

CITY OF HOSCHTON CODE OF ORDINANCES

CHAPTER 1:	GENERAL PROVISIONS
CHAPTER 2:	ELECTIONS
CHAPTER 3:	ADMINISTRATION
CHAPTER 4:	REVENUE AND FINANCE
CHAPTER 5:	MUNICIPAL COURT
CHAPTER 6:	PERSONNEL POLICY
CHAPTER 7:	POLICE OPERATING MANUAL – LAW ENFORCEMENT
CHAPTER 8:	RESERVED
CHAPTER 9:	RESERVED
CHAPTER 10:	FIRE PREVENTION AND SAFETY
CHAPTER 11:	TRAFFIC CONTROL
CHAPTER 12:	SOLID WASTE MANAGEMENT
CHAPTER 13:	AIR QUALITY CONTROL
CHAPTER 14:	NOISE REGULATION
CHAPTER 15:	ROAD NAMING AND ADDRESSING
CHAPTER 16:	RESERVED
CHAPTER 17:	RESERVED
CHAPTER 18:	RESERVED
CHAPTER 19:	FLOOD DAMAGE AND PREVENTION
CHAPTER 20:	WATER AND SEWERAGE SYSTEMS
CHAPTER 21:	STORMWATER MANAGEMENT
CHAPTER 22:	RESERVED
CHAPTER 23:	STREETS, CURBS AND SIDEWALKS
CHAPTER 24:	MUNICIPAL CEMETERIES

CHAPTER 25:	RESERVED
CHAPTER 26:	RESERVED
CHAPTER 27:	RESERVED
CHAPTER 28:	RESERVED
CHAPTER 29:	RESERVED
CHAPTER 30:	ANIMAL CONTROL
CHAPTER 31:	GENERAL OFFENSES
CHAPTER 32:	LICENSING AND BUSINESS REGULATION
CHAPTER 33:	NUISANCES
CHAPTER 34:	ANNEXATIONS
CHAPTER 35:	SOIL, EROSION, SEDIMENTATION AND POLLUTION CONTROL
CHAPTER 36:	BUILDING REGULATIONS
CHAPTER 37:	FRANCHISES
CHAPTER 38:	WATER CONSERVATION
CHAPTER 39:	LAND DEVELOPMENT REGULATIONS
CHAPTER 40:	ALCOHOLIC BEVERAGES
CHAPTER 41:	LIGHTING DISTRICTS
CHAPTER 42:	FALSE ALARMS
CHAPTER 43:	SIGNS

CHAPTER 1 GENERAL PROVISIONS

Section 1-101	How Code Designated and Cited
Section 1-102	Rules of Construction
Section 1-103	Definitions
Section 1-104	Section Headings
Section 1-105	Effect of Repeal or Expiration of Code Section or Ordinance
Section 1-106	Amending Code
Section 1-107	Altering Code
Section 1-108	Penalty Where No Penalty Provided ¹
Section 1-109	Rates, Charges and Fees Established
Section 1-110	Certain Excluded Ordinances Not Affected by Adoption of Code ²
Section 1-111	Supplementation of Code
Section 1-112	Severability of Parts of Code

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 Hoschton, Georgia, 2004," and may be so cited.
(Code 1991, § 1-101)

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.

¹ **1-108, Penalty where none provided:** For city consideration, we have set forth a more comprehensive proposed general penalty provision.

² **Ordinances not affected by Code.** Not all ordinances are included in a code; typically, only ordinances of "a general and permanent nature" are included. This proposed section makes clear that certain ordinances, despite not being in the Code, nonetheless remain valid (until, of course, they later expire or are repealed).

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.

(Code 1991, § 1-102)

Section 1-103. Definitions

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

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.

City. The Words "the city" or "this city" shall mean the City of Hoschton, Georgia.

City Council, Council. The words "city council" or "the council" shall mean the City Council of the City of Hoschton, Georgia.

County. The words "the county" or "this county" shall mean Jackson County, Georgia.

Court. The word "court" shall mean the Municipal Court of the City.

Governing Authority, Governing Body. The words "governing authority" or "governing body" shall mean the Mayor and City Council of the City of Hoschton, Georgia.

Judge or Recorder. The words "judge" or "recorder" shall mean the Judge of the Municipal

Court of the City.

Mayor. The word "mayor" shall mean the Mayor of the City of Hoschton, Georgia.

Mayor and City Council. The term "mayor and city council" shall mean the Mayor and City Council of the City of Hoschton, Georgia.

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.

Municipality. The word "municipality" shall be construed as synonymous with the term "city," "town," or "municipal corporation."

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."

Ordinance. The word "ordinance" shall mean a legislative act of the municipal governing body of a general and permanent nature.

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.

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.

Personal Property. The term "personal property" shall include every species of property except real property, as hereinafter defined.

Preceding, Following. The words "preceding" and "following" shall mean next before and next after, respectively.

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.

Real Property. The words "real property" shall include lands, tenements, and hereditaments.

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.

Resolution. The word "resolution" shall mean a legislative act of the municipal governing body of a special or temporary character.

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.

Signature, Subscription. The word "signature" or "subscription" shall include a mark intended as such when the person cannot write.

State. The words "state" or "this state" shall mean the State of Georgia.

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.

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.

Week. The word "week" shall mean seven (7) calendar days.

Writing or Written. The words "writing" and "written" shall include printing and any other mode of representing words and letters.

Year. The word "year" shall mean a calendar year.
(Code 1991, § 1-103)

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.
(Code 1991, § 1-104)

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

- A. 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.
- B. 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.

(Code 1991, § 1-105)

Section 1-106. Amending Code

- A. 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 ordinance, 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 re-adopted as a new code by the City Council.

- B. 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 Hoschton, Georgia 20_____, is hereby amended to read as follows...." The new provisions may then be set out in full as desired.
- C. 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 Hoschton, Georgia 20_____, 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.
- D. All sections, chapters, or provisions sought to be repealed must be specifically repealed by section, chapter, or provision number, as the case may be.

(Code 1991, § 1-106)

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.

(Code 1991, § 1-107)

Section 1-108. Penalty Where No Penalty Provided³

1. In this section "violation of this Code" means any of the following:
 - A. Doing an act that is prohibited or made or declared unlawful, an offense, a violation or a misdemeanor by ordinance, by statute adopted by reference in this Code, by state rule or regulation adopted by reference in this Code, or by rule or regulation authorized by ordinance.
 - B. Failure to perform an act that is required to be performed by ordinance, by statute adopted by reference in this Code, by state rule or regulation adopted by reference in this Code or by rule or regulation authorized by ordinance.
 - C. Failure to perform an act if the failure is prohibited or is made or declared unlawful, an offense, a violation or a misdemeanor by ordinance, by statute

³ **1-108, Penalty where none provided**: For city consideration, we have set forth a more comprehensive proposed general penalty provision.

adopted by reference in this Code, by state rule or regulation adopted by reference in this Code or by rule or regulation authorized by ordinance.

