**Garbage**" means the by-product of animal or vegetable foodstuffs resulting from the handling, .preparation, cooking and consumption of food, or other matter which, subject to decomposition, decay, putrefaction or the generation of noxious or offensive gases or odors, or which during or after decay, may serve as breeding or feeding material for flies, insects or animals.
  - (11) "**Garbage Bag**" means a plastic (or other similar non-porous material) bag or sack designed specifically to contain garbage or household trash in a secure air-tight' manner. Such bags shall also include suitable means of closure to insure that the material contained therein is not exposed to the outside air.
  - (12) "**Hazardous Waste**" means any substance listed as a hazardous constituent in regulations promulgated pursuant to the federal act by the administrator of the United States Environmental Protection Agency which are in force and effect on February 1, 1992, codified as Appendix VIII to 40 C.F.R. Part 261 - Identification and Listing of Hazardous Waste.
  - (13) "**Household Trash**" means every waste accumulation of paper, sweepings, dust, rags, bottles, cans or other matter of any kind, other than garbage, which is usually attendant to housekeeping.
  - (14) "**Industrial Waste**" means solid waste generated by manufacturing or industrial processes or operations that is not a hazardous waste regulated under Part 1 of Article 3 of this chapter, the "Georgia Hazardous Waste Management Act." Such waste includes, but is not limited to, waste resulting from the following manufacturing processes: Electric power generation; fertilizer and agricultural chemicals; food and related products and byproducts; inorganic chemicals; iron and steel products; leather and leather products; nonferrous metal and foundry products; organic chemicals; plastics and resins; pulp and paper; rubber and miscellaneous plastic products; stone, glass, clay, and concrete products; textiles; transportation equipment; and water treatment. This term does not include mining waste or oil and gas waste.
  - (15) "**Junked Vehicles**" includes any wrecked or inoperable automobile, truck or other vehicle, or vehicle which does not bear a current license plate.
  - (16) "**Landfill, Sanitary**" means any facility or disposal site where any treatment, utilization, processing, storage, or disposal of solid wastes, including putrescible wastes or hazardous wastes, occurs and such wastes are disposed of on land by placing an earth cover thereon.
  - (17) "**Litter**" means all garbage, refuse, waste materials, sand, gravel, slag, brickbats, rubbish, tin cans, trash, debris, dead animals, or any other discarded, used or unconsumed substance which is not handled in accordance with the provisions of this Ordinance.
  - (18) "**Monitor**" refers to the person or persons authorized by the Board of Commissioners to inspect and patrol the areas where compactors or dumpsters are located in the County, and the roads and streets of the County.
  - (19) "**Parking Lot**" means
    - (a) An area, whether paved or unpaved, designated, reserved or used for the reserved parking of motor vehicles, excluding street parking, which has more than 10 parking spaces or can accommodate more than 10 parked vehicles;
    - (b) Any commercial parking lot or garage; and
    - (c) The driveway, drive-through, parking spaces or other paved areas adjacent to convenience stores, gas stations, restaurants and other retail establishments.

(20) "Public or Private Property" means the right of way of any road, street or highway; and any body of water or water course or the shores or beaches thereof; any park, playground, pond, building, refuge, or conservation or recreation area; and res

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- (21) **"Putrescible Wastes"** means wastes that are capable of being quickly decomposed by microorganisms. Examples of putrescible wastes include but are not necessarily limited to kitchen wastes, animal manure, offal, hatchery and poultry processing plant wastes, dead animals, garbage, and wastes which are contaminated by such wastes.
- (22) **"Recycling"** means any process by which materials which would otherwise become solid waste are collected, separated, or processed and reused or returned to use in the form of raw materials or products.
- (23) **"Sharps"** means any discarded article that may cause punctures or cuts. Such waste includes, but is not limited to, items such as needles, IV tubing and syringes with needles attached, and scalpel blades.
- (24) **"Solid Waste"** means any garbage or refuse; sludge from a wastewater treatment plant, water supply treatment plant, or air pollution control facility; and other discarded material including solid, semisolid, or contained gaseous material resulting from industrial, commercial, mining, and agricultural operations and community activities, but does not include recovered materials; solid or dissolved materials in domestic sewage; solid or dissolved materials in irrigation return flows or industrial discharges that are point sources subject to permit under 33 U.S.C. Section 1342; or source, special nuclear, or by-product material as defined by the federal Atomic Energy Act of 1954, as amended (68 Stat. 923).
- (25) **"Road or Street"** shall be mutually inclusive, and shall likewise be deemed to include any alley, lane, court and other thoroughfare, however described or designated.
- (26) **"Rubbish"** includes waste paper, cartons, boxes, wood, tree branches, yard trimmings, furniture, appliances, metal, cans, glass, packing material and similar material.
- (27) **"Scavenge"** or **"Scavenging"** means any unauthorized or uncontrolled retrieval of discarded solid waste materials.
- (28) **"Yard Trimmings"** means leaves, brush, grass clippings, shrub and tree trimmings, discarded Christmas trees, nursery and greenhouse vegetative residuals, and vegetative material resulting from landscaping development and maintenance other than mining, agricultural, and silvicultural operations.

**C. Classification of Solid Wastes.**

- (1) **Accepted Solid Wastes-Compactors.** The following types of solid wastes shall be classed as "domestic solid wastes" and shall be accepted for disposal in compactors or dumpsters:
  - (a) Garbage in garbage bags.
  - (b) Household Trash in garbage bags.
- (2) **Accepted Construction/Demolition Wastes Landfill.** The following types of solid wastes shall be classed as general solid wastes and shall be accepted for disposal at construction/demolition wastes landfills:
  - (a) Construction/demolition wastes.
  - (b) Other type; of non-putrescible solid wastes.

- (3) **Accepted Solid Wastes-Sanitary Landfills.** The following types of solid wastes shall be classed as general solid wastes and shall be accepted for disposal at sanitary landfills:
  - (a) Garbage
  - (b) Household trash
  - (c) Business trash
  - (d) Rubbish
  - (e) Litter, and
  - (f) Some Types of industrial waste when approved by appropriate State Environmental Protection Division permits.
- (4) **Non-Accepted Solid Wastes.** The following types of waste shall be classed as non-accepted solid wastes and shall not be accepted for disposal:
  - (a) Some types of Industrial Waste
  - (b) Hazardous Wastes
  - (c) Junked Vehicles
- (5) **Recyclables.** Materials for recycling may be separated for storage at each disposal site.

**4. Public Collection and Disposal.**

**A. Public Compactors.**

- (1) The Board of Commissioners shall designate areas in the County where compactors, intended to be for public use, shall be located and maintained. These compactors shall be located on public property, along the right of way of public roads and streets, or on private property with the express written consent of the owner and tenant in legal possession of the property, and shall be located in such a manner that there is a minimum danger of the spread of noxious odors and the detrimental effect on the environment is minimal.
- (2) It shall be unlawful for any person or persons not a resident of Newton County, Georgia, to place or deposit any garbage, refuse, litter, household trash or other material of any kind in these compactors. The compactors shall carry a placard or sign stating that they are solely intended for the use of residents of Newton County, and that it is unlawful to deposit anything other than garbage or household trash therein.
- (3) It shall be unlawful to place or deposit industrial waste or construction/demolition wastes in these compactors unless they are specifically designated for such use by the Board of Commissioners.
- (4) It shall be unlawful to place or deposit any hazardous solid wastes of any kind in the compactors.
- (5) It shall be unlawful for any person to dispose of or discard in the compactor any hypodermic injection devices before first breaking, disassembling, destroying or otherwise rendering inoperable and incapable of reuse, any hypodermic syringe, needle, instrument or device and without safeguarding the disposal thereof by wrapping or securing same in a suitable manner so as to avoid the possibility of causing injury to the collection personnel.
- (6) Ashes deposited in the compactors must be wetted and cool to the touch prior to being placed or deposited in the compactors.
- (7) No highly combustible liquid shall be placed or deposited in the compactors.
- (8) No material or substance governed or regulated as a noxious or toxic material by any governmental agency or which would pose a hazard to the health, safety and well-being of the collection personnel or residents of the County, or which would pose a danger to the wildlife of the County, shall be placed or deposited in the compactors.
- (9) It shall be unlawful to place or deposit any garbage or household trash in the compactors without first placing and securing such in a garbage bag of suitable strength and thickness. Objects which could puncture the garbage bag in the course of the ordinary and intended use thereof, shall be wrapped or protected so that the bag shall remain intact.
- (10) It shall be unlawful to place or deposit garbage or household trash on the ground adjacent to the compactors or in any location other than the compactors, unless otherwise directed and except that recyclable materials may be placed in designated containers where provided. Any person using the compactors shall clean up any spills caused by his use of the compactors and shall not drop or discard any garbage or household trash in the area surrounding the compactors.
- (11) Dead or live animals shall not be placed or deposited in or around the compactors.
- (12) It shall be unlawful for a person to place more than two (2) cubic yards of rubbish in the compactors in any seven (7) day period.

**B. Public Construction/Demolition Wastes Landfill and Sanitary Landfill.**

- (1) The County, through the Board of Commissioners, may operate and maintain public landfills located on County property in compliance with all applicable State and Federal laws and regulations, and may adopt procedures, rules and regulations to govern the operation and use of construction/demolition wastes landfills and sanitary landfills.
- (2) Public sites approved for the disposal of solid wastes shall be identified by appropriate directional signs posted near the roadside and at the location of the Newton County Sanitary Landfill.
- (3) Such sites shall be maintained in use until permanently closed, at which time, additional authorized sites shall be opened and publicized by posting and through public advertisements.
- (4) The Board of Commissioners shall restrict certain sites or portions thereof to a specific type or types of solid wastes. The Board of Commissioners may adopt operational policies concerning the separation, storage- and use of recyclable materials. Citizens are encouraged to practice source separation of specific types of solid wastes for disposal at specific sites by different methods.
- (5) Commercial Collectors, including yard maintenance men, may use the public designated landfills upon the payment of applicable fees, if any, established by the Board of Commissioners.
- (6) Residents of the County and businesses located in Newton County, other than commercial collectors, may use the public designated landfills upon payment of a fee to be set by the Board of Commissioners, in accordance with the regulations for the particular site and under the instruction of the site attendant.
- (7) Municipalities located within Newton County may use the public landfills upon the payment of applicable fees, if any, established by the Board of Commissioners.
- (8) No solid wastes generated outside the County will be accepted at any disposal site operated by the County unless approved by a specific, affirmative act of the Commission through amendment of this ordinance or adoption of superseding regulation.
- (9) Authorized public disposal sites shall be operated on the days established from time to time by the Board of Commissioners. During the hours designated by the Board of Commissioners or their designate, acceptable solid wastes generated in the County shall be received for disposal from any resident of the County.
- (10) No person shall enter a disposal site except when an attendant is present and during the hours and days prescribed in this Ordinance. All materials delivered and deposited for disposal in a disposal site shall immediately become the property of the County, unless the County refuses any such materials at the time it is presented for deposit in the disposal site, or the County, within a reasonable time, notifies the depositor of the unacceptability of the materials and to retrieve the materials.

**5. Private Collection and Disposal.**

**A. Private Collectors.** It shall be unlawful for any person to collect solid wastes within the County except from his or her own residence, business or industrial plant, without first having obtained a proper permit from the Georgia Department of Natural Resources and the County, and without first having obtained a Newton County Business License. This provision shall not prohibit the utilization of centralized recycling collection facilities by persons not in the business of recycling. Commercial recyclers must obtain the aforementioned permits.

**B. Private Landfills.**

- (1) It shall be unlawful for any person to operate a landfill, waste disposal area, or waste storage area intended to be used or used by others for the disposal or storage of waste without first having obtained a proper permit from the Georgia Department of Natural Resources and the County, and without first having obtained a Newton County Business license.
- (2) No permit shall be issued by Newton County until the applicant has shown, to the satisfaction of the Board of Commissioners, that all Federal, State and County regulations and ordinances will be complied with in the operation and management of the landfill, waste disposal area, or waste storage area is such that there is no or only minimal detriment to the environment, including but not limited to, noxious odors, runoff, or contamination of surface and ground water, so that the maximum protection is afforded to the health, safety and well-being of the citizens of Newton County.

- (3) No permit shall be issued except by resolution of the Board of Commissioners after notice of the application has been published by the applicant in a newspaper of general circulation in Newton County. Such notice of the application shall run in the newspaper once a week for four consecutive weeks before the meeting of the Board of Commissioners in which the application is to be considered. The notice shall contain a description of the property whereon the landfill, waste disposal area, or waste storage area is to be located, the names of the owner or owners of such property, the names of the operator or operators of the landfill, waste disposal area, or waste storage area, and a description of the types of waste to be handled at said facility.
- (4) It shall be the duty and responsibility of the owner of any private disposal site to keep the site in an orderly condition and maintained so as not to be a public nuisance or a menace to public health.
- (5) The Board of Commissioners hereby designate its Code Enforcement Officer as its designee who shall have the right to enter a private disposal site at any time during normal business hours for the purpose of inspecting the site to determine whether or not the site is in compliance with this Ordinance and all other pertinent laws and regulations of the County.

**6. Private Litter Control.**

**A. Commercial Establishments.**

- (1) Every owner, occupant, tenant and lessee using or occupying any commercial, institutional or industrial building or property shall be obligated, jointly and severally, to provide solid wastes containers of that character, size, number and type as may be specified by the Board of Commissioners or its designee to be reasonably required to hold solid wastes generated by operations on the premises. Specifically, and without limiting the generality of the foregoing, the requirement for those containers shall apply to shopping centers, supermarkets, convenience stores, fast food restaurants, service stations and similar establishments; and shall likewise apply to commercial establishments, garages, schools, colleges and churches.
- (2) All commercial and industrial establishments shall store their solid wastes in containers as specified in this Ordinance so as to eliminate wind-driven debris and unsightly litter in and about their establishments. Approved methods of containerization shall include solid wastes receptacles, bulk containers and detachable containers. Any spillage or overflow shall be immediately cleaned up by said establishment.

**B. Loading and Unloading Areas.** All loading and unloading areas shall be provided with solid wastes receptacles for loose debris, paper, packaging materials and other trash. The owner or occupant of the commercial establishment shall be responsible for the placement of the number of containers in said area necessary to maintain a clean, neat and sanitary condition at all times. The number of such containers to be placed in service for a particular establishment shall be determined by the County or its designee, based on guidelines adopted and maintained, as amended from time to time, by the County or its designee. The occupant of the premises shall maintain surveillance to insure that all litter is placed in the proper container and the area is kept clean.

**C. Parking Lots.**

- (1) All parking lots and establishments with parking lots shall provide solid wastes receptacles. The County or its designee shall have the authority to determine the number and types of receptacles necessary to provide proper containerization, based on guidelines adopted and maintained, as amended from time to time, by the County or its designee. Such receptacles shall be weighted or attached to the ground as necessary to prevent spillage. It shall be the responsibility of the owner or his agent to collect the solid wastes and trash deposited in such containers and store this material in a location until collected by a private hauler or to otherwise dispose of the same.
- (2) It shall be the obligation of all persons using the parking areas to place any litter in receptacles or containers and it shall be unlawful for any person or persons to dump, scatter, or throw on any parking lot, any solid wastes, garbage or trash of any kind.
- (3) The owner and the tenant in possession of any parking lot or establishment with a parking lot shall collect and remove on a regular basis all loose solid wastes, garbage, litter or trash of any kind from the parking lot and open area of the premises and shall maintain

surveillance to insure that all solid wastes is placed in the proper container and the area is kept in a clean, neat and sanitary condition at all times.

**D. Construction Sites and Demolition Sites.** All construction and demolition contractors shall provide on-site solid wastes receptacles, bulk containers, or detachable containers for loose debris, paper, building material waste, scrap construction/demolition wastes, and other trash produced by those working at the construction site. The site shall be kept in as litter-free condition as reasonably practicable. The number of solid wastes receptacles or bulk containers, or detachable containers, shall be determined by the size of the job, based on guidelines adopted and maintained, as amended from time to time, by the County or its designee. Dirt, mud, construction materials or other debris upon any public or private property belonging to a person other than the owner of the construction site shall be removed by the contractor as generated. Building material originating from private property preliminary to, during or subsequent to the construction of new building, alterations or additions to an existing building of whatever type or from demolition of existing structures shall be removed by the owner of the property or by the contractor. All solid wastes from construction and related activities shall be kept on site in such a manner as to eliminate wind-driven debris and unsightly litter in and about the site.

**E. Residences and Private Properties.**

- (1) Every owner, occupant, tenant and lessee using or occupying a residence, apartment, duplex, or other dwelling, jointly and severally, are required to remove all litter, solid wastes, household trash, garbage and other solid wastes and dispose of the same by depositing in a public landfill or public compactor in accordance with this Ordinance or by placing in proper containers in a suitable place readily accessible to sanitation collection crews or contracting with a private hauler to collect the same on a regular basis, but at least once each week. Where collection is conducted by means of curbside pickup, the containers shall be placed at the curb for pickup no earlier than earlier than twenty-four (24) hours prior to the scheduled pickup time and shall be removed from the curb no later than twenty-four (24) hours after the scheduled pickup time.
- (2) All owners or occupants of property shall maintain their property in litter-free condition as reasonably practicable.
- (3) No person shall sweep into or deposit in any street or sidewalk accumulation of litter from any building or property.

**7. Practices and Procedures.**

**A. General.**

- (1) The following practices and procedures shall be employed by persons in Newton county in order to facilitate the collection of solid waste:
  - (a) **Solid Wastes.** All solid wastes shall be placed and maintained in containers as specified herein. All containers shall be maintained at all times with tight-fitting lids or covers.
  - (b) **Garbage.** All garbage placed in containers for collection shall be wrapped, bagged, or enclosed in paper or plastic material.
  - (c) **Household Trash.** Household trash may be combined with other bagged garbage.
  - (d) **Injurious Trash Items.** All waste material of an injurious nature, such as broken glass, light bulbs, sharp pieces of metal, fluorescent tubes, and television tubes shall be securely packaged or wrapped for the purpose of preventing injury to the collection crews or other third parties.
- (2) It shall be unlawful for any person or persons to dump, deposit, throw or leave or cause or permit the dumping, depositing, placing, throwing, or leaving of solid wastes on any road or street or any public or private property in the county, unless:
  - (a) The property is designated by the State or County or by any or their agencies for the disposal of litter and the person is authorized by the proper public authority to use such property;
  - (b) The litter is placed into a litter receptacle, container, or dumpster installed on such property and designated for the disposal of litter.
- (3) **Public Streets and Private Property.** No person shall place any accumulations of solid wastes and trash in any street, median strip, alley or other public place of travel, nor upon any private property except with the written consent thereof, and then only in accordance with the provisions of this Ordinance.

- (4) **Blockage of Drainage.** No person shall place any solid wastes, trash, solid wastes receptacles, or containers on, over or near any storm drain or drainage ditch, or so close thereto as to cause such material to interfere in any way with such drainage.
- (5) **Unauthorized Storage.** Any accumulation of solid wastes or trash items on any lot, property, premises, public streets, alley or other public or private place not permitted by this Ordinance, is hereby declared to be a nuisance. Failure of owner or occupant to remove and correct any such accumulation of solid wastes after appropriate notice from the Board of Commissioners or its designee shall raise the presumption that such person intended to violate this Ordinance.
- (6) **Appliances.** It shall be unlawful for any person to leave in any place accessible to children any abandoned, unattended, or discarded appliance, refrigerator, or other container which has an airtight snap lock or similar device without first removing therefrom the lock or door as provided in O.C.G.A. §16-11-100.
- (7) **Use of Streets.** It shall be unlawful for any vehicle transporting loose materials on any road or street to transport same without covers suitable to prevent the materials within such vehicle from shaking, blowing or falling from the vehicle. Suitable covering may vary from vehicle to vehicle, but the primary purpose of the cover shall be to prevent materials from escaping the storage area of the vehicle. This Section shall not apply to the transportation of poultry, livestock, silage or other feed grain used in the feeding of poultry or livestock. The operator of any vehicle from which any material or solid wastes is thrown, dropped, spilled or blown shall stop and retrieve such material and solid wastes.
- (8) **Junk.** It shall be unlawful for any person to place or leave outside any building or dwelling, any dilapidated furniture, appliance, machinery, equipment, building material, junked motor vehicle, or other items which is either in a partially rusted, wrecked, junked, dismantled, or inoperative condition, and which is not completely enclosed within a building or dwelling.

Any such item or items which remain on the property of the occupant for a period of thirty (30) days after notice of violation of this Ordinance, shall be presumed to be abandoned and subject to being removed from the property by the County without further notice. The County may charge the owner or occupant a fee for the cost of removing said item or items. This Section on junk shall not apply to licensed junk dealers or currently licensed establishments engaged in the repair, rebuilding, reconditioning, or salvaging of equipment or furniture, unless stated in ordinances of local government.

- (9) **Scavenging.** No person shall disturb or interfere with any container used for the purpose of storing solid wastes pending its collection, or remove any contents therefrom or remove such container from its location.
  - (10) **Scattering of Solid Wastes and Littering.** It shall be unlawful for any person to:
    - (a) Throw or deposit any solid wastes on any public or private street or to scatter such solid wastes or litter on public or private property;
    - (b) Throw or deposit any solid wastes, trash, or debris in any marsh area, stream, drainage ditch, body of water or beach area.
- B. Contagious Disease Solid Wastes.** The removal of clothing, bedding or other solid wastes from some or other places where highly infectious diseases have prevailed shall be decontaminated prior to removal under the supervision and direction of the Newton County Health Department. Such solid wastes shall not be placed in receptacles or bulk containers for collection until decontaminated.
- C. Hypodermic Instruments.** No person shall dispose of or discard any hypodermic syringe, hypodermic needle or any instrument or device for making hypodermic injections before first breaking, disassembling, destroying or otherwise rendering inoperable and incapable of reuse, such as hypodermic syringe, needle, instrument or device, and without safeguarding the disposal thereof, by wrapping or securing same in a suitable manner so as to avoid the possibility of causing injury or infection to the collection personnel or other parties.
- D. Hazardous Waste, Industrial Waste and Building Material.** No hazardous waste or building material shall be placed in any receptacle at any time. The County shall not be required to collect any hazardous solid wastes, or building material. All hazardous waste shall be secured against the possibility of causing injury to any person and shall not be placed on public property or private property without the written consent of the State Environmental Protection Division and the owner thereof.

- E. **Yard Trimmings.** Yard trimmings shall be composted on the owner's premises in conformity with this ordinance and any applicable state law or removed by the owner of the property and disposed of in a manner approved by this ordinance. This part shall not require the removal of wood cut and/or stored for later use as firewood.
- F. **Trees, Shrubbery Branches, Etc.** Tree and shrubbery branches, limbs and trimming cut by landscape or tree service contractors or other commercial workmen or resulting from land being cleared shall be composted on the owner's premises in conformity with this ordinance and any applicable state law or collected and removed by those who have performed the work or shall be removed by the person for whom the work was performed.
- G. **Leaves.** Leaves shall be composted on the owner's premises in conformity with this ordinance and any applicable state law or removed by the owner of the property and disposed of in a manner approved by this ordinance.
- H. **Receptacle and Containers.**
  - (1) Every person in possession, charge or control of any building or from which business trash, industrial waste or other waste is accumulated or produced shall provide and keep in a suitable place readily accessible to licensed private collectors receptacles and containers suitable for the storage of all such waste materials which will normally accumulate between the established collection dates. This provision shall not be construed to require such persons to use the services of a licensed private collector for solid wastes removal so long as each person assures the removal and disposal of such solid wastes in a manner permitted by this Ordinance at least as frequently as private collector's normal schedule for the area, but in any event at least once each week.
  - (2) All receptacles and containers as required by this Ordinance shall be constructed of an opaque, non-porous material such as metals, hard plastics or similar materials, of safe construction and design and shall be maintained in good, orderly and serviceable condition at all times. Any receptacle or container which does not conform to the requirements of this Ordinance, or which have ragged or sharp edges or any other defects likely to hamper or injure the person collecting the contents therefrom or the public generally, shall be promptly replaced by the user thereof.
- I. **Household Furniture and Furnishings.** Property owners, themselves or using public or private haulers, shall remove normal household furniture and appliances, including sofas, chairs, beds, refrigerators, washers, dryers, hot water heaters, and similar items.
- J. **Cardboard Boxes and Cartoons.** Prior to depositing solid wastes for collection in authorized containers or receptacles or in commercial containers, the person disposing of any such boxes or cartons or the person in charge of the premises shall collapse all cardboard boxes and cartons.
- K. **Covered Trucks.** All persons who desire to haul solid wastes over roads which are a part of county or state road systems shall use a vehicle provided with a cover and operate it so as to prevent solid wastes from being dropped, blown, or spilled therefrom. Any vehicle operated by a commercial hauler and any vehicle of one ton or greater capacity shall be equipped with a cover, securely fastened, adequate to prevent solid wastes from being dropped, blown or spilled therefrom.
- L. **Maintenance.** It shall be the duty and responsibility of the owner of any private property and the tenant in possession of any private property, jointly and severally, to keep the property in an orderly condition and maintained so as not to be a public nuisance or a menace to public health.
- M. **Burning.** No garbage, solid wastes, litter or other trash shall be burned as a private means of disposal except leaves trimmings and the like, and household trash may be burned if a burn permit is first obtained from Newton County and weather conditions are favorable. This provision shall not be construed to prohibit commercial incinerators where appropriate and necessary approvals have been obtained from State and Federal authorities, a special permit is obtained from the Board of Commissioners, and the incinerator is operated and maintained in compliance with all applicable regulations.
- N. **Handbills and Advertising Matter.** In addition to the activities declared to be in violation of this Ordinance, the following activities are hereby declared to be unlawful and shall constitute a violation of this Ordinance.
  - (1) It shall be unlawful to place in or on any automobile in the county any handbill, circular, pamphlet, poster, or other literature unless the same is secured so as to prevent wind-driven debris and unsightly litter.

- (2) It shall be unlawful for any person to place on any private property any handbill, Circular, pamphlet, poster, postcard, newspaper or other literature or advertising device, unless the following conditions are met:
  - (a) All such publications and materials shall be placed in a box provided for that purpose or placed in a secure area of a building such as a door jamb or screen door, unless the distributor of such materials agrees to "sweep" the distribution area and retrieve all remaining items within four (4) days of distribution. This procedure shall be referred to as "sweeping".
    - (i) If "sweeping" is to be performed by a distributor of materials, advance notice of the intention to utilize such procedure must be given to the County.
    - (ii) Failure to provide proper notice of "sweeping" procedures by a distributor shall constitute a violation of this section.
    - (iii) Failure to timely and adequately perform an approved "sweeping" procedure shall constitute a violation of this section.
  - (b) No such publication shall be thrown, dropped or otherwise placed upon public right of way;
  - (c) No such publication shall be thrown, dropped or otherwise placed upon any private property which is vacant or unoccupied; and
  - (d) No such publication shall be thrown, dropped or otherwise placed upon any private property wherein the owner of said property has notified the publisher in writing that he does not wish to receive the publication. Absent a written expression of intent to the contrary, all property owners shall be presumed to consent to delivery by such means.
- (3) It shall be unlawful for any person to tack, post or nail any paper, metal, wood or other signs of any character on any telegraph, telephone or electric light pole, located in any public right-of-way.

**O. Dead Animals.** Any person who owns or is caring for an animal which has died or been killed shall dispose of said dead animal in the manner provided for in either the Georgia Dead Animal Disposal Act, O.C.G.A. § 4-5-1 et seq.; the Rules and Regulations of the Georgia Department of Agriculture, Chapter 40-16-2; or the Georgia Comprehensive Solid Waste Management Act, O.C.G.A. § 12-8-20 et seq., as applicable. The term "dead animals" means the carcasses, parts of carcasses, effluent, or blood of farm livestock, including poultry and equines, except where dead animals are found within the rights of way of all highways within the state maintained either totally or in part with state funds, in which case "dead animals" means the carcasses or parts of carcasses of all animals, regardless of whether they are considered to be farm livestock, poultry, equines, domesticated animals, pets, or any other type of animal and includes all such animals regardless of the cause of death of such animals.

Acceptable methods for disposal of dead animals are burning, burial, or rendering. It is the duty of the Georgia Department of Transportation to remove and dispose of dead animals found with the rights of way of state highways. Where dead animals are found outside the rights of way of state highways, no person shall dispose of a dead animal by burial or burning on the land of another without the permission of the owner of the land. Arrangements for proper burial or burning must be made with an appropriate county official prior to disposal of a dead animal in a County Sanitary landfill.

- P. Abandoned Motor Vehicles.** It shall be unlawful to abandon any motor vehicle as provided in O.C.G.A. § 40-11-1. Any motor vehicle abandoned within the County shall be disposed of by the proper authorities as provided in O.C.G.A. § 40-11.
- Q. Composting.** Composting is an acceptable means of handling yard trash, tree and shrubbery trimmings, leaves, grass clippings or other organic wastes produced by landscaping and lawn maintenance activities. Composting shall be performed in a manner to minimize offensive odors and prevent escape of wind blown litter from the compost site. Composting activities shall be conducted so as not to constitute a nuisance to neighboring property owners.
- R. Lead Acid Vehicle Batteries.** No person shall place or dispose of a lead acid vehicle battery in any compactor, dumpster, or landfill located in Newton County, Georgia, or otherwise discard or dispose of a lead acid vehicle battery except by delivery to a battery retailer or wholesaler, to a secondary lead smelter, or to a collection or recovered materials processing facility that accepts lead acid vehicle batteries.

- S. **Motor Oil.** No person shall place or dispose of motor oil in any compactor, dumpster, or landfill located in Newton County, Georgia, or otherwise discard or dispose of motor oil except by delivery to a recycling collection facility or a disposal facility authorized and specifically designed to accept motor oil.
  - T. **Recyclable Material.** The collection, transportation, handling, storage and conversion of recyclable materials shall be permitted so long as such activities conform to the requirements of State law.
  - U. **Biomedical Wastes.** All biomedical wastes shall be handled and disposed of in accordance with the Rules of the Georgia Department of Natural Resources Environmental Protection Division and the Georgia Comprehensive Solid Waste Management Act of 1990, as now or hereafter amended.
8. **Community Health and Welfare.**
- A. **Declared Nuisances.** Within the county, it shall be unlawful for any person to create a nuisance on his property or property occupied by him, or to allow a nuisance to remain on his property or property occupied by him. Dead animals, stagnant water, decayed vegetables or fruits, filthy, privies or unkept stables or anything having an offensive odor, or anything that causes injury or damage to the health or life of any other person, are declared nuisances.
  - B. **Trash and Weeds.**
    - (1) Within the county, it shall be unlawful for any person to maintain his premises, including vacant lots or land, in such a way as to allow trash, garbage or miscellaneous solid wastes to accumulate if the condition of the property causes a nuisance, or causes injury to the health or welfare of residents in the vicinity, or causes injury to neighboring property. Drive-in restaurants and other food establishments that permit carry-out food service shall maintain at all times on their premises sufficient receptacles for the disposal of trash, garbage and miscellaneous solid wastes.
    - (2) Within the county, it shall be unlawful for any person to maintain, cause or permit uncut grass or weeds on any property on which is located a residential dwelling or commercial establishment or vacant property intended for such use under such circumstances that the grass or weeds become a breeding place for insects, rodents or reptiles, or constitute a fire hazard.
9. **Enforcement.**
- A. **Enforcing Officers.**
    - (1) The Board of Commissioners shall name, by appropriate resolution, an employee of the County to serve as their designate and to oversee all matters concerning the enforcement of this Ordinance, to be known as the Code Enforcement Officer.
    - (2) The Board of Commissioners shall name, by appropriate resolution, such persons as they feel necessary, to be Monitors. Such Monitors shall be under the supervision of the Codes Enforcement Officer described in the preceding section of this Ordinance and shall patrol, inspect and monitor dumpster and compactor sites to insure compliance with this Ordinance.
    - (3) The Codes Enforcement Officer, the Sheriff and any deputy of the Newton County Sheriffs Office, shall be authorized to issue citations to violators of any provision of this Ordinance or to the owner or any other person who may be in possession of, any property upon which any condition exists which constitutes a violation of any provision of this Ordinance. Such citation shall be on a form approved for such use by the Board of Commissioners and shall state the time and place at which the accused is to appear for trial, shall identify the offense with which the accused is charged, shall have an identifying number by which it shall be filed with the Court, shall indicate the identity of the accused and the date of service, and shall be signed by the representative of the County who completes and serves it.
  - B. **Rebuttable Presumptions.**
    - (1) Whenever solid waste is thrown, deposited, dropped, or dumped from any motor vehicle, boat, airplane, or other conveyance in violation of this Ordinance, it shall be prima-facie evidence that the operator of the conveyance has violated this Ordinance. In the case of a commercial or private hauler if the operator is unknown, then it shall be prima-facie evidence that the company or owner of the service has violated this Ordinance.
    - (2) Whenever any solid wastes which is dumped, deposited, thrown, or left on public or private property in violation of this Ordinance is discovered to contain any article or articles,

including but not limited to letters, bills, publications, or other writings which display the name of a person thereon in such a manner as to indicate that the article belongs or belonged to such person, it shall be a rebuttable presumption that such person has violated this Ordinance. If such person can show that he lawfully gave possession, custody and control of such solid wastes to another person, then he shall make a sworn statement to that effect, supported by any documentary evidence available at which point the presumption shall shift to such other person.