2. In this section "violation of this Code" does not include the failure of a city officer or city employee to perform an official duty unless it is specifically provided that the failure to perform the duty is to be punished as provided in this section.
3. Unless a higher penalty is otherwise specified, whenever in this Code or in any ordinance of the city any act is prohibited or is made or declared to be unlawful or an offense, or whenever in this Code or any ordinance the doing of any act is required and the failure to do such act is declared to be unlawful, and no specific penalty is provided, and unless otherwise provided by state law, the violation of any such provision of this Code or any such ordinance shall be punished by a fine not to exceed \$1,000.00 and imprisonment in the city or county jail and work and labor on the streets or public works of the city, whether within or without the corporate limits, not to exceed one year, or both a fine and sentence of imprisonment and labor; and all sentences may be in the alternative and fines may be imposed with the alternative of sentence to imprisonment and labor if the fines are not paid. Each day any violation of this Code or of any ordinance shall continue shall constitute a separate offense.
4. Violations of this Code may be abated by injunctive or other equitable relief. The imposition of a penalty does not prevent injunctive relief.
5. The Judge of the Municipal Court shall have the power and authority to:
 - A. Impose upon persons convicted in the municipal court the fines provided for in this Code, the ordinances of the city, or as otherwise provided by law, with the alternative of other punishment allowed by law, if such fines are not paid;
 - B. Sentence such person to community service work; or
 - C. Impose a sentence consisting of any combination of the penalties provided for in this section.
6. The judge of the municipal court shall have full power and authority to declare the forfeiture of bonds given by offenders for their appearance before the municipal court upon the offender's failure to appear as provided for in such bond. The procedure for the forfeiture of such bonds shall be as is provided for the forfeiture of bonds and recognizance set forth in O.C.G.A. § 17-6-70 et seq.
- ~~7. 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 thirty (30) 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.~~

- ~~8. 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.~~

~~(Code 1991, § 1-108)~~

Section 1-109. Rates, Charges and Fees Established⁴

(a) Unless otherwise provided for, all rates, charges, or fees necessary for the administration and enforcement of the provisions of this Code shall be as currently established or as hereafter adopted by motion, resolution or ordinance of the city council, from time to time. Any rates, charges, or fees established by the city pursuant to the regulations or requirements established herein may be changed from time to time by the city council, and such changes shall both be considered an amendment to this Code.

(b) Whenever any provision of this Code provides that a rate, charge, or fee shall be established by the city council, from time to time, and the amount of such rate, charge, or fee is not expressed in this Code in any dollar amount, then the amount of such rate, charge, or fee shall be the most recent and latest amount established, set or fixed by the city council by ordinance, resolution or motion.

Section 1-110. Certain Excluded Ordinances Not Affected by Adoption of Code⁵

Ordinances of the following type, valid at the time of adoption of this Code yet not included in the Code, remain valid until later repealed or superseded, or as later amended.

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

1. Any offense or act committed or done or any penalty or forfeiture incurred or any contract or right established or accruing before the effective date of this Code.
2. Any ordinance or resolution promising or guaranteeing the payment of money for the city or authorizing the issuance of any bonds of the city or any evidence of the city's indebtedness.
3. Any contract or obligation assumed by the city.
4. Any ordinance fixing the salary of any city officer or employee, unless superseded.
5. Any ordinance or resolution establishing and/or prescribing employment, benefits,

⁴ **Rates, charges, & fees established.** This proposed section allows the city to avoid, in the future, having to supplement and revise code sections each time a monetary amount for a rate/charge/fee is revised.

⁵ **Ordinances not affected by Code.** Not all ordinances are included in a code; typically, only ordinances of "a general and permanent nature" are included. This proposed section makes clear that certain ordinances, despite not being in the Code, nonetheless remain valid (until, of course, they later expire or are repealed).

and/or personnel policies and procedures for any town officer or town employee.

6. Any right or franchise granted by the city.
7. Any ordinance or resolution dedicating, naming, establishing, locating, relocating, opening, widening, paving, etc., any street or public way in the city.
8. Any appropriation ordinance.
9. Any ordinance or resolution which, by its own terms, is effective for a stated or limited term.
10. Any ordinance or resolution providing for local improvements and assessing taxes therefor.
11. Any zoning ordinance or amendments thereto, and any ordinance establishing a board of zoning appeals or planning commission, including joint commissions.
12. Any ordinance or resolution dedicating or accepting any subdivision plat or providing for subdivision regulations.
13. Any ordinance or resolution describing or altering the boundaries of the city.
14. The administrative ordinances or resolutions of the city not in conflict or inconsistent with the provisions of this Code.
15. Any ordinance levying or imposing taxes not included herein.
16. Any ordinance or resolution establishing or prescribing street grades in the city.
17. Any ordinance or regulation prescribing traffic regulations for specific locations concerning through streets, parking limitations, parking prohibitions, one-way traffic, limitations on loads of vehicles or loading zones, not in conflict or inconsistent with this Code;
18. Any ordinance or resolution of agreement with another political subdivision; and
19. Any other ordinance or resolution, or part thereof, which is not of a general and permanent nature; or which is referred to elsewhere in this Code as continuing in effect.

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

Section 1-111. Supplementation of Code⁶

- A. By contract or by city personnel, supplements to this Code shall be prepared on an annual basis. A supplement to the Code shall include all substantive, permanent and general parts of ordinances passed by the city council during the period covered by the supplement and all changes made thereby in the Code. The pages of a supplement shall be so numbered that they will fit properly into the Code and will, where necessary, replace pages that have become obsolete or partially obsolete, and the new pages shall be so prepared that, when they have been inserted, the Code will be current through the date of the adoption of the latest ordinance included in the supplement.
- B. In preparing a supplement to this Code, all portions of the Code which have been repealed shall be excluded from the Code by the omission thereof from reprinted pages.
- C. When preparing a supplement to this Code, the codifier (meaning the person authorized to prepare the supplement) may make formal, non-substantive changes in ordinances and parts of ordinances included in the supplement, insofar as it is necessary to do so to embody them into a unified Code. For example, the codifier may:
1. Organize the ordinance material into appropriate subdivisions.
 2. Provide appropriate catchlines, headings and titles for sections and other subdivisions of the Code printed in the supplement, and make changes in such catchlines, headings and titles.
 3. Assign appropriate numbers to sections and other subdivisions to be inserted in the Code and, where necessary to accommodate new material, change existing section or other subdivision numbers.
 4. Change the words "this ordinance" or words of the same meaning to "this chapter," "this article," "this division," etc., as the case may be, or to "sections _____ to _____" (inserting section numbers to indicate the sections of the Code which embody the substantive sections of the ordinance incorporated into the Code).
 5. Make other nonsubstantive changes necessary to preserve the original meanings of ordinance sections inserted into the Code; but in no case shall the codifier make any change in the meaning or effect of ordinance material included in the supplement or already embodied in the Code.

Section 1-112. Severability of Parts of Code

It is hereby declared to be the intention of the governing body that the sections, paragraphs, sentences, clauses and phrases of this Code and ordinances are severable, and if any phrase,

⁶ **Supplementation of Code**: This proposed section merely makes explicit that the codifier may make legally **non**-substantive modifications of wording of future ordinances added to this Code in supplements, strictly to conform to the code's style (e.g., changing the words "this ordinance" to "this chapter" or "this section").

clause, sentence, paragraph or section of this Code or an ordinance shall be declared unconstitutional, invalid or unenforceable by the valid judgment or decree of a court of competent jurisdiction, such unconstitutionality, invalidity or unenforceability shall not affect any of the remaining phrases, clauses, sentences, paragraphs and sections of this Code or a challenged ordinance.

PART I: ORGANIZATION OF THE GOVERNMENT

**CHAPTER 2
ELECTIONS**

ARTICLE I. IN GENERAL

Section 2-101 Adoption of State Rules and Regulations
Section 2-102 Authority to Conduct Municipal Elections
Section 2-103 Expenses

ARTICLE II. REGISTRATION

Section 2-201 Registrars and Deputy Registrars
Section 2-202 Elector Qualification
Section 2-203 [Reserved]
Section 2-204 Challenge of Registration List
Section 2-205 Permanency of Registration
Section 2-206 Absentee Registration
Section 2-207 Elector Identification

ARTICLE III. CANDIDATES

Section 2-301 Notice of Candidacy, Name on Ballot
Section 2-302 Notice of Candidacy, Write-in Vote
Section 2-303 Qualifying Fees
Section 2-304 Campaign Financing Disclosure

ARTICLE IV. VOTING

Section 2-401 Election Officials
Section 2-402 Election Districts
Section 2-403 Polling Places
Section 2-404 Date of Election
Section 2-405 Write-in Votes
Section 2-406 Absentee Ballots
Section 2-407 Vote Required for Election
Section 2-408 Contested Elections

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 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.)

[Reference: Intergovernmental Agreement with Jackson County Regarding Conduct of Elections, Adopted December 7, 2013]

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 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 Qualification

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 [Reserved]

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

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. [Reserved]. (Amended 11/4/2002)
 - H. A valid Georgia license to carry a pistol or revolver;
 - I. A valid pilot's licensed 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.
 - B. The hours of qualifying each day shall be from 8:30 a.m. until 4:30 p.m. with one (1) 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.** Each candidate must designate which public office the candidate is seeking, Mayor or City Councilmember, and if City councilmember, which of the six (6) posts the candidate has chosen.

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 filed and published no earlier than January 1 and no later than the Tuesday after the first Monday in September prior to the election for county, state, and federal elections; no later than seven (7) days after the close of the municipal qualifying period for municipal elections in the case of a general election; no earlier than January 1 and no later than the Tuesday after the first Monday in June in the case of a nonpartisan election for a state or county office which was not covered by a local Act of the General Assembly on July 1, 2001, which provided for election in a nonpartisan election without a prior nonpartisan primary; no later than the third Monday in July in the case of a nonpartisan election for a state or county office which was not covered by a local Act of the General Assembly on July 1, 2001, which provided for election in a nonpartisan election without a prior nonpartisan primary held in the even numbered year immediately following the official release of the United States decennial census data to the states for the purpose of redistricting of the legislatures and the United States House of Representatives; 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 state general or special election, notice shall be filed with the Secretary of State and published in a paper of general circulation in the state;
 - B. In a general or special election of county officers, notice shall be filed with the elections in the county in which he or she is to be a candidate and published in the legal organ of the same county; or
 - C. In a municipal general or special election, notice shall be filed with the superintendent and published in the legal organ 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., B., or C. 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.

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 or appropriate municipal official.

Section 2-303 Qualifying Fees

1. 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 thirty-five (35) 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 or municipal 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 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.
2. 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 2-304 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

All that area located within the corporate limits of the City of Hoschton as shall now or hereafter exist shall constitute the sole election district of the City of Hoschton.

Section 2-403 Polling Places

The polling place within the precinct shall be the Hoschton 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.

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 ten (10) nor more than thirty (30) 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 Jackson 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**

ARTICLE I. IN GENERAL

- Section 3-101 Exercise of Governmental Authority
- Section 3-102 Code of Ethics (*amended 2009-06-01*)
- Section 3-103 Administrative Policy and Procedures
- Section 3-104 Oaths
- Section 3-105 Bonds
- Section 3-106 Compensation

ARTICLE II. THE MAYOR AND CITY COUNCIL GENERALLY

- Section 3-201 Election
- Section 3-202 Qualifications for Office
- Section 3-203 Vacancies
- Section 3-204 Meetings
- Section 3-205 Reserved
- Section 3-206 Rules for the Conduct of Business
- Section 3-207 Legislative Authority Generally

ARTICLE III. THE MAYOR

- Section 3-301 General Authority
- Section 3-302 Duties
- Section 3-303 Powers
- Section 3-304 Mayor Pro Tempore
- Section 3-305 Acting Mayor
- Section 3-306 Removal
- Section 3-307 Procedure for Removal
- Section 3-308 Compensation

ARTICLE IV. THE CITY CLERK/TREASURER

- Section 3-401 Election
- Section 3-402 Term of Office
- Section 3-403 Bond
- Section 3-404 Duties of City Clerk
- Section 3-405 Duties of City Treasurer
- Section 3-406 Compensation

ARTICLE V. RESERVED

ARTICLE VI. OFFICERS AND EMPLOYEES

- Section 3-601 The City Attorney
- Section 3-602 The City Solicitor
- Section 3-603 Public Officers and Employees - Labor Practices; Strikes by Public Employees Prohibited
- Section 3-604 Personnel System

ARTICLE VII. DEPARTMENTS

- Section 3-701 Reserved
- Section 3-702 Reserved
- Section 3-703 Reserved
- Section 3-704 Reserved
- Section 3-705 Police Department

ARTICLE VIII. BOARDS AND COMMISSIONS

- Section 3-801 Planning and Zoning Commission
- Section 3-802 Hoschton Industrial Development Authority
- Section 3-803 Reserved
- Section 3-804 Hoschton Economic Development Commission
- Section 3-805 Limits on Terms of Services

ARTICLE IX. LOCAL GOVERNMENT AUTHORITIES

- Section 3-901 Registration of Local Government Authorities

ARTICLE X. MUNICIPAL PROPERTY

- Section 3-1001 Motor Vehicles

ARTICLE XI. Open Records and Records Management (*adopted 2018-05-07*)

- Section 3-1101. Short Title.
- Section 3-1102. Open Records Officer.
- Section 3-1103. Duties.
- Section 3-1104. Request Response.
- Section 3-1105. Fees.
- Section 3-1106. Litigation.
- Section 3-1107. Training.
- Section 3-1108. Open Records and Records Management Policy.
- Section 3-1109. Records Destruction.
- Section 3-1110. Records Retention.
- Section 3-1111. Reserved.
- Section 3-1112. Reserved.

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 arises 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 *(Revised June 1, 2009)*

1. **Intent.** It is essential to the proper administration and operation of the City of Hoschton that the members of the Hoschton Mayor and City Council be, and give the appearance of being, independent and impartial; that public office not be used for private gain; and that there be public confidence in the integrity of the City officials. Hoschton Mayor and City Council finds that the public interest requires that they protect against such conflicts of interest by establishing appropriate ethical standards with respect to the conduct of City officials in situations where a conflict may exist.

Citizens have a right to expect that every City official will conduct himself in a manner that will tend to preserve public confidence in and respect for the government he/she represents.

Such confidence and respect can best be promoted if every City official, whether paid or unpaid, and whether elected or appointed, with uniformity; (a) treat all citizens with courtesy, impartiality, fairness, and equality under the law; and (b) avoid conflicts between their private self-interest and the public interest.

2. **Definitions.** As used in this Chapter, the term,
 - A. **City Official or Official.** Unless otherwise expressly defined, means the Mayor, members of the City Council, municipal court judges, (including substitute judges) City Clerk, assistant City clerks, whether such person is salaried, hired or elected, and all other persons holding positions designated by the City Charter, as it may be amended from time to time. City official, unless otherwise expressly defined, includes individuals appointed by the

Mayor and City Council to all City commissions, committees, boards, task forces, or other City bodies unless specifically exempted from this Ordinance by the City Council.