- (3) Whenever this Ordinance is violated by an employee or agent, then the employer or principal shall be rebuttably presumed to have violated this Ordinance unless and until he shall provide a sworn statement providing the name, address and telephone number of the employee or agent who violated this ordinance, the basis of the employer's or principal's knowledge of which individual violated this ordinance, and a statement to the effect that the employee or agent acted outside the scope of his employment or agency.
- (4) If a person accused of violating this Ordinance on the basis of the rebuttable presumption created in subsection (a) or (b) of this provision, shall demonstrate by sworn testimony that another person had control of such litter, then the presumption shall shift to such other person.
- (5) No person accused of violating this Ordinance shall be arrested prior to trial, but any defendant who fails to appear for trial shall be arrested thereafter on the warrant of the Magistrate, and required to post a bond for his future appearance.

**C. Penalties.**

- (1) Pursuant to O.C.G.A. § 36-1-21 and O.C.G.A. § 16-7-43(b)&(c), any person violating this Ordinance, or any provision hereof, upon conviction, shall be punished by one or more of the following:
  - (a) By a fine of not less than twenty-five dollars (\$25.00) and not more than five hundred dollars (\$500.00);
  - (b) By imprisonment for a period of not more than sixty (60) days;
  - (c) In the sound discretion of a court in which conviction is obtained, the person may be directed to pick up and remove from any public street or highway or public-right of way for a distance not to exceed one mile any litter he has deposited and any and all litter deposited thereon by anyone else prior to the date of execution of sentence;
  - (d) In the sound discretion of the judge of a court in which conviction is obtained, the person may be directed to pick up and remove from any public park, private right of way, or with the prior permission of the legal owner or tenant in lawful possession of such property, any private property upon which it a/a be established by competent evidence that he has deposited litter, any and all litter deposited thereon by anyone prior to the date of execution of sentence; and
  - (e) The court may publish the names of persons convicted of violating this Ordinance.

**D. Court Proceedings.**

- (1) Violations of this Ordinance shall be tried upon citations and may be tried with or without a prosecuting attorney as well as upon accusations. The District Attorney may serve as prosecuting attorney.
- (2) Violations of this Ordinance shall be tried in the Magistrate Court of Newton County, Georgia, and shall be tried in accordance with the Official Code of Georgia, Chapter 15-10.
- (3) Nothing in this article shall prevent the Board of Commissioners from bringing any civil action for injunction, mandamus or other proceedings to prevent, correct, or abate any violation of this Ordinance. No sanction, penalty or remedy prescribed herein shall be considered exclusive of any other remedy, but shall be available in addition to any other sanction, penalty or remedy by law.
- (4) Each violation of this Ordinance shall constitute a separate offense. A continuing violation shall constitute a separate offense for each day during which such violation continues.

**Section 12-102**

**Health and Sanitation**

**1. Definitions.**

- A. Garbage** is hereby defined as domestic wastes composed of meat, vegetables and fruit scraps, cans, bottles, paper, cardboard, rags, ashes, and other such waste matter normally to be disposed of from residence, churches, schools, small business establishments and - similar places.

- B. **Trash** shall mean and include yard wastes, such as weeds, grass and hedge trimmings, leaves, brush, tree limbs and similar items.
  - C. **Litter** is defined as all sand, gravel, soil, slag, brickbats, rubbish, waste materials, tin cans, aluminum cans, glass and plastic bottles, refuse, garbage, trash, debris, dead animals, animal feces, animal nests, or discarded materials, furniture, appliances trade goods, vehicle parts, or vehicles of every kind and description.
  - D. **Commercially Zoned Property** is defined as all property currently zoned for commercial or business use within the City of Mansfield as well as any property that the Mansfield City Council approves for re-zoning to commercial designation.
  - E. **Commercial Wastes, Building Materials** shall mean all waste by-products from manufacturing or commercial establishments, cinders, and ashes from commercial boilers, cardboard and wooden boxes, crates, barrels, wood, brick, rock, sheetrock, sand, gypsum, metal or any materials used in building of houses and buildings.
  - F. **Premises** shall mean land, buildings or other structures, boxes, containers, vehicles, or parts thereof, upon or in which refuse is stored.
  - G. **Person** shall mean any individual, firm, corporation, association or organization.
  - H. **Sanitary Superintendent** shall be interpreted to mean sanitary superintendent of the City, or his authorized representative.
  - I. **Clean and Beautiful Committee.** There has been created by the City of Mansfield a Clean and Beautiful Committee which was charged with the duty of overseeing the overall improvement and beautification of the City of Mansfield. The Committee is charged to work with the officials of the City of Mansfield in the inspecting, observing, and making recommendations as to conditions in the City it finds or is reported to the City or its officials. The Committee may, on its own violation, make its own written recommendation if upon its observation of conditions existing, if they feel that a condition should be remedied or corrected.
2. **General Cleanliness.** Any person who is the owner or occupant of any building, part thereof, or property in the City shall be independently responsible for keeping the premises clean and free of any unsanitary, unsightly, or unwholesome condition such that it may become potentially injurious to the public safety, health, and welfare. The maintenance of any such building, part thereof, or property in an unsanitary condition that becomes potentially injurious to the public health or safety, directly or indirectly, or creates as a breeding area or place of habitation for gnats, mosquitos, or other insects, animals, or other disease-bearing or transmitting animals; the keeping of any substance, thing, or things of any kind whatsoever which is dangerous, detrimental to health, or likely to spread disease, is herewith prohibited.
3. **Responsibility.** It is the responsibility and duty of every owner or occupant to keep the premises of their property clean and to remove from the premises all such abandoned and unsightly items as ice boxes, glass, motor vehicles/ refrigerators, building materials, building rubbish, or similar items. Further, it shall also be the duty and responsibility of property owners to keep vacant lots and developed lots cut and clear of unduly long vines, weeds, and grass.
4. **Dumping, Depositing, Storing, etc., Litter on Commercially Zoned Property.**
- A. It shall be unlawful for any person or persons to dump, deposit, throw or leave; or to cause to permit the dumping, depositing, placing, throwing or leaving of litter on any commercially zoned property in the City of Mansfield or any public right of way bordering Commercially zoned property.
  - B. It shall be unlawful for any person or persons who own or rent commercially zoned properties within the City of Mansfield to allow conditions to exist within their property which created an eyesore, reduce the enjoyment of private property, interfere with the public right of way, reduce value of private property, invite plundering and theft, create fire hazards, extend and aggravate blight, and result in a hazard to the public health, safety, comfort, convenience, welfare and happiness of the citizens of Mansfield, Georgia.
  - C. It shall be unlawful for any person or persons who own or rent commercially zoned properties within the City of Mansfield to park, abandon, or store in the out of doors commercial property or equipment in a manner that creates an eyesore. Specific to this section an eyesore is defined as commercial equipment or property that is stored or piled or stacked in a disorderly manner and/or which equipment is allowed to become overgrown by weeds and grasses, and is visible to the public view.
  - D. It shall be unlawful for any person or persons who own or rent commercially zoned properties within the City of Mansfield to fail to cut weeds and grass on their property or to allow weeds or grass to exceed twelve (1.2) inches in height for a period exceeding fourteen (14) days.

- E. It shall be unlawful for any person or persons who own or rent commercially zoned properties within the City of Mansfield to park, store, leave or permit the parking, storing or leaving of any motor vehicle or agricultural vehicle of any kind which is in an abandoned, wrecked, dismantled, inoperative, rusted, junked/ or partially dismantled condition whether attended or not for a period of time in excess of fourteen (14) days in an out of doors area that is exposed to the public's eye.
5. **Odor.** It shall be the responsibility of the owner and occupant of any property to see that no nauseous, foul, or offensive odor emit from said property creating an injurious situation to the health of the community.
6. **Mosquito Control.** The control of mosquitoes and mosquito breeding places shall be the responsibility of the owner and the occupant of property and it shall be their duty to keep the property free from mosquito breeding grounds.
7. **Rat Control.** It shall be the responsibility of the owner and the occupant of property to prevent a breeding area for rats and the accumulation of materials which tend to provide breeding areas for rats.
8. **Public Policy.** It is hereby declared and established as the public policy of this City that property which is allowed to become unkempt, overgrown, or a dumping ground for litter, household garbage, and abandoned items ..such as appliances, glass, motor vehicles, building materials or similar items, constitutes a public health hazard and breeding area for rodents and other disease carrying animals and insects, which imperils the health, safety and morals of the occupants thereof and surrounding developed lots free from weeds, leaves, untrimmed grass, vines, litter, trash, garbage, and other debris of any kind.
9. **Litter.** It shall be unlawful for any person to sweep, throw, drop, litter, or move any dirt, filth, papers, bottles, cans or garbage or trash of any kind upon any street, sidewalk, or other public place, or upon the property of another without the consent of the owner.
10. **Disposal Location.** Every person who disposes of any garbage, trash, commercial wastes, or building materials, whether required to do so by this chapter or otherwise, shall make such disposal as specified by the Sanitary Department.
11. **Containers.**
- A. It shall be unlawful for any person to pick from or disturb the contents of any garbage container or vessel or other containers provided for in this chapter.
- B. Garbage and refuse containers shall be tightly covered at all times, except when momentarily opened to receive the garbage or to have contents therefrom removed.
12. **Collection By City.** Garbage shall be collected by city trucks. Collection shall be made at a time and in a manner prescribed by the Sanitary Superintendent, provided that at no time shall garbage be placed in such a manner as to obstruct gutters, drains, walkways, or streets.
13. **Enforcement.**
- A. Upon a signed written complaint of any citizen or property owner in the City of Mansfield or the Clean and Beautiful Committee, of a condition in violation of this chapter to the Clerk of the City of Mansfield, the Clerk shall immediately file same in the office of the Clerk of the City of Mansfield.
- B. The Clerk shall immediately forward a copy of the complaint to the Clean and Beautiful Committee.
- C. The Clean and Beautiful Committee shall inspect and observe property identified in complaint and upon investigating and examining of said property make a report back to the City of Mansfield within ten (10) days of their findings. Said report shall be forwarded to the Clerk of the City of Mansfield.
- D. If the Committee's report indicates property has not been maintained in compliance with the provisions of City Ordinances, the City Clerk shall by Registered Mail notify occupant or owner of alleged violation, giving party thirty (30) days to come in compliance with said Ordinance. Such notice shall be given in writing by mail addressed to the last known address of the person or persons to whom the notice is directed. The notice shall state that such property is found in non-compliance and must be cleaned in compliance with said Ordinance within thirty (30) days; and for this purpose, notice shall be deemed effective beginning one (1) day after such notice is deposited in a receptacle maintained by the U. S. Post Office Department for the deposit of mail, bearing sufficient postage and the last known address of the person or persons to whom such notice is directed.
- E. It shall be unlawful for any person responsible therefor, as herein above provided, to fail or refuse to bring such property into compliance within such thirty (30) day periods, after having been notified by the City to do so as provided in this Ordinance hereof.

- F. The person so notified may demand a hearing within the thirty (30) days notice period, before the Mayor and Council, to object to finding as to whether condition actually exists and/or request additional time to correct condition if desired.
  - G. If after thirty (30) days no demand for a hearing has been made and the person complained of has failed or refused to abate the condition or if a hearing is demanded and condition is found to be in apparent violation of this ordinance, the Clerk shall forward complaint to the Police Department as provided by law, to bring criminal action against person complained of.
  - H. Any owner or renter of property within the City of Mansfield that violates any or all sections of this Ordinance shall be guilty of a misdemeanor, and upon conviction thereof, shall be punishable as follows:
    - (1) By a fine of one hundred dollars (\$100.00) and one hundred dollars (\$100.00) per day for each day condition is allowed to exist after conviction.
    - (2) In the sound discretion of a court in which conviction is obtained, the court may allow a period of time not to exceed thirty (30) days in which to rectify the situation relative to the conviction.
  - I. Upon conviction of any such offense by the Recorder's Court, the offender or offenders may be punished as provided by this Code; and for this purpose, each day that such property is allowed to remain in a condition which violates the provisions hereof, shall constitute a separate offense and may be punished accordingly.
  - J. The City may, after conviction thereof, at its discretion, be authorized to go upon property of said party or parties to correct said hazard, attach a lien to said property for the cost of same, and also hold owner or occupant, so notified, guilty as set out above.
14. **Abatement of Nuisance as Additional Remedy.** As an additional remedy, cumulative of the provisions set forth hereof and of any other provisions of this Code, upon the failure or refusal of any person or persons responsible therefor to maintain property as herein above provided, after the notice provided for in this Ordinance hereof has been given, the City may treat such violation as a nuisance.
15. **Summary Abatement.** Noting contained in this chapter shall prevent the Mayor and Council from summarily and without notice ordering the abatement of or abating any condition where the case is an urgent one and the health or safety of the public or a portion thereof are in imminent danger.
16. **Administration.** It shall be the duty of the governing body to ascertain what property constitutes a menace to public welfare, health, and safety and to appoint appropriate person or persons to regulate and carry out this ordinance.

*(Adopted 8/2/91)*

**Section 12-103            Limb Policy**

Limbs shall be bundled. Limbs shall be no longer than four (4) feet. Bundles shall not exceed one (1) foot in diameter and must be tied securely.

*(Adopted 9/17/86)*



# CHAPTER 13: AIR QUALITY CONTROL

## Section

13-101	Emissions of Gases, Vapors, and Odors
13-102	Open Burning
13-103	Enforcement
13-104	Penalties



## Section 13-101 Emissions of Gases, Vapors, and Odors

1. No person shall cause, suffer, or allow any emissions of gases, vapors, or odor beyond the property line from which such emissions occur to be insufficient quantities and of such characteristics and duration as is or is likely to be injurious to the public welfare; to the health of human, plant, or animal life; or to property; or which interfere with the enjoyment of life and property.
2. Detectable odors emitted from the following sources of emission are hereby declared to be objectionable per se:
  - A. Ammonia, bleaching powder, or chlorine manufacture;
  - B. Asphalt manufacture or refining;
  - C. Blood processing;
  - D. Bag cleaning;
  - E. Celluloid manufacture;
  - F. Coal tar products manufacture;
  - G. Compost heaps;
  - H. Crematory;
  - I. Creosote treatment or manufacture;
  - J. Disinfectants manufacture;
  - K. Distillation of bones, coal, or wood;
  - L. Dye stuff manufacture;
  - M. Fat rendering;
  - N. Fertilizer manufacture and bone grinding;
  - O. Glue or gelatine manufacture;
  - P. Incinerator or reduction of garbage, dead animals, offal, or refuse;
  - Q. Oiled rubber or leather goods manufacture;
  - R. Paint, oil, shellac, turpentine, or varnish manufacture;
  - S. Paper and pulp manufacture;
  - T. Rubber or gutta percha manufacture;
  - U. Sauerkraut manufacture;
  - V. Shoe-blackening manufacturing;
  - W. Soap manufacture;
  - X. Stock yards;
  - Y. Sulfuric, nitric, or hydrochloric acid manufacture;
  - Z. Tanning, curing, or storage of hides or skins;
  - AA. Tar distillation or manufacture;
  - BB. Tar roofing or waterproofing manufacture; and
  - CC. Any other air contaminate discharge into open air of a character and in a quantity which is detrimental to or endangers the public health.

## Section 13-102 Open Burning

1. **In General.** Except as hereinafter provided in subsection 2, no person shall kindle an open fire in any public or private place outside any building. Fires started in violation of this section shall be promptly

extinguished by the person(s) responsible for same upon notice by the Fire Chief or his duly designated agent, as may be declared by the Mayor, all exceptions are void and no open fires shall be kindled.

**2. Exceptions.**

**A.** Open burning may be done under permit as follows:

- (i) Application for burning permits shall be on forms provided by the Fire Chief.
- (2) No permit shall be issued unless the issuing officer is satisfied that:
  - (a) There is no practical available alternate method for the disposal of the material to be burned;
  - (b) No hazardous condition will be created by such burning;
  - (c) No salvage operation by open burning will be conducted; and
  - (d) No leaves will be burned in those areas where provision is made for public collection thereof.
- (3) Any permit issued may be limited by the imposition of conditions to:
  - (a) Prevent the creation of excessive smoke; or
  - (b) Protect property and the health, safety, and comfort of persons from the effects of the burning.
- (4) If it becomes apparent at any time to the Fire Chief that limitations need to be imposed for any of the reasons stated in subsection (2)(A)(3) above, the Fire Chief or his duly designated agent shall notify the permittee in writing and any limitations so imposed shall be treated as conditions under which permit is issued.

**B.** Open burning may be done without permit as follows:

- (1) In those areas where provision for public collection of leaves is not made, the open burning of leaves is permitted.
- (2) In those areas where regular refuse collection is not provided, open burning of ordinary household trash by householders is permitted, provided that:
  - (a) The fires are located no closer than five hundred (500) feet to any neighboring habitable dwelling or place where people work or congregate;
  - (b) Garbage, dead animals, and animal waste are not burned; and
  - (c) Materials which create dense or excessive smoke or emissions injurious or noxious to people or property are not burned.
- (3) Open fires may be set in performance of an official duty of any public officer if the fire is necessary for one or more of the following reasons or purposes:
  - (a) For the prevention of a fire hazard which cannot be abated by other means;
  - (b) For the instruction of public firefighters or industrial employees under supervision of the Fire Chief; or
  - (c) For the protection of public health.
- (4) Fires may be used for the cooking of food, provided no smoke violation or other nuisance is created.
- (5) Salamanders or other devices may be used for heating by construction or other workers, provided no smoke violation or other nuisance is created.
- (6) Fires may be set in the course of agricultural operations in growing crops or raising fowl or animals, provided no nuisance is created.
- (7) Open fires may be set for recreational purposes, such as campfires, provided no smoke violation or nuisance is created.

*NOTE: See O.C.G.A. § 12-6-90(d) which requires that a permit be obtained from the forest ranger in the county in which the burning is to occur. This permit is in addition to any other locally required permits.*

**Section 13-103 Enforcement**

The provisions of this chapter shall be enforced by the Fire Chief and the Police Chief and such subordinate officers of the Fire Department and Police Department as are necessary to effectuate the requirements set forth herein.

**Section 13-104 Penalties**

1. Any person who violates any provisions of this chapter shall be subject to a fine not to exceed one thousand dollars (\$1,000.00), such fine to be imposed at the discretion of the Judge of the Municipal Court.
2. Action pursuant to subsection 1 of this section shall not be a bar to enforcement of this chapter by injunction or other appropriate remedy, and the Police Chief shall have the power to institute and maintain in the name of the municipality any and all such enforcement proceedings.
3. Nothing in this chapter shall be construed to abridge, limit, or otherwise impair the right of any person to maintain any action or other appropriate proceeding for damages or other relief on account of injuries to persons or property.



# CHAPTER 14: NOISE REGULATION

## Section

14-101	Noise Regulation In General
14-102	Noises Prohibited
14-103	Exemptions
14-104	Penalties
14-105	Injunctions



### Section 14-101 Noise Regulation In General

It shall be unlawful for any person to willfully make, continue, or cause to be made or continued any excessive, unnecessary, or unusually loud noise which disturbs the peace or quiet of any neighborhood or which causes discomfort or annoyance to any reasonable person of normal sensitiveness residing within the City limits.

### Section 14-102 Noises Prohibited

The following acts are declared to be loud, disturbing, and unnecessary noises in violation of this chapter, but said enumeration shall not be deemed to be exhaustive.

1. **Motor Vehicle Horns.** The sounding of any horn on any automobile, motorcycle, or other motor vehicle on any street or public place of the City except as a warning signal.
2. **Radios, Television Sets, and Similar Devices.** The using, operating, or permitting to be played, used or operated, any radio receiving set, musical instrument, phonograph, television set, or other machine or device for the producing or reproducing of sound between the hours of 10:00 p.m. and 7:00 a.m. in such manner as to disturb the peace, quiet, and comfort of neighboring residents.
3. **Loudspeakers and Amplifiers.** The using or operating of any loudspeaker or sound-amplifier device mounted upon any vehicle within the City for the purpose of broadcasting or advertising any information about any business or activity for any other purpose, unless a permit for such sound amplification has been obtained from the Mayor or Police Chief.
4. **Construction Equipment and Activity.** The operating of any equipment or the performing of any outside construction or repair work on buildings, structures, roads or projects within the City between the hours of 10:00 p.m. and 7:00 a.m. unless a permit for such construction or repair work between such hours has been obtained from the Mayor or Police Chief.
5. **Exhausts.** The discharging into the open air of the exhaust of any internal combustion engine, motor boat, or motor vehicle except through a muffler or other device which will effectively prevent loud or explosive noises therefrom.
6. **Animals and Birds.** The keeping of any animal or bird which by frequent or continuous barking, chirping, or other means of communication disturbs the comfort or repose of the residents of any residential neighborhood.
7. **Vehicle Repair In Residential Areas.** The repairing, rebuilding, or testing of any motor vehicle between the hours of 10:00 p.m. and 7:00 a.m. within any residential area in such a manner as to disturb the peace, quiet, and comfort of the residents of the area.
8. **Schools, Courts, Churches, Hospitals.** The creating of any excessive noise on any street adjacent to any school, institution of learning, church, or court while the same are in use, or adjacent to any hospital, which unreasonably interferes with the working of such institution, or which disturbs or unduly annoys patients in the hospital, provided conspicuous signs are displayed in such streets indicating that the same is a school, hospital, or court street.
9. **Hawkers and Peddlers.** The selling of anything by outcry within the residential areas of the City, except at licensed sporting events, parades, fairs, circuses, and other similar licensed public entertainment events.
10. **Drums.** The using of any drum or other instrument or device for the purpose of attracting attention by the creation of noise within the City, unless a permit for such use has been obtained from the Mayor or Police Chief.

**Section 14-103 Exemptions**

The following uses and activities shall be exempt from the noise regulations set forth in this chapter:

1. Noises of safety signals and warning devices;
2. Noises resulting from any authorized emergency vehicle, when responding to an emergency call acting in time of emergency; and
3. Noises resulting from emergency work, to be construed as work made necessary to restore property to a safe condition following a public calamity, or work required to protect persons or property from an imminent exposure to danger.

**Section 14-104 Penalties**

Any person who shall violate any of the provisions of this chapter shall, upon conviction thereof, be fined in an amount not exceeding one thousand dollars (\$1,000.00 ) or imprisonment for a period not exceeding ninety (90) days, or both such fine and imprisonment. A separate offense shall be deemed to have been committed each day during or upon which a violation occurs or is permitted to continue.

**Section 14-105 Injunctions**

The operation or maintenance of any device, vehicle, or machinery in violation of any provision of this chapter which causes discomfort or annoyance to reasonable persons of normal sensitiveness or which endangers the comfort, repose, health, or peace of residents of this City shall be deemed, and is declared to be a public nuisance, and may be subject to abatement summarily by a restraining order or injunction issued by a court of competent jurisdiction.

## **PART III: PUBLIC WORKS AND PROPERTY**



# CHAPTER 15: BLASTING AND GRADING OPERATIONS

## Section

15-101	Purpose
15-102	Definitions
15-103	Reserved
15-104	One-Call Notification Centers
15-105	Reserved
15-106	Prerequisites to Blasting or Excavating
15-107	Duty of Utility Notified of Proposed Blasting or Excavating
15-108	Treatment of Gas Pipes and Other Underground Utility Facilities by Blasters and Excavators
15-109	Degree of Accuracy Required in Pipe or Underground Utility Facility Location; Effect of Inaccurate Information on Liability of Blaster or Excavator; Liability of Gas Company for Losses Incurred for Lack of Accurate Information, etc.
15-110	Effect of Ordinance Upon Rights, Powers, etc., of Utilities
15-111	Effect of Ordinance Upon Rights, Powers, etc., of State, Counties, or Municipalities Concerning Facilities Located on Public Road or Street Rights of Way
15-112	Applicability of Ordinance in the Event of Emergencies.
15-113	Penalties for Violation of Ordinance.



## Section 15-101 Purpose

The purpose of this ordinance is to prevent injury to persons and property and interruptions of utility and cable television service resulting from damage to gas pipes and other underground utility facilities caused by blasting or excavation operations by providing a method whereby the location of underground gas pipes and other utility facilities will be made known to persons planning to engage in blasting or excavation operations so that such persons may observe proper precautions with respect to such underground gas pipes and other utility facilities.

## Section 15-102 Definitions

As used in this ordinance, the term:

- 1. Blasting** means any operation by which the level of grade of land is changed or by which earth, rock, buildings, structures, or other masses or materials are rendered, torn, demolished, moved, or removed by the detonation of dynamite or any other explosive agent.
- 2. Business Days** means Monday through Friday, excluding the following holidays: New Year's Day, Martin Luther King, Jr. Day, Memorial Day, Independence Day, Labor Day, Veteran's Day, Thanksgiving Day, Friday following Thanksgiving Day, Christmas Eve, and Christmas Day. Any such holiday that falls on a Saturday shall be observed on the preceding Friday. Any such holiday that falls on a Sunday shall be observed on the following Monday.
- 3. Business Hours** means the time from 7:00 a.m. to 4:30 p.m. local time on business days.
- 4. Corporation** means any corporation, municipal corporation, county, joint-stock company, partnership, association, business trust, cooperative, organized group of persons, whether incorporated or not, or receiver(s) or trustee(s) of any of the foregoing.
- 5. Distribution of Gas** means the distribution or furnishing of gas to the ultimate consumer through the use of underground pipes or other facilities and includes, but is not limited to, the distribution of gas pursuant to a certificate of public convenience and necessity issued by the Public Service Commission.
- 6. Excavating** means any operation by which the level or grade of land is changed and includes, without limitation, grading, trenching, digging, ditching, auguring, scraping and pile driving. Such term, however, does not include public road maintenance activities within the rights of way of a public road on the state highway system, the county road system, or the city street system.
- 7. Gas** means any flammable gaseous matter and includes, but is not limited to, natural gas, manufactured gas, liquefied petroleum gas, and any material composed predominantly of any of the following

hydrocarbons or mixtures of the same: methane, propane, propylene, butane, or butylene. The term "gas" shall also include liquid petroleum products.

8. **Mechanized Excavating Equipment** means all equipment which is powered by any motor, engine, or hydraulic or pneumatic device and which is used for excavating, including, without limitation, bulldozers, backhoes, power shovels, scrapers, draglines, clamshells, augurs, drills and pile drivers.
9. **Person** means an individual or corporation. Such term, however, does not include and no provision of this ordinance shall apply to any excavating done by a railroad when excavating is made entirely on the land which the railroad owns or on which the railroad operates or, in the event of an emergency, on adjacent land. Such term, however, also does not include and shall not apply to the Department of Transportation or its officers or employees when excavating, blasting, or operating mechanized excavating equipment anywhere within public road rights of way.
10. **Railroad** means all corporations, companies, or individuals owning or operating any railroad line or railroad company in this state.
11. **Service Area** means a contiguous area or territory which encompasses the underground distribution system or network of gas pipes or other underground utility facilities by means of which a utility provides utility service.
12. **Transmission of Gas** means the transmission or transportation of gas through the use of underground pipes or other facilities and includes, but is not limited to, the transportation or transmission of gas in interstate commerce pursuant to a certificate of public convenience and necessity issued by the Federal Energy Regulatory Commission and the transmission or transportation of gas in interstate commerce pursuant to a certificate of public convenience and necessity issued by the Public Service Commission.
13. **Utilities Protection Center or Center** means the corporation or other organization formed by utilities to provide a joint telephone number notification service for the purpose of receiving advance notification from persons planning to blast or excavate and distributing such notifications to its affected utility members.
14. **Utility** means any person operating or maintaining gas pipes or other underground utility facilities.
15. **Utility Facility** means underground mains, pipes, conduits, cables, ducts, wires, fiber optic or photonic lines, or other structures operated or maintained by utilities in connection with the storage, conveyance, distribution, or transmission of gas, electric energy, telephone or telegraphic, or cable television or video communications.

**Section 15-103            Reserved**

**Section 15-104            One-Call Notification Centers**

1. All utilities operating or maintaining underground utility facilities within the unincorporated area of the county shall participate as members in and cooperate with the Utilities Protection Center. No duplicate center shall be established. The activities of the Center shall be funded by the participating utilities.
2. The Utilities Protection Center shall maintain a list showing the counties within which its participating utilities maintain gas pipes and other underground utility facilities. The Center shall also maintain a list of the name, address and telephone number of the office, department, or other source from or through which information respecting the location of gas pipes and other underground utility facilities of its participating utilities may be obtained during business hours on business days.

**Section 15-105            Reserved**

**Section 15-106            Prerequisites to Blasting or Excavating**

1. No person shall commence, perform or engage in blasting or in excavating with mechanized excavating equipment on any tract or parcel of land in the unincorporated area of Newton County unless and until the person planning the blasting or excavating, at least 72 hours prior to commencement of the work, excluding hours during days other than business days, has given actual notice to the Utilities Protection Center, which notice shall:
  - A. Describe the tract or parcel of land upon which the blasting or excavation is to take place with sufficient particularity to enable the utility to ascertain the precise tract or parcel of land involved;
  - B. State the name, address, and telephone number of the person who will engage in the blasting or excavating and state whether such person desires to be notified in the event there are no utility facilities present on the tract or parcel specified;

- C. Describe the type of blasting or excavating to be engaged in by the person; and,
  - D. Designate the date upon which the blasting or excavating will commence.
2. Whenever any blasting or excavating with mechanized excavating equipment is undertaken on a project on the public road system under contract with the Department of Transportation, the notice required under subsection (a) shall be deemed to have been given for all utility facilities other than gas which are shown on the project plans and for which a notice of contract award and notice of preconstruction conference have been mailed to the utility by the Department of Transportation. Nothing contained in this subsection shall be construed to relieve any person under contract with the Department of Transportation of the duties set forth in Section 8 as to all underground utility facilities.
  3. In the event the blasting or excavation work which is the subject of the notice given pursuant to subsection (a) will not be completed within seventeen (17) days following the date of such notice, then no later than fourteen (14) days following such date of notice an additional notice must be given in accordance with subsection (a).
  4. If, subsequent to giving the notice required by subsection (a), a person planning excavating determines that such work will require blasting, then such person shall promptly so notify the Utilities Protection Center.

**Section 15-107                    Duty of Utility Notified of Proposed Blasting or Excavating**

1. Within seventy-two (72) hours, excluding hours during days other than business days, following receipt by the Utilities Protection Center of actual notice filed in accordance with Section 6, each utility shall stake or otherwise mark the surface of the tract or parcel of land to indicate the location of gas pipes or other underground utility facilities. Such markings shall be in accordance with the following color code:
  - A. Safety Red shall be used to mark electric power distribution and transmission facilities;
  - B. High Visibility Safety Yellow shall be used to mark gas and oil distribution and transmission facilities;
  - C. Safety Alert Orange shall be used to mark telephone, telegraph, cable television, video, and other telecommunications facilities;
  - D. Safety Precaution Blue shall be used to mark water systems facilities; and,
  - E. Safety Green shall be used to mark sewer systems facilities.
2. If the person planning the blasting or excavating has stated pursuant to paragraph 6(a)(2) that he desires to be notified in the event there are no utility facilities present on the tract or parcel specified, then each utility shall attempt to so notify such person by telephoning such person at the number furnished pursuant to paragraph 6(a)(2).

**Section 15-108                    Treatment of Gas Pipes and Other Underground Utility Facilities by Blasters and Excavators**

Persons engaged in blasting or excavating with mechanized excavating equipment shall not strike, damage, injure, loosen, or remove lateral support from or around any gas pipe or other underground utility facility which has been staked or marked in accordance with this chapter; provided, however, that nothing in this chapter shall be construed or applied to limit or reduce the duty of a person engaged in blasting or excavating in the vicinity of gas pipes or other underground utility facilities, irrespective of whether the same have been staked or marked as provided in this chapter.