- B. **Decision.** Any ordinance, resolution, contract, franchise, formal action or other matter voted on by the City Council or other City board or commission, as well as the discussions or deliberations of the Council, board, or commission which can or may lead to a vote or formal action by that body.
- C. **Entity.** A sole proprietorship, partnership, limited partnership, firm, corporation, professional corporation, holding company, joint stock company, receivership, trust or any other entity recognized by law through which business may be conducted.
- D. **Immediate Family.**
 - (1) A City official's spouse; and
 - (2) A City official's relative by marriage, lineal descent or adoption who receives directly or indirectly, more than one-half ($\frac{1}{2}$) of his or her support from the City official or from whom the City official receives, directly or indirectly, more than one-half ($\frac{1}{2}$) of his or her support; and
 - (3) A City official's parents, parents-in-law, sisters, sisters-in-law, brothers, brothers in-law, stepparents, stepbrothers, or stepsisters; and
 - (4) An individual claimed by the City official or the public servant's spouse as a dependent under the United States Internal Revenue Code.
- E. **Remote Interest.** An interest of a person or entity, including a City official who would be affected in the same way as the general public. The interest of a councilmember in general City fees, City utility charges, or a comprehensive zoning ordinance or similar decisions to the extent that the councilmember would be affected in common with the general public.
- F. **Substantial Interest.** A known interest, either directly or through a member of the immediate family, in another person or entity:
 - (1) The interest is ownership of five percent (5%) or more of the voting stock, shares or equity of the entity or ownership of five thousand dollars (\$5,000.00) or more of the equity or market value of the entity; or
 - (2) Funds received by the person from the other person or entity either during the previous twelve (12) months or the previous calendar year equaled or exceeded five thousand dollars (\$5,000.00) in salary, bonuses, commissions or professional fees or five thousand dollars (\$5,000.00) in

payment for goods, products or nonprofessional services, or ten percent (10%) of the recipient's gross income during that period, whichever is less;

- (3) The person serves as a corporate officer or member of the board of directors or other governing board of the for-profit entity other than a corporate entity owned or created by the City Council; or
- (4) The person is a creditor, debtor, or guarantor of the other person or entity in an amount of five thousand dollars (\$5,000.00) or more. Substantial interest in real property means an interest in real property which is an equitable or legal ownership with a market value of five thousand dollars (\$5,000.00) or more.

3. Standards of Conduct.

- A. No city official shall use such position to secure special privileges or exemptions for himself or herself or others, or to secure confidential information for any purpose other than official duties on behalf of the city.
- B. No city official, in any matter before the council or other city body, relating to a person or entity in which the official has a substantial interest, shall fail to disclose for the record such interest prior to any discussion or vote or fail to recuse himself/herself from such discussion or vote as applicable.
- C. No city official shall act as an agent or attorney for another in any matter before the city council or other city body.
- D. No city official shall directly or indirectly receive, or agree to receive, any compensation, gift, reward, or gratuity in any matter or proceeding connected with, or related to, the duties of his office except as may be provided by law.
- E. No city official shall enter into any contract with, or have any interest in, either directly or indirectly, the city except as authorized by state law.
 - (1) This prohibition shall not be applicable to the professional activities of the city attorney in his or her work as an independent contractor and legal advisor on behalf of the city.
 - (2) This prohibition shall not be applicable to an otherwise valid employment contract between the city and a city official who is not elected (such as, but way of example, a city manager, city administrator or chief of police).
 - (3) Any official who has a proprietary interest in an agency doing business with the city shall make that interest known in writing to the city council and the city clerk.

- F. All public funds shall be used for the general welfare of the people and not for personal economic gain.
- G. Public property shall be disposed of in accordance with state law.
- H. No city official shall solicit or accept other employment to be performed, or compensation to be received, while still a city official if the employment or compensation could reasonably be expected to impair such official's judgment or performance of city duties.
- I. If a city official accepts or is soliciting a promise of future employment from any person or entity who has a substantial interest in a person, entity, or property which would be affected by any decision upon which the official might reasonably be expected to act, investigate, advise, or make a recommendation, the official shall disclose the fact to the city council and shall recuse himself/herself and take no further action on matters regarding the potential future employer.
- J. No city official shall use city facilities, personnel, equipment or supplies for private purposes, except to the extent such are lawfully available to the public.
- K. No city official shall grant or make available to any person any consideration, treatment, advantage or favor beyond that which it is in the general practice to grant or make available to the public at large.
- L. A city official shall not directly or indirectly make use of, or permit others to make use of, official information not made available to the general public for the purpose of furthering a private interest.
- M. A city official shall not use his or her position in any way to coerce, or give the appearance of coercing, another person to provide any financial benefit to such official or persons within the official's immediate family, or those with whom the official has business or financial ties amounting to a substantial interest.
- N. A city official shall not order any goods and services for the city without prior official authorization for such an expenditure. No city official shall attempt to obligate the city nor give the impression of obligating the city without proper prior authorization.
- O. No city official shall draw travel funds or per diem from the city for attendance at meetings, seminars, training or other educational events and fail to attend such events without promptly reimbursing the city therefore.

P. No city official shall attempt to unduly influence the outcome of a case before the Municipal Court of the City of Hoschton nor shall any city official engage in ex parte communication with a municipal court judge of the City of Hoschton on any matter pending before the Municipal Court of the City of Hoschton.

4. **Disclosure of Conflicts of Interest.** A City official may not participate in a vote or decision on a matter affecting a person, entity, or property in which the official or employee has a substantial interest; in addition, a City official or employee who serves as a corporate officer or member of the board of directors of a nonprofit entity may not participate in a vote or decision regarding funding by or through the City of the entity.

Where the interest of a City official or employee in the subject matter of a vote or decision is remote or incidental, the City official or employee may participate in the vote or decision and need not disclose the interest.

5. **Exemptions.** This Code shall not be construed to require the filing of any information relating to any person's connection with, or interest in, any professional society or any charitable, religious, social, fraternal, educational, recreation, public service, civil or political organization, or any similar organization not conducted as a business enterprise or governmental agency, and which is not engaged in the ownership or conduct of a business enterprise or governmental agency.

6. **Hearings and Determinations.**

- A. Any person having a complaint against any City Official for an alleged ethics violation shall file in writing a verified complaint setting forth the particular facts and circumstances which constitute the alleged violation against the City Official. The complaint shall be filed with the Mayor, or in the event the complaint regards the Mayor, shall be filed with the Mayor Pro Tem. Upon receipt of the complaint, the Mayor or in the event the complaint regards the Mayor, the Mayor Pro Tem shall direct the Clerk to obtain a hearing board consisting of three members from the six individuals previously selected by the Special Committee on the Ethics Commission. The Clerk shall notify the City Official that is subject to the complaint within twenty-four (24) hours of the receipt of the complaint.
- B. The Special Committee on the Ethics Commission shall appoint six (6) individuals whose names shall be provided to the City Clerk. Upon receipt of a verified complaint of a violation of this Ordinance against a City Official, the Clerk shall contact the individuals in the order listed by the Special Committee. The Clerk shall obtain three members to serve on the hearing board. On any subsequent complaint, the Clerk shall contact the person listed immediately after the third person chosen to serve on the previous occasion.

At least every two (2) years, the Mayor Pro Tem shall convene a Special Committee on Ethics Commission to appoint the six members as provided in this section.