**Section 15-109                    Degree of Accuracy Required in Pipe or Underground Utility Facility Location; Effect of Inaccurate Information on Liability of Blaster or Excavator; Liability of Gas Company for Losses Incurred for Lack of Accurate Information, etc.**

1. For the purposes of this Ordinance, information concerning the location of gas pipes and other underground utility facilities which is given by a utility to any person must be accurate to within 24 inches measured horizontally from the outer edge of either side of such facilities. If any gas pipe or other underground utility facilities become damaged due to the furnishing of inaccurate information as to their location by the utility, the liabilities imposed by this Ordinance shall not apply.
2. Upon documented evidence that the person seeking information as to the location of gas pipes or other underground utility facilities has incurred losses or expenses due to inaccurate information, lack of information, or unreasonable delays in supplying information by the utility, the utility shall be liable to that person for his losses.

**Section 15-110                    Effect of Ordinance Upon Rights, Powers, etc., of Utilities**

This Ordinance does not affect and is not intended to affect any right, title, power, or interest which any utility may have with relation to any facility or any easement, right of way, license, permit, or other interest in or with respect to the land on which the facility is located.

**Section 15-111                    Effect of Ordinance Upon Rights, Powers, etc., of State, Counties, or Municipalities Concerning Facilities Located on Public Road or Street Rights of Way**

This Ordinance does not affect and is not intended to affect any rights, powers, interest or liability of the state or the Department of Transportation with respect to the state highway system, the county road system or the municipal street system, or of a county with respect to the county road system or a municipality with respect to a city street system, with relation to any gas pipe or other underground utility facility which is or may be installed within the limits of any public road or street right of way, whether the installation is by written or verbal permit, easement, or any form of agreement whatsoever.

**Section 15-112                    Applicability of Ordinance in the Event of Emergencies.**

If any emergency arises which presents an immediate and substantial danger to life, health, or property or which requires the establishment or restoration of gas, electric, communication, rail or other essential public services, it shall be lawful for the person who undertakes to prevent such damage to life, health, or property or who is responsible for the establishment or restoration of such gas, electric, communication, rail, or other essential public services to engage in blasting or excavating with mechanized excavating equipment for such purpose without complying with Section 6, provided that, before commencing the same or as soon thereafter as is reasonably practical, the person shall give notice thereof to any utility which the person, in the exercise of reasonable judgment, believes may have gas pipes or other underground utility facilities within such proximity as to be affected by the blasting or excavating with mechanized excavating equipment.

**Section 15-113                    Penalties for Violation of Ordinance.**

1. Any person who violates the requirements of Section 6 shall be guilty of a crime punishable by payment of a fine of one thousand dollars (\$1,000.00). The fine provided for in this subsection shall not be imposed on a person engaged in farming activities on land he owns or leases.
2. Any person who violates the requirements of Section 6 and whose subsequent excavating or blasting damages gas pipes or other underground utility facilities shall be strictly liable for:
  - A. Any cost incurred by the utility in repairing or replacing its damaged facilities; and,
  - B. Any injury or damage to persons or property resulting from damaging the underground gas pipe or other utility facilities.Any such person shall also indemnify the affected utility against all claims, if any, for personal injury, property damage, or service interruptions resulting from damaging the underground gas pipes or other utility facilities.
3. Subsections (a) and (b) shall not apply to any person who shall commence, perform or engage in blasting or in excavating with mechanized equipment on any tract or parcel of land in the unincorporated area of Newton County if the utility to which the notice was given respecting such blasting or excavating with mechanized equipment as prescribed in subsection 6(a) has failed to comply with Section 7 or has failed to become a member of the Utilities Protection Center as required by Section 4.

# CHAPTER 16: RESERVED



# CHAPTER 17: RESERVED



# CHAPTER 18: RESERVED



# CHAPTER 19: RESERVED



# CHAPTER 20: WATER SERVICE

## Section

20-101	Municipal Water Works
20-102	Inspections
20-103	Application For Water
20-104	Tapping Charge
20-105	Size of Service Tap
20-106	Water Meters
20-107	Service Line Regulations
20-108	Water Waste Prohibition
20-109	Sprinkling Restrictions
20-110	Use During Fire Alarms
20-111	Water Rates
20-112	Water Bills
20-113	Discontinuance of Service
20-114	Charge for Turning Water On
20-115	Operator Class I and II Certificates from State Board
10-116	Disinfecting Water Mains



## **Section 20-101                      Municipal Water Works**

1. The municipal water works shall be under the immediate control and supervision of the Director of Public Works, who shall perform all acts that may be necessary for the prudent, efficient, and economical management and protection of said water works, subject to the approval and confirmation of the Mayor and City Council.
2. Any person who operates a wastewater treatment plant, wastewater collection system, water distribution system, or public water supply system shall obtain a certificate from the State Board of Examiners for Certification of Water and Wastewater Treatment Plant Operators and Laboratory Analysts, provided, however, that each industrial wastewater treatment or pretreatment facility, wastewater collection system, or distribution system shall be required to have only one responsible operator obtain such a certificate; and provided, further, that any person who is operating a wastewater treatment plant on July 1, 1991, and who is required to obtain a certificate on or after July 1, 1991, but who was not required to have a certificate prior to said date, shall have until July 1, 1996, to obtain such certificate without being in violation of this chapter; provided, further, that no such person who is operating without a certificate of wastewater treatment plant on July 1, 1991, shall be authorized to operate any other wastewater treatment plant after July 1, 1991, without a certificate as required by the State Board of Examiners for Certification of Water and Wastewater Treatment Plant Operators and Laboratory Analysts. Such person shall make application to the State Board of Examiners for Certification of Water and Wastewater Treatment Plant Operators and Laboratory Analysts for such certificate, which application shall be accompanied by a fee in an amount established by the State Board of Examiners for Certification of Water and Wastewater Treatment Plant Operators and Laboratory Analysts.
3. (a) Any laboratory analyst who conducts certain tests, as defined by the State Board of Examiners for Certification of Water and Wastewater Treatment Plant Operators and Laboratory Analysts, of water or wastewater samples in conjunction with the operation of public water supply systems or wastewater treatment plants shall obtain a certificate from the State Board of Examiners for Certification of Water and Wastewater Treatment Plant Operators and Laboratory Analysts; provided, however, that any industrial wastewater or pretreatment plant shall be required to have only one responsible analyst obtain such a certificate, and any other analyst in that facility shall be supervised by such person. Such persons shall make application to the State Board of Examiners for Certification of Water and Wastewater Treatment Plant Operators and Laboratory Analysts for such a certificate, which application shall be accompanied by a fee in an amount established by the State Board of Examiners for Certification of Water and Wastewater Treatment Plant Operators; provided, however, that until July 1, 1993, any person who has

obtained or shall obtain certification by the State Board of Examiners for Certification of Water and Wastewater Treatment Plant Operators and Laboratory Analysts as an operator under this chapter shall not be required to obtain a certificate from the State Board of Examiners for Certification of Water and Wastewater Treatment Plant Operators and Laboratory Analysts to provide services as a laboratory analyst.

(b) Notwithstanding the provisions of this subsection, any person who possesses certification by the board as Class I and II operators of a water treatment plant or wastewater treatment plant shall not be required to obtain a certificate to perform the duties of a laboratory analyst in conducting certain tests for reporting purposes as defined by the State Board of Examiners for Certification of Water and Wastewater Treatment Plant Operators and Laboratory Analysts.

4. Any certificate granted under this chapter shall be renewable biennially.

#### **Section 20-102            Inspections**

The Director of Public Works, or his designated assistant, may enter the premises of any water taker at any reasonable time to examine the condition of the water pipes, meters, and fixtures.

#### **Section 20-103            Application for Water**

Application for the use of water shall be made to the City Clerk/Treasurer by the owner or agent of the property to be benefitted, designating the location of the property and stating the purpose for which the water may be required.

#### **Section 20-104            Tapping Charge**

1. Upon the application for a new tap and service connection by any consumer within the corporate limits of the municipality, the applicant shall pay to the City Clerk/Treasurer the sum as determined by Mayor and Council to cover the cost of the fittings, installation of the tap by the municipality, and the necessary pipe from the main to the curb box.
2. The municipality shall own and maintain the water line from the main to the curb box and the property owner shall own and maintain the service line from the curb to the premises served.
3. All work upon the service line shall be performed by a licensed plumber.

#### **Section 20-105            Size of Service Tap**

No service tap shall be more than three-fourths (3/4) inch in diameter; provided that the Director of Public Works may grant special permission for larger taps where the water supply and service facilities are sufficient to permit such taps. Where a larger tap is permitted, the director shall fix the tapping charge therefor.

#### **Section 20-106            Water Meters**

Each building or structure using City water shall have a water meter installed by the City, which may be installed either in a curb box or inside of the building at the option of the property owner. All such meters are the property of the City.

#### **Section 20-107            Service Line Regulations**

No more than one (1) building shall be permitted to use a water service line. Only galvanized pipe shall be used for the installation of a service line and all service lines shall be installed at a depth at least forty (40) inches below the surface of the ground. Each service line shall contain a stop and waste cock where the water may be turned off.

#### **Section 20-108            Water Waste Prohibition**

Consumers shall prevent unnecessary waste of water and keep all water outlets closed when not in actual use. Hydrants, urinals, water closets, bath tubs, and other fixtures must not be left running for any purpose other than the use for which they were intended. When any such waste occurs, the water service may be terminated.

#### **Section 20-109            Sprinkling Restrictions**

In case of water shortage or scarcity, the Mayor and City Council may, by resolution, place any restrictions upon the use of water for irrigation or sprinkling purposes which such body deems necessary.

**Section 20-110 Use During Fire Alarms**

During all fire alarms, the use by persons other than municipal firefighters of hoses and other apparatuses maintaining a constant flow of water is absolutely forbidden.

**Section 20-111 Water Rates**

Water rates shall be determined from time to time by the Mayor and Council.

**Section 20-112 Water Bills**

Water meters shall be read on the twentieth (20th) day of each month, as nearly as possible, and bills shall be mailed on the first (1st) day of each succeeding month. All water bills shall be due on or before the fifteenth (15th) day of the month following the reading of the meter, and if not paid by such date, a penalty of ten percent (10%) of the amount of the bill shall be added thereto and paid by the water user.

**Section 20-113 Discontinuance of Service**

If any bill for water as herein above provided is not paid within sixty (60) days of the due date, the water service shall be cut off and in no case shall it be reinstated to the same property until the delinquencies shall have been paid in full, except where the following conditions apply:

1. No public or private water supplier shall refuse to supply water to any single or multi-family residential property to which water has been furnished through the use of a separate water meter for each residential unit on application of the owner or new resident tenant of the premises because of the indebtedness of a prior owner, prior occupant, or prior lessee to the water supplier for water previously furnished to such premises.
2. For each new or current account to supply water to any premises or property, the public or private water supplier shall maintain a record of identifying information on the user of the water service and shall seek reimbursement of unpaid charged water service furnished initially from the person who incurred the charges.
3. A public or private water supplier shall not impose a lien against real property to secure unpaid charges for water furnished unless the owner of such real property is the person who incurred the charges.

**Section 20-114 Charges for Turning Water On**

If the water supply to any premise is turned off for any reason, a charge as determined by Mayor and Council shall be made for turning the water back on.

**Section 20-115 Operator Class I and II Certificates from State Board**

Any person who performs operational duties and water treatment plant and wastewater treatment plant laboratory testing for reporting purposes for operator classifications I and II, as defined by the State Board of Examiners for Certification of Water and Wastewater Treatment Plant Operators and Laboratory Analysts, at wastewater treatment plants, wastewater collection systems, water distribution systems, or public water supply systems shall obtain a certificate from the State Board in accordance with O.C.G.A. § 43-51-6.

**Section 20-116 Disinfecting Water Mains**

The American Water Works Association for Disinfecting Water Mains, edition approved June 20, 1999 is incorporated by reference as if fully set out herein.

*(Adopted 12/10/01)*

# CHAPTER 21: SANITARY SEWERAGE

## Section

21-101	Sewers and Sewage Disposal
21-102	Sewer Requirement Ordinance
21-103	Operator Class I and II Certificates from State Board



## Section 21-101 Sewers and Sewage Disposal

1. **Definitions.** Unless the context specifically indicates otherwise, the meaning of terms used in this ordinance shall be as follows;
  - A. **Biochemical Oxygen Demand (BOD)** shall mean the quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedures in five (5) days at 10 degrees C, expressed in milligrams per liter.
  - B. **Building Drain** shall mean that part of the lowest ' horizontal piping of a drainage system which receives the discharge from soil, waste, and other drainage pipes inside the walls of the building and conveys it to the building sewer, beginning five (5) feet (1.5 meters) outside the inner face of the building wall.
  - C. **Building Sewer** shall mean the extension from the building drain to the public sewer or other place of disposal, also called house connection.
  - D. **Easement** shall mean an acquired legal right for the specific use of land owned by others.
  - E. **Floatable Oil** is oil, fat, or grease in a physical state such that it will separate by gravity from wastewater by treatment in an approved pretreatment facility. A wastewater shall be considered free of floatable fat if it is properly pretreated and the wastewater does not interfere with the collection system.
  - F. **Industrial Wastes** shall mean the wastewater from industrial processes, trade, or business as distinct from domestic or sanitary washes.
  - G. **May** is permissive.
  - H. **pH** shall mean the logarithm of the reciprocal of the hydrogenion concentration.
  - I. **Properly Shredded Garbage** shall mean the wastes from the preparation, cooking, and dispensing of food that have been shredded to such degree that all particles will be carried freely under normal flow conditions.
  - J. **Public sewer** shall mean a common sewer controlled by a governmental agency, or public utility.
  - K. **Sanitary Sewer** shall mean a sewer that carries liquid and water-carried wastes from residences, commercial buildings, industrial plants, and institutions together with minor quantities of ground, storm, and surface waters that are not admitted intentionally.
  - L. **Sewer** shall mean a pipe or conduit that carries wastewater or drainage water.
  - M. **Shall** is mandatory.
  - N. **Slug** shall mean any discharge of water or wastewater which in, concentration of any given constituent or in quantity of flow exceeds for any period of duration longer than fifteen (15) minutes more than five (5) times the average twenty-four (24) hour concentration or flows during normal operation and shall adversely affect the collection system and/or performance of the wastewater treatment works.
  - O. **Storm Drain** shall mean a drain or sewer for conveying water, groundwater, subsurface water, or unpolluted water from any source.
  - P. **Superintendent** shall mean the superintendent of utilities of the City of Mansfield, or his authorized deputy, agent, or representative.
  - Q. **Suspended Solids** shall mean total suspended matter that either floats on the surface of, or is in suspension in, water, wastewater, or other liquids, and that is removable by laboratory filtering.
  - R. **Unpolluted Water** is water of quality equal to or better than the effluent criteria in effect or water that would not cause violation of receiving water quality standards and would not be benefitted by discharge to the sanitary sewers and wastewater treatment facilities provided.

- S. **Wastewater** shall mean the spent water of a community. From the standpoint of source, it may be a combination of the liquid and water-carried wastes from residence, commercial building, industrial plants, and institutions, together with any groundwater, surface water, and stormwater that may be present.
  - T. **Wastewater Facilities** shall mean the structures, equipment; and processes required to collect, carry away, and treat domestic and industrial wastes and dispose of the effluent.
2. **Use of Public Sewers Required.**
- A. It shall be unlawful for any person to place, deposit, or permit to be deposited in any unsanitary manner on public or private property within the City of Mansfield or in any area under the jurisdiction of said City, any human or animal excrement, garbage, or objectionable waste.
  - B. It shall be unlawful to discharge to any natural outlet within the City of Mansfield, or in any area under the jurisdiction of said city, any wastewater or other polluted waters, except where suitable treatment has been provided in accordance with subsequent provisions of this ordinance.
  - C. Except as hereinafter provided, it shall be unlawful to construct or maintain any privy, privy vault, septic tank, cesspool, or other facility intended or used for the disposal of wastewater.
  - D. The owner(s) of all houses, buildings, or properties used for human occupancy, employment, recreation, or other purposes, situated within the city and abutting on any street, alley, or right-of-way in which there is new located or may in the future be located a public sanitary or combined sewer of the city, is hereby required at the owner's expense to install suitable toilet facilities therein, and to connect such facilities directly with the proper public sewer in accordance with the provisions of this ordinance and that ordinance dated July 21, 1986, and if located within two hundred (200) feet of public sewage system, as measured from City System to nearest portion of building, shall immediately at their own expense tap thereon and thereto, and also paying such tap fees and costs for this service as charged.
  - E. All connections to city sewer system shall pay tap fees and usage fees for the use of said system as may be set out by ordinances for same.
  - F. If any occupant property owner does not have financial means for connection cost, the City may advance said costs and be reimbursed by property owner on a monthly basis. To qualify, owner must show financial need to City and give security for repayment of costs.
3. **Private Wastewater Disposal.**
- A. Where a public sanitary or combined sewer is not available under the provisions of Section 2(D), the building sewer shall be connected to a private wastewater disposal system complying with the provisions of this article. Anyone wishing to obtain a building permit must first submit a septic tank permit and a percolation test approved by the Newton County Health Department.
  - B. Before commencement of construction of a private wastewater disposal system the owner(s) shall first obtain a permit from the County Sanitarian.
  - C. A permit for a private wastewater disposal system shall not become effective until the installation is completed to the satisfaction of the County Sanitarian.
  - D. The type, capacities, location, construction, and layout of a private wastewater disposal system shall comply with all recommendations of the Department of Human Resources of the State of Georgia. State approval is required of all private wastewater disposal systems before they may be put into use.
  - E. At such time as a public sewer becomes available to a property, served by a private wastewater disposal system as provided in Section 3(D), a direct connection shall be made to the public sewer within ninety (90) days in compliance with this ordinance.
  - F. The owner(s) shall operate and maintain the private wastewater disposal facilities in a sanitary manner at all times, at no expense to the city.
  - G. No statement contained in this article shall be construed to interfere with any additional requirements that may be imposed by the health officer or that sewer ordinance dated July 21, 1986.

- H. Any party having private sewage disposal system, not located within two hundred (200) feet of public sewage system as set forth in Section 2(D), in proper operating condition, may continue to use said system, but shall not at any time make any repairs thereto, pump out septic tank, make any alterations, or extensions to said private system without notifying the City Clerk of the City of Mansfield, and said system shall be brought into compliance and meet provisions of permit and regulations set forth in Sec. 3(B),(C)&(D) as required in new construction.

- I. No person, farm or corporation shall install, repair, extend, pump out, or construct any private sewer systems within the City without first obtaining a City Business License and having in their possession on job said license and permit required by the County

**4. Building Sewers and Connections.**

- A. No unauthorized person(s) shall uncover, make any connections with or opening into, use, alter, or disturb any public sewer or appurtenance thereof without first obtaining a written permit from the proper authority.
- B. There shall be two (2) classes of building sewer permits:
  - (i) For residential and commercial service, and
  - (2) For service to establishments producing industrial wastes. In either case, the owner(s) shall make proper application.

The permit application shall be supplemented by any plans, specifications, or other information considered pertinent in the judgment of the inspector, permit and inspection fee as required for a residential or commercial building sewer permit shall be paid at the time the application is filed.

- C. All costs and expenses incidental to the installation and connection of the building sewer shall be borne by the owner(s). The owner(s) shall indemnify the city from any loss or damage that may directly or indirectly be occasioned by the installation of the building sewer.
- D. A separate and independent building sewer shall be provided or every building; where one building stands at the rear of another on an interior lot and no private sewer is available or can be constructed to the rear building through an adjoining alley, court, yard, or driveway, the front building may be extended to the rear building and the whole considered as one building sewer, but the city does not and will not assume any obligations or responsibility for damage caused by or resulting from any such single connection aforementioned.
- E. Old building sewers may be used in connection with new buildings only when they are found to meet all requirements of this ordinance.
- F. The size, slope, alignment, materials of construction of a building sewer, and the methods to be used in excavating, placing of the pipe, jointing, testing, and backfilling the trench, shall all conform to the requirements of the building and plumbing code or other applicable rules and regulations of the city.
- G. Whenever possible the building sewer shall be brought to the building at an elevation below the basement floor. In all buildings in which any building drain is too low to permit gravity flow to the public sewer sanitary sewage carried by such building drain shall be lifted by an approved means and discharged to the building sewer.
- H. No person (s) shall make connection of road downspouts, foundation drains, areaway drains, or other sources of surface runoff or groundwater to a building sewer or building drain which in turn is connected directly or indirectly to a public sanitary sewer unless such , connection is approved by the superintendent for purposes of disposal of polluted surface drainage.

**5. Use of Public Services.**

- A. No person(s) shall discharge or cause to be discharged any unpolluted waters such as stormwater, groundwater, roof runoff, subsurface drainage, or cooling water to any sewer, except stormwater runoff from limited areas, which stormwater may be polluted at times, may be discharged to the sanitary sewer by permission of the superintendent.
- B. Stormwater other than that exempted under Section 4, and all other unpolluted drainage shall be discharged to such sewers as are specifically designated as combined sewers or storm sewers or to a natural outlet approved by the superintendent and other regulatory agencies. Unpolluted industrial cooling water or process waters may be discharged, on approval of the superintendent to a storm sewer, combined sewer, or natural outlet.
- C. No person(s) shall discharge or cause to be discharged any of the following described waters or wastes to any public sewers;
  - (1) Any gasoline, benzene, naphtha, fuel oil, or other flammable or explosive liquid, solid, or gas.
  - (2) Any wastes containing toxic or poisonous solids, liquids, or gases in sufficient quantity, either singly or by interaction with other wastes, to injure or interfere with any waste treatment process, constitute a hazard to humans or animals, create a public nuisance, or create any hazard in the receiving waters of the wastewater treatment plant.
  - (3) Any waters or wastes having a pH lower than 5.5, or having any other corrosive property capable of causing damage or hazard to structures, equipment, and personnel of the wastewater works.

- (4) Solid or viscous substances in quantities or of such size capable of causing obstruction to the flow in sewers or other interference with the proper operation of the wastewater facilities such as, but not limited to, ashes, bones, cinders, sand, mud, straw, shavings, metal, glass, rags, feathers, tar, plastics, wood, unground garbage, whole blood, paunch manure, hair and fleshings, entrails and paper dishes, cups, milk containers, etc., either whole or ground by garbage grinders.
- D. The following described substances, materials, waters, or waste shall be limited in discharges to municipal systems to concentrations or quantities which will not harm either the sewers, wastewater treatment process or equipment, will not have an adverse effect on the receiving stream, or will not otherwise endanger lives, limb, public property, or constitute a nuisance. The limitations or restrictions on materials or characteristics of waste or wastewater discharged to the sanitary sewer which shall not be violated without the approval of the superintendent as follows;
- (1) Wastewater having a temperature higher than 150 degrees Fahrenheit (65 degrees Celsius).
  - (2) Wastewater containing more than twenty-five (25) milligrams per liter of petroleum oil non-biodegradable cutting oils, or product of mineral oil origin.
  - (3) Wastewater from industrial plants containing

*(Adopted 6/11/90)*

**Section 21-102 Sewer Requirement Ordinance**

1. All existing residents, businesses and industries, within two hundred (200) feet of sewer service, which have indoor plumbing facilities must connect to and use the central sewer system within ninety (90) days after service is available.
2. All new construction, at the time of construction, within the City shall connect to and utilize the central sewer system.
3. Following the construction and installation of the central sewer system within the City of Mansfield, any person wishing to connect thereto shall provide their own service lines to the nearest central sewer system line and said attachment lines shall be installed and put in place at and under the specifications of the City.
4. All connections to the central sewer system shall pay tap fees and usage fees for the use of said system as set out in an Ordinance for same as set forth hereinafter.
5. This Ordinance shall take affect from and after the date of its passage and ratification by the Mayor and City Council of the City of Mansfield, Georgia.

*(Adopted 7/21/86)*

**Section 21-103 Operator Class I and II Certificates from State Board**

Any person who performs operational duties and water treatment plant and wastewater treatment plant laboratory testing for reporting purposes for operator classifications I and II, as defined by the State Board of Examiners for Certification of Water and Wastewater Treatment Plant Operators and Laboratory Analysts, at wastewater treatment plants, wastewater collection systems, water distribution systems, or public water supply systems shall obtain a certificate from the State Board in accordance with O.C.G.A. § 43-51-6.

## CHAPTER 22: RESERVED



# CHAPTER 23: COMMUNITY CENTERS

Section

23-101 Guidelines for the Use of County Owned Community Centers



## Section 23-101 Guidelines for the Use of County Owned Community Centers

The Newton County Board of Commissioners shall from time to time designate certain buildings or locations to be "Community Centers" which shall made available to other governmental bodies or agencies, or civic or community groups for occasional use for non-profit, civic and community uses subject to the following guidelines:

1. Except as hereinafter provided, only public non-profit organizations which agree in writing to comply with these Guidelines shall be permitted to reserve and use a Community Center.
2. No private functions shall be permitted except with the prior consent of the District Committee. Private functions are defined as those which are not open to the general public. Functions which are open to the members of non-profit, civic or community groups which qualify as a tax exempt organization under Section 501 of the Internal Revenue Code are not considered private functions.
3. No use of a Community Center shall be permitted which interferes with the normal use of the building or location by Newton County for governmental operations or functions.
4. Reservations for the use of a Community Center must be made by filing the appropriate form with the Clerk of the Board of Commissioners (or such other person as the District Committee shall designate with the advice and consent of the Board of Commissioners) at least seven (7) days in advance of the date of the requested use. Forms for making reservations may be obtained at the office of the Clerk of the Board of Commissioners. Reservations shall be considered in the order received by the county.
5. The Community Center District Committee shall determine if the requested use complies with these Guidelines and shall set out any additional restrictions or requirements which must be complied with before the use will be permitted. There shall be a Community Center District Committee for each voting district of the county. Each such committee shall be composed of three members of the community appointed by the Board of Commissioners for a two year term to begin on January 1st of each even numbered year and to end on December 31st of each odd numbered year, the Probate Judge of Newton County, and the Commissioner representing that district. Approval shall be by majority vote of the committee members voting and a quorum shall consist of three or more members. Telephone conferences and voting are specifically permitted. One member of the Committee shall be elected by the members of that Committee to serve as Chairperson and shall be responsible for reporting the reservations which are approved to the person designated by the Board of Commissioners to keep a record of all applications for reservations and of all approved reservations. The Committee shall base its decision on whether or not to approve the reservation solely on the following factors:
  - A. The availability of the Community Center for the event requested;
  - B. Whether or not the requested use would interfere in any way with normal county use of the building or location;
  - C. Whether or not the group or association requesting the reservation and the requested use shall meet with the requirements of these Guidelines; and
  - D. Whether or not the group or association has previously used a Community Center and has complied with these Guidelines in that previous use or uses.
6. No group using a Community Center shall engage in any discrimination whatsoever as to the attendance or participation in the scheduled event based on race, sex, national origin, or religious affiliation.
7. Any group or association reserving a Community Center shall be required to sign a Liability Waiver and Release and Indemnification Agreement which will release Newton County and its employees and staff from any liability for any injury or damage which may result from the use of the Community Center by the group or association unless such injury or damage is the direct result of an intentional act or gross negligence on the part of Newton County or its employees and staff. The group shall also agree to indemnify and hold harmless Newton County and its employees and staff for any injury or damage which results from any act or omissions of the group or association or any of its members in the use of the Community Center. Each group or association seeking to reserve a Community Center shall designate

a resident of Newton County to be the party responsible for insuring that the provisions of these Guidelines are complied with. That party must personally sign the application form before it will be considered.

8. Any group using a Community Center shall maintain proper order at all times, shall comply with all applicable safety laws and regulations and shall not permit the occupancy of the building to exceed fire safety occupancy load limitations established by the State Fire Marshal's office or the local fire department. No unsafe practice shall be permitted at any time.
9. No alcoholic beverages shall be permitted in a Community Center or upon the property upon which the Community Center is located unless with the express written consent of the Board of Commissioners.
10. The Board of Commissioners may from time to time establish fees for the use of the Community Center for the purpose of compensating the county for the costs of utilities and maintenance of the structure. A list of such user fees shall be maintained in the office of the Clerk of the Board of Commissioners.
11. Any group or association using a Community Center shall be responsible for all clean up after the use is completed and shall ensure that all necessary cleaning and straightening up is completed before the next reserved use or within twenty four hours after the use of the Community Center, whichever is less. Any group or association which fails to properly clean up after the use of a Community Center may be barred from future use of Community Center by majority vote of any Community Center District Committee.
12. Any group or association using a Community Center shall be responsible for any damage done to the Community Center which occurs during or results from the reserved use.
13. No use of a Community Center shall be permitted which would require more parking space than is available at that Community Center unless adequate provision for such additional parking is specified in the application and approved by the applicable Community Center District Committee.
14. No use of a Community Center shall be permitted at unusual or late night hours. Hours available for the use of each Community Center shall be established by the applicable Community Center District Committee.
15. No loud noise producing activities will be permitted. Sound amplification equipment will not be permitted unless specified in the application and approved by the applicable Community Center District Committee.

## CHAPTER 24: RESERVED



## CHAPTER 25: RESERVED



## CHAPTER 26: RESERVED



## CHAPTER 27: RESERVED



## CHAPTER 28: RESERVED



## CHAPTER 29: RESERVED



**PART IV: GENERAL GOVERNMENTAL  
REGULATIONS**



# CHAPTER 30: ANIMALS

## Section

30-101	Administration and Definitions
30-102	Enforcement and Violations
30-103	Dogs and Cats
30-104	Dangerous Dogs
30-105	Rabies Control
30-106	Livestock and Fowl
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## Section 30-101 Administration and Definitions

The responsibility for the control of animals within the county shall rest with the Newton County Board of Commissioners.

1. The responsibility for the control of rabies and other zoonos shall rest with the Newton County Board of Commissioners and the Newton County Board of Health.
2. For the purpose of this proposed code the following words and phrases shall have the meanings herein ascribed to them unless clearly indicated to the contrary by the context.
  - A. The term "**Animal**" is defined as any live vertebrate creature, domestic or wild.
  - B. The "**Director**" is defined as the Chairman, Newton County Board of Commissioners.
  - C. **Animal Control Center**: A structure or physical plant which is constructed or renovated specifically to be "the center" of the county's animal control activities. The center will contain facilities for housing animals in a humane manner, administrative areas for animal control personnel, a clinic and euthanasia room, a cold storage area for animal cadavers, and adoption area, facilities for humane education programs, and other responsibilities as determined by the director.
  - D. **Animal Control Officer (ACO)**: An individual employed either, full or part time by the Department of Animal Control whose duty is to enforce the county's animal code. The ACO should have the authority to issue citations, be familiar with local and state animal laws, and be sensitive to the needs of animals.
  - E. **Animal Control Officer Supervisor**: A full time employee of the Department of Animal Control whose duty is to administer and manage the county's animal control program. He/she will be responsible to the director.
  - F. **Animal Control Attendant**: An individual employed either full or part time by the Department of Animal Control whose duty is to provide humane care for the animals housed in the animal control center.
  - G. **Animal Welfare Agency**: Independent humane agencies such as SPCA's, Animal Welfare Leagues, Humane Societies, etc. The majority of these agencies are solely dependent on public contributions for sustaining their programs. Many, especially in large cities, operate animal shelters and, often, contract with the local governments to conduct animal control activities and/or house animals. The Humane Society of Newton County is a state approved, incorporated animal welfare agency whose goals include assisting the department of animal control on a voluntary basis.
  - H. **Dog**: Shall mean a domestic dog, of either sex, vaccinated or not vaccinated against rabies, registered or not registered in Newton County, Georgia.
  - I. **Cat**: Shall mean a domestic cat, of either sex, vaccinated or not vaccinate against rabies, registered or not registered in Newton County, Georgia.
  - J. **Vaccine**: Shall mean an injectable material containing killed or attenuated rabies virus, licensed by the United States Department of Agriculture, Veterinary Biologies Division and approved by the Georgia Department of Human Resources. Vaccine used for the purpose of immunizing animals against rabies shall be stored at the temperature prescribed on the package label.
  - K. **Vaccinate or Inoculate**: Shall mean the injection of a specified dose of antirabic vaccine by a veterinarian into the proper site of an animal.
  - L. **Veterinarian**: Any person duly licensed to practice veterinary medicine in the State of Georgia.

- M. Veterinary Hospital or Clinic:** A place where medical and surgical treatment is administered to animals by or under the supervision of a veterinarian.
- N. Vaccination Tag:** A tag furnished or approved by the Georgia Department of Human Resources and the Newton County Department of Animal Control. This tag will certify the year, county, and vaccination number. The tag shall be worn at all times by the vaccinated animal.
- O. Registration Tag:** A tag approved by the Newton County Department of Animal Control which signifies the dog or cat has been duly registered. The tag will be worn at all times by the registered animal.
- P. Rabies Certificate:** A Certificate of vaccination on a form--furnished or approved by the Georgia Department of Human Resources.
- Q. Registration Certificate:** A certificate signed by the director or his designated representative certifying that a dog or cat has been properly registered in Newton County, Georgia.
- R. Owner:** Any person having a right of property in an animal, or any person who permits an animal to remain on his or her premises.
- S. Person:** Any individual, firm, cooperation, partnership, municipality, county, society, or association.
- T. Neutered:** The surgical sterilization of a female animal (ovariohysterectomy or spay) or male animal (architecture or castrations).
- U. Running at Large:** Means the going upon public or private property by an animal without the owner or person in charge thereof having control over such animal, and includes any animal whatsoever which may be staked, tied or hobbled in any manner as to allow such animal to go or get upon the public streets or sidewalks.

#### Section 30-102 Enforcement and Violations.

1. The director, the animal control supervisor and officers, and other authorized employees of the county shall have all of the powers and authority of police officers to the extent only and no further of enforcing this animal code of law and other laws of the county relating to animals and fowl.
2. All duly appointed and qualified law enforcement officers and animal control officers and other designated persons are authorized to issue written notices to persons violating this animal code of law or any other laws governing the regulation of animals, which notices shall, among other things describe the violation complained of Any person violating this code or any other laws governing the regulation of animals within Newton County shall be subject to a fine not to exceed five hundred dollars (\$500.00) and/or twenty (20) days imprisonment, except in circumstances where state law provides for harsher penalties.

#### Section 30-103 Dogs and Cats.

1. **Registration.** The Newton County Board of Commissioners shall consider the adoption of rules and regulations for the registration of dogs and cats, proposed to be effective on July 1, 1991. Said rules and regulations shall include registration fees, and shall be adopted within such time frame as will permit adequate publicity for implementation on said date.
2. **Rabies Vaccination.** All dogs or cats in Newton County over three (3) months of age will be inoculated annually for rabies with an approved vaccine. All dogs and cats which are brought into the county and which are more than three (3) months of age and which have not been inoculated shall be inoculated within thirty (30) days after their arrival in the county. Any person owning, keeping, harboring or maintaining a dog or cat in the county who fails or refuses to comply with the vaccination requirements herein set out shall be deemed guilty of an offense. A certificate of a veterinarian certifying that the vaccine was administered as required by this code, bearing the date and type of vaccine and the identification of the dog or cat by breed, color, and sex and the vaccination tag number and the name and address of the owner, shall be evidence of such vaccinations.
3. **Dogs Running at Large.** It shall be unlawful for any person owning or having in his or her possession any dog to allow such dog to be at large without the owner or person in charge thereof having control over such dog. An owner or person having in his possession a dog may allow the dog to be at .large on property that does not provide the animal with access to a sidewalk or street. Hunting dogs shall be deemed under control while on land with the consent of the owner thereof and engaged in normal hunting activity for the particular type of hunt involved.
4. **Impoundment of Dogs and Cats.** Where the animal control supervisor or officer(s) either observes or receives a proper citizen complaint of a dog or cat running at large, it shall be the duty of said supervisor

or officer(s) to take up and take charge of all dogs and cats found to be running at large as defined in code section 3(C) above within the boundaries of Newton County, and to capture and take such animals to the animal control center or other designated place, there to be impounded and detained for a period of three (3) calendar working days. If a dog or cat which has been delivered or admitted to the animal control center is wearing a vaccination or registration tag not more than two (2) years old or any other type of identification, the person in charge of the center shall notify the owner of this animal by telephone or by mail that such animal has been received by the animal control center. The mailing of notice shall be deemed sufficient notice under this section if it is mailed to the owner at the address shown in the county's records, for such registration if the animal is wearing a vaccination or registration tag, or to the address shown in other types of identification. Dogs and cats wearing a vaccination or registration tag not more than two (2) years old shall be held in designated pens for the owner for six (6) calendar working days from the date the owner was notified by telephone or notice was mailed to the owner. On the seventh (7) day following such notice, the animal may be placed for adoption or euthanized at the discretion of the animal control officer supervisor or his designated representative. The director is authorized to negotiate with other local government agencies for the handling of animals under this code. Any contract which is the subject of such negotiations must be approved and its execution authorized by the Board of Commissioners as in other contracts entered into by the county. Dogs or cats, three (3) months of age or older, can be subject to impoundment if said dog or cat does not display a current vaccination or registration tag.

5. **Redemption or Sale after Impoundment.** The person entitled to the possession of any animal taken up and delivered to the animal control center shall be entitled to have the animal delivered to them at the animal control center upon presentment of satisfactory evidence of ownership (registration papers, bill-of-sale, photographs, registration and/or vaccination certificates, etc.) and payment of the following charges and/or fees if applicable, provided such animal is not infected or reasonably believed to be infected with rabies or any other infections or contagious disease:
  - A. Except as otherwise provided in this code, and impoundment fee of twenty-five dollars (\$25.00) shall be charged for each animal impounded. However, no impoundment fee shall be charged for dogs, cats or other small animals delivered to the animal control center by the owner.
  - B. Payment of the current year's registration fee as provided in this code if a dog or cat has no valid registration.
  - C. Payment of six dollars (\$6.00) for a current rabies vaccination provided the dog or cat has no valid vaccination. The owner will be issued a receipt to take to a participating clinical veterinarian which authorizes the veterinarian to inoculate the animal. The veterinarian will submit the receipt to the animal control department indicating that the vaccine was administered and the number of the vaccination tag issued. The animal control department will send the veterinarian a sum of six dollars (\$6.00) per animal vaccinated.
  - D. Except as otherwise specifically provided in this code, a boarding fee of three dollars (\$3.00) per day shall be charged for each animal impounded. However, when a person seeks delivery of an animal on the first regular working day after a Sunday and/or a county holiday, no boarding fee shall be charged for the immediately preceding Sunday and/or holiday unless such Sunday and/or holiday was within the period of quarantine for rabies observation.
  - E. Impounded or sick animals may be treated for injury or illness when such treatment is found to be reasonably necessary in the judgement of the animal control supervisor.
6. **Adoptions.** It shall be the duty of the ACO Supervisor to offer for sale any and all healthy animals impounded under the terms of this code and not redeemed within three (3) calendar working days, and to sell the same for twenty-five dollars (\$25.00) adoption fee. Dangerous or potentially dangerous animals will not be offered for sale. The person entitled to redeem the same upon paying the purchaser double the amount paid by him for such animal and his reasonable expenses for keeping the same. Any animal not so redeemed within thirty (30) days from the date of the sale shall become the absolute property of the purchaser or adopter. It is unlawful to remove animals from the animal control center except in accordance with the procedures established herein and the regulations established by the director.
7. Dogs, cats and other animals taken up and impounded under the terms of this code which are not redeemed or purchased as provided in this code shall be disposed of by the department of animal control. These animals shall be humanely destroyed a manner approved by the Newton County Board of Commissioners. Published findings of the American Veterinary Medicine Association shall be consulted as to the most humane method of euthanasia currently recognized.

1. **Dangerous and Potentially Dangerous Dogs.** Dangerous dogs and potentially dangerous dogs shall be investigated, classified, controlled and possessed in strict accordance with the Georgia Dangerous Dog Control Law (O.C.G.A. Sec. 4-8-20), as the same shall be amended from time to time.
2. **Creation of Newton County Animal Control Board.** There is hereby created a Newton County Animal Control Board, which members shall serve at the pleasure of the Newton County Board of Commissioners and shall carry out the duties and responsibilities of an animal control board, as outlined in the Georgia Dangerous Dog Control Law (O.C.G.A. Sec. 4-8-20), as the same shall be amended from time to time.

**Section 30-105 Rabies Control**

1. Except as provided in code section 5(B) below, every animal that has rabies or symptoms thereof, every animal that has been exposed to rabies, and every animal that bites or otherwise attacks any person within Newton County shall be impounded at once and held under observation by the department of animal control for ten (10) calendar days. If its owner desires, such animal may be confined for observation in a veterinary hospital or clinic approved by the ACO Supervisor at the owner's expense for the same period of time as the animal would be confined for observation at the county's animal control center. Upon request, the ACO Supervisor shall approve a veterinary hospital or clinic for such purposes if it is shown that the hospital or clinic is able to properly confine and observe such animals unless there is reason to doubt whether such hospital or clinic will actually do so.
2. Any dog or cat that bites or otherwise attacks any person within Newton County while the animal is confined on the owner's premises may be quarantined on the owner's premises for a period of ten (10) calendar days immediately following the date such animal has attacked a person if the animal has a current rabies vaccination and a current county registration at the time the attack occurred, provided that the animal is examined by a veterinarian, at the owner's expense at the beginning of the quarantine period, and again ten (10) days later. The veterinarian will provide the owner with a written report setting out the results of each such examination. The report will be submitted by the owner to the ACO Supervisor within three (3) days after the examination has been made. Any owner or keeper of an animal that fails to keep the animal confined, fails to have the animal examined by a veterinarian, or fails to provide the animal control department a veterinarian's report of the results of an examination when required to do so under the provisions of this code shall be in violation of this code and subject to fines and penalties as stated in Code Section 2(B).
3. No animal that has rabies shall be allowed at any time on the streets or public ways of the county. No animal that has been suspected of having rabies shall be allowed at any time on the street or public ways of the county until such animal has been released from observation by the ACO Supervisor. The owner, keeper or person in charge of any animal that has rabies or symptoms thereof, or that has been exposed to rabies, or that has bitten or otherwise attacked any person within the county shall, on demand, turn over such animal to the ACO Supervisor or any officer acting as his/her representative. The body of any animal that has died of rabies shall not be disposed of except as directed by the ACO Supervisor. Any person having knowledge of an animal bite is hereby required to report it immediately to the department of animal control.

**Section 30-106 Livestock and Fowl**

1. The running at large of horses, mules, other equidae, cattle, sheep, goats, hogs, domestic rabbits, or domestic fowl, or other animals within the limits of Newton County is hereby declared a nuisance and shall be unlawful for the owner or keeper of any such animal or fowl to permit the same to run at large within the county.
2. It shall be the duty of the director to cause all horses, mules, other equidae, cattle, sheep, goats and hogs found running at large within Newton County to be handled in strict accordance with applicable provisions of state law, as the same may be amended from time to time.
3. **Redemption of Impounded Livestock.** Impounded livestock shall be redeemed in strict accordance with applicable provisions of state law, as the same may be amended from time to time.
4. If, at the time of the sale of any livestock under the provisions of state law and this code, the owner has not redeemed the same in accord with state law and this code, and no purchaser can be found for the animal, the director shall cause such animal to be humanely destroyed, and shall deposit the carcass in such place as may be designated for such matter.

5. It shall be unlawful for any person, other than a duly appointed and qualified law enforcement officer of the county or any authorized employee of the director, or humane organizations approved by the director to engage in the catching or impounding of animals; nor shall any reward be given for such catching or impounding, and any officer authorized to catch and impound animals detected in offering a reward of any kind whatsoever to any person or impound such animals shall be deemed guilty of an offense.
6. When from any cause it may happen that any horse, mule, cow, calf, steer, goat, sheep, dog, cat or other animal within the limits of Newton County shall be so wounded, maimed or injured as to render its recovery hopeless, then it shall be the duty of the director to cause it to be humanely destroyed as soon after such injury as practicable, and to cause the carcass thereof to be removed to such place as may be set apart for such matter. When the director has cause to humanely destroy any animal under this code, it shall become his duty to at once file a report in writing of such destruction, and such report shall show: (a) a description of the animal destroyed, and the name of the owner thereof if known, (b) the injury which made destruction necessary, and how same was inflicted, and by whom, if known, (c) the names of at least two (2) reliable witnesses, who are conversant with the facts of the injury and the destruction (d) a description of the injury from a veterinarian, if available. Code section 6(G) shall not apply to veterinarians or veterinary hospitals and clinics.
7. It shall be unlawful for any person to (a) stake, tie or hobble any animal whatsoever on any land of which he is not the owner (b) obstruct any street or sidewalk by hitching or staking out any animal or to permit any animal to be so hitched or staked out that it can go upon or across any street or sidewalk (c) tie or fasten any animal to any tree, or box around any tree, planted or growing in any street or public place, or to a fence or lamp-post which is the property of another, without such other persons consent therefore.

#### Section 30-107                      **Keeping of Wild Animals**

1. It shall be unlawful within the corporate boundaries of Newton County for any person to possess, keep, permit, suffer, cause or allow any wild animal within any residence or within three-hundred (300) feet of any residence or building used for human habitation.
2. A "**Wild Animal**" shall mean and include any mammal, amphibian, reptile or fowl which is of a species which is wild by nature, and of a species which, due to size, vicious nature or other characteristic is dangerous to humans. Such animals shall include, but not be limited to lions, tigers, leopards, panthers, bears, wolves, raccoons, skunks, apes, gorillas, monkeys of a species whose average adult size weight is twenty (20) pounds or more, foxes, elephants, rhinoceroses, alligators, crocodiles, and all forms of poisonous reptiles. The term "wild animal" as used in this code shall not include gerbils, hamsters, guinea pigs, mice or rabbits.
3. Any person who violates any provision of this code shall upon conviction thereof, be fined in accordance with the provisions of code section 2(B). Each day any person possesses, keeps, permits suffers, causes or allows any wild animal within any residence or within three-hundred (300) feet of any residence or building used for "human habitation in violation of this code shall be a separate offense. Further, the keeping of more than one such wild animal in violation of this code shall be a separate offense for each such animal.
4. The ACO Supervisor shall seize all animals found in violation of this code and impound all such animals at the animal control center or other suitable place. The director, and ACO, or any law enforcement officer within the county may enter any building to seize an animal which is therein in violation of this code upon the consent of an adult occupant of such building or one having the right of possession of such building, or under a warrant.
5. **Redemption of Impounded Wild Animal.** Upon showing to the ACO Supervisor or his delegated authority of clear and convincing proof of right of possession of any such impounded animal, such person may redeem such animal within seven (7) days of the date of impoundment upon payment of the fees set out below provided:
  - A. That such animal is not infected or believed to be infected with rabies or any other disease.
  - B. That such person submits to the ACO Supervisor a sworn affidavit setting out the location where the animal will be kept, and that he will not permit, suffer, cause or allow such animal to be within any residence or within three-hundred (300) feet of any residence in violation of this code. If such animal is not redeemed within seven (7) days of the date of initial impoundment, the director shall be authorized to destroy such animal in the most humane manner possible.
  - C. In the event an individual redeems any such animal upon providing the sworn affidavit required above, and such animal upon thereafter is found within a residence or within three-hundred (300)

feet-of" any actual residence or building used for human habitation, in violation of this code, said animal shall be seized and impounded as herein above described in code section G.4 above.

6. The following fees shall be charged for impoundment and boarding wild animals:
  - A. Impoundment fee for each animal impounded: fifty dollars (\$50.00).
  - B. A boarding fee of ten dollars (\$10.00) per day for animals over thirty (30) pounds; fifteen dollars (\$15.00) per day for animals over thirty (30) pounds but not more than one-hundred (100) pounds; or twenty dollars (\$20.00) for animals over one-hundred (100) pounds,
7. The provisions of code section 7(1) shall not apply to animals kept for treatment in a facility operated by a veterinarian licensed in the State of Georgia, animals kept in publicly owned zoos, and animals used for research or teaching purposed by a medical or veterinary school, licensed hospital or non-profit university or college providing a degree program.

*(Adopted 7/9/90)*

# CHAPTER 31: GENERAL OFFENSES

## Section

31-101	Disorderly Conduct
31-102	Discharging Firearms, Air Guns, Etc.
31-103	Report of Treatment of Wounds
31-104	Throwing of Missiles
31-105	Ball Playing
31-106	Bonfires
31-107	Drinking in Public
31-108	Reserved
31-109	Abandonment of Motor Vehicles
31-110	Curfew



### **Section 31-101            Disorderly Conduct**

It shall be unlawful for any person in the city to engage in any violent, tumultuous, obstreperous, or similar disorderly conduct tending to infringe on the peace and repose of the citizens of the city. Fighting between two (2) or more persons in which physical contact is made, except that which occurs at boxing or wrestling exhibitions duly authorized by the city, shall be deemed to be disorderly conduct within the meaning of this section.

*NOTE:            The state's disorderly conduct statutes expressly provide that they are not to be construed as preventing municipalities from passing or enforcing their own laws punishing disorderly conduct within their respective jurisdictions. See O.C.G.A., §§ 16-11-34 and 16-11-41.*

### **Section 31-102            Discharging Firearms, Air Guns, Etc.**

1. It shall be unlawful for any person in the city to discharge any gun, pistol, or other firearm within three hundred fifty (350) yards of any street, alley, or building, or at any point upon the land of another person without the express consent of the owner or occupant thereof; or to discharge any air gun, BB gun, or other toy gun which projects lead or any other missile.

This section shall not be construed to prohibit any officer of the law from discharging a firearm in the performance of his duty, nor to prohibit any citizen from discharging a firearm when lawfully defending person or property.

2. It shall be unlawful for any person to discharge a firearm while:
  - A. Under the influence of alcohol or any drug or any combination of alcohol and any drug to the extent that it is unsafe for the person to discharge such firearm except in the defense of life, health, and property;
  - B. The person's alcohol concentration is 0.08 grams or more at any time while discharging such firearm or within three (3) hours after such discharge of such firearm from alcohol consumed before such discharge ended; or
  - C. Subject to the provisions of subsection 3 of this Code section, there is any amount of marijuana or a controlled substance, as defined in O.C.G.A. § 16-13-21, present in the person's blood or urine, or both, including the metabolites and derivatives of each or both without regard to whether or not any alcohol is present in the person's breath or blood.
3. The fact that any person charged with violating this section is or has been legally entitled to use a drug shall not constitute a defense against any charge of violating this section; provided, however, that such person shall not be in violation of this section unless such person is rendered incapable of possessing or discharging a firearm safely as a result of using a drug other than alcohol which such person is legally entitled to use.
4. Any person convicted of violating subsection 2 of this section shall be guilty of a misdemeanor of a high and aggravated nature.

**Section 31-103 Report of Treatment of Wounds**

All physicians and all hospital superintendents in the city are hereby required to report to the Police Department of the city all patients treated by physicians or diagnosed or known to be suffering from wounds inflicted by a dangerous or deadly weapon of any kind. Such report may be made in writing or by telephone, giving the name of the reporting person and the patient and any other pertinent data requested by the Police Department. All reports shall be made within twenty-four (24) hours after treatment by a physician or after admission to the hospital. (See O.C.G.A. § 31-7-9, reports by physicians and other personnel of nonaccidental injuries to patients).

**Section 31-104 Throwing of Missiles**

It shall be unlawful for any person in the city to throw any stone, rock, or other missile upon or at any vehicle, building, tree, or other public or private property, or upon or at any person in any public or private way or place.

**Section 31-105 Ball Playing**

It shall be unlawful for any person to play ball by throwing, catching, pitching, or batting a ball on any public street, alley, or sidewalk of the city.

**Section 31-106 Bonfires**

It shall be unlawful for any person or group, during a holiday or at any other time, to build a bonfire of any description within the city limits, except at places approved and designated by the Fire Chief.

**Section 31-107 Drinking in Public**

It shall be unlawful for any person to consume any spirituous malt or alcoholic beverage in or upon any street, alley, sidewalk, or other public way or place in the city, or within any public building.

**Section 31-108 Reserved**

**Section 31-109 Abandonment of Motor Vehicles**

It shall be unlawful for any person to abandon or to leave unattended for a period in excess of five (5) days any motor vehicle on any street, road, alley, or other public way in the municipality.

**Section 31-110 Curfew**

**1. Definitions.**

**A. "Adult" means:**

- (i) A Person who is at least 18 years of age and authorized by a parent or guardian to have the care and custody of a minor; or
- (2) An emancipated minor.

**B. "Curfew Hours" means;**

- (1) 11:00 p.m. on any Sunday, Monday, Tuesday, Wednesday, Thursday until 6:00 a.m. of the following day; and
- (2) 12:30 a.m. until 6:00 a.m. the following morning on any Friday or Saturday.

**C. "Emancipated Minor" means:**

- (1) Any person under the age of 18 who is or has been married or who is not under the care, custody and control of a parent, parents, guardian, person standing in locus parentis, or the juvenile court of competent jurisdiction; or
- (2) Any person under the age of 18 who has had the disabilities of minority removed by a court of competent jurisdiction.

**D. "Emergency" means an unforeseen combination of circumstances or the resulting state that calls for immediate action. The term includes, but is not limited to, a fire, a natural disaster, or an automobile accident, or any situation requiring immediate action to prevent serious bodily injury or loss of life.**

- E. **"Establishment"** means any privately owned place of business operated for a profit to which the public is invited, including but not limited to any place of amusement or entertainment.
  - F. **"Guardian"** means:
    - (1) A person who, under court order, is the guardian of the person of a minor; or
    - (2) A public or private agency with whom a minor has been placed by a court.
  - G. **"Minor"** (for the purpose of this ordinance) means any person under 18 years of age.
  - H. **"Operator"** means any individual, firm, association, partnership or corporation operating, managing, or conducting any establishment. The item includes the members or partners of an association or partnership and the officers of a corporation.
  - I. **"Parent"** means the person who is:
    - (1) A natural parent, adoptive parent, or step-parent of another person; or
    - (2) At least 18 years of age and authorized by a parent or guardian to have the care and custody of a minor.
  - J. **"Public Place"** means any place to which the public or a substantial group of the public has access and includes, but is not limited to, streets, highways and the common areas of schools, hospitals, apartments houses, office buildings, transport facilities and shop.
  - K. **"Remain"** means to :
    - (1) Linger or stay; or
    - (2) Fail to leave the premises when requested to do so by a police officer or the owner, operator or other person in control of the premises.
  - L. **"Serious Bodily Injury"** means bodily injury that creates a substantial risk of death or that causes death, serious permanent disfigurement, or protracted loss or Impairment of the function of any bodily member or organ.
2. **Offenses.**
- A. A minor commits an offense if he or she remains in any public place or on the premises of any establishment within the city during curfew hours.
  - B. A parent or guardian of a minor commits an offense if he or she knowingly permits, or by Insufficient control allows, the minor to remain in any public place or on the premises of any establishment within the city during curfew hours.
  - C. The owner, operator or any employee of an establishment commits an offense if he or she knowingly allows a minor to remain upon the premises of the establishment during curfew hours.
3. **Defenses.**
- A. It is a defense to prosecution under Subsection (b) that the minor was:
    - (1) Accompanied by the minor's parent or guardian;
    - (2) On an errand at the direction of the minor's parent or guardian, without any detour or stop;
    - (3) In a motor vehicle involved in interstate travel or in a motor vehicle pursuant to parental consent for normal travel (presence in a parked motor vehicle is not an exception).
    - (4) Engaged in an employment activity, or going to or returning home from an employment activity, with out any detour or stop;
    - (5) Upon an emergency errand directed by his or her parent or guardian or other adult person having the lawful care and custody of such minor, or if such minor is seeking medical treatment;
    - (6) On a sidewalk abutting the minor's residence or abutting the residence of a next-door neighbor if the neighbor did not complain to the police department about the minor's presence;
    - (7) Attending an official school, religious, or other recreation activity supervised by adults and sponsored by the City of Mansfield, a civic organization, or another similar entity that takes responsibility for the minor, or going to or returning home from without any detour or stop, an official school, religious, or other recreational activity supervised by adults and sponsored by the City of Mansfield, a civic organization or another similar entity that takes responsibility for the minor;
    - (8) Exercising First Amendment rights protected by the United States constitution, such as the free exercise of religion, freedom of speech and the right of assembly; or
    - (9) An emancipated minor as defined in Section 1 (a) (3) (2) It is a defense to prosecution under subsection (b) (3) that the owner, operator, or employee of an establishment promptly notified the police department that a minor was present on the premises of the establishment during curfew hours and refused to leave.

4. **Enforcement.** Before taking any enforcement action under this section, a police officer shall ask the apparent offender's age and reason for being in the public place. The officer shall not issue a citation or make an arrest under this section unless the officer reasonably believes that an offense has occurred and that, based on any response and other circumstances, no defense in subsection (c) is present.
5. **Penalties.**
  - A. A person who violates a provision of this chapter is guilty of a separate offense for each day or part of a day during which the violation is committed, continued, or permitted. Each offense, upon conviction, is punishable by a fine not to exceed five hundred fifty dollars (\$550.00).
  - B. When required by Georgia Law, the municipal court shall waive original jurisdiction over a minor under seventeen (17) years of age, who violates subsection (b) (1) of this section and shall refer the minor to juvenile court. Any minor seventeen (17) years of age or older shall be handled as an adult.

*(Adopted 10/14/96)*

# CHAPTER 32: LICENSING AND BUSINESS REGULATION

## Section

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### Article I. GENERAL REGULATIONS

#### Section 32-101 Applications

Every person required to procure a license under the provisions of this section or any section or law of this municipality shall submit an application for such license to the City Clerk/Treasurer, which application shall conform to the requirements of this section.

1. **Form of Application.** Each application shall be a written statement upon forms provided by the City Clerk/Treasurer.
2. **Contents of Application.** Each application shall contain the following information:
  - A. Name and home address of the applicant if an individual, or home office address if a corporation or partnership;
  - B. Place where the proposed business is to be located;
  - C. Kind of business to be conducted;
  - D. Names and home addresses of the partners, if a partnership;
  - E. Names and home addresses of the officers and directors, if a corporation;

- F. Complete record of all arrests and convictions against the applicant and every partner, officer, or director of the applicant for violation of any and all laws and ordinances of the City, state, or federal government; and
  - G. Such additional information which the City Clerk/Treasurer or City Council may find reasonably necessary to the fair administration of this section.
3. **Verification.** Each application shall be sworn to by the applicant if an individual, or by a partner if a partnership, or by an officer if a corporation.

In accordance with O.C.G.A. § 36-60-6, the City of Mansfield shall not issue a business license to any person engaged in a profession of business required to be licensed by the state under Title 43 of the O.C.G.A. The person requesting a business license from the City of Mansfield must provide the City with evidence of licensure by the state. No business license may be issued by the City of Mansfield without such proof.

Professions and businesses required to be licensed by the state are as follows:

Accountants Architects Athletic Trainer Athlete Agents Auctioneers
Barbers
Charitable Solicitors Chiropractors Coin Operated Amusement Machine Owners and Operators Contractors, Air Conditioned Contractors, Low Voltage Contractors, Utility Cosmetologists Counselors, Professional
Dentists Dental Hygienists Dietitians Dietetic Counselors Driver Training Instructors Driver Training Schools Operators
Electrical Contractors Embalmers Engineers, Professional
Firearms Dealers Funeral Directors
Geologists
Hotel, Inns and Roadhouse Operators
Junk Dealers
Landscape Architects Land Surveyors Lawyers Librarians
Merchant, Transient Motor Vehicle Dealers

Nurses Nursing Home Administrators
Occupational Therapists Opticians, Dispensing Optometrists Osteopaths Licensed Under Chapter 34 of Title 43
Pest Control, persons engaged in structural Physical Therapists Physicians Licensed Under Chapter 34 of Title 43 Physician Assistants Plumbers Podiatrists Polygraph Examiners Practitioners of Physiotherapy Private Detective and Private Security Business Operators Psychologists
Real Estate Appraisers Real Estate Brokers and Salespersons Recreation Administrators, Leaders, Specialists and Technicians Respiratory Care
Sanitarians, Registered Professional Scrap Metal Processors Social Workers Speech Language Pathologists and Audiologists
Therapists, Marriage and Family
Used Car Dealers Used Motor Vehicle Parts Dealers, Dismantlers and Rebuilders and Salvage Dealers
Veterinarians
Water and Wastewater Treatment Plant Operators and Laboratory Analysts

4. **Payment of Fee.** Each application shall be accompanied by the amount of the fee chargeable for such license, such amount to be prorated by quarters to the end of the fiscal year.
  - A. **Issuance of Receipts.** The City Clerk/Treasurer shall issue a receipt to the applicant for the amount of the fee tendered with the application for a license, provided that such receipt shall not be construed as approval of the application, nor shall it entitle or authorize the applicant to open or maintain any business contrary to the provisions of this section.
  - B. **Rebate of Fee.** Upon the disapproval of any application for which a fee has been submitted under the provisions of this chapter, the City Clerk/Treasurer shall refund such fee, provided that the applicant is not otherwise indebted to the City.
5. **Confidentiality of Information.** All information furnished or secured under the authority of this section shall be kept in strict confidence by the City Clerk/Treasurer, shall not be subject to public inspection, and shall be utilized solely by the officers of the City responsible for administering the provisions of this section.
6. **False Statements.** False statements on any application for a license shall be grounds for immediate revocation of such license.

1. **Review by City officers.** If any provision of this chapter or any licensing section of the City provides for the review of an application for a license by a City officer designated therein, the City Clerk/Treasurer shall forward a copy of the application to such officer within forty-eight (48) hours of the time of the receipt of the application. The officer charged with the duty of reviewing the application shall make a recommendation thereon, favorable or otherwise, and shall return such recommendation to the City Clerk/Treasurer within seven (7) days after receiving a copy of the application.
2. **Council Consideration.** Upon the receipt of the recommendation of the reviewing officer as hereinabove provided, or upon the receipt of the application if no reviewing officer is designated, the City Clerk/Treasurer shall forward such recommendation and/or application to the City Council, or its designated committee, for consideration and action at its next regular scheduled public meeting.
3. **Issuance of License.** Upon the express approval of the City Council, or its designated committee, the City Clerk/Treasurer shall issue a business license to the applicant therefor, which license shall state the nature of the business authorized and bear the date of issuance and the signature of the Mayor and City Clerk/Treasurer.
4. **Limitation on Issuance.** No license shall be issued to any applicant whose place of business is not in full compliance with the provisions of this section.
5. **Council Discretion.** The granting of a business license under the provisions of this section shall be deemed a privilege only, and nothing herein contained shall be construed as granting any person whose business is subject to municipal regulation any legal right to engage in such business.

**Section 32-103            Display of License**

It shall be the duty of any person conducting a licensed business in the City to keep his license posted in a conspicuous place on the premises used for such business at all times.

**Section 32-104            Inspections**

1. **Search of Premises.** 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 a license for any period of time, it shall be the duty of the licensee, or the person in charge of the premises to be inspected, to admit thereto, for the purpose of making the inspection, any officer or employee of the City who is authorized or directed to make such inspection at any reasonable time that admission is requested.
2. **Testing of Material.** Whenever an analysis of any commodity or material is a reasonable precedent to the licensing of a business or to the detection of violations of the public welfare that would normally be cause to revoke a license for any period of time, it shall be the duty of the licensee of the municipality whose business is governed by such provision to give to any authorized officer or employee of the City requesting the same, sufficient samples of such material or commodity for such analysis.
3. **Refusal to Allow Inspection.** In addition to any other penalty which may be provided, the Mayor may revoke the license of any licensed proprietor of a licensed business in the City who refuses to permit any officer or employee who is authorized to make such inspection or take such sample to make the inspection, or take an adequate sample of the said commodity, or who interferes with such officer or employee while in the performance of his duty in making such inspection; provided, that no license shall be revoked for such cause unless written demand is made upon the licensee or person in charge of the premises, in the name of the City, stating that such inspection or sample is desired at the time it is sought to make the inspection or obtain the sample.

**Section 32-105            Termination and Renewal of Licenses**

1. All annual licenses shall terminate on the last day of the fiscal year of the City when no provision to the contrary is made.
2. Each licensee shall make a written application for renewal on forms supplied by the City Clerk/Treasurer on or before November 15, which application shall contain substantially the same information as the initial application and be accompanied by all required fees.
3. An applicant for renewal of a license shall be entitled to a refund of fees tendered if he withdraws his application for renewal prior to final action on the same by the City Council.