- C. The Clerk shall constitute a hearing board within five days of receipt of a complaint. The board shall meet within ten (10) days of the Clerk's receipt of a complaint to determine whether the complaint sets forth significant facts and circumstances so as to warrant a hearing before the board. In the event the complaint does not set forth sufficient facts to constitute an alleged violation and is found unjustified, frivolous or plainly unfounded, it shall be dismissed and the complainant notified immediately. In the event the complaint is found to state sufficient facts to warrant a hearing before the board, the board shall conduct a hearing within ten days of such determination. The board shall conduct the hearing in accordance with procedures and regulations it establishes and at a minimum the hearing shall include taking testimony and the cross examination of witnesses. The decision of the board shall be rendered to the Mayor and Council at the next regular meeting thereof.
- D. Any City official adversely affected by the findings of the board may file an application for a Writ of Certiorari in the Superior Court of Jackson County within thirty days after the decision of the board. The filing of such application shall act as supersedeas.

(Adopted 3/06/2006; Effective 3/16/2006)

- 7. **Penalties.** Any violation of this Code of Ethics shall subject the offender to: (1) Disciplinary action which may include private reprimand, public reprimand, or removal from office. (2) A fine up to six hundred dollars (\$600.00).

(Adopted 1/10/2005)

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 implement, 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 and City Council, 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.

(Adopted 1/9/2006; Effective 1/19/2006)

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 9:00 a.m. and 4:00 p.m. on weekdays and shall be closed Saturday, 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 that I will faithfully discharge the duties devolved upon me as Mayor (or councilmember) of the City of Hoschton, that I will faithfully enforce the law of this City, I will support and defend the Charter of the City of Hoschton as well as the Constitution and laws of the State of Georgia and of the United States of America, and that I will do all in my power to promote the general welfare of the inhabitants of the City of Hoschton, and the common interest thereof, so help me God.”

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 Hoschton 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

All municipal offices to be elected in the general municipal election and biennially thereafter shall be for terms of four (4) years unless otherwise provided by local law in accordance with O.C.G.A. § 21-3-64.

Section 3-202 Qualifications for Office

To be eligible for the office of Mayor or City councilmember, elected or appointed, a person must be at least twenty-one (21) years of age, must meet the requirements of a qualified elector for members of the General Assembly, must be a registered voter of the City of Hoschton and must have been a bona fide resident of the City of Hoschton immediately prior to the election in which the person offers as a candidate. 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.

(Amended 11/4/2002)

Section 3-203 Vacancies

1. A vacancy shall exist if the Mayor or a City councilmember resigns, dies, no longer resides in the City, or is absent from four (4) consecutive meetings of the governing authority, except if granted a leave of absence by the City Council, which leave shall be entered upon the minute books, or if adjudged incompetent or if convicted of malfeasance in office, or of a felony or any violation of election laws.
2. In the event that the office of the Mayor or councilmember becomes vacant, the City Council or those remaining shall order a special election to fill the balance of the unexpired term of such office; provided, however, if such vacancy occurs within four (4) months of the expiration of the term of that office, the City Council or those remaining shall appoint a successor for the remainder of the term.

(Approved 11/1997)

3. In the event a vacancy should occur in the office of the Mayor or councilmember and a special election is necessary, it shall be called and held in the manner prescribed by the Georgia Election Code as it now exists or may be amended hereafter.

(Approved 11/1997)

Section 3-204 Meetings

1. **Open Meetings.** All meetings of the Mayor and Council shall be held in accordance with the provisions of O.C.G.A. § 50-14-1 et seq. The public shall at all times be afforded access to all meetings other than executive sessions.
2. **Regular Meetings.** The regular meetings of the Mayor and Council shall be held at City Hall at 7:00 p.m. on the first Monday of each month. No official action may be taken on any issue at a work session.

(Adopted 1/9/2007, Effective 1/19/2007)

Announcements. The City Clerk shall make available to the general public the time, place, and dates of all regular and work session meetings. A written notice containing such information shall be posted and maintained in a conspicuous place in City Hall.

(Adopted 1/9/2007, Effective 1/19/2007)

Meetings shall be held in accordance with a regular schedule, but nothing in this ordinance shall preclude the Council from canceling or postponing any regularly scheduled meeting.

Written notices shall be posted in City Hall and provided to the legal organ newspaper having general circulation in Jackson County not less than 24 hours in advance of a meeting. Written notice shall be posted for not less than 24 hours in a conspicuous place in City Hall. Upon written request from any other local broadcast or print media outlet located in the county, notice may be made via telephone or facsimile to the requesting media outlet at least 24 hours in advance of the called meeting.

When special circumstances occur and are declared by the City, meetings may be held with less than 24 hours' notice upon providing such notice to the legal organ having general circulation in the county. The notice may be written or oral and shall include the reason for holding the meeting and the subjects expected to be considered. The nature of the notice shall be reported and recorded in the minutes of the meeting.

Additional posting of Council meeting notices, though not compulsory, may be utilized at the discretion of the City Clerk.

All other procedures related to scheduling and announcing Council meetings shall be approved by the Council.

(Adopted 1/9/2007; Effective 1/19/2007)

3. **Special Meetings and Rescheduled Regular Meetings.** A regular meeting may be canceled, rescheduled or moved to a new location by the Mayor with the approval of the City Council. Special meetings of the City Council may be held on call of the Mayor or any member of the City Council. Whenever a rescheduled regular meeting or any other special meeting is to be held at a time or place other than the regularly scheduled time or place, written notice of the change shall be posted for at least twenty-four (24) hours at the place of the regular meetings. This written notice shall include the purpose of the meeting. In addition, written or oral notice shall be given by the Clerk at least twenty-four (24) hours in advance of the meeting to the legal organ of the county and to each member of the Council. (*Amended 12/5/2005*)

(Adopted 1/9/2006; Effective 1/19/2006)

4. **Emergency Meetings.** When emergency circumstances occur, the Mayor and Council may hold a meeting with less than twenty-four (24) hours' notice to the public. When such meetings are to be held, the City Clerk shall provide notice to the legal organ of the county and to each councilmember as soon as possible. The notice shall include the subjects expected to be considered at the meeting. In addition, the minutes shall reflect the reason for the emergency meeting and the nature of the notice given to the media.
5. **Executive Session.** Executive sessions of the Mayor and Council may be held for the purpose of conducting business excepted from public access requirements as authorized by O.C.G.A. §§ 50-14-2 and 51-14-3. Where a meeting of the Mayor and Council is devoted in part to matters within the authorized exceptions to public access requirements, any portion of the meeting not subject to any such exceptions shall be open to the public. No executive session shall be held except pursuant to a majority affirmative vote of the Mayor and Council taken in a public meeting. The minutes of the public meeting shall reflect the names of the councilmembers present, those voting for the executive session and the specific reasons for the executive session. Minutes of the executive session may be maintained by the City Clerk at the direction of the Mayor. Any such minutes shall be maintained in a confidential file and shall not be subject to disclosures, except that disclosures of such portions of minutes identifying real estate to be acquired by the Mayor and Council may only be delayed until such time as the acquisition of the real estate has been completed, terminated, or abandoned or court proceedings have been initiated. Voting on any issue shall not take place during a closed meeting but shall be done, if appropriate, in open session following the executive session.
6. **Agenda and Minutes.** An agenda of the subjects acted on and those members present at a meeting of the Mayor and 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 Council shall be promptly recorded and such records

shall be open to public inspection once approved as official by the City Council, but in no case later than immediately following the next regular meeting of the Mayor and Council.