**Section 32-106            Revocation, Suspension, Etc.**

After affording the licensee notice of the charges and opportunity to be heard with respect to any revocation proceedings, the City Council may, if it finds this chapter to have been violated by the licensee, his agent, or employee, revoke such license in its entirety, suspend the same for a specified period of time, place the licensee on probation, or place other conditions thereon as the City Council may deem necessary.

**Section 32-107            Change of Location**

In the absence of any provision to the contrary, the location of any licensed business or occupation may be changed, provided ten (10) days notice thereof is given to the City Clerk/Treasurer, and provided that all building and zoning requirements are complied with.

**Section 32-108            Transfer of Licenses**

All licenses shall be personal to the licensee to whom issued; but, in cases where the ownership is changed and both the name and location of the licensed business or occupation are maintained, the Mayor and City Council may allow the license to be transferred.

**Section 32-109            Duplicate Licenses**

A duplicate license shall be issued by the City Clerk/Treasurer to replace a previously issued license which has been lost, stolen, defaced, or destroyed without any willful conduct on the part of the licensee, upon the filing of a sworn affidavit attesting to such fact and the payment of a fee as determined by Mayor and Council to the City Clerk/Treasurer.

**Section 32-110            Branch Offices**

For the purpose of this section, 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 section shall not be deemed to be separate places of business or branch offices.

**Section 32-111            Joint License**

A person engaged in two (2) 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.

**Section 32-112            Penalties**

Any person who shall conduct a business or occupation without having obtained a license therefor as required by this chapter, or who shall violate any other provisions of this chapter, shall, upon conviction therefor, be punished by a fine not to exceed one thousand dollars (\$1000.00 ) and costs, or be imprisonment not to exceed sixty (60) days, or both, any and all of such penalties to be imposed in the discretion of the Judge of the Municipal Court.

**Article II.    BUSINESSES REGULATED**

**Section 32-201            Reserved**

**Section 32-202            Reserved**

**Section 32-203            Reserved**

**Section 32-204            Insurance Businesses**

1. **License Required.** Each person, agency, firm, or company doing an insurance business within the municipal corporate limits shall be required to obtain a license from the City Clerk/Treasurer in the manner specified in this chapter.

- 2. **Fee Established.** The annual business license fee for each company authorized by the state to write life, accident, and sickness insurance, as such terms are defined in Chapter 7, Title 33 of the O.C.G.A., shall be fifteen dollars (\$15.00 ) for each separate business location of such company in the City, and the business license fee for all other persons, agencies, firms, or companies doing an insurance business within the City shall be ten dollars (\$10.00).

**Section 32-205            Reserved**

**Section 32-206            Reserved**

**Section 32-207            Reserved**

**Section 32-208            Charitable Solicitors**

All charitable solicitors shall comply with O.C.G.A. § 43-17-1 et seq.

**Section 32-209            Reserved**

**Section 32-210            Reserved**

**Section 32-211            Reserved**

**Section 32-212            Reserved**

**Section 32-213            Reserved**

**Section 32-214            Reserved**

**Section 32-215            Reserved**

**Section 32-216            Reserved**

**Section 32-217            Reserved**

**Section 32-218            Reserved**

# CHAPTER 33: NUISANCES

## Section

33-101	Definitions
33-102	Proceedings to Abate Generally
33-103	Summary Abatement
33-104	Unfit Building or Structures
33-105	Public Health Hazard or General Nuisance on Private Property
33-106	Reserved



### Section 33-101 Definitions

For the purposes of this chapter, the following words shall have the meanings respectively ascribed below:

1. **Nuisance.** Anything which causes hurt, inconvenience, or damage to another, provided that the hurt, inconvenience, or damage complained of shall not be fanciful, or such as would affect only one of fastidious taste, but rather such as would affect an ordinary reasonable man; and the fact that the act done may otherwise be lawful shall not keep it from being a nuisance.
2. **Nuisance per se.** An act, occupation, or structure which is a nuisance at all times and under any circumstances, regardless of location or surroundings.
3. **Nuisance, Private.** A nuisance limited in its injurious effects to one or a few individuals.
4. **Nuisance, Public.** A nuisance which damages all persons who come within the sphere of its operation, though it may vary in its effects on individuals.

### Section 33-102 Proceedings to Abate Generally

Any nuisance existing within the corporate limits of this City, except for a nuisance hereinafter excepted, shall be abated in the manner set forth in this chapter.

1. **Initiation.** Proceedings to abate a nuisance, whether public or private, shall be initiated by the filing of a complaint with the City Clerk/Treasurer, which complaint shall state the nature and location of the nuisance and the name and address of the complainant or complainants. In the case of a private nuisance, the complaint shall be filed by the person or persons injured by the nuisance; in the case of a public nuisance, the complaint shall be filed on behalf of the public by a the district attorney, City attorney, or county attorney on behalf of the public or by a citizen specifically injured by the nuisance.
2. **Notice of Hearing.** Upon the filing of a complaint as hereinabove provided, the City Clerk/Treasurer shall issue a notice directed to the owner of the premises upon which the nuisance complained of is located and, if the person maintaining the same be a different person from the owner, then also to the person maintaining the nuisance, calling on such person to show cause, either personally or by attorney, at the time and place directed by the City Clerk/Treasurer, why such activity alleged to be a nuisance should not be ordered abated and removed by the Judge of the Municipal Court. Such notice shall be served at least ten (10) days and not more than thirty (30) days prior to the date set for the hearing by any authorized officer of the City, and shall be made either personally or by leaving a copy at the party's most well-known place of abode.

A copy of such notice shall also be mailed to the complainant or complainants.

Nonresidents of the State of Georgia shall be served by posting a copy of such complaint or orders in a conspicuous place on premises affected by the complaint or orders. Where the address of such nonresidents is known, a copy of such complaint or orders shall be mailed to them by registered or certified mail.

3. **Order of Abatement.** If, after hearing all the evidence, the Judge of the Municipal Court should decide that the activity complained of is a nuisance, the Judge shall issue an order. The order shall specify within what time it is to be abated by the defendant. If not abated within the specified time, the Judge shall issue a writ directed to the Police Chief or any member of the police force, commanding that the nuisance be abated. A copy of such order of abatement shall be served on the party or parties maintaining the nuisance. If the City removes the nuisance the expenses incurred in the removal shall be paid by the owner.
4. **Effect of Non-compliance.** In the event of a refusal to comply with the order of abatement issued by the Judge of the Municipal Court, the person or persons maintaining the nuisance shall be subject to arrest for violation of state law.
5. **Penalty.** 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.

**Section 33-103                      Summary Abatement**

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

**Section 33-104                      Unfit Buildings or Structures**

If there exists in a municipality of this state dwellings or other buildings or structures which are unfit for human habitation or for commercial, industrial, or business occupancy or use and are inimical to the welfare and are dangerous and injurious to the health, safety, and welfare of the people of this City; and that a public necessity exists for the repair, closing, or demolition of such dwellings, buildings, or structures, power is conferred upon such municipality to exercise its police power to repair, close, or demolish the dwellings, buildings, or structures. (See O.C.G.A. § 41-2-7)

*NOTE:                      The municipality must comply with the regulations found in O.C.G.A. §§ 41-2-9 through 41-2-17 relating to unfit buildings or structures.*

**Section 33-105                      Public Health Hazard or General Nuisance on Private Property**

All provisions of this section shall be applied to private property where an accumulation of weeds, trash, junk, filth, and other unsanitary or unsafe conditions shall create a public health hazard or a general nuisance to those persons residing 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 said property is in violation of this section and O.C.G.A. §§ 41-2-8 through 41-2-17.

**Section 33-106                      Reserved**

## CHAPTER 34: RESERVED



# CHAPTER 35: SOIL EROSION AND SEDIMENTATION CONTROL

## Section

35-101	Title
35-102	Definitions
35-103	Exemptions
35-104	Minimum Requirements For Erosion and Sedimentation Control Using Best Management Practices
35-105	Application/Permit Process
35-106	Inspection and Enforcement
35-107	Penalties and Incentives
35-108	Administrative Appeal, Judicial Review



### Section 35-101 Title

This ordinance will be known as the City of Mansfield Soil Erosion and Sedimentation Control Ordinance.

### Section 35-102 Definitions

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

1. **Best Management Practices (BMP'S).** A collection of structural practices and vegetative measures which, when properly designed, installed and maintained, will provide effective erosion and sedimentation control for all rainfall events up to and including a twenty-five (25) year, twenty-four (24) hour rainfall event.
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. **Commission.** The State Soil and Water Conservation Commission.
5. **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 excavated surface. Also known as excavation.
6. **Department.** The Department of Natural Resources.
7. **Director.** The Director of the Environmental Protection Division of the Department of Natural Resources.
8. **District.** The Upper Ocmulgee Soil and Water Conservation District.
9. **Division.** The Environmental Protection Division of the Department of Natural Resources.
10. **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 stormwater management, drainage control, or flood control purposes.
11. **Erosion.** The process by which land surface is worn away by the action of wind, water, ice or gravity.
12. **Erosion and Sedimentation Control Plan.** A plan for the control of soil erosion and sedimentation resulting from land-disturbing activity. Also known as the "plan."
13. **Ground Elevation.** The original elevation of the ground surface prior to cutting or filling.
14. **Fill.** A portion of land surface to which soil or other solid material has been added; the depth above the original ground.
15. **Finished Grade.** The final elevation and contour of the ground after cutting or filling and conforming to the proposed design.
16. **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.

17. **Issuing Authority.** The governing authority of any county or municipality which has been certified by the Director of the Environmental Protection Division of the Department of Natural Resources as an Issuing Authority, pursuant to the Erosion and Sedimentation Act of 1975, as amended, or the Division in those instances where an application for a permit is submitted to the Division.
18. **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 35-103-5.
19. **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.
20. **Natural Ground Surface.** The ground surface in its original state before any grading, excavation or filling.
21. **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 colloiddally dispersed particles are present.
22. **Permit.** The authorization necessary to conduct a land-disturbing activity under the provisions of this ordinance.
23. **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 this State, any interstate body or any other legal entity.
24. **Project.** The entire proposed development project regardless of the size of the area of land to be disturbed.
25. **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 the flow on one side of a traveled way consisting of one or more defined lanes, with or without shoulder areas, and carrying water to a release point on the other side.
26. **Sediment.** Solid material, both organic and inorganic, that is in suspension, is being transported, or has been moved from its site of origin by air, water, ice, or gravity as a product of erosion.
27. **Sedimentation.** The process by which eroded material is transported and deposited by the action of water, wind, ice or gravity.
28. **Soil and Water Conservation District Approved Plan.** An erosion and sedimentation control plan approved in writing by the Upper Ocmulgee soil and water conservation district.
29. **Stabilization.** The process of establishing an enduring soil cover of vegetation by the installation of temporary or permanent structures for the purpose of reducing to a minimum the erosion process and the resultant transport of sediment by wind, water, ice or gravity.
30. **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 the State, which are not entirely confined and retained completely upon the property of a single individual, partnership, or corporation.
31. **Structural Erosion and Sedimentation Control Measures.** Practices for the stabilization of erodible or sediment-producing areas by utilizing the mechanical properties of matter for the purpose of either changing the surface of the land or storing, regulating or disposing of runoff to prevent excessive sediment loss. Examples of structural erosion and sediment control practices are riprap, sediment basins, dikes, level spreaders, waterways or outlets, diversions, grade stabilization structures, sediment traps and land grading, etc. Such measures can be found in the publication *Manual for Erosion and Sediment Control in Georgia*.
32. **Trout Streams.** All streams or portions of streams within the watershed as designated by the Game and Fish 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 *et seq.* Streams designated as primary trout waters are defined as water supporting a self-sustaining population of rainbow, brown or brook trout. Streams designated as secondary trout waters are those in which there is no evidence of natural trout reproduction, but are capable of supporting trout throughout the year. First order trout waters are streams into which no other streams flow except springs.
33. **Vegetative Erosion and Sedimentation Control Practices.** 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*.
- 34. **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.
  - 35. **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.

### **Section 35-103 Exemptions**

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

- 1.
  - A. Surface mining, as the same is defined in O.C.G.A. § 12-4-72, "Mineral Resources and Caves Act";
  - B. Granite quarrying and land clearing for such quarrying;
  - C. Such minor land-disturbing activities as home gardens and individual home landscaping, repairs, maintenance work, and other related activities which result in minor soil erosion;
  - D. The construction of single-family residences, when such are constructed by or under contract with the owner for his or her own occupancy, or the construction of single-family residences not a part of a platted subdivision, a planned community, or an association of other residential lots consisting of more than two (2) lots 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 Section 35-104 of this ordinance. For single-family residence construction covered by the provisions of this paragraph, there shall be a buffer zone between the residence and any state waters classified as trout streams pursuant to Article 2 of Chapter 5 of the Georgia Water Quality Control Act. In any such buffer zone, no land-disturbing activity shall be constructed between the residence and the point where vegetation has been wrested by normal stream flow or wave action from the banks of the trout waters. For primary trout waters, the buffer zone shall be at least fifty (50) horizontal feet, and no variance to a smaller buffer shall be granted. For secondary trout waters, the buffer zone shall be at least fifty (50) horizontal feet, but the Director may grant variances to no less than twenty-five (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 twenty-five (25) horizontal feet, and no variance to a smaller buffer shall be granted. The minimum requirements of section 35-104 of this ordinance and the buffer zones provided by this paragraph shall be enforced by the Issuing Authority.
  - E. 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 chicken, 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;
  - F. 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 (O) and (P) of Section 35-104(3) 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;
  - G. Any project carried out under the technical supervision of the Natural Resources Conservation Service of the United States Department of Agriculture;
  - H. Any project involving one and one-tenth (1-1/10) acres or less; provided, however, that this exemption shall not apply to any land-disturbing activity within two hundred (200) feet of the bank of any state waters, and for purposes of this paragraph, "State Waters" excludes channels and

drainageways which have water in them only during and immediately after rainfall events and intermittent streams which do not have water in them year round; provided, however, that any person responsible for a project which involves one and one-tenth (1-1/10) acres or less, which involves land-disturbing activity, and which is within two hundred (200) feet of any such excluded channel or drainageway must prevent sediment from moving beyond the boundaries of the property on which such project is located and provided, further, that nothing contained herein shall prevent the Issuing authority from regulating any such project which is not specifically exempted by paragraphs A,B,C,D,E,F,H, or I of this section;

- I. 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 Tollway Authority; or any road construction or maintenance project, or both, undertaken by any county or municipality; provided, however, that such projects shall conform to the minimum requirements set forth in section 35-104 (2) and (3) of this ordinance; provided further that construction or maintenance projects of Department of Transportation or State Tollway Authority which disturb five or more contiguous acres of land shall be subject to provisions of Code Section 12-7-7.1; and;
  - J. Any land-disturbing activities conducted by any electric membership corporation or municipal electrical system or any public utility under the regulatory jurisdiction of the Public Service Commission, provided that any such land-disturbing activity shall conform to the minimum requirements set forth in Section 35-104 (2) and (3).
2. Where this section requires compliance with the minimum requirements set forth in Section 35-104 (2) and (3) of this ordinance, issuing authorities shall enforce compliance with the minimum requirements as if a permit had been issued and violations shall be subject to the same penalties as violations by permit holders.

**Section 35-104 Minimum Requirements For Erosion and Sedimentation Control Using Best Management Practices**

1. **General Provisions.** Excessive soil erosion and resulting sedimentation can take place during land-disturbing activities. Therefore, plans for those land-disturbing activities which are not excluded by this 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 35-104 (2) and (3) 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 and sedimentation pollution during all stages of any land-disturbing activity.
2. **Minimum Requirements/BMP'S.**
- A. Best management practices as set forth in Section 35-104 (2) and (3) 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 stormwater issued pursuant to subsection (f) of O.C.G.A. § 12-5-30, "Georgia Water Quality Control Act". As used in this subsection, the terms "proper design" and "properly designed" mean designed to control soil erosion and sedimentation for all rainfall events up to and including a twenty-five (25) year, twenty-four (24) hour rainfall event.
  - B. A discharge of stormwater runoff from disturbed areas where best management practices have not been properly designed, installed, and maintained shall constitute a separate violation of any land-disturbing permit issued by a local Issuing Authority or by the Division or of any general permit for construction activities issued by the Division pursuant to 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.
  - C. Failure to properly design, install, or maintain best management practices shall constitute a violation of any land-disturbing permit issued by a local Issuing Authority or by the Division or of any general permit for construction activities issued by the Division pursuant to subsection (f)

O.C.G.A. § 12-5-30, the "Georgia Water Quality Control Act", for each day on which such failure occurs.

- D.** The Director may require, in accordance with regulations adopted by the board, reasonable and prudent monitoring of the turbidity level of receiving waters into which discharges from land-disturbing activities occur.
- 3.** The rules and regulations, ordinances, or resolutions adopted pursuant to this chapter for the purpose of governing land-disturbing activities shall require, as a minimum, best management practices, including sound conservation and engineering practices to prevent and minimize erosion and resultant sedimentation, which are consistent with, and no less stringent than, those practices contained in the *Manual for Erosion and Sediment Control in Georgia* published by the Georgia Soil and Water Conservation Commission as of January 1 of the year in which the land-disturbing activity was permitted, as well as the following:
- A.** Stripping of vegetation, regrading and other development activities shall be conducted in a manner so as to minimize erosion;
  - B.** Cut-fill operations must be kept to a minimum;
  - C.** Development plans must conform to topography and soil type so as to create the lowest practical erosion potential;
  - D.** Whenever feasible, natural vegetation shall be retained, protected and supplemented;
  - E.** The disturbed area and the duration of exposure to erosive elements shall be kept to a practicable minimum;
  - F.** Disturbed soil shall be stabilized as quickly as practicable;
  - G.** Temporary vegetation or mulching shall be employed to protect exposed critical areas during development;
  - H.** Permanent vegetation and structural erosion control practices shall be installed as soon as practicable;
  - I.** 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.*;
  - J.** Adequate provisions must be provided to minimize damage from surface water to the cut face of excavations or the sloping of fills;
  - K.** Cuts and fills may not endanger adjoining property;
  - L.** Fills may not encroach upon natural watercourses or constructed channels in a manner so as to adversely affect other property owners;
  - M.** 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;
  - N.** 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 35-104 (2)(B) of this ordinance;
  - O.** Except as provided in paragraph (P) of this subsection, there is established a 25 foot buffer along the banks of all state waters, as measured horizontally from the point where vegetation has been wrested by normal stream flow or wave action, except where the Director determines to allow a variance that is at least as protective of natural resources and the environment, where otherwise allowed by the Director pursuant to O.C.G.A. § 12-2-8, or where a drainage structure or a roadway drainage structure must be constructed, provided that adequate erosion control measures are incorporated in the project plans and specifications, and are implemented; provided, however, the buffers of a least twenty-five (25) feet established pursuant to part 6 of Article 5, Chapter 5 of Title 12, the "Georgia Water Quality Control Act", shall remain in force unless a variance is granted by the Director as provided in this paragraph. The following requirements shall apply to any such buffer:

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

- P. There is established a fifty (50) foot buffer as measured horizontally from the point where vegetation has been wrested by normal stream flow or wave action, along the banks of any state waters classified as "trout streams" pursuant to Article 2 of Chapter 5 of Title 12, the "Georgia Water Quality Control Act", except where a roadway drainage structure must be constructed; provided, however, that small springs and streams classified as trout streams which discharge an average annual flow of twenty-five (25) gallons per minute or less shall have a twenty-five (25) foot buffer or they may be piped, at the discretion of the landowner, pursuant to the terms of a rule providing for a general variance promulgated by the Board, so long as any such pipe stops short of the downstream landowner's property and the landowner complies with the buffer requirement for any adjacent trout streams. The Director may grant a variance from such buffer to allow land-disturbing activity, provided that adequate erosion control measures are incorporated in the project plans and specifications and are implemented. The following requirements shall apply to such buffer:

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

4. Nothing contained in this chapter shall prevent an Issuing Authority from adopting rules and regulations, ordinances, or resolutions which contain requirements that exceed the minimum requirements in Section 35-104 (2) and (3) of this ordinance.
5. 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.

## **Section 35-105            Application/Permit Process**

1. **General.** The property owner, developer and designated planners and engineers shall review the general development plans and detailed plans of the Issuing Authority that affect the tract to be developed and the area surrounding it. They shall review the zoning ordinance, stormwater management ordinance, subdivision ordinance, flood damage prevention ordinance, this ordinance, and other ordinances which regulate the development of land within the jurisdictional boundaries of the Issuing Authority. However, the property owner is the only party who may obtain a permit.
2. **Application Requirements.** No person shall conduct any land-disturbing activity within the jurisdictional boundaries of the City of Mansfield without first obtaining a permit from the Environmental Protection Division (EPD) to perform such activity.
  - A. The application for a permit shall be submitted to the Environmental Protection Division (EPD) 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 35-105 (3) of this ordinance. Soil erosion and sedimentation control plans shall conform to the provisions of Section 35-104 (2) and (3) of this ordinance. Applications for a permit will not be accepted unless accompanied by three [3] copies of the applicant's soil erosion and sedimentation control plans.

- B. A fee shall be charged for each acre or fraction thereof in the project area.
- C. Immediately upon receipt of an application and plan for a permit, the Issuing Authority shall refer the application and plan to the District for its review and approval or disapproval concerning the adequacy of the erosion and sedimentation control plan. The results of the District review shall be forwarded to the Issuing Authority. No permit will be issued unless the plan has been approved by the District, and any variances required by Section 35-104 (3)(O) and (P) and bonding, if required as per Section 35-105 (2)(E)(2), have been obtained. Such review will not be required if the Issuing Authority and the District have entered into an agreement which allows the Issuing Authority to conduct such review and approval of the plan without referring the application and plan to the District.
- D. (a) 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 (3) years prior to the date of filing of the application under consideration, the Issuing Authority may deny the permit application.  
(b) The Issuing Authority may require the permit applicant to post a bond in the form of government security, cash, irrevocable letter of credit, or any combination thereof up to, but not exceeding, three thousand dollars (\$3,000.00) per acre or fraction thereof of the proposed land-disturbing activity, prior to issuing the permit. If the applicant does not comply with this ordinance or with the conditions of the permit after issuance, the Issuing Authority may call the bond or any part thereof to be forfeited and may use the proceeds to hire a contractor to stabilize the site of the land-disturbing activity and bring it into compliance. 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 Issuing Authority with respect to alleged permit violations.

### 3. **Plan Requirements.**

- A. Plans must be prepared to meet the minimum requirements as contained in Section 35-104 (2) and (3) of this ordinance. Conformance with the minimum requirements may be attained through the use of design criteria in the current issue of the *Manual for Erosion and Sediment Control in Georgia*, published by the State Soil and Water Conservation Commission as a guide; or through the use of alternate design criteria which conform to sound conservation and engineering practices. *The Manual for Erosion and Sediment Control in Georgia* is hereby incorporated by reference into this 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 stormwater management facilities, local ordinances and State laws.
- B. **Data Required for Site Plan.**
  - (1) Narrative or notes, and other information: Notes or narrative to be located on the site plan in general notes or in erosion and sediment control notes.
  - (2) Description of existing land use at project site and description of proposed project.
  - (3) Name, address, and telephone number of the property owner.
  - (4) Name and telephone number of twenty-four (24) hour local contact who is responsible for erosion and sedimentation controls.
  - (5) Size of project, or phase under construction, in acres.
  - (6) Activity schedule showing anticipated starting and completion dates for the project. Include the statement in bold letters, that "the installation of erosion and sedimentation control measures and practices shall occur prior to or concurrent with land-disturbing activities."
  - (7) Stormwater and sedimentation management systems-storage capacity, hydrologic study, and calculations, including off-site drainage areas.
  - (8) Vegetative plan for all temporary and permanent vegetative measures, including species, planting dates, and seeding, fertilizer, lime, and mulching rates. The vegetative plan should show options for year-round seeding.
  - (9) Detail drawings for all structural practices. Specifications may follow guidelines set forth in the *Manual for Erosion and Sediment Control in Georgia*.

- (10) Maintenance statement - "Erosion and sedimentation control measures will be maintained at all times. Additional erosion and sedimentation control measures and practices will be installed if deemed necessary by onsite inspection."
- C. Maps, drawings, and supportive computations shall bear the signature/seal of a registered or certified professional in engineering, architecture, landscape architecture, land surveying, or erosion and sedimentation control. The certified plans shall contain:
  - (1) Graphic scale and north point or arrow indicating magnetic north.
  - (2) Vicinity maps showing location of project and existing streets.
  - (3) Boundary line survey.
  - (4) Delineation of disturbed areas within project boundary.
  - (5) Existing and planned contours, with contour lines drawn with an interval in accordance with the following:

Map Scale	Ground Slope	Contour Interval, ft.
1 Inch = 100 ft. or larger scale	Flat 0 - 2% Rolling 2 - 8% Steep 8% +	0.5 or 1 1 or 2 2, 5 or 10

- (6) Adjacent areas and features areas such as streams, lakes, residential areas, etc. which might be affected should be indicated on the plan.
  - (7) Proposed structures or additions to existing structures and paved areas.
  - (8) Delineate the twenty-five (25) foot horizontal buffer adjacent to state waters and the specified width in MRPA areas.
  - (9) Delineate the specified horizontal buffer along designated trout streams, where applicable.
  - (10) Location of erosion and sedimentation control measures and practices using coding symbols from the *Manual for Erosion and Sediment Control in Georgia*, Chapter 6.
  - D. Maintenance of all soil erosion and sedimentation control practices, whether temporary or permanent, shall be at all times the responsibility of the property owner.
4. **Permits.**
- A. 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 Issuing Authority of a completed application, providing variances and bonding are obtained, where necessary.
  - B. No permit shall be issued by the Issuing Authority unless the erosion and sedimentation control plan has been approved by the District and the Issuing Authority has affirmatively determined that the plan is in compliance with this ordinance, any variances required by Section 35-104 (3)(O) and (P) are obtained, bonding requirements, if necessary, as per Section 35-105 (2)(E)(2) are met and all ordinances and rules and regulations in effect within the jurisdictional boundaries of the Issuing Authority are met. If the permit is denied, the reason for denial shall be furnished to the applicant.
  - C. If the tract is to be developed in phases, then a separate permit shall be required for each phase.
  - D. The permit may be suspended, revoked, or modified by the Issuing Authority, as to all or any portion of the land affected by the plan, upon finding that the holder or his successor in the title is not in compliance with the approved erosion and sedimentation control plan or that the holder or his successor in title is in violation of this 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.
  - E. No permit shall be issued unless the applicant provides a statement by the Newton County Tax Commissioner certifying that all ad valorem taxes levied against the property and due and owing have been paid.

**Section 35-106 Inspection and Enforcement**

- 1. The Environmental Protection Division (EPD) will periodically inspect the sites of land-disturbing activities for which permits have been issued to determine if the activities are being conducted in accordance with the plan and if the measures required in the plan are effective in controlling erosion and sedimentation. If, through inspection, it is deemed that a person engaged in land-disturbing activities 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.

2. The Environmental Protection Division (EPD) 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.
3. No person shall refuse entry or access to any authorized representative or agent of the Issuing Authority, the Commission, the District, or Division who requests entry for the purposes of inspection, and who presents appropriate credentials, nor shall any person obstruct, hamper or interfere with any such representative while in the process of carrying out his official duties.
4. The Districts or the Commission or both shall periodically review the actions of counties and municipalities which have been certified as issuing authorities pursuant to O.C.G.A. § 12-7-8(a). The Districts or the Commission or both may provide technical assistance to any county or municipality for the purpose of improving the effectiveness of the county's or municipality's erosion and sedimentation control program. The Districts or the Commission shall notify the Division and request investigation by the Division if any deficient or ineffective local program is found.
5. The Division may periodically review the actions of counties and municipalities which have been certified as issuing authorities pursuant to 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 pursuant to O.C.G.A. § 12-7-8(a) has not administered or enforced its ordinances or has not conducted the program in accordance with any agreement entered into pursuant to O.C.G.A. § 12-7-7(d), the Division shall notify the governing authority of the county or municipality in writing. The governing authority of any county or municipality so notified shall have thirty (30) days within which to take the necessary corrective action to retain certification as an Issuing Authority. If the county or municipality does not take necessary correction action within thirty (30) days after notification by the Division, the Division may revoke the certification of the county or municipality as an Issuing Authority.

**Section 35-107                      Penalties and Incentives**

1. **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 Issuing Authority.
2. **Stop-Work Orders.**
  - A. For the first and second violations of the provisions of this ordinance, the Director or the Issuing Authority shall issue a written warning to the violator. The violator shall have five (5) days to correct the violation. If the violation is not corrected within five (5) days, the Director or the 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 Issuing Authority shall issue an immediate stop-work order in lieu of a warning;
  - B. For a third and each subsequent violation, the Director or Issuing Authority shall issue an immediate stop-work order; and;
  - C. All stop-work orders shall be effective immediately upon issuance and shall be in effect until the necessary corrective action or mitigation has occurred.
3. **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 35-105 (B)(5)(b). The Issuing Authority may call

the bond or any party thereof to be forfeited any may use the proceeds to hire a contractor to stabilize the site of the land-disturbing activity and bring it into compliance.

**4. Monetary Penalties.**

- A.** Except as provided in paragraph (B) of this subsection, any person who violates any provisions of this ordinance, the rules and regulations adopted pursuant hereto, or any permit condition or limitation established pursuant to 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 two thousand five hundred dollars (\$2,500.00) 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 two thousand five hundred dollars (\$2,500.00) for each violation. Notwithstanding any limitation of law as to penalties which can be assessed for violations of county ordinances, any magistrate court or any other court of competent jurisdiction trying cases brought as violations of this ordinance under county ordinances approved under this ordinance shall be authorized to impose penalties for such violations not to exceed two thousand five hundred dollars (\$2,500.00) for each violation. Each day during which violation or failure or refusal to comply continues shall be a separate violation.
- B.** The following penalties shall apply to land-disturbing activities performed in violation of any provision of this ordinance, any rules and regulations adopted pursuant hereto, or any permit condition or limitation established pursuant to this ordinance;
- (1) There shall be a minimum penalty of two hundred fifty dollars (\$250.00) per day for each violation involving the construction of a single-family dwelling by or under contract with the owner for his or her own occupancy; and
  - (2) There shall be a minimum penalty of one thousand dollars (\$1,000.00) per day for each violation involving land-disturbing activities other than as provided in subsection (1) of this paragraph.

**Section 35-108 Administrative Appeal, Judicial Review**

1. **Administrative Remedies.** The suspension, revocation, modification or grant with condition of a permit by the Issuing Authority upon finding that the holder is not in compliance with the approved erosion and sediment control plan; or that the holder is in violation of permit conditions; or that the holder is in violation of any ordinance; shall entitle the person submitting the plan or holding the permit to a hearing before the Mayor and Council within thirty (30) days after receipt by the Issuing Authority of written notice of appeal.
2. **Judicial Review.** Any person, aggrieved by a decision or order of the Issuing Authority, after exhausting his administrative remedies, shall have the right to appeal de novo to the Superior Court of Newton County.

# CHAPTER 36: STATE MINIMUM STANDARD CONSTRUCTION CODES

## Section

36-101	State Minimum Standard Codes
36-102	Statewide Application
36-103	Adoption of Codes by Municipalities
36-104	Local Amendments to State Minimum Codes
36-105	Revision of State Minimum Standard Codes
36-106	Enforcement of Codes
36-107	Inspectors, Inspections, and Violations
36-108	Code Compliance Inspections
36-109	Plumbing Code



*NOTE: The word "department" shall refer to the state Department of Community Affairs.*

### **Section 36-101 State Minimum Standard Codes**

"State Minimum Standard Codes" shall mean the following codes:

1. Standard Building Code;
2. National Electrical Code and published by the National Fire Protection Association;
3. Standard Gas Code;
4. Standard Mechanical Code;
5. Georgia State Plumbing Code or the Standard Plumbing Code;
6. Council of American Building Officials One and Two Family Dwelling Code, with the exception of Part 5 - Plumbing;
7. Georgia State Energy Code for Buildings;
8. Standard Fire Prevention Code;
9. Standard Housing Code;
10. Standard Amusement Device Code;
11. Excavation and Grading Code;
12. Standard Existing Buildings Code;
13. Standard Swimming Pool Code;
14. Standard Unsafe Building Abatement Code.

### **Section 36-102 Statewide Application**

The state minimum standard codes enumerated in sections 1 through 8 of Section 36-101 of this code shall have statewide application and shall not require adoption by a municipality. The governing authority of any municipality in this state is authorized to enforce the state minimum standard codes.

### **Section 36-103 Adoption of Codes by Municipalities**

The state minimum standard codes enumerated in numbers 9-14 of Section 36-101 shall not be applicable in a jurisdiction until adopted by a municipality. The governing authority of any municipality in this state is authorized to adopt and enforce the state minimum standard codes in that subject area which is being regulated by the municipality. A copy of the local ordinance or resolution adopting any such code shall be forwarded to the Department of Community Affairs in order that such municipality may be apprized of subsequent amendments in the state minimum standard code so adopted.

### **Section 36-104 Local Amendments to State Minimum Codes**

1. In the event that the governing authority of any municipality or county finds that the state minimum standard codes do not meet its needs, the local government may provide requirements not less stringent than those specified in the state minimum, standard codes when such requirements are based on local climatic, geologic, topographic, or public safety factors; provided, however, that there is a determination by the local governing body of a need to amend the requirements of the state minimum standard code based upon a demonstration by the local governing body that local conditions justify such requirements not less stringent than those specified in the state minimum standard codes for the protection of life and property. All such proposed amendments shall be submitted by the local governing body to the Department of Community Affairs sixty (60) days prior to the adoption of such amendment. Concurrent with the submission of the proposed amendment to the department, the local governing body shall submit in writing the legislative findings of the governing body and such other documentation as the local governing body deems helpful in justifying the proposed amendment. The department shall review and comment on a proposed amendment. Such comment shall be in writing and shall be sent to the submitting local government with a recommendation:
  - A. That the proposed local amendment should not be adopted, due to the lack of sufficient evidence to show that such proposed local amendment would be as stringent as the state minimum standard codes and the lack of sufficient evidence to show that local climatic, geologic, topographic, or public safety factors require such an amendment;
  - B. That the proposed local amendment should be adopted, due to a preponderance of evidence that such proposed local amendment would be as stringent as the state minimum standard codes and a preponderance of evidence that the local climatic, geologic, topographic, or public safety factors require such an amendment; or
  - C. That the department has no recommendation regarding the adoption or disapproval of the proposed local amendments, due to the lack of sufficient evidence to show that such proposed local amendment would or would not be as stringent as the state minimum standard codes and the lack of sufficient evidence to show that local climatic, geologic, topographic, or public safety factors require or do not require such an amendment.
2. The department shall have sixty (60) days after receipt of a proposed local amendment to review the proposed amendment and make a recommendation as set forth in Section 36-104(1). In the event that the department fails to respond within the time allotted, the local governing body may adopt the proposed local amendment.
3. In the event that the department recommends against the adoption of the proposed local amendment, a local governing body shall specifically vote to reject the department's recommendations before any local amendment may be adopted.
4. No local amendment shall become effective until the local governing body has caused a copy of the adopted amendment to be filed with the department. A copy of an amendment shall be deemed to have been filed with the department when it has been placed in the United States mail, return receipt requested.
5. Nothing in this subsection shall be construed so as to require approval by the department before a local amendment shall become effective.
6. The department shall maintain a file of all amendments to the state minimum standard codes adopted by the various municipalities and counties in the state, which information shall be made available to the public upon request. The department may charge reasonable fees for copies of such information. An index of such amendments shall be included in each new edition of a state minimum standard code.
7. Except as otherwise provided in this section, building related codes or sections dealing with the subjects of historic preservation, high-rise construction, or architectural design standards for which a state minimum standard code does not exist may be adopted by a local jurisdiction following review by the department. The department's review shall be limited to a determination that the proposed code or ordinance is consistent with the approved state minimum standard codes when common elements exist and is not less restrictive than the requirement of said codes. Changes to all other state minimum standard codes shall be approved only pursuant to the provisions of this section regarding local amendments.

**Section 36-105                      Revision of State Minimum Standard Codes**

The Department of Community Affairs may from time to time revise and amend the state minimum standard codes.

At the time of issuing a building permit, the issuing county or municipality shall notify the holder of the permit of any local amendments to the state minimum standard codes which are in effect for that county or municipality and that any such amendments are on file with the department. A county or municipality may satisfy this notice requirement by posting or providing a summary of the topic of such local amendment or amendments and the address and telephone number of the department.

**Section 36-106                    Enforcement of Codes**

1. The governing body of any municipality or county adopting any state minimum standard code shall have the power:
  - A. To adopt by ordinance or resolution any reasonable provisions for the enforcement of the state minimum standard codes, including procedural requirements, provisions for hearings, provisions for appeals from decisions of local inspectors, and any other provisions or procedures necessary to the proper administration and enforcement of the requirements of the state minimum standard codes;
  - B. To provide for inspection of buildings or similar structures to ensure compliance with the state minimum standard codes;
  - C. To employ inspectors, including chief and deputy inspectors, and any other personnel necessary for the property enforcement of such codes and to provide for the authority, functions, and duties of such inspectors;
  - D. To require permits and to fix charges therefor;
  - E. To contract with other municipalities or counties adopting any state minimum standard code to administer such codes and to provide inspection and enforcement personnel and services necessary to ensure compliance with the codes; and
  - F. To contract with any other county or municipality whereby the parties agree that the inspectors of each contracting party may have jurisdiction to enforce the state minimum standard codes within the boundaries of the other contracting party.
2. No local inspector shall require any person performing work in compliance with a state minimum standard code or variations thereto which are in conformity with the provisions of this part to comply with the standards of any other building code not covered by this part.

**Section 36-107                    Inspectors, Inspections, and Violations**

1. As used in this Code section, the term:
  - A. CABO means the Council of American Building Officials.
  - B. Qualified Inspector means:
    - (1) A person inspecting for compliance with the Standard Building Code or the building portion of the CABO One- and Two-Family Dwelling Code who holds a certification from the SBCCI as a building inspector;
    - (2) A person inspecting for the compliance of residential buildings with the National Electrical Code or the electrical portion of the CABO One- and Two-Family Dwelling Code who holds a certification from the SBCCI as a residential electrical inspector or an electrical contractor license from the State Construction Industry Licensing Board;
    - (3) A person inspecting for the compliance of nonresidential buildings with the National Electrical Code who holds a certification from the SBCCI as a commercial electrical inspector or an electrical contractor license from the State Construction Industry Licensing Board;
    - (4) A person inspecting for compliance with the Standard Gas Code who holds a certification from the SBCCI as a mechanical inspector or plumber, or master plumber license from the State Construction Industry Licensing Board;
    - (5) A person inspecting for compliance with the Standard Mechanical Code or the mechanical portion of the CABO One- and Two-Family Dwelling Code who holds a certification from the SBCCI as a mechanical inspector or a conditioned air contractor license from the State Construction Industry Licensing Board;
    - (6) A person inspecting for compliance with the Georgia State Plumbing Code, the Standard Plumbing Code, or the plumbing portion of the CABO One- and Two-Family Dwelling Code who holds a certification from the SBCCI as a plumbing inspector or a journeyman plumber or master plumber license from the State Construction Industry Licensing Board;

- (7) A person inspecting for compliance any portion of the CABO One- and Two-Family Dwelling Code who holds a certification from the SBCCI as a one and two-family dwelling inspector;
  - (8) A person inspecting for compliance with the Georgia State Energy Code for Buildings who has completed eight (8) hours of training that is conducted or approved by the department; or
  - (9) A person inspecting for compliance with any of the codes listed in subparagraphs 1 through 8 of this paragraph who holds a certificate of registration as a professional engineer issued under O.C.G.A. Chapter 15 of Title 43 and is practicing within the scope of his or her branch of engineering expertise while conducting such inspection.
- C.** SBCCI means the Southern Building Code Congress International.
- D.** State Construction Industry Licensing Board means that board created pursuant to O.C.G.A. § 43-14-3.
2. The governing authority of any municipality which has adopted provisions for the enforcement of the state minimum standard codes shall post a notice stating whether the personnel employed by that governing authority to conduct inspections for compliance with such codes are qualified inspectors. Such notice shall separately address each minimum standard code enumerated in subdivisions (9)(B)(i)(I) through (9)(B)(i)(VII) of O.C.G.A. § 8-2-20 and the building, electrical, mechanical, and plumbing portions of the CABO One- and Two-Family Dwelling Code, and state whether all personnel assigned to conduct inspections for the particular code or portion of the code are qualified inspectors for that code or portion of the code.
  3. If such notice states that not all personnel assigned to conduct inspections for a particular state minimum standard code or portion of such code are qualified inspectors for that code or portion of the code, then the governing authority may retain qualified inspectors not employed by the governing authority to conduct inspections. If the Mayor and Council does not so retain qualified inspectors, then any person, firm, or corporation engaged in a construction project which requires inspection shall have the option of retaining, at its own expense, a person who is a qualified inspector for that code or portion of the code and who is not an employee of or otherwise affiliated with or financially interested in such person, firm or corporation to provide the required inspection.
  4. The person, firm, or corporation retaining a qualified inspector to conduct an inspection pursuant to this section shall be required to pay to the municipality which requires the inspection the same permit fees and charges which would have been required had the inspection been conducted by a county or municipal inspector.
  5. A qualified inspector retained pursuant to this section shall be empowered to perform any inspection required by the governing authority of any county or municipality, including but not limited to inspections for footings, foundations, concrete slabs, framing, electrical, plumbing, heating ventilation and air condition (HVAC), or any and all other inspections necessary or required for the issuance of a certificate of occupancy by the governing authority of any county or municipality; provided, however, that the qualified inspector must possess the qualifications described in paragraph (B) of subsection (1) of this section for the particular type of inspection. Any inspection conducted pursuant to this section shall be no less extensive than an inspection conducted by a county or municipal inspector.
  6. Upon submission by the qualified inspector of a copy of his or her inspection report to the local governing authority, said local governing authority shall be required to accept the inspection of the qualified inspector without the necessity or further inspection or approval by the inspectors or other personnel employed by the local governing authority unless said governing authority has notified the qualified inspector, within two (2) business days after the submission of the inspection report, that it finds the report incomplete or the inspection inadequate and has provided the qualified inspector with a written description of the deficiencies and specific code requirements that have not been adequately addressed.
  7. Nothing in this section shall be construed to apply to inspections for compliance with a state or local fire safety standard or erosion control standard.
  8. Nothing in this section shall be construed to limit any public or private right of action designed to provide protection, rights, or remedies for consumers.

**Section 36-108 Code Compliance Inspections**

1. If the Mayor and Council cannot provide inspection services within two (2) business days of receiving a valid written request for inspection, then in lieu of inspection by inspectors or other personnel employed by such governing authority, any person, firm or corporation engaged in a construction project which requires inspection shall have the option of retaining, at its own expense, a professional engineer who

holds a certificate of registration issued under O.C.G.A. § Chapter 15 of Title 43, and who is not an employee of or otherwise affiliated with or financially interested in such person, firm, or corporation, to provide the required inspection.

2. Any inspection conducted by a registered professional engineer shall be no less extensive than an inspection conducted by a county or municipal inspector.
3. The person, firm, or corporation retaining a registered professional engineer to conduct an inspection shall be required to pay to the county or municipality which requires the inspection the same permit fees and charges which would have been required had the inspection been conducted by a county or municipal inspector.
4. The registered professional engineer shall be empowered to perform any inspection required by the governing authority of any county or municipality, including, but not limited to, inspections for footings, foundations, concrete slabs, framing, electrical, plumbing, heating ventilation and air conditioning (HVAC), or any and all other inspections necessary or required for the issuance of a certificate of occupancy by the Mayor and Council of any county or municipality, provided that the inspection is within the scope of such engineer's branch of engineering expertise.
5. The registered professional engineer shall submit a copy of his or her inspection report to the county or municipality.
6. Upon submission by the registered professional engineer of a copy of his or her inspection report to the Mayor and Council the Mayor and Council shall be required to accept the inspection of the registered professional engineer without the necessity of further inspection or approval by the inspectors or other personnel employed by the Mayor and Council unless the Mayor and Council has notified the registered professional engineer, within two (2) business days after the submission of the inspection report, that it finds the report incomplete or the inspection inadequate and has provided the registered professional engineer with a written description of the deficiencies and specific code requirements that have not been adequately addressed.
7. The Mayor and Council may provide for the prequalification of registered professional engineers who may perform inspections pursuant to this subsection. No ordinance implementing prequalification shall become effective until notice of the governing authority's intent to require prequalification and the specific requirements for prequalification have been advertised in the newspaper in which the sheriff's advertisements for that locality are published. The ordinance implementing prequalification shall provide for evaluation of the qualifications of a registered professional engineer on the basis of the engineer's expertise with respect to the objectives of the inspection, as demonstrated by the engineer's experience, education, and training.
8. Nothing in this section shall be construed to limit any public or private right of action designed to provide protection, rights, or remedies for consumers.

**Section 36-109                      Plumbing Code**

1. **Adoption.** There is hereby adopted by the Mayor and City Council, for the purpose of establishing standards and procedures affecting the installation of plumbing and plumbing materials, the Georgia State Plumbing Code, being particularly that code published by the State Building Administrative Board, of which code not less than one (1) copy has been and now is filed in the office of the city clerk/treasurer, and the same is adopted and incorporated as fully as if set out at length herein, and from the date on which this section shall take effect, the provisions thereof shall be controlling within the corporate limits of the city.
2. **Definitions of Terms Used in State Plumbing Code.**
  - A. Wherever the term "**Plumbing Inspector**" is used in the State Plumbing Code, it shall mean the person designated by the Mayor and City Council to administer and enforce the provisions of said code.
  - B. Wherever the term "**Corporate Counsel**" is used in the State Plumbing Code, it shall mean the City Attorney of this municipality.
  - C. Wherever the term "**Municipality**" is used in the State Plumbing Code, it shall mean this city.
3. **Enforcement.** The Georgia State Plumbing Code adopted herein shall be enforced by [ the department of housing and building inspection.
4. **Penalties.** Any person who shall violate any of the provisions of the Georgia State Plumbing Code or fail to comply therewith, or who shall violate or fail to comply with any order made thereunder, shall, for each such failure or violation or noncompliance, be punished by a fine not to exceed one thousand dollars

(\$1,000.00) and costs, or by imprisonment not to exceed sixty (60) days, or both, any and all of such penalties to be imposed in the discretion of the Judge of the Municipal Court.

# CHAPTER 37: WELLHEAD PROTECTION ORDINANCE

## Section

37-101	Short Title and Purpose
37-102	Definitions
37-103	Establishment of Wellhead Protection Zone
37-104	Permitted Uses
37-105	Prohibited Uses
37-106	Administration



### Section 37-101 Short Title and Purpose

1. This ordinance shall be known as the "Wellhead Protection Ordinance."
2. The purpose of this ordinance is to insure the provision of a safe and sanitary drinking water supply for the city by the establishment of wellhead protection zones surrounding the wellheads for all wells which are the supply sources for the city water system and by the designation and regulation of property uses and conditions which may be maintained within such zones.

### Section 37-102 Definitions

When used in this ordinance the following words and phrases shall have the meaning given in this Section:

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

### Section 37-103 Establishment of Wellhead Protection Zone

There is hereby established a use district to be known as a wellhead protection zone, identified and described as all the area within a circle, the center of which is the center of any city water supply wellhead and the radius of which is one thousand five hundred (1,500) feet.

### Section 37-104 Permitted Uses

The following uses shall be permitted within wellhead protection zones:

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

### Section 37-105 Prohibited Uses

The following uses or conditions shall be and are hereby prohibited within wellhead protection zones, whether or not such use or condition may otherwise be ordinarily included as a part of a use permitted under Section 37-104 of this Ordinance;

1. Surface use or storage of hazardous material, expressly including commercial use of agricultural pesticides;

2. Septic tanks or drain fields appurtenant thereto;
3. Impervious surfaces other than roofs of buildings, and streets, driveways and walks serving buildings permitted under Section 37-104 of this ordinance;
4. Sanitary landfills;
5. Hazardous waste disposal sites;
6. Storm water infiltration basins;
7. Underground storage tanks;
8. Sanitary sewer lines within one hundred fifty (150) feet of a wellhead;

**Section 37-106 Administration**

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

*(Adopted 10/21/91)*

# CHAPTER 38: WATER CONSERVATION ORDINANCE

## Section

38-101	Definitions
38-102	Residential Building Construction
38-103	Commercial Building Construction
38-104	Residential/Commercial Construction
38-105	Exemptions
38-106	Enforcement; Penalty



## Section 38-101 Definitions

1. **Commercial.** Any type of building other than residential.
2. **Construction.** The erection of a new building or the alteration of an existing building in connection with its repair or renovation or in connection with making an addition to an existing building and shall include the replacement of a malfunctioning, unserviceable, or obsolete faucet, showerhead, toilet, or urinal in an existing building.
3. **Residential.** Any building or unit of a building intended for occupancy as a dwelling but shall not include a hotel or motel.

## Section 38-102 Residential Building Construction

No construction may be initiated within the City of Mansfield for any residential building of any type which:

1. Employs a gravity tank-type, flushometer-valve, or flushometer-tank toilet that uses more than an average of 1.6 gallons of water per flush;
2. Employs a shower head that allows a flow of more than an average of 2.5 gallons of water per minute at sixty (60) pounds per square inch of pressure;
3. Employs a urinal that uses more than an average of 1.0 gallons of water per flush;
4. Employs a lavatory faucet or lavatory replacement aerator that allows a flow of more than 2.0 gallons of water per minute; or
5. Employs a kitchen faucet or kitchen replacement aerator that allows a flow of more than 2.5 gallons of water per minute.

## Section 38-103 Commercial Building Construction

There shall be no construction of any commercial building initiated within the City of Mansfield for any commercial building of any type which does not meet the requirements of Section 38-102.

## Section 38-104 Residential/Commercial Construction

The requirements of Section 38-102 shall apply to any residential construction and any commercial construction, which involves the repair or renovation of or addition to any existing building when such repair or renovation of or addition to such existing building includes replacement of toilets or showers or both.

## Section 38-105 Exemptions

New construction and the repair or renovation of an existing building shall be exempt from the requirements of Sections 38-102, 103, and 104 of this chapter 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 chapter were installed; or

3. Such system is a well or gravity flow from a spring and is owned privately by an individual for use in such individual's personal residence; 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. Specifically designed as toilets for juveniles.

The owner, or his agent, of a building undergoing new construction or repair or renovation who is entitled to an exemption as specified in subparagraphs 2, 3, or 4 of this section shall obtain the exemption by applying at the office of the building inspector for the City of Mansfield. A fee of as determined by Mayor and Council shall be charged for the inspection and issuance of such exemption.

**Section 38-106                      Enforcement; Penalty**

This chapter shall be enforced by the office of the building inspector of the City of Mansfield. Citations for violations may be issued by the Building Inspector of the City of Mansfield.

Any person, corporation, partnership or other entity violating this chapter shall be tried before the City of Mansfield Municipal Court. Upon conviction, a violation of this chapter may be punished by a fine not to exceed one thousand dollars (\$1,000.00) or imprisonment not to exceed sixty (60) days.

# CHAPTER 39: LAND DEVELOPMENT REGULATIONS

## Section

39-101	Zoning Regulations
39-102	Reserved
39-103	Comprehensive Plan
39-104	Reserved
39-105	Standard for Telecommunications Antennas and Towers
39-106	Utility Placement Guidelines



### **Section 39-101            Zoning Regulations**

The Zoning Regulations of the City of Mansfield, as amended, are incorporated by reference as if fully set out herein.

### **Section 39-102            Reserved**

### **Section 39-103            Comprehensive Plan**

The Joint City/County Comprehensive Plan for Newton County and the cities of Covington, Mansfield, Newborn, Oxford, and Porterdale, March 2000, is incorporated by reference as if fully set out herein.

### **Section 39-104            Reserved**

### **Section 39-105            Standard for Telecommunications Antennas and Towers**

1. **Definitions.** As used in this ordinance, the following terms shall have the meanings indicated:
  - A. **"Alternative Tower Structure"** shall mean man-made trees, clock towers, bell steeples, light poles and similar alternative-design mounting structures that camouflage or conceal the presence of antennas or towers.
  - B. **"Antenna"** shall mean any exterior apparatus designed for telephonic, radio, or television communications through the sending and/or receiving of electromagnetic waves.
  - C. **"FAA"** shall mean the Federal Aviation Administration.
  - D. **"FCC"** shall mean the Federal Communications Commission.
  - E. **"Governing Authority"** shall mean the governing authority of the County/City.
  - F. **"Preexisting Towers and Antennas"** shall have the meaning set forth in Section 2(d) of this ordinance.
  - G. **"Heishi"** shall mean when referring to a tower or other structure, the distance measured from ground level to the highest point on the tower or other structure, even if said highest point is an antenna.
  - H. **"Public Officer"** as used in Sections 4.1-2-17 of the Official Code of Georgia, shall mean the City of Mansfield of the governing authority.
  - I. **"Tower"** shall mean any structure that is designed and constructed primarily for the purpose of supporting one or more antennas, including self-supporting lattice towers, guy towers, or monopole towers. The term includes radio and television transmission towers, microwave towers, common-carrier towers, cellular telephone towers, alternative tower structures, and the like.

**2. Applicability.**

- A. District Height Limitations.** The requirements set forth in this ordinance shall govern the location of towers that exceed, and antennas that are installed at a height in excess of, the height limitations specified for each zoning district. The height limitations applicable to buildings and structures shall not apply to towers and antennas.

- B. **Public Property.** Antennas or towers located on property owned, leased, or otherwise controlled by the governing authority shall be exempt from the requirements of this ordinance, provided a license or lease authorizing such antenna or tower has been approved by the governing authority.
  - C. **Amateur Radio; Receive-Only Antennas.** This ordinance shall not govern any tower, or the installation of any antenna, that is under seventy (70) feet in height and is owned and operated by a federally-licensed amateur radio station operator or is used exclusively for receive only antennas.
  - D. **Pre-Existing Towers and Antennas.** Any tower or antenna on for which a permit has been properly issued prior to the effective date of this ordinance shall not be required to meet the requirements of this ordinance, other than the requirements of Sections 3(E) and 3(F). Any such towers or antennas shall be referred to in this ordinance as "preexisting towers" or "preexisting antennas".
3. **General Guidelines and Requirements.**
- A. **Purpose: Goals.** The purpose of this ordinance is to establish general guidelines for the siting of towers and antennas. The goals of this ordinance are to:
    - (1) Encourage the location of towers in non-residential areas and minimize the total number of towers throughout the community,
    - (2) Encourage strongly the joint use of new and existing tower sites,
    - (3) Encourage users of towers and antennas to locate them, to the extent possible, in areas where the adverse impact on the community is minimal,
    - (4) Encourage users of towers and antennas to configure them in a way that minimizes the adverse visual impact of the towers and antennas, and
    - (5) Enhance the ability of the providers of telecommunications services to provide such services to the community quickly, effectively, and efficiently.
  - B. **Principal or Accessory Use.** Antennas and towers may be considered either principal or accessory uses. A different existing use or an existing structure on the same lot shall not preclude the installation of an antenna or tower on such lot. For purposes of determining whether the installation of a tower or antenna complies with district development regulations, including but not limited to set-back requirements, lot-coverage requirements, and other such requirements, the dimensions of the entire lot shall control, even though the antennas or towers may be located on leased parcels within such lots. Towers that are constructed, and antennas that are installed, in accordance with the provisions of this ordinance shall not be deemed to constitute the expansion of a nonconforming use or structure.
  - C. **Inventory of Existing Sites.** Each applicant for an antenna and or tower shall provide to the Planning and Zoning Department an inventory of its existing towers that are either within the jurisdiction of the governing authority or within one-quarter mile of the border thereof, including specific information about the location, height, and design of each tower. The Planning and Zoning Department may share such information with other applicants applying for administrative approvals or special use permits under this ordinance or other organizations seeking to locate antennas within the jurisdiction of the governing authority, provided, however that the Planning and Zoning Department is not, by sharing such information, in any way representing or warranting that such sites are available or suitable.
  - D. **Aesthetics: Lighting.** The guidelines set forth in this Section 3(D) shall govern the location of all towers, and the installation of all antennas, governed by this ordinance; provided, however, that the governing authority may waive these requirements if it determines that the goals of this ordinance are better served thereby.
    - (1) Towers shall either maintain a galvanized steel finish or subject to any applicable standards of the FAA, be painted a neutral color, so as to reduce visual obtrusiveness.
    - (2) At a tower site, the design of the buildings and related structures shall, to the extent possible, use materials, colors, textures, screening, and landscaping that will blend the tower facilities to the natural setting and built environment.
    - (3) If an antenna is installed on a structure other than a tower, the antenna and supporting electrical and mechanical equipment must be of a neutral color that is identical to, or closely compatible with, the color of the supporting structure so as to make the antenna and related equipment as visually unobtrusive as possible.
    - (4) Towers shall not be artificially lighted, unless required by the FAA or other applicable authority. If lighting is required, the governing authority may review the available lighting alternatives and approve the design that would cause the least disturbance to the surrounding views.

- E. Federal Requirements.** All towers must meet or exceed current standards and regulations of the FAA, the FCC, and any other agency of the federal government with the authority to regulate towers and antennas. If such standards and regulations are changed, then the owners of the towers and antennas governed by this ordinance shall bring such towers and antennas into compliance with such revised standards and regulations within six (6) months of the effective date of such standards and regulations, unless a more stringent compliance schedule is mandated by the controlling federal agency. Failure to bring towers and antennas into compliance with such revised standards and regulations shall constitute grounds for the removal of the tower or antenna at the owners expense. Any such removal by the governing authority shall be in the manner provided in Sections 41-2-8 through 41-2-17 of the Official Code of Georgia.
  - F. Building Codes: Safety Standards.** To ensure the structural integrity of towers, the owner of a tower shall ensure that it is maintained in compliance with standards contained in applicable local building codes and the applicable standards for towers that are published by the Electronic Industries Association, as amended from time to time. If, upon inspection, the governing authority concludes that a tower fails to comply with such codes and standards and constitutes a danger to persons or property, then upon notice being provided to the owner of the tower, the owner shall have thirty (30) days to bring such tower into compliance with such standards. If the owner fails to bring such tower into compliance within said thirty (30) days, the governing authority may remove such tower at the owner's expense. Any such removal by the governing authority shall be in the manner provided in Sections 41-2-8 through 41-2-17 of the Official Code of Georgia.
- 4. Permitted Uses.**
- A. General.** The uses listed in this Section 4 are deemed to be permitted uses and shall not require administrative review or a special use permit. Nevertheless, all such uses shall comply with Sections 3(D), 3(E), and 3(F) of this ordinance and all other applicable ordinances.
  - B. Specific Permitted Uses.** The following uses are specifically permitted:

    - (1) Locating a tower or antenna, including the placement of additional buildings or other supporting equipment used in connection with said tower or antenna, in any industrial or heavy commercial zoning district; provided, however, that such tower shall be set back from any existing off-site residence a distance equal to the height of the tower;
    - (2) Installing an antenna on an existing structure other than a tower (such as a building, sign, light pole, water tower, or other free-standing nonresidential structure) that is fifty (50) feet in height or greater, so long as said additional antenna adds no more than twenty (20) feet to the height of said existing structure: and
    - (3) Installing an antenna on any existing tower of any height, so long as the addition of said antenna adds no more than twenty (20) feet to the height of said existing tower and said existing tower is not a preexisting tower, provided, however, that such specific permitted use shall not include the placement of additional buildings or other supporting equipment used in connection with said antenna.
- 5. Administrative Approvals.**
- A. General.**

    - (1) The Planning and Zoning Department may administratively approve the uses listed in this Section 5.
    - (2) Each applicant for administrative approval shall apply to the Planning and Zoning Department, providing the information set forth in Sections 6(B) and 6(D) of this ordinance.
    - (3) The Planning and Zoning Department shall respond to each such application within thirty (30) days after receiving it by either approving or denying the application. If the Planning and Zoning Department fails to respond to the applicant within said thirty (30) days, then the application shall be deemed to be approved.
    - (4) In connection with any such administrative approval, the Planning and Zoning Department may, in order to encourage shared use, administratively waive any zoning district setback requirements by up to fifty percent (50%).
    - (5) If an administrative approval is denied, the applicant may appeal said denial in accordance with the provisions of the zoning ordinance concerning appeals of administrative decisions.
  - B. Specific Administratively Approved Uses.** The following uses may be approved by the Planning and Zoning Department after conducting an administrative review:

    - (1) Installing an antenna on an existing structure other than a tower (such as a building, sign, light pole, water tower, or other free standing nonresidential structure) that is less than fifty

- (50) feet in height, so long as such addition does not add more than twenty (20) feet to the height of the existing structure;
- (2) Installing an antenna on an existing tower of any height, including a preexisting tower and further including the placement of additional buildings or other supporting equipment used in connection with said antenna, so long as the addition of said antenna adds no more than twenty (20) feet to the height of said existing tower,
- (3) Locating any alternative tower structure in a zoning district other than industrial or heavy commercial that in the judgment of the Planning and Zoning Department is in conformity with the goals set forth in Section 3(A) of this ordinance;
- (4) Locating any tower in a zoning district other than industrial or heavy commercial, provided a licensed professional engineer certifies the tower can structurally accommodate the number of shared users proposed by the applicant; the Planning and Zoning Department concludes the tower is in conformity with the goals set forth in Section 3(A) and the requirements of Sections 3(D), 3(C), and 3(F); the tower is to be set back from any existing off-site residence a distance equal to the height of the tower, and that the tower meets the following height and usage criteria:
  - (a) For a single user, up to ninety (90) feet in height;
  - (b) For two users, up to one hundred twenty (120) feet in height; and
  - (c) For three or more users, up to one hundred fifty (150) feet in height

**6. Special Use Permits.**

**A. General.** The following provisions shall govern the issuance of special use permits:

- (1) If the tower or antenna is not a permitted use under Section 4 of this ordinance or permitted to be approved administratively pursuant to Section 5 of this ordinance, then a special use permit shall be required for the construction of a tower or the placement of an antenna in all zoning districts.
- (2) In granting a special use permit, the governing authority may impose conditions to the extent the governing authority concludes such conditions are necessary to minimize any adverse effect of the proposed tower on adjoining properties.
- (3) Any information of an engineering nature that the applicant submits, whether civil, mechanical, or electrical shall be certified by a licensed professional engineer.

**B. Information Required.** Each applicant requesting a special use permit under this ordinance shall submit a scaled site plan and a scaled elevation view and other supporting drawings, calculations, and other documentation, signed and sealed by appropriate licensed professionals, showing the location and dimensions of all improvements, including information concerning topography, radio frequency coverage, tower height requirements, setbacks, drives, parking, fencing, landscaping, adjacent uses, and other information deemed by the governing authority to be necessary to assess compliance with this ordinance.

**C. Factors Considered in Granting Special Use Permits.** The governing authority shall consider the following factors in determining whether to issue a special use permit, although the governing authority may waive or reduce the burden on the applicant of one or more of these criteria if the governing authority concludes that the goals of this ordinance are better served thereby.

- (1) Height of the proposed tower;
- (2) Proximity of the tower to residential structures and residential district boundaries;
- (3) Nature of uses on adjacent and nearby properties;
- (4) Surrounding topography;
- (5) Surrounding tree coverage and foliage;
- (6) Design of the tower, with particular reference to design characteristics that have the effect of reducing or eliminating visual obtrusiveness; and
- (7) Proposed ingress and egress; and
- (8) Availability of suitable existing towers and other structures as discussed in Section 6(D) of this ordinance.