Agenda. Prior to any City Council meeting, the City Clerk shall make available an agenda of all matters expected to come before the Council at such meeting. The agenda shall be posted in a conspicuous place in City Hall, as far in advance of the meeting as reasonably possible, but not less than 24 hours prior the meeting. Failure to include on the agenda an item which becomes necessary to address during the course of a meeting shall not preclude considering and acting upon such item. The City Council may table or postpone consideration of matters appearing on the agenda. Additional postings of City Council meeting agenda, though not compulsory, may be utilized at the discretion of the City Clerk. All other procedures related to the preparation and posting of the agenda shall be approved by the Council.

Minutes. 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. Copies of contracts, maps, or similar material or documents related to actions taken by the City Council 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 City Council. Approved minutes shall include the signatures of the Mayor and City Clerk.

(Adopted 2/4/2008, Effective 2/14/2008)

A summary of the subjects acted on and those members present at the meeting shall be written and made available to the public for inspection within two (2) business days of the adjournment of a meeting of the City Council. The minutes of a meeting shall be promptly recorded and such records shall be open to public inspection once approved as official by the City Council, but in no case later than immediately following the next regular meeting of the City Council; provided, however, nothing contained in the Chapter shall prohibit the earlier release of minutes, whether approved by the City Council or not. Said minutes shall, as 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.

(Adopted 1/9/2006; Effective 1/19/2006)

Additional posting of Council meeting minutes, though not compulsory, may be utilized at the discretion of the City Clerk. All other procedures related to the preparation, approval and posting of the minutes shall be approved by the Council.

(Adopted 1/9/2007; Effective 1/19/2007)

Section 3-205 Reserved

Section 3-206 Rules for the Conduct of Business

Except as otherwise provided in this Section, Robert's 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 requested by the Mayor, 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.

(Adopted 2/4/2008, Effective 2/14/2008)

(Adopted 1/9/2006; Effective 1/19/2006)

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, 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 a reasonable time unless additional time is granted by City Council. Permission to speak is at the discretion of the Mayor and City Council. Persons wishing to bring subjects to attention of the City Council may do so either by providing the City Clerk or the Mayor with a written petition for presentation to the City Council at its regular meeting or by contacting the Mayor or any City councilmember informally.
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 requested by at least two City Councilmembers, or the Mayor and at least one City Councilmember.

(Adopted 1/9/2006; Effective 1/19/2006)

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 for withholding approval.

(Adopted 1/9/2006; Effective 1/19/2006)

C. Introduction and Adoption. An ordinance may be introduced by any member of the Council and be read at a regular or special meeting of the City Council. This reading may be accomplished by the reading of the caption. Ordinances shall be considered and adopted or rejected by the City Council in accordance with the rules which it shall establish; except for emergency ordinances provided in Section 20 of the City Charter. Either the Mayor or any councilmember or councilmembers may request that consideration of any proposed ordinance be delayed until the next regularly scheduled meeting of the City Council. Said request need not be accompanied by any explanation or reason and shall automatically be delayed until the next regularly scheduled meeting of the City Council without the necessity of said delay being approved or voted on by the City Council. The delay of said consideration shall not be further postponed except by vote of the City Council. If any of the Mayor or councilmembers are absent, or if any changes (other than correction of clerical errors) are proposed, an ordinance may not be adopted on the same day it is first introduced except for emergency ordinances provided in Section 20 of City Charter. Upon introduction of any ordinances, the Clerk shall, as soon as reasonable, distribute a copy to the Mayor and to each councilmember and shall file a reasonable number of copies in the Office of the Clerk and at such other public places as the City Council may designate.

(Adopted 12/6/2004; Effective 12/16/2004)

(Adopted 1/9/2006; Effective 1/19/2006)

- D. **Effective Date.** Every ordinance adopted by the City Council shall be presented promptly by the City Clerk to the Mayor. The Mayor, within ten (10) calendar days of receipt of an ordinance shall return it to the City Clerk with or without his or her approval, or with his or her disapproval. If the ordinance has been approved by the Mayor, it shall become law at 12:00 midnight on the tenth (10th) calendar day after its adoption, the Mayor shall admit to the City Council a written statement of the reasons for his or her veto. The City Clerk shall record upon the ordinance the date of its delivery to and receipt from the Mayor and the Mayor's disposition of the ordinance.

Ordinances vetoed by the Mayor shall be presented by the City Clerk to the City Council at its next regular meeting, and should the City Council then or at its next regular meeting adopt the ordinance by an affirmative vote of five (5) members, the ordinance shall become law.

If the Mayor chooses to exercise the power to vote to break a tie on any ordinance being voted on in a session of the City Council, the Mayor waives the power to veto the ordinance.

- 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 councilmember 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 a show of hands, 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 councilmember, 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, and the Mayor may cast a vote in the case of a tie vote by the City Council on any questions or measure; by such vote the Mayor waives veto power;

(Adopted 1/9/2006; Effective 1/19/2006)

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 make recommendations to the City Council at the December meeting each year or as soon thereafter as expedient,

regarding the standing committees for the next year; but the Mayor may at any time make such recommendations to the City Council as the interest of the City may require;

(Amended 2/4/2008; Effective 2/14/2008)

5. **Appointment and Dismissal of Officers and Employees.** To appoint or remove, with the approval of the City Council, all officers and employees of the City whose election or appointment is not otherwise provided for;

(Adopted 1/9/2006; Effective 1/19/2006)

6. **Suspension, and Discipline of Officers and Employees.** To suspend or discipline, for cause, all officers or employees, and make a written report to the City Council within twenty-four (24) hours of such actions being taken. 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.

(Adopted 2/4/2008; Effective 2/14/2008)

(Adopted 1/9/2006; Effective 1/19/2006)

(Amended 12/5/2005)

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 department head designated for the purpose by him, the affairs or operation of any department, office, agent or employee thereof. Included is 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; to make a written report to the City Council of all such actions taken; and

(Adopted 1/9/2006; Effective 1/19/2006)

4. **Supervision and Delegation.** Provide supervision over all executive, operations and administrative work of the city and provide for the coordination of administrative and operation activities. The Mayor may delegate administrative duties to appropriate officers or employees of the City. The Mayor may direct any department to perform the work for any other department, and authorize any department head or officer responsible to him to appoint and remove subordinates serving under such person, subject to approval of City Council.

(Adopted 2/4/2008; Effective 2/14/2008)

5. **Veto.** The Mayor may exercise a veto by filing dissent to passage of any municipal legislation with the City Clerk within ten (10) days after the City Council meeting at which the legislation was passed by the City Council. The City Council may pass any such ordinance, order or resolution notwithstanding the veto at any meeting within thirty (30) days of the meeting at which the legislation was originally passed by a vote of at least five (5) City councilmembers on a yea and nay vote duly recorded in the minutes.

(Amended 11/4/02)

6. To cast a vote in all elections by the Mayor and City Council of the subordinate officers of the City elected by the Mayor and City Council, even though such vote results in a tie vote and the failure to elect any such officer or member. Where the Mayor's vote in the election of a subordinate officer or member causes a tie vote and results in a failure to elect any such person to such office, the Mayor shall have the power to appoint some competent person to fill such office until

such time as the Mayor and City Council shall elect some person by majority vote to fill such office.

(Amended 12/5/2005)

Section 3-304 Mayor Pro Tempore

The City and Mayor shall elect by a majority vote from among the members of the City Council a Mayor Pro tem who shall assume the duties and powers of the Mayor upon the Mayor's disability or absence. The City Council shall elect a new Mayor Pro tem from among its members for any period in which the Mayor Pro tem is disabled, absent or acting as Mayor. Any such absence or disability to shall be declared by majority vote of all councilmembers.