**D. Availability of Suitable Existing Towers or Other Structures.** No new tower shall be permitted unless the applicant demonstrates to the reasonable satisfaction of the governing authority that no existing tower or structure can accommodate the applicant's proposed antenna. Evidence submitted to demonstrate that no existing tower or structure can accommodate the applicant's proposed antenna may consist of any of the following:

- (1) No existing towers or structures are located within the geographic area required to meet applicant's engineering requirements.
  - (2) Existing towers or structures are not of sufficient height to meet applicant's engineering requirements.
  - (3) Existing towers or structures do not have sufficient structural strength to support applicant's proposed antenna and related equipment.
  - (4) The applicant's proposed antenna would cause electromagnetic interference with the antenna on the existing towers or structures, or the antenna on the existing towers or structures would cause interference with the applicant's proposed antenna.
  - (5) The fees, costs, or contractual provisions required by the owner in order to share an existing tower or structure or to adapt an existing tower or structure for sharing are unreasonable. Costs exceeding new tower development are presumed to be unreasonable.
  - (6) The applicant demonstrates that there are other limiting factors that render existing towers and structures unsuitable.
- E. Setbacks and Separation.** The following setbacks and separation requirements shall apply to all towers and antennas for which a special use permit is required; provided, however, that the governing authority may, reduce the standard setbacks and separation requirements if the goals of this ordinance would be better served thereby.
- (1) Towers must be set back a distance equal to the height of the tower from any off-site residential structure.
  - (2) Towers, guys, and accessory facilities must satisfy the minimum zoning district setback requirements.
  - (3) In zoning districts other than industrial or heavy commercial zoning districts, towers over ninety (90) feet in height shall not be located within one-quarter of a mile from any existing tower that is over ninety (90) feet in height.
- F. Security Fencing.** Towers shall be enclosed by security fencing not less than six (6) feet in height and shall also be equipped with an appropriate anti-climbing device; provided, however, that the governing authority may waive such requirements, as it deems appropriate.
- G. Landscaping.** The following requirements shall govern the landscaping surrounding towers for which a special use permit is required; provided, however, that the governing authority may waive such requirements if the goals of this ordinance would be better served thereby.
- (1) Tower facilities shall be landscaped with a buffer of plant materials that effectively screens the view of the tower compound from adjacent residential property. The standard buffer shall consist of a landscaped strip at least four (4) feet wide outside the perimeter of the compound.
  - (2) In locations where the visual impact of the tower would be minimal, the landscaping requirement may be reduced or waived altogether.
  - (3) Existing mature tree growth and natural land forms on the site shall be preserved to the maximum extent possible. In some cases, such as towers sited on large, wooded lots, natural growth around the property perimeter may be sufficient buffer.
- 7. Removal of Abandoned Antennas and Towers.** Any antenna or tower that is not operated for a continuous period of twelve (12) months shall be considered abandoned, and the owner of such antenna or tower shall remove same within ninety (90) days of receipt of notice from the governing authority notifying the owner of such abandonment. If such antenna or tower is not removed within said ninety (90) days, the governing authority may, in the manner provided in Sections 41-2-8 through 41-2-17 of the Official Code of Georgia, remove such antenna or tower at the owner's expense. If there are two or more users of a single tower, then this provision shall not become effective until all users cease using the tower.

*(Adopted 2/10/97)*

## **Section 39-106            Utility Placement Guidelines**

The intent of this Utility Placement Guideline is to permit orderly construction of underground gas, electric, telephone, CATV, Water Sewer, and other common utility lines. It is not intended to be used as a line location device prior to excavation.

Excavators should be aware that numerous buried utility lines were placed prior to the creation of this guideline and therefore are not in compliance. Further, this guideline will be abridged, with permission of the issuing authority, due to unusual topographical circumstances and other situations where it is in the community interest to make such adjustments.

All excavators must follow the instructions contained in the Georgia "One Call" Law when excavating in this state. Failure to call for utility line locations subjects the violator to a fine of up to three thousand dollars (\$3,000.00) and makes them "Strictly Liable" for the repair cost if a line is damaged.

A copy of the guidelines is available by contacting City Hall.

*(Adopted 2/10/97)*

# CHAPTER 40: FRANCHISE ORDINANCES

## Section

40-101	Cable System and Open Video System Enabling Ordinance
40-102	Fiber Optics for Long Distance Network
40-103	Natural Gas
40-104	Telecommunications Management Service
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## Section 40-101 Cable System and Open Video System Enabling Ordinance

1. **Definitions.** For purposes of this Ordinance, 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.
  - A. **Cable Services** means "cable services" as defined in the Communications Act of 1934, as amended by the Cable Communications Policy Act of 1984, the Cable Television Consumer Protection and Competition Act of 1992, the Telecommunications Act of 1996, and may be further amended from time to time (the "Cable Act"), but does not include Telecommunications Services. In the event that "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.
  - B. **Cable System** means any "Cable System" as defined in the Cable Act.
  - C. **City** means the City of Mansfield.
  - D. **City Council** means the City Council of the City and its designee or any successor thereto.
  - E. **Franchise** means an initial authorization, or renewal thereof, issued by the City, 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 Cable Services through a Cable System or Open Video System.
  - F. **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 Services to inhabitants within the franchise area.
  - G. **May** is permissive.
  - H. **Open Video System** means "open video system" as defined by section 76.1500(a) of Part 76 of the Code of Federal Regulations.
  - I. **Ordinance** means this Ordinance and all modifications and amendments thereto.
  - J. **Person** means any individual or any association, firm, partnership, joint venture, corporation or other legally recognized entity, whether for profit or not for profit, but shall not mean the City.
  - K. **Shall** is mandatory, not merely directive.
  - L. **Streets** means the surface of, as well as the spaces above and below, any and; 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 City.
  - M. **Telecommunications Services** means "telecommunications service" as defined by 47 U.S.C. § 153(46) of the Communications Act of 1934, as amended by the Telecommunications Act of 1996, but does not include Cable Services. In the event that "telecommunications service" is no longer defined in the Communications Act or the definition in the Communications Act otherwise becomes

inapplicable, "Telecommunications Service" shall mean "telecommunications service" as defined in the Communications Act immediately prior to such term no longer being defined in the Communications Act or such definition otherwise becoming inapplicable.

**2. Granting Authority and Franchising Procedure.**

**A. Granting Authority.**

- (i) No Person shall use or occupy the Streets to provide any Cable Services or operate a Cable System or Open Video System without a Franchise granted in accordance with the provisions of this Ordinance.
- (2) The City Council may grant one or more Franchises in accordance with this Ordinance, provided that the City Council reserves the right to modify any provision of this Ordinance by amendment hereof.
- (3) The grant of any Franchise shall be made by adoption of a separate ordinance by the City Council and shall be on such terms and conditions as may be specified in said separate ordinance and/or a franchise agreement between the City and the Grantee.
- (4) Any Franchise granted shall be nonexclusive. The City specifically reserves the right to grant, at any time, such additional Franchises as it deems appropriate and/or itself engage in the provision of Cable Services.
- (5) A Franchise may be granted for all or any defined portion of the City.
- (6) The grant of Franchises by the City shall be subject to the provisions of applicable law, such as the provisions in the Cable Act, as amended, governing cable television system and open video system franchises and the renewals of cable television system franchises.

**B. Franchise Applications.**

- (1) Applications for Franchises shall be submitted in such form and be issued on such terms and conditions as the City Council may determine, subject to applicable law
- (2) 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 City Council shall deem necessary or appropriate:
  - (a) Applicant's name, address, telephone number, and federal employer identification number or social security number; copy of applicant's corporate charter or partnership agreement as applicable; and any trade names (and registrations) used by applicant;
  - (b) 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 City:
    - (i) The names and the residence and business addresses of all officers and directors of the applicant;
    - (ii) 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;
    - (iii) 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 cable systems and open video systems owned or controlled by the applicant, its parent, and subsidiary, and the areas served thereby;
    - (iv) A detailed and complete financial statement of the 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 Council, 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 cable system or open video system in the City, or a statement from an independent certified public accountant certifying that the applicant has available sufficient free, net, and uncommitted cash resources to

- construct and operate the proposed cable system or open video system in the City;
- (v) A detailed financial plan (pro forma) describing for each year of the franchise, projected number of subscribers, rates, all revenues, operating expenses, capital expenditures, depreciation schedules, income statements, and a sources and uses of funds statement; and
  - (vi) A statement identifying, by place and date, any other cable television 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 franchisee! cable system(s) and open video system(s); and the amount of applicant's and its parent's or subsidiary's resources committed to the completion thereof;
- (c) A detailed description of the proposed plan of operation of the applicant which shall include, but not be limited to, the following:
- (i) A description of the Cable Services proposed to be provided;
  - (ii) 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;
  - (iii) A statement or schedule setting forth all proposed classifications or 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 service charges;
  - (iv) A detailed, informative, and referenced statement describing the actual equipment and operational standards proposed by the applicant;
  - (v) 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 Services; and
  - (vi) 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;
- (d) 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
- (e) Any other details, statements, supplementary information, or references pertinent to the subject matter of such application which shall be required or requested by the Council, or by any other provision of law.
- (3) **Non-refundable Application Fees for New Franchises.** No application for a new franchise shall be considered without payment by the applicant of application fees as provided in this Section. If a franchise is granted, 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 City 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 City in evaluating the application. Notwithstanding any other requirement of this ordinance, each applicant must furnish with its proposal a non-refundable application fee in the amount of one thousand dollars (\$1,000.00) by certified check or cashier's check made payable to the City of Mansfield. In the event that the City's reasonable costs exceed such amount, the applicant may be required by the City to pay any additional amount to cover such costs.
- C. 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 City and any federal, state or local governmental authority having jurisdiction.

- D. Public Availability of Applications.** To the extent determined by the City Council, applications for Franchises, including any additions, modifications or amendments thereto, shall be available for public inspection at a designated City office during normal business hours.
- E. Evaluation Criteria.** In making any determination hereunder as to any application for a Franchise, the City Council may consider such factors as it deems appropriate and in the public interest, including, without limitation:
- (1) The adequacy of the proposed compensation to be paid to the City, including the value of any facilities and Cable Services offered by the applicant to the City;
  - (2) The legal, financial, technical and other appropriate qualifications of the applicant;
  - (3) The ability of the applicant to maintain the property of the City in good condition throughout the term of the Franchise;
  - (4) The value and efficiency to the City and its residents of the Cable Services to be provided, including the type of Cable Services to be provided, as well as alternatives to those Services and services that may be precluded by the grant of the Franchise;
  - (5) 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
  - (6) Any other public interest factors or considerations deemed pertinent by the City for safeguarding the interests of the City and the public.
- F. Procedure for Consideration of and Action on Applications.**
- (1) The City may make such investigations and take or authorize the taking of such other steps as the City Council 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 City Council may seek advice from other City officials or bodies, from such other advisory bodies as it may establish or determine appropriate, or from the public, and may request the preparation of one or more reports to be submitted to the City Council, which may include recommendations with respect to such applications.
  - (2) If the City Council, after considering such information as it determines to be appropriate, elects to further consider any application(s), the City Council 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 City Council and be heard, and providing notice of such public hearing(s) in accordance with applicable law.
  - (3) The City Council may authorize negotiations between City officials and applicants to determine whether the City and such applicants are able to reach agreement on the terms of the proposed Franchise.
  - (4) Upon completion of the steps deemed appropriate by the City Council, the City Council may grant the Franchise, and may specify the conditions under which the Franchise is granted. Alternatively, the City 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 City also reserves the right to waive any or all requirements when it determines that the best interests of the City may be served thereby and may, if it so desires, request new or additional proposals.
- G. Terms and Conditions of Franchise.**
- (1) The terms and conditions applicable to any Franchise granted pursuant to this Ordinance 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:
    - (a) The term of the Franchise;
    - (b) The Franchise area and the Cable Services which are the subject of the Franchise;
    - (c) The compensation to be paid to the City, which may include the payment of fees or the provision of facilities or services, or both;
    - (d) The circumstances upon which the Franchise may be terminated or cancelled;
    - (e) The mechanisms, such as performance bonds, security funds or letters of credit, to be put in place to ensure the performance of the Grantee's obligations under the Franchise;

- (f) The City's right to inspect the facilities and records of the Grantee;
  - (g) Insurance and indemnification requirements applicable to the Grantee;
  - (h) The obligation of the Grantee to maintain complete and accurate books of account and records, and the City's inspection rights with respect thereto;
  - (i) Provisions to ensure quality workmanship and construction methods;
  - (j) Provisions to ensure that the Grantee will comply with all applicable City, state and federal laws, regulations, rules and policies, including, without limitation, those related to employment, purchasing and investigations;
  - (k) Provisions to ensure adequate oversight and regulation of the Grantee by the City;
  - (l) Provisions to restrict the assignment or other transfer of the Franchise without the prior written consent of the City;
  - (m) Remedies available to the City to protect the City's interest in the event of the Grantee's failure to comply with terms and conditions of the Franchise;
  - (n) Provisions to ensure that the Grantee will obtain all necessary licenses and permits from, and comply with, all laws, regulations, rules and policies of any governmental body having jurisdiction over the Grantee, including, but not limited to, the Federal Communications Commission;;
  - (o) Provisions to ensure that the Grantee will protect the property of the City and the delivery of public services from damage or interruption of operations resulting from the construction, operation, maintenance, repair or removal of improvements related to the Franchise;
  - (p) Provisions designed to minimize the extent to which the public use of the Streets of the City are disrupted in connection with the construction of improvements relating to the Franchise; and
  - (q) Such other provisions as the City determines are necessary or appropriate in furtherance of the public interest.
- H. Delegation.** Consistent with applicable law, the City Council shall have the right to delegate and redelegate, and to revoke any such delegation or redelegation, from time to time, any of its rights or obligations under this Ordinance to any body, organization or official. Any such delegation, redelegation or revocation, no matter how often made, shall not be deemed an amendment to this Ordinance or to require the consent of any applicant for a Franchise or Grantee. The City Council may also establish and appoint one or more advisory boards, with such duration and such number of members as the City Council shall determine, to advise it on such of the matters which are the subject of this Ordinance.

### 3. General Provisions.

- A. Severability.** If any section, subsection, sentence, clause, phrase or other portion of this Ordinance is, for any reason, declared invalid, in whole or in part, by any court, agency, commission, legislative body or other authority of competent jurisdiction, such portion shall be deemed a separate, distinct and independent portion. Such declaration shall not affect the validity of the remaining portions hereof, which other portions shall continue in full force and effect.
- B. Applicability of Other Ordinances.** All ordinances or parts of ordinances in conflict with the provisions of this Ordinance are hereby repealed.
- C. Retroactivity.** This Ordinance shall not be retroactively applied to franchises for Cable Services existing on the effective date of this Ordinance, but shall apply to any renewal or extension of such Franchises.

*(Adopted 11/13/01)*

## Section 40-102 Fiber Optics for Long Distance Network

This License made and entered into as of this 28th day of September 1998. by and between the City of Mansfield, Georgia (the City) and Williams Communications, Inc., a Delaware Corporation, with its principal place of business in Tulsa, Oklahoma at P.O. Box 22067, Tulsa, Oklahoma 74121, (Licensee).

Whereas, Licensee is in the business of constructing, operating and maintaining fiber optic telecommunications systems; and

Whereas, Licensee is currently constructing a telecommunications system (the "System") with a proposed route through the City; said route being set forth on Exhibit A, 10 pages, attached hereto and made a part hereof containing nineteen (19) initialed pages; and

Whereas, the City, after due evaluation, has determined that it is in the best interest of the City and its residents to grant a License to Licensee to utilize the City's streets, alleys, and rights of way for the construction, operation and maintenance of Licensee's System under the terms and conditions set forth below.

Now, Therefore, In Consideration of the mutual promises and covenants contained herein, the parties do mutually agree as follows:

**1. Grant of License.**

- A. The City hereby grants to Licensee, for itself and its successors and assignees, subject to the terms and conditions of this License, the right, privilege, and authority to construct, operate, maintain, and reconstruct the System within the public streets, alleys, and rights-of-way of the City.
- B. For the purpose of operating and maintaining the System, Licensee may erect, in, over, under, or upon, across, and along the heretofore designated public streets, highways, alleys, and rights-of-way, as shown on the said Exhibit "A", within the City such wires, cables, ducts, conduits, vaults, manholes, pedestals, attachments, and other property and equipment as are necessary and appurtenant to the operation of the telecommunications system.
- C. Licensee is authorized to provide only long distance network services under the terms of this License Licensee must notify the City and obtain an amended License in order to locate a telecommunications system on the City rights-of-way providing local access telecommunications services within the City.
- D. No use or rights herein granted in this License shall create or vest in Licensee any easement or any other ownership or property rights of any nature whatsoever in the City's streets, alleys or public rights of way.

**2. Term and Termination.**

- A. The term of the License shall be for a period of twenty (20) years from the date hereof, unless sooner terminated or extended as provided hereinafter, at which time it shall expire and be of no further force and effect.
- B. Provided Licensee is not in default under this License, Licensee, its successors and assigns shall have the right and option to extend the term of this License from the date upon which it would otherwise expire for two additional terms often (10) year each. Such option to extend may be exercised by Licensee by giving written notice to City no later than one year prior to the expiration of the initial term or any renewal term.
- C. Licensee may terminate the License during the initial term or any extensions thereof upon ninety (90) days written notice to City. Thereafter, the parties shall have no further obligation to the other under this License except as otherwise specified herein. After such termination. Licensee shall have sixty (60) days to remove its System from the City's streets, alleys and right of ways. If Licensee fails to remove its System as provided herein, it shall be deemed abandoned by Licensee and become the sole property of the City.

**3. License Nonexclusive.** This License shall not be construed as any limitation upon the right of the City to grant to other persons the rights, privileges, or authorities similar to the rights, privileges, and authorities herein set forth, in the same or other streets, alleys, or other public rights-of-way.

**4. Construction.**

- A. The construction of the System shall be completed within one (1) year of the effective date of this License.
- B. Licensee shall provide necessary supervision to construct the System in a workmanlike manner. Licensee shall provide contact numbers for supervisors of construction to the City.
- C. Licensee shall be responsible for obtaining all licenses, permits, rights of way and/or other authorities required for the construction, operation and maintenance of the System.
- D. In constructing, operating and maintaining the System, Licensee shall at all times comply with all applicable laws and regulations.
- E. Licensee shall be solely responsible for all costs associated with the construction of the System.

**5. Taxes, Mechanic's Liens, Encumbrances.**

- A. Licensee shall be obligated to pay all taxes, assessments and other impositions upon its System, licensee's business or as a result of this License.

- B. Licensee shall keep the City's streets, alleys and rights of way free from all liens, including mechanics liens, and encumbrances resulting from its use or occupancy. If Licensee fails to pay any lien or other encumbrance when such becomes due, the City shall have the right, but not the obligation, to pay all amounts due and discharge such lien or encumbrance and charge the amount paid to Licensee.
6. **Operation and Maintenance.**
- A. During the Term of this License, including any extensions or renewals thereof. Licensee shall, at its own expense, maintain the System in a safe condition and in a manner so as not to physically conflict or electronically interfere with the facilities of the City or the City's licensees.
- B. Except in the case of an emergency repair to its System, Licensee shall give the City reasonable notice of the need to access the System in the City's streets, alleys and rights of way, and the City shall give approval, not to be unreasonable withheld, delayed or denied, to such request for access.
- C. In the case of emergency repairs. Licensee shall notify the City as soon as reasonably possible (no more than 72 hours), of its entry into the City streets, alleys and rights of way necessary to make such emergency repairs.
7. **Police Powers.** In accepting this License, Licensee acknowledges that its rights hereunder are subject to the police powers of the City to adopt and enforce general ordinances necessary to the safety and welfare of the public and it agrees to comply with all applicable general laws and ordinances enacted by the City pursuant to such power.
8. **License Fee.**
- A. As compensation for the use of the City's rights-of-way for a telecommunications system solely providing long distance network service. Licensee shall pay to the City a one time license fee of twenty thousand dollars (\$20,000.00), payable in full upon execution hereof.
- B. The license fee for any renewal term of this License shall be one thousand two hundred dollars (\$1,200.00) per year of the renewal term, plus the percentage increase (if any) in the CPI-U between the effective date of this License and the commencement of the last year of the term or renewal term (as the case may be) of this License. "CPI-U" shall mean the Consumer Price Index-All Urban Consumer, U.S. City Average, All Items, published by the Bureau of Labor Statistics or any index designated by the U.S. government as a replacement therefor.
9. **Condemnation/Relocation of the System.**
- A. If at any time during the initial term of this License or any renewal or extension thereof, all or a significant portion of the City's streets, alleys or rights of way wherein the System is located shall be taken for any public or quasi-public purpose by any lawful power or authority by the exercise of the right of condemnation or eminent domain, either party may elect to terminate this License upon giving the other party sixty (60) days prior written notice. Both parties shall be entitled to participate in any condemnation proceedings to seek to obtain compensation via separate awards for the economic value of their respective interests. In the event. Licensee's interest in such proceeding cannot be severed from the City's interest. Licensee shall be entitled to receive its pro-rata share of the award for its interest in the System.
- B. Licensee recognizes that, from time to time, the City may require or be required to cause Licensee to relocate the System, or a portion thereof, all at Licensee's sole cost and expense, unless paid by a third party. City agrees to give Licensee at least ninety (90) days prior written notice of any required relocation or of any proceedings which might result in a relocation, or such lesser amount of notice as City receives regarding such a proceeding, and Licensee shall have the right to participate in any such proceedings. In the event it is not feasible to relocate the System or the affected portion thereof. Licensee may terminate this License upon giving at least thirty (30) days written notice to City.
10. **Indemnification.**
- A. Licensee, its successors or assigns, shall indemnify and hold harmless the City, its employees, agents, licensees and invitees from and against any and all claims, demands, costs, damages, losses, liabilities, joint and/or several expenses of any nature (including reasonable attorney, accountant, and expert fees), judgments, fines, settlements and other amounts relating to or arising from:
- (1) Any acts, errors or omissions of Licensee, its agents, contractors or employees in the installation, maintenance or operation of the System or in its performance of this License;
  - (2) Any breach by Licensee of any obligation or covenant under this License.

- (3) Any failure of any representation or warranty made by Licensee herein to be true in any material respect as of the date made;
  - B. The City shall indemnify and hold harmless Licensee, its employees, agents licensees, and customers from and against any and all claims, demands, costs, damages, losses, liabilities, joint and /or several expenses of any nature (including reasonable attorney, accountant, and expert fees), judgments, fines, settlements and other amounts relating to or arising from the gross negligence or willful and/or wanton misconduct of City or its employees, agents and/or contractors in connection with its performance of this agreement.
  - C. The provisions of the Section shall survive the termination of this License.
- 11. **Insurance.**
  - A. During the term of this License, Licensee shall obtain and maintain and shall require any of its permitted contractors to obtain and maintain not less than the following insurance:
    - (1) Commercial General Liability Insurance with a combined single limit of two million dollars (\$2,000,000.00) for bodily injury and property damage,
    - (2) Worker's Compensation Insurance in amounts required by applicable law,
    - (3) Automobile Liability Insurance with a combined single limit of one million dollars (\$1,000,000) for bodily injury and property damage, to include coverage for all owned, non-owned and hired vehicles.
  - B. Upon request. Licensee shall provide City with Certificates of Insurance evidencing that the above-required insurance policies are in force.
  - C. During the term of this License, including any renewals or extensions thereof. Licensee reserves the right to self-insure any portion or all of its operating liability insurance coverage for bodily injury and property damage. Licensee's coverage over its self-insured retention shall be maintained through a reputable excess liability carrier.
- 12. **Events of Default.** Each of the following events shall constitute an event of default, and if such event of default (other than the case of default in the payments due hereunder) is not cured within thirty (30) days of receipt of notice of such event of default to the defaulting party:
  - A. The failure of Licensee to make any payment hereunder within fifteen (15) days after Licensee's receipt of notice from City of Licensee's failure to make such payment when due;
  - B. The failure of Licensee to carry and maintain insurance in compliance with this License;
  - C. The failure of either party to perform or observe any material covenant of this License.
- 13. **Remedies.**
  - A. Upon the occurrence and during the continuance of any event of default, the non-defaulting party may, at its option, declare this License to be in default and may, in addition to any other remedies provided herein, terminate this License. No remedy is intended to be exclusive, but each shall be cumulative and in addition to a remedy at law or in equity.
  - B. Notwithstanding any other provision of this License, in no event shall either party be liable for special, consequential, exemplary or punitive damages as a result of the performance or nonperformance of its obligations under this License.
  - C. In the event that Licensee shall be delayed or hindered in or prevented from the performance of any act required hereunder by reason of strikes, lock-outs, labor troubles, inability to procure materials, failure of power, riots, insurrection, war or other reason of a like nature not the fault of Licensee or delayed in performing work or doing acts required under the terms of this License, then performance of such act shall be excused for the period of the delay and the period for performance of any act shall be extended for a period equivalent to the period of such delay.
- 14. **Waiver.** The failure of the City at any time to require performance by Licensee of any provision hereof shall in no way affect the right of the City hereafter to enforce the same. Nor shall the waiver by the City of any breach of any provision hereof by taken to be a waiver of any succeeding breach of such provision, or as a waiver of the provision itself.
- 15. **Notices.** All notices, requests, demands and other communications required under this License shall be in writing and deemed delivered if delivered in person, by overnight courier or by certified or registered mail:
  - A. If to City, to: City of Mansfield, GA  
21 15th Ave.  
Mansfield, GA 30055  
Attn: Mayor
  - B. If to Licensee, to: Williams Communications, Inc.  
One Williams Center

Tulsa, Oklahoma 74172  
Attn: Director of Network Services

with copy to: Williams Communications, Inc.  
One Williams Center, Suite 4100  
Tulsa, Oklahoma 74172  
Attn: General Counsel

**16. Assignment.**

- A.** Licensee shall not assign, transfer, delegate or in any other manner dispose of its rights, privileges or obligations under this License, without the written consent of the City, which consent shall not be unreasonably withheld, delayed or denied.
- B.** Notwithstanding subsection (a) above. Licensee may assign this License in whole or in part without the City's consent to any subsidiary, affiliate or parent company of Licensee which shall control, be under the control of or be under common control with Licensee. Any attempt to make an assignment, transfer or disposition to an entity which does not meet the aforesaid requirements without consent shall be null and void.
- C.** Subject to the provisions of this Section, this License shall be binding upon an inure to the benefit of the parties hereto and each of their respective successors or permitted assigns.

**17. Provisions Cumulative.** The rights and remedies reserved to the City by this License are cumulative and shall be in addition to and not in derogation of any other rights or remedies which the City may have with respect to the subject matter of this License, and a waiver thereof at any time shall have no effect on the enforcement of such rights or remedies at a future time.

**18. Captions.** Captions to sections throughout this License are solely to facilitate the reading and reference to the sections and provisions of the License. Such captions shall not affect the meaning or interpretation of the License.

**19. No Joint Venture.** Nothing herein shall be deemed to create a joint venture or principle-agent relationship between the parties, and neither party is authorized to, nor shall either party act toward third persons or the public, in any manner which would indicate any such relationship with the other.

**20. Entire Agreement.** This License and all attachments hereto, as incorporated herein, represent the entire understanding and agreement between the parties hereto with respect to the subject matter hereof, supersede all prior oral negotiations between the parties, and can be amended, supplemented, modified, or changed only by a written document executed by the parties.

**21. Severability.** If any section, subsection, sentence, clause, phrase, or portion of this License is, for any reason, held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision and such holding shall not affect the validity of the remaining portions of this License.

**Section 40-103            Natural Gas**

- 1.** Gas rates to be the same as those of the residents and business of the City of Covington.
- 2.** The City of Mansfield shall receive three percent (3%) of the gross sales to all residents and businesses within the City of Mansfield.
- 3.** The City of Covington shall deal directly with large industry users of natural gas who may locate within the City of Mansfield.
- 4.** Services shall be provided all residences and businesses of the City of Mansfield. The City of Covington is to run seventy-five (75) feet of line from public streets or ways to residences or businesses at no charge to the property owners. Owners of residences or businesses shall pay the City of Covington for any footage over seventy-five (75) feet, that residences and businesses of the City of Mansfield pay same deposits and, or, installation fees as paid by residents and businesses of the City of Covington.
- 5.** The City of Covington is granted easement to place lines upon streets and ways of the City of Mansfield.
- 6.** That terms of said contract and said franchise with the City of Covington be set.

*(Adopted 1/2/68)*

**Section 40-104            Telecommunications Management Service**

1. **Services Provided to the City of Mansfield.** Georgia Municipal Association agrees to provide, either directly or through its agents or subcontractors, the following services (all of which are explained more fully below) which are to be known as GMA Telecommunications Management Service:
  - A. Franchise Management, as more fully described in Section 2 of this agreement;
  - B. Franchise Renewal Services, as more fully described in Section 3 of this agreement;
  - C. Cellular Tower and PCS Tower Site Consultation Services, as more fully described in Section 4 of this agreement;
  - D. Franchise Compliance Monitoring Services as more fully described in section 5 of this agreement.
2. **Franchise Management.** Franchise Management Franchise Management shall include assisting the City with the following:
  - A. Facilitating the City's compliance with the 1984 and 1992 Federal Cable Acts, the Telecommunications Act of 1996 and the rules of the FCC governing rate regulation and other matters affecting municipal regulation of cable TV operators.
  - B. Regulating cable rates for basic service, equipment and installation, and performing rate analysis to determine compliance with the Federal Communications Commission ("FCC") rate regulations.
  - C. Evaluating and responding to requests for approval of franchise transfers.
  - D. Recommending and developing customer service standards for cable TV operators.
3. **Franchising and Franchise Renewal Service.** Franchising and Franchise Renewal Service shall include assisting the City as needed with the following:
  - A. Implementing and administering a procedural process for granting new franchises, as well as assessing the public's interest and negotiating the terms and provisions for new franchises.
  - B. Evaluating the past performance of companies seeking franchise renewal.
  - C. Determining die future cable-related needs and interests of the City in the development and implementation of a community needs assessment.
  - D. Assisting with Public Educational .and Government Channel (PEG) "development and implementation issues.
  - E. Planning for the development of an Institutional Network.
  - F. Assisting with public rights-of-way management.
  - G. Negotiating a new or renewal franchise agreement on behalf of the City.
4. **Cellular and PCS Tower Site Consultation Services.** Cellular and PCS and Tower Site Consultation Services shall include:
  - A. Assisting in the examination of the impact of cellular and PCS technologies on local zoning.
  - B. Advising Cities on me provisions of tower site agreements for the use of public land.
  - C. Informing Cities concerning federal policies related to siting of wireless technologies.
  - D. Referring Cities to engineering or other professional resources 6n an as needed basis.
5. **Franchise Compliance Monitoring Services.** Franchise compliance monitoring services shall include systematically reviewing the cable operator's compliance with the terms of certain aspects of a renewed franchise agreement to encompass the following:
  - A. Documenting receipt of revenue report forms.
  - B. Advising government concerning conducting the local performance review of operator's performance in compliance with provisions of the franchise agreement.
  - C. Reviewing funding or other issues related to the government channel, tower rental fees or pole agreement fees if applicable,
  - D. Documenting operator's carriage of appropriate insurance coverage.
  - E. Checking and documenting the status of system construction timeframes.
  - F. Handling and resolving subscriber complaints as referred.
  - G. Monitoring operator's adherence to federal customer service standards.
  - H. Notifying Cities of any identified areas of noncompliance and resolution of same or notification that the operator was found to be in compliance.
6. **Other Services.** In addition to the services outlined above, the City may obtain franchise fee auditing and technical performance auditing of a cable operator or telecommunications company and technical assistance in the development of public, educational and governmental access channels and institutional networks as well as engineering consulting services concerning cellular tower siting. These other services bay be obtained from GMA, its agents, employees or subcontractors. The parties to the agreement may execute an addendum or addenda to this agreement for the City to obtain such services; provided, however, the additional fee for each such additional service shall not exceed ten thousand dollars (\$10,000.00).
7. **Effective Date, Renewal and Termination.**

- A. This agreement shall become effective upon the signature by the parties.
  - B. This agreement shall terminate absolutely and without further obligation on the part of the City at the close of the Calendar year in which it was executed and at the close of each succeeding Calendar year for which it may be renewed as provided for herein. For purposes of this agreement, a Calendar year shall mean October 1, 2000 through September 30, 2001.
  - C. This agreement shall commence as of October 1, 2000. It shall be automatically renewed for successive one-year terms thereafter, unless terminated by either GMA or the City by giving thirty (30) days advance written notice of such termination to the other party. GMA shall be entitled to payment for services rendered to the City, including compensation due for additional services reasonable substantiated by GMA as of the effective date of termination.
  - D. The total obligation of the City under this Agreement for the Calendar year of execution shall initially be one thousand dollars (\$1,000.00). The total obligation of the City which will be incurred in each Calendar year renewal term shall be reflected in an annual invoice to be submitted to the City thirty (30) days prior to the due date. The invoice shall state the total amount of obligation for the upcoming year exclusive of amounts for any Other Services as the City may elect to obtain through the provisions of Section 6 of this agreement. The rendering of services by GMA or its subcontractors to the City after any renewal of this Agreement for such services shall result in additional obligations for the City.
8. **Hold Harmless and Indemnification.** Each party shall bear the responsibility for liability for negligence, errors or omissions of its own officers, agents, employees or subcontractors in carrying out this agreement. The City holds harmless GMA for liability for the negligence of the City, its officers, agents, employees, or subcontractors arising out of this agreement. GMA holds harmless the City for the negligence of GMA, its officers, agents, employees, or subcontractors arising out of this agreement. In addition, the City designates GMA, its officers, agents, employees, and contractors-as agents of the City for purposes of Section 635A of the Communications Act of 1934, as amended, and the applicable provisions of the Local Government Antitrust Act of 1984.
9. **Amendments.** This contract may be amended by future written agreements executed on behalf of me City and GMA.