(Amended 11/4/02)

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 Jackson County Superior Court following a hearing on a complaint seeking such removal brought by any resident of the City of Hoschton;
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 Jackson County Superior Court.

Section 3-308 Compensation

1. The Mayor and City councilmember of the City of Hoschton shall each receive as compensation for attending each regular meeting and for attending each called or special meeting of the Mayor and City Council the sum of twenty-five dollars (\$25.00) per meeting, not to exceed the sum of seventy-five dollars (\$75.00) per month for the Mayor and each City councilmember.

2. Nothing herein shall be construed to prevent the Mayor and City Council from being reimbursed actual expenses if otherwise allowed by law or the Charter and Code of Ordinances, and any incumbent City councilmember and the incumbent Mayor shall receive the compensation allowed herein should he be elected to another term of office.

ARTICLE IV. THE CITY CLERK/TREASURER

Section 3-401 Election

The City Council shall appoint a City Clerk, who shall not be a councilmember, to perform such duties of an administrative nature as the City Council may require, until his/her successor has been appointed and qualified.

(Adopted 12/8/2003; Effective 12/18/2003)

Section 3-402 Term of Office

The City Clerk shall hold office at the pleasure of the City Council and until a successor is elected and qualified.

Section 3-403 Bond

Before entering upon the discharge of any duties, the City Clerk/Treasurer shall give a good and sufficient bond in an amount to be decided by the Mayor and City Council but not less than three thousand dollars (\$3,000.00), said bond payable to the City of Hoschton for the faithful performance of his or her duties and to secure against corruption, malfeasance, misappropriation, or unlawful expenditures. Said surety bond 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 premium thereon shall be paid by the City.

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 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.

(Adopted 1/9/2006; Effective 1/19/2006)

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 determined by the 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 Solicitor

- 1. **Appointment and Qualifications.** The City Solicitor shall be appointed by the City Council, and shall serve until a successor is appointed and has qualified. The City Solicitor shall, on the date he/she takes office, be at least twenty-five (25) years of age, and shall have been admitted to practice law in the State of Georgia for at least (3) years.

(Amended 1/9/06; Effective 1/19/06) (Amended 4/6/09; Effective 4/16/09)

- 2. **Oath.** Before entering upon the duties of his/her office, the City Solicitor shall take the oath prescribed by this Code for City Officers.

3. **Powers and Duties.** The City Solicitor shall 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.

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

1. As used in this Article, the following terms are defined:
 - 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 pre-employment 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 pre-employment; and
 - C. He or she shall be on probation for period of five (5) years following such appointment or reappointment or employment or pre-employment, 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 Personnel System

1. **General Purpose.** The general purpose of this act is to establish a system of personnel administration that meets the service and program needs of the people of the City of Hoschton. This personnel system shall provide the means to recruit, select, develop and maintain an effective and responsive work force; it shall include policies and procedures for selection, advancement, job classification, salary administration, retirement, fringe benefits, separation and related activities. All appointments and promotions in the Hoschton City Career Service shall be made without regard for sex, race, religion, color, national origin, age, or political affiliation, and shall be based on individual merit and fitness.
2. **Career Service.** The career service shall be a permanent service to which this law shall apply. It shall comprise all permanent positions in the public service now existing or hereafter established, except the following:
 - A. The Mayor, members of the City Council, and other elected positions.
 - B. Members of appointed or elected boards and commissions, judges, the City Clerk, and the City Attorney.

- C. Persons employed to make or conduct temporary or special inquiries, investigations, or examinations on behalf of the City Council, a City Council Committee, or the Mayor.
- D. Part-time or temporary positions unless specifically covered by action of the City Council.
- E. Volunteer personnel who receive no regular compensation from the City of Hoschton.

3. Administration.

- A. There shall be in the City of Hoschton a Personnel unit, the administrative head of which shall be that employee designated by the Mayor and City Council. The function of the Personnel Unit shall be assigned to the City Clerk or any person experienced in management and administration who shall be designated by the Mayor and City Council.
- B. It shall be the responsibility of the Personnel Administrator to:
 - (1) Encourage and exercise leadership in the development of effective and uniform personnel practices within several departments, and to make the facilities of the Personnel unit available to this end.
 - (2) Foster and encourage the development and implementation of uniform personnel policies for all City departments.
 - (3) Foster and encourage the development and implementation of programs for the improvement of employee effectiveness including training, safety, health, counseling and welfare.
 - (4) Advise the Mayor and City Council on manpower planning and utilization.
 - (5) Investigate from time to time the operation and effect of this law and of the policies established thereunder and report his or her findings and recommendations to the Mayor and City Council.
 - (6) Establish and maintain records of all employees in the government service, in which there shall be set forth the class, title, pay, status and other relevant data of each employee.
 - (7) Make an annual report to the Mayor and City Council regarding the operations of the department.

(8) Apply and carry out this Article and the policies thereunder and perform any other lawful acts which may be necessary or desirable to carry out the purposes and provisions of this Ordinance.

C. The Personnel Administration shall have submitted personnel policies for adoption by resolution of the City Council. The policies shall have the force and effect of law, and may be amended by a majority vote of the City Council. The policies shall provide:

(1) For preparation, maintenance and revision of a position classification plan for all positions in the career service, based upon similarity of duties performed and responsibilities assumed, so that the same qualifications may be required reasonably for, and the same schedule of pay may be applied equitably to, all positions in the same class. After such classification plan has been approved by the City Council, the Personnel Administrator shall allocate or reallocate the position of every employee in the career service to one of the classes in the plan. Any employee affected by the allocation or reallocation of a position to a class shall, after filing with the Personnel Administrator a written request for reconsideration thereof in such manner and form as the Personnel Administrator prescribes, be given a reasonable opportunity to be heard thereon.

(2) For annual submission of a pay plan to the Mayor and City Council.

(3) For recruitment of capable persons and for administration of evaluations to determine the relative fitness of applicants for positions in the public service.

(4) For promotions based upon the employee's qualifications, record of performance and ability.

(5) For, upon appointment or promotion, a six (6) month period of employee probation.

(6) For temporary employment not to exceed ninety (90) days and for provisional employment not to exceed six months when there is no qualified applicant available, with the consent of the Personnel Administrator. Extensions of these appointments may be granted by the Mayor and City Council.

(7) For establishment of programs, including trainee programs, which are designed to attract and utilize persons with minimal qualifications but who have potential for development, in order to provide career development opportunities among members of disadvantaged groups, handicapped persons, and veterans. Such programs may provide for permanent appointment without further examination upon satisfactory completion of the training period.