#### Section 40-105 Cable Television

1. **Definition of Terms.** "Terms". For the purpose of this Ordinance, the following terms, phrases, words, and abbreviations shall have the meanings ascribed to them below. When not inconsistent with the context, words used in the present tense include the future tense, words in the plural number include the singular number, and words in the singular number include the plural number:
- A. **Affiliate** means an entity which owns or controls, is owned or controlled by, or is under common ownership with grantee.
  - B. **Basic Cable** is the tier of service of regularly provided to all subscribers that includes the retransmission of local broadcast television signals and the public, educational and governmental channels, if required by the terms hereof.
  - C. **Cable Act** means the Cable Communications Policy Act of 1984, as amended.
  - D. **Cable Service** means
    - (1) The one-way transmission to subscribers of video programming or other programming service, and
    - (2) Subscriber interaction, if any, which is required for the selection of such video programming or other programming service.
  - E. **Cable System** means a facility, consisting of a set of closed transmission paths and associated signal generations, reception, and control equipment or other communications equipment that is designed to provide cable service and other service to subscribers.
  - F. **FCC** means Federal Communications Commission, or successor governmental entity thereto.
  - G. **Franchise** shall mean the initial authorization or renewal thereof issued by the franchising authority, whether such authorization;-is-designated as a franchise, permit, license, resolution, contract, certificate, or otherwise, which authorizes construction and operation of the cable system for the purpose of offering cable service or other service to subscribers.
  - H. **Franchise Authority** or "Franchising Authority" means the City of Mansfield,-or-the lawful; successor, transferee or assignee thereof.
  - I. **Grantee** means Guy H. Lee, William Norton and Robert Kirn Rueckert, individually and doing business as Rule Communications, or the lawful successor, transferee or assignee thereof.

- J. **Gross Revenues** mean the monthly cable service revenues received by grantee from subscribers of the cable system; provided, however, that such phrase shall not include revenues received from any national advertising carried on the cable system, nor shall such phrase include any taxes on cable service which are imposed directly or indirectly on any subscriber thereof by any governmental unit or agency, and which are collected by the grantee on behalf of such governmental unit or agency.
  - K. **Person** means an individual, partnership, association, joint stock company, trust corporation, or governmental entity.
  - L. **Public Way** shall mean the surface of, and the space above and below, any public street, highway, freeway, bridge, land path, alley, court, boulevard, sidewalk, parkway, lane; public way, drive, circle or other public right-of-way, including, but not limited to, public utility easements, dedicated utility strips or rights-of-way dedicated for compatible uses and any temporary or permanent fixtures or improvements located thereon now or hereafter held by the franchise authority in the service area which shall entitle the franchise authority and the grantee to the use thereof for the purpose of installing, operating, repairing and maintaining" the cable system. "Public way shall also mean any easement now or hereafter held by the franchise authority within the service area for the purpose of public travel, or for utility or public service use dedicated for compatible uses, and shall include other easements or rights-of way as shall within their proper use and meaning entitle the franchise authority and the grantee to the use thereof for the purposes of installing over poles, wires, cables, conductors, ducts, conduits, vaults, manholes, amplifiers, compliances, attachments and other property as may be ordinarily necessary and pertinent to the cable system.
  - M. **Service Area** means the present municipal boundaries of the franchising authority, and shall include any additions thereto by annexation or other legal means.
  - N. **Service Tier** means a category of cable service, or other services, provided by grantee and for which a separate charge is made by grantee.
  - O. **Subscriber** means a person or user of the cable system who lawfully receives cable services or other service therefrom with grantee's express permission.
  - P. **Video Programming** means programming provided by, or generally considered comparable to programming provided by, a television broadcast station.
2. **Grant of Franchise.**
- A. **Grant.** The City hereby grants to grantee a nonexclusive franchise which authorizes the grantee to construct and operate a cable system and offer cable service and other services in, along, among, upon, across, above, over, under or in any manner connected with public ways within the service area and for that purpose to erect, install, construct, repair, replace, reconstruct, maintain or retain in, on, over, under, upon, across or along any public way an all extensions thereof and additions thereto, such poles, wires, cables, conductors, ducts, conduits, vaults, manholes, pedestals, amplifiers, appliances, attachments, and other related property or equipment as may be necessary or appurtenant to the cable system.
  - B. **Term.** The franchise granted pursuant to this ordinance shall be for an initial term of fifteen (15) years from the effective date for the franchise as set forth in Section C, unless otherwise lawfully terminated in accordance with the terms of this ordinance.
  - C. **Acceptance; Effective Date.** Grantee shall file a written acceptance of the franchise granted pursuant hereto with the city clerk or other appropriate official or agency of the franchising authority within sixty (60) days after the passage and final adoption of this ordinance. The franchising authority shall notify grantee of the date that the ordinance is finally passed and adopted, as well as, the date by which a written acceptance is required to be filed. Subject to the filing of the written acceptance by grantee, the effective date of this ordinance shall be the sixtieth day after its passage and final adoption.
  - D. **Favored Nations.** In the event the franchising authority enters into a franchise, permit, license, authorization or other agreement of any kind with any other person or entity other than the grantee for the purpose of constructing or operating a cable system or providing cable service to any part of the franchise area, the permit, license, authorization or agreement to the grantee upon its enactment by the franchising authority. Within thirty (30) days of its reception thereof, the grantee shall notify the franchising authority in writing of its determination, if any, that the terms are available to the other person or entity are more favorable than the similar provisions of this ordinance. The grantee shall have the right to request that the terms deemed by it to be more favorable be made available to grantee and that this ordinance be amended accordingly. The

franchising authority shall then compare the provisions of this ordinance with the similar terms made available to the other person or entity and this ordinance shall be amended at the next regular meeting of the Mayor and Council of the franchising authority so as to make said terms available to the grantee.

**3. Standards of Service.**

- A. Conditions of Street Occupancy.** All transmission and distribution structures, poles, other lines, and equipment installed or erected by the grantee pursuant to the terms hereof shall be so located so as to cause a minimum of interference with the proper use of public ways and with the rights and reasonable convenience of property owners who own property that adjoins any of said public ways. Grantee shall be solely responsible for securing permission from the owner of the poles to utilize said poles for the distribution of cable lines pursuant to the terms of this ordinance.
- B. Restoration of Public Way.** If during the course of grantee's construction operation of maintenance of the cable system there occurs a disturbance of any public way by grantee, it shall, at its expense, replace and restore such public way to a condition reasonably comparable to the condition of the public way existing immediately prior to such disturbance subject to the approval of the franchising authority.
- C. Relocation at Request of Franchising Authority.** Upon its receipt of reasonable advance notice, not to be less than five (5) business days, the grantee shall, at its own expense protect, support, temporarily disconnect, relocate in the public way, or remove from the public way, any property of the grantee when lawfully required by franchising authority by reason of traffic conditions, public safety, street abandonment, freeway and street construction, change or establishment of street grade, installation of sewers, drains, gas or water pipes, or any other type of structures or improvements by the franchising authority; but, the grantee shall in all cases have the right of abandonment of its property. If public funds from the franchising authority are available to any company using such street, easement or right of way for the purpose of defraying the cost of any of the foregoing, such funds shall also be made available to the grantee.
- D. Relocation at Request of Third Party.** The grantee shall, on the request of any person holding a building moving permit issued by the franchising authority, temporarily raise or lower its wires to permit the moving of such building, provided:
- (1) the expense of such temporary raising or lowering of wires is paid by said person, including, if required by the grantee, making such payment in advance;
  - (2) the grantee is given not less than ten (10) business days advance written notice to arrange for such temporary wire changes.
- E. Trimming of Trees and Shrubbery.** The grantee shall have the authority to trim trees or other natural growth overhanging any of its cable system in the service area so as to prevent branches from coming in contact with the grantee's wires, cables or other equipment. Grantee shall be permitted to charge persons who own, or are responsible for, such trees or natural growth for the cost of such trimming, provided that similar charges are assessed by and paid to the utilities or the franchising authority for tree trimming. The grantee shall reasonably compensate the franchising authority or property owner for any damages caused by such trimming, or shall, in its sole discretion and at its own cost and expense, reasonably replace all trees or shrubs damaged as a result of any construction of the system undertaken by grantee. Such replacement shall satisfy any and all obligations grantee may have to the franchise authority or property owner pursuant to the terms of this Section E.
- F. Use of Grantee's Equipment by Franchising Authority.** Subject to any applicable state or federal regulations or tariffs, the franchising authority shall have the right to make additional use, for any public purpose, of any poles or conduits controlled or maintained exclusively by or for the grantee in any public way; provided that:
- (1) Such use by the franchising authority does not interfere with a current or future use by the grantee;
  - (2) The franchising authority holds the grantee harmless against and from all claims, demands, costs, or liabilities of every kind and nature whatsoever arising out of such use by the franchising authority of said poles or conduits, including, but not limited to, reasonable attorneys' fees and costs;
  - (3) At grantee's sole discretion, the franchising authority may be required either to pay a reasonable rental fee or otherwise reasonably compensate grantee for the use of such poles, conduits, or equipment subject to the approval of the owner of said poles or conduits; provided, however, that grantee agrees that such compensation or charge shall not exceed

those paid by it to public utilities pursuant to the applicable pole attachment agreement, or other authorization, relating to the service area.

- G. Safety Requirements.** Construction, installation, maintenance and operation of the cable system shall be performed in an orderly and workmanlike manner. All such work shall be performed in substantial accordance with applicable FCC or other federal, state and local regulations. The cable system shall not unreasonably endanger or interfere with the safety of persons or property in the service area.
- H. Aerial and Underground Construction.** In those areas of the service area where all of the transmission or distribution facilities of the respective public utilities providing telephone communications and electric services are underground, the grantee likewise shall construct, operate and maintain all of its transmission and distribution facilities underground; provided that such facilities are actually capable of receiving grantee's cable and other equipment without technical degradation of the cable systems's signal quality. In those areas of the service area where the transmission or distribution facilities of the respective public utilities providing telephone communications, and electric services are both aerial and underground, grantee shall have the sole discretion to construct, operate and maintain underground any ground-mounted appurtenances such as subscriber taps, line extenders, system passive devices (splitters, directional couplers), amplifiers, power supplies, pedestals, or other related equipment. Notwithstanding anything to the contrary contained in this Section H, in the even that all of the transmission or distribution facilities of the respective public utilities providing telephone communications and electric services are placed underground after the effective date of this ordinance, grantee shall only be required to construct, operate and maintain all of its transmission and distribution facilities underground if it is given reasonable notice and access to the public utilities' facilities at the time that such are placed underground.
- I. Required Extensions of Service.** Grantee is hereby authorized to extend the cable system as necessary, as desirable, or as required pursuant to the terms hereof within the service area. Whenever grantee shall receive a request for service from at least fifteen (15) subscribers within 1320 cable bearing strand feet (one-quarter cable mile) of its trunk or distribution cable, it shall extend its cable system to such subscribers, unless relieved of this obligation by the franchising authority based upon unusual or unforeseen circumstances.
- J. Subscriber Charges for Extensions of Service.** No subscriber shall be refused service arbitrarily. However, for unusual circumstances, such as a subscriber's request to locate his cable drop underground, existence of more than one hundred fifty (150) feet of distance from distribution cable to connection of service of subscribers, or a density of less than fifteen (15) subscribers per 1320 cable bearing strand feet of trunk or distribution cable, cable service or other service may be made available on the basis of a capital contribution in aid of construction, to be borne by grantee and subscribers in the area in which cable service may be expanded, grantee will contribute an amount equal to the construction and other necessary costs per mile multiplied by a number whose numerator equals the actual number of potential subscribers per 1320 cable bearing strand feet of its trunks or distribution cable, and whose denominator equals fifteen (15) subscribers. Potential subscribers will bear the remainder of the construction and other costs on a prorate basis. Grantee may require that the payment of the capital contribution in aid of construction borne by such potential subscribers be paid in advance.
- K. Service to Public Buildings.** The grantee shall provide without charge one (1) outlet of basic service to the franchising authority's office building(s), fire station, police station, and public school building that is passed by its cable system, whether or not said buildings are currently in existence. Users of such outlets shall hold grantee harmless from any and all liability or claims arising out of their use of such outlets, including but not limited to, those arising from copyright liability. Notwithstanding anything to the contrary set forth in this Section K, the grantee shall not be required to provide an outlet to such buildings where the drop line from the feeder cable to said buildings or premises exceeds one hundred fifty (150) cable feet, unless it is technically feasible and it will not adversely affect the operation, financial condition or market development of the cable system to do so, or unless the appropriate governmental entity agrees to any the incremental cost fo such dropline in excess of one hundred fifty (150) cable feet. In the even that additional outlets of basic service are provided to such buildings, the building owner shall pay the usual installation fees associate therewith, including, but not limited to, labor and materials.
- L. Emergency Override.** In the case of any emergency or disaster, the grantee shall, upon request of the franchising authority, make available its facilities for the franchising authority to provide

emergency information and instructions during the emergency or disaster period. The franchising authority shall hold the grantee, its agents, employees, officers, and assigns hereunder harmless from any claims arising out of the emergency use of its facilities by the franchising authority, including, but not limited to, reasonable attorneys' fees and costs.

**4. Regulation by Franchise Authority.**

**A. Franchise Fee.** Grantee shall pay to the franchising authority a franchise fee equal to five percent (5%) of gross revenues to the grantee, said payments to be made as follows:

- (1) During the month of December of each year during the term of this agreement, grantee and the franchising authority shall determine an amount representing the projected gross income of the grantee from the system for the calendar year beginning the following January. The projected franchise fee due to the franchising authority for the grantee during said calendar year shall be determined from this estimated gross annual income figure;
- (2) One fourth (1/4) of this projected franchise fee shall be paid by the grantee to the franchising authority thirty (30) days after the close of the preceding quarter of the following year. For this purpose, the following dates shall mark the commencement of quarters during each calendar year: January 1; April 1; July 1; and October 1;
- (3) During the month of December of each year during the term of this agreement, Grantee and the franchising authority shall review the records of the grantee to determine whether any payment is due to the franchising authority in excess of the estimated quarterly payments to satisfy the grantee's obligation to pay five percent (5%) of its gross annual revenues as provided herein for the calendar year during which the estimated quarterly payments were made. Should it appear that an such payment is due, payment shall be made by grantee to the franchising authority on or before the last day of December of that year. Should it appear that the quarterly payments by the grantee to the franchising authority were in excess of the annual franchise fee due for that calendar year, the excess amount shall be applied toward the first estimated quarterly instalment calculated to be due during the following calendar year;
- (4) Grantee shall provide the franchising authority with access to its records reflecting the grantee's revenues from the system at any time during the year provided the franchising authority requests said access in writing and gives the grantee at least thirty (30) days notice of the date the franchising authority desires to inspect same.

**B. Rates and Charges.** The rates and charges charged by grantee for basic service are those set forth on Schedule 1 attached hereto and incorporated herein. Grantee shall have the right to modify such rates and charges hereafter and to implement additional charges and rates subject to the following:

- (1) The grantee shall provide written notice to the franchising authority of such modifications or additional charge at least ninety (90) prior to the proposed implementation thereof. Said written notice may be provided in the form of a written document accompanying the monthly bill sent to each subscriber or by imprinting said notice upon the bill itself.
- (2) Within thirty (30) days of its receipt of such written notice, the franchising authority shall be authorized, in its discretion, to require an authorized representative of the grantee to appear before the franchising authority to review the reasons and justification for the proposed modifications or additional charges. The franchising authority shall also be authorized to schedule and conduct a public hearing to consider said modifications or changes and to require an authorized representative of the grantee to attend said hearing to explain the need therefor and to respond to any questions presented at said hearing;
- (3) During said ninety (90) day period following receipt of written notice of the proposed modifications or additional charges the franchising authority shall consult with the grantee concerning the propriety-of proposed modifications or additional charges and shall have the right to require the presentation of such additional information or documentation available to the grantee which may be needed by the franchising authority to make a determination concerning the propriety of the proposed modifications or additional charges to the extent the franchising authority has the power to make this determination under federal law.
- (4) The franchising authority shall approve or disapprove the proposed modification or additional charges on or before ninety (90) days from its receipt of the written proposal thereof from the grantee to the extent the franchising authority has the power to make this determination under federal law.

- C. Renewal of Franchise.** The franchising authority and the grantee agree that any proceedings undertaken by the franchising authority that relate to the renewal of the grantee's franchise shall be governed by and comply with the provisions of Section 626 of the Cable Act (as such existed as of the effective date of the Cable Act), unless the procedures and substantive protections set forth therein shall be deemed to be preempted and superseded by the provisions of any subsequent provision of federal or state law.

In addition to the procedures set forth in said Section 626(a), the franchising authority agrees to notify grantee of its preliminary assessments regarding the identity of future cable related community needs and interests, as well as, the past performance of grantee under the then current franchise term. The franchising authority further agrees that such a preliminary assessment shall be provided to the grantee prior to the time that the four(4) month period referred to in subsection (c) of Section 626 is considered to begin. Notwithstanding anything to the contrary set forth in this Section 4.3, the grantee and franchising authority agree that at any time during the term of the then current franchise, while affording the public appropriate notice and opportunity to comment, the franchising authority and grantee may 'agree to undertake and finalize negotiations regarding renewal of the .then current franchising authority may grant a renewal thereof. The grantee and the franchising authority consider the terms set forth in this section to be consistent 'with the express provisions of Section 626 of the Cable Act as codified. A reproduction of Section 626 of the Cable Act as such existed as of the effective date of the Cable Act is attached hereto as Schedule 2 and incorporated herein by this reference. Notwithstanding anything to the contrary set forth in this Section 4.3, should the franchise be renewed or extended as provided herein, the franchising authority shall be authorized to increase the franchise fee upon renewal or extension, of this franchise to the extent allowed by federal law in effect at that time.

- D. Conditions of Sale.** If a renewal of grantee's franchise is denied and the franchising authority either lawfully acquires ownership of the cable system or by its actions lawfully effects a transfer of ownership of the cable system to another party, any such acquisition or transfer of the cable, system shall be at a fair market-value of the plant and equipment, but with no value allocated to the franchise itself or the system as a going concern.

If grantee's franchise lawfully revoked for cause and the franchising authority acquires ownership of the cable system or by its actions effects a transfer of ownership of the cable system to another person, any such acquisition or transfer shall be at a fair market value of the plant and equipment, but with no value allocated to the franchise itself or the system/as a going concern. Grantee and franchising authority agree that in the case of a revocation, at grantee's request, grantee shall be given a reasonable opportunity to effectuate a transfer of its cable system to a qualified; third party; at fair market value, determined, on the basis of the cable system valued as -an ongoing concern said transfer to be subject to the prior-approval of the franchising authority in its sole discretion? The franchising authority further agrees that during such a period of time, it shall authorize the grantee to continue to operate pursuant to the terms of its prior franchise; however, in no event shall such authorization exceed a period of time greater than six(6) months from the effective date of such revocation. If at the end of that time grantee is unsuccessful in procuring a qualified transferee or assignee of its cable system, which is acceptable to the franchising authority, ownership of the cable system shall be transferred by the grantee to the franchising authority or to a qualified third party designated in writing by the franchising authority, at the fair market value of the plant and the equipment, but with-no value allocated to the franchise itself or the system as a going concern, less the balance of any debt thereon, which debt shall continue to be the personal responsibility of grantee however, should any expenditure be made by the franchising authority toward satisfaction of any such debt to avoid the seizure of any equipment or to insure the continued operation of the system, the franchising authority shall be repaid for any such expenditures from the funds, if any, due to the grantees as consideration for the transfer of the equipment as set forth above. For this purpose, the franchising authority shall be authorized in its discretion to retain such funds for a period of twelve (12) months following the transfer unless no debt is owed which is secured by said equipment or unless the holder of said debt releases said equipment as collateral therefor. Should said funds be insufficient to satisfy said debt, the grantees shall be personally liable for any such payments made by the franchising authority toward satisfaction thereof.

- E. Transfer of Franchise.** Grantee's right, title, or interest in the franchise shall not be sold, transferred, assigned or otherwise encumbered, other than to an affiliate, without the prior consent of the franchising authority, such consent not to be unreasonably withheld. No such consent shall be required, however, for a transfer in trust, by mortgage, by other hypothecation, or by assignment of any rights, title, or interest of grantee in the franchise or cable system in order to secure an indebtedness provided the franchising authority is notified of said transfer in writing at least two (2) weeks prior to the consummation thereof.

#### **Section 40-106 Compliance and Monitoring**

- 1. Testing for Compliance.** The franchising authority may perform technical tests of the cable system during reasonable times and in a manner which does not unreasonably interfere with the normal business operations of the grantee or the cable system in the terms hereof and applicable state or federal laws. Except in emergency circumstances, such tests may be undertaken only after giving grantee reasonable notice thereof, not to be less than two (2) business days, and providing a representative of grantee an opportunity to be present during such tests. In the event that such testing demonstrates that the grantee has substantially failed to comply with a material requirement hereof, the cost of such testing shall be borne by the franchising authority. The franchising authority agrees that such testing shall be undertaken no more than four (4) times a year in the aggregate, and that the results thereof shall be made available to the grantees upon grantee's request; however, should the quality of service provided by grantee require more frequent testing as determined by the franchising authority, said testing by the franchising authority shall be authorized.
- 2. Books and Records.** The grantee agrees that the franchising authority may review such of its books and records, during normal business hours and on a nondisruptive basis, as are reasonably necessary to monitor compliance with the terms hereof. Such records shall include, but shall not be limited to, any public records required to be kept by the grantee pursuant of the rules and regulations of the FCC. Notwithstanding anything to the contrary set forth herein, grantee shall not be required to disclose information which it reasonably deems to be proprietary or confidential in nature. Should any such information be so withheld, a written explanation thereof shall be immediately provided by the grantee to the franchising authority. The franchising authority agrees to treat any information disclosed by the grantee to it on a confidential basis, and only to disclose it to employees, representatives, and agents thereof that have a need to know, or in order to enforce the provisions hereof.

#### **Section 40-107 Insurance, Indemnification, and Bonds or Other Surety**

- 1. Insurance Requirements.** Grantee shall maintain in full force and effect at its own cost and expense, during the term of the franchise, general comprehensive liability insurance in the amount of five hundred thousand dollars (\$500,000.00) for bodily injuries (including accidental death) to any one person, and subject to the same limit for each person in amount not less than three hundred thousand dollars (\$300,000.00) on account of any one occurrence, and property damage liability insurance in an amount not less than five hundred thousand dollars (\$500,000.00) resulting from any one occurrence. Said insurance shall designate the franchising authority as an additional named insure. Such insurance shall be noncancellable except upon thirty (30) days prior written notice to the franchising authority.
- 2. Indemnification.** The grantee agrees to indemnify, save and hold harmless, and defend the franchising authority, its officers, boards and employees, from and against any liability for damages and injury (including accidental death) which arise out of the grantee's construction, operation, or maintenance of is cable system, including, but not limited to, reasonable attorney's fees and costs.
- 3. Bonds and other Security.** Except as expressly provided herein, grantee shall not be required to obtain or maintain bonds or other surety as a condition of being awarded the franchise or continuing its existence. The franchising authority acknowledges that the legal, financial and technical qualifications of grantee are sufficient to afford compliance with the terms of the franchise and the enforcement thereof. Grantee and franchising authority recognize that the costs associated with bonds and other surety may ultimately be borne by the subscribers in the form of increased rates for cable services. In order to minimize such costs, the franchising authority agrees to. require bonds and other surety only in such amounts and during such times as there, is a reasonably demonstrated heed therefor. The franchise authority agrees that in no event; however, shall it require a bond or other related surely in an aggregate amount greater than one hundred thousand dollars (\$100,000.00), conditioned upon the substantial performance of the material terms, covenants, and conditions of the franchise. Initially, no bond or other

surety will be required. In the event that one is required in the future, the franchising authority agrees to give grantee at least sixty (60) days prior notice thereof stating the exact reason for the requirement. Such reasons should demonstrate a change in the grantee's legal, financial or technical qualifications or performance which would materially prohibit or impair its ability to comply with the terms of the franchise or afford compliance therewith.

#### **Section 40-108 Enforcement and Termination of Franchise**

1. **Notice of Violation.** In the event that the franchising authority believes that the grantee has not complied with the terms of the franchise, it shall notify grantee of the exact nature of the alleged non-compliance.
2. **Grantee's Right to Cure or Respond.** Grantee shall have thirty (30) days from receipt of the notice described in section 7.1 to (a) respond to the franchising authority contesting assertion of non-compliance, or (b) to cure such default or, in the event that, by the nature of default, such default cannot be cured within the thirty (30) day period, initiate reasonable steps to remedy such default and notify the franchising authority of the steps being taken and the projected date that they will be completed.
3. **Public Hearing.** In the event that grantee fails to respond to the notice described in Section 7.1 pursuant to the procedures set forth in Section 7.2; or in the event that the alleged default is not remedied within sixty (60) days after the grantee is notified of the alleged default pursuant to Section 7.1, the franchising authority shall schedule a public meeting to investigate the default. Such public meeting shall be held at the next regularly scheduled meeting of the franchising authority which is scheduled at a time which is no less than five (5) business days therefrom. The franchising authority shall notify the grantee of the time and place of such meeting and provide the grantee with an opportunity to be heard.
4. **Enforcement.** Subject to applicable federal and state law, in the event the franchising authority, after such meeting, determines that grantee is in default of any provision of the franchise, the franchising authority may:
  - A. Foreclose on all or any part of any security provided under this franchise if any, including, without limitation, any bonds or other surety provided, however, the foreclosure shall only be in such a manner and, in such amount as the franchising authority reasonably determines is necessary to remedy the default;
  - B. Commence an action at law for monetary damages or seek other equitable relief; or
  - C. Declare the franchise agreement to be revoked and assume possession and ownership of the cable system, at which time grantee shall execute all documents needful or necessary to transfer ownership thereof to the franchising authority; or
  - D. Seek specific performance of any of its obligations to comply promptly with any provision of the franchise by reason of any failure of the franchising authority to enforce prompt compliance.
5. **Acts of God.** The grantee shall not be held in default or non-compliance with the provisions of, the franchise, nor suffer any enforcement or penalty relating thereto, where such non-compliance or alleged defaults are caused by strikes, acts of God, power outages/or other events reasonably beyond its ability to control.

#### **Section 40-109 Misdemeanor**

In addition to those criminal and civil remedies provided by state and federal law, it shall be a misdemeanor for any person, firm, or corporation to create or make use of any unauthorized connection, whether physically, electrically, acoustically, inductively or otherwise, with any part of the cable system without the express consent of the grantee further, without the express consent of grantee, it shall be a misdemeanor for any person to tamper with, remove or injure any property/equipment or part of the cable system or any means of receiving cable service or other services provided thereto. Subject to applicable federal and state law, the franchising authority shall incorporate into its criminal code, if not presently a part thereof, criminal misdemeanor law which will enforce the intent of this section 8.1.

#### **Section 40-110 Miscellaneous Provisions**

1. **Documents Incorporated and Made a Part Hereof.** Any franchise agreements between grantee and franchising authority reflecting the renewal of the franchise, if any shall be incorporated herein by this reference/ and in the case of a conflict or ambiguity between said renewal franchise agreement and this ordinance, the document of latest date shall govern.

2. **Preemption.** If the FCC, or, any other federal or state body or agency, shall now or hereafter exercise any paramount jurisdiction over the subject matter of the franchise, then to the extent such jurisdiction shall preempt and supersede or preclude the exercise of the like jurisdiction by the franchising authority, the jurisdiction of the franchising authority shall cease and no longer exist.
3. **Actions of Franchising Authority.** In any action by the franchising authority or representative thereof mandated or permitted under the terms hereof, such party shall act in a reasonable, expeditious and timely manner. Furthermore, in any instance where approval or consent is required under the terms hereof, such approval or consent shall not be unreasonably withheld.
4. **Notice.** Unless expressly otherwise agreed between the parties, every notice or response to be served upon the franchising authority or grantee shall be in writing, and shall be deemed to have been duly given to the required party five (5) business days after having been posted in a properly sealed and correctly addressed envelope by certified or registered mail, postage prepaid, at a Post Office or branch thereof regularly maintained by the U. S. Postal Service. The notices or responses to the franchising authority shall be addressed as follows: City of Mansfield, Mansfield, Georgia 30255; with copies to the City Clerk in office on the date of said notice or response. The notices or responses to the grantee shall be addressed as follows: Rule Communications, 1169 Ashley Lake Drive, Marietta, Georgia 30062. The franchising authority and the grantee may designate such other address or addresses from time to time by giving notice to the other.
5. **Descriptive Headings.** The captions to sections contained herein are intended solely to facilitate the reading thereof. Such captions shall not affect the meaning or interpretation of the text herein.
6. **Severability.** If any section, sentence, paragraph, term or provision hereof is determined to be illegal, invalid or unconditional, by any court of common jurisdiction or by any state or federal regulatory authority having jurisdiction thereof, such determination shall have no effect on the validity of any other section, sentence, paragraph, term or provision hereof, all of which will remain in full force and effect for the term of the franchise or any renewal or renewals thereof.

*(Adopted 1/9/89)*

*Note: This agreement has been transferred from Rule to N.Dekalb, to Scripps-Howard to Comcast to At&T Broadcast.*

# ORDINANCE

AN ORDINANCE OF THE MAYOR AND CITY COUNCIL OF THE City of MANSFIELD, GEORGIA ADOPTING A CODE OF THE ORDINANCES FOR THE CITY ENTITLED "THE CODE OF THE City of MANSFIELD PROVIDING FOR THE REPEAL OF ORDINANCES NOT INCLUDED THEREIN AND FOR OTHER PURPOSES:

Be it ordained by the Mayor and City Council of the City of Mansfield, Georgia, and it is hereby ordained by the authority of the same as follows:

Section 1: There is hereby adopted by the City Council a code entitled, "The Code of the City of Mansfield, Georgia, 1990," containing certain ordinances of a general and permanent nature as compiled, consolidated, codified and indexed, of which code not less than two (2) copies have been and are now filed in the Office of the City Clerk, authenticated by the signatures of the Mayor, City Clerk and City Attorney, and signed by the members of the City Council of the City of Mansfield, said code being hereto attached and made a part hereof.

Section 2: The provisions of this Code shall be in force and effect on \_\_\_\_\_, 20\_\_\_\_ and all ordinances of a general and permanent nature in force on such date and not contained in the Code are repealed by this ordinance from and after such date, except as may be provided hereinafter.

Section 3: The repeal provided for in the preceding section of this ordinance shall not affect any offense or act committed or done or any penalty or forfeiture incurred or any contract or right established or occurring before \_\_\_\_\_, 20\_\_\_\_; nor shall such repeal affect any ordinance or resolution promising or guaranteeing the payment of money for the city or authorizing the issue of any bonds, including revenue certificates, of the City of Mansfield or any evidence of the city's indebtedness or any contract or obligation assumed by the city; nor shall such repeal affect the administrative ordinances or resolutions of the City Council not in conflict or inconsistent with the provisions of the Code; nor shall it affect any right or franchise conferred by any ordinance or resolution of the city or any person or corporation; nor shall it affect any prosecution, suit, or other proceeding pending or any judgment rendered on or prior to \_\_\_\_\_, 20\_\_\_\_.

Section 4: It is hereby declared to be the intention of the Mayor and City Council that the sections, paragraphs, sentences, clauses and phrases of this ordinance and the Code hereby adopted are severable, and if any phrase, clause, sentence, paragraph or section of this ordinance or of the Code hereby adopted shall be declared unconstitutional or otherwise invalid by Valid Judgment or Decree of a Court of competent jurisdiction, such unconstitutionality or invalidity shall not affect any of the remaining phrases, clauses, sentences, paragraphs and sections of this ordinance or of the Code hereby adopted.

Read and adopted in the regular meeting of the City Council held on this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

ATTEST:

\_\_\_\_\_  
City Clerk

\_\_\_\_\_  
Mayor

\_\_\_\_\_  
City Attorney

\_\_\_\_\_  
Council Member



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