- (8) For keeping records on the performance of all employees in the career service, which shall be considered in determining salary increments or increases for meritorious service; as a factor in promotions; as a factor in determining the order of lay-offs because of lack of funds or work; as a factor in reinstatement; and as a factor in demotions, discharges and transfers.
 - (9) For lay-offs by reason of lack of funds or work, or abolition of a position, or substantial change in duties or organization, and for re-employment of employees so laid off.
 - (10) For establishment of a plan for resolving employee grievances and complaints.
 - (11) For establishment of disciplinary measures such as suspension, demotion in rank or grade, or discharge. Such measures shall provide for presentation of charges, hearing rights, and appeals for all permanent employees in the career service.
 - (12) For establishment of hours of work, holidays and attendance regulations for various classes of positions in the career service.
 - (13) For establishment and publicizing of fringe benefits such as insurance programs, retirement and leave policies.
 - (14) For development and operation of programs to improve work effectiveness including training, safety, health, welfare, counseling, recreation and employee relations.
 - (15) For such other policies and administrative regulations consistent with this law, as may be proper and necessary for its enforcement.
- D. The Personnel Administrator or an authorized agent shall be responsible for certification of the payroll vouchers, that the persons named therein have been appointed and employed in accordance with the provision of this law and the policies thereunder. No City of Hoschton disbursing or auditing officer shall make or approve or take any part in making or approving any payment for personal service to any person or persons holding a position in the Hoschton City Government unless said payroll voucher or account of such pay bears the certification of the Personnel Administrator or an authorized agent.

4. Grievance Procedure.

- A. A grievance is any dispute concerning the interpretation or application of this Article, or of the policies governing personnel practices or working conditions, or of any decision relative to disciplinary actions, dismissals, demotions or charges of discrimination.

- B. Grievances shall be processed in accordance with procedures established by the City Council.

5. Agreements Authorized.

- A. The City of Hoschton is authorized and empowered to enter into reciprocal agreements, on such terms as may be agreed upon, for the use of equipment, materials, facilities, and services with any public agency or body for purposes deemed beneficial to the public personnel system.
- B. The Personnel Administrator, acting on behalf of the City Council, may cooperate with other government agencies charged with public personnel administration in conducting personnel tests, recruiting personnel, training personnel, and establishing lists from which eligibles shall be certified for appointment.

6. Political Activities.

- A. No Hoschton City employee shall be appointed, promoted, demoted, favored, or discriminated against with respect to employment in the career service because of his or her political opinions or affiliations.
- B. No person shall use or promise to use, directly or indirectly, any official authority or influence, whether possessed or anticipated, to secure or attempt to secure for any person an appointment or advantage in appointment to a position in the career service, or an increase in pay or other advantage in employment in any such position, for the purpose of influencing the vote or political action of any person.
- C. No Hoschton City employee in the career service shall hold an elective office in the City government, nor solicit any contributions, assessments, or services, nor endorse publicly any candidate for any City elective office.
- D. Nothing herein contained shall affect the right of an employee to contribute to, hold membership in, serve as an officer of, or support a political party; to vote as he or she chooses; to support or campaign for county, state or national political candidates; to express privately his or her opinions on all political subjects and candidates; to maintain political neutrality or to attend political meetings.
- E. Exception to Section 3-604-6 (D): Any City employee who as a normal and foreseeable incident to his or her principal job or position performs duties in connection with an activity financed in whole or in part by federal loans or grants comes under the Federal Hatch Act which prohibits the following:

- (1) Use of official authority of influence for the purpose of interfering with an election or nomination for office, or affecting the result thereof.
 - (2) Directly or indirectly coercing, attempting to coerce, commanding or advising any other such officer or employee to pay, lend or contribute any part of his or her salary or compensation or anything else of value to any party, committee, organization, agency, or person for political purposes.
 - (3) Active participation in political party management or in political campaigns.
7. **Nepotism.** Except in unusual situations, the Mayor, members of the City Council, and the Personnel Administrator shall not appoint or employ any person in any position in the City who is related to him or her in the third (3rd) degree, by blood or marriage (second cousin), nor shall a supervisor or department head supervise any person so related to him or her. Exceptions to this should be rarely necessary, and must be approved by a majority of the City Council.
8. **Equal Employment Opportunity Guaranteed.**
- A. There shall be no discrimination exercised because of race, national origin, color, religion, creed, age, sex (except where age or sex is a bona fide occupational qualification) or political affiliation with respect to the recruiting and examination of applicants, the hiring of eligibles, or in any personnel transactions affecting employees including training, promotion and disciplinary actions. All personnel actions shall be based solely on individual merit and fitness.
 - B. The Personnel Administrator shall see that information about job opportunities is readily available to all potential job applicants. There shall be a continuing program to make the City's equal employment policies known to counsel with the Personnel Administrator. The right of appeal to the Mayor and City Council shall be available to applicants and employees of the City government.
9. **Unlawful Acts Prohibited.**
- A. No persons shall make any false statements, rating or reports with regard to any test, certification or appointment made under any provision of this law or in any manner commit or attempt to commit any fraud preventing impartial execution of this Article.
 - B. No person shall directly or indirectly give, render, pay, offer, solicit, or accept any money, services or other valuable considerations for any appointment, proposed appointment, promotion or proposed promotion to, or any advantage in, a position in the City of Hoschton career service.

C. No personnel department employee, examiner or other person shall defeat, deceive or obstruct any person in his or her right to examination, eligibility, or appointment under this law, to furnish to any person special or secret information for the purpose of affecting any person's right or prospects to employment in the career service.

10. **Penalties.** Any person who willfully violates any provision of this Article or of the personnel policies established thereunder, upon hearing by the City Council, may have one of the following judgments rendered.

A. Dismissal from government service and forfeiture of annual and sick leave or other employee benefits, as approved by the City Council.

B. Ineligibility for appointment to or employment in a position in the City service for the period of time stipulated in the personnel policies.

C. Suspension for a period of time stipulated by the personnel policies.

11. **Status of Present Employees.** Employees holding positions in the Hoschton career service for six (6) months or more immediately prior to the adoption of this law shall be continued in their respective positions without regard to probationary period requirements or until promoted or separated from their positions as provided by law. Those employees holding a position for less than six (6) months immediately prior to the adoption of this law shall serve a probationary period as prescribed by the personnel policies. Nothing herein shall preclude the reclassification or reallocation of any position held by any such incumbent, as provided by this law.

ARTICLE VII. DEPARTMENTS *(See also Ordinance adopted 1/15/2010, Effective 1/25/2010, eliminating position of city planner)*

Section 3-701 Reserved

Section 3-702 Reserved

Section 3-703 Reserved

Section 3-704 Reserved

Section 3-705 Police Department

Section 3-705 Police Department.

1. Composition. The Police Department shall consist of the Police Chief and such other officers and personnel as the Mayor and City Council shall prescribe.

2. Rank. Following the Police Chief in rank shall be the assistant chief, captain,

the lieutenants, sergeant, and patrol officers, in order of seniority in each group.

3. Police Chief.

A. Appointment and Powers. The Police Chief shall be appointed by the Mayor with the approval of City Council, and shall be the chief executive officer of the Police Department, subject always to the orders and regulations of the City Council. In the exercise of his duties, the Police Chief shall have the power to establish and enforce rules and regulations for the government of the members and employees of the department, which rules shall, however, be consistent with the ordinances of the City and the laws of the state. The Police Chief shall be a certified police officer pursuant to the "Georgia Peace Officer Standards and Training Act".

Any newly appointed chief of police or department head of a law enforcement unit whose term of employment commences after June 30, 1999, shall successfully complete a minimum of sixty (60) hours of law enforcement chief executive training at the next scheduled law enforcement chief executive training class sponsored by the Georgia Association of Chiefs of Police following his or her appointment. Such training shall be in addition to the basic training required of peace officers in Code Section 35-8-9. A sworn employee acting in the capacity of a department head of a law enforcement unit for more than sixty (60) days shall be required to attend training specified under this Code Section and Code Section 35-8-20. The provisions of this subsection shall not apply to any sheriff or to any head of any law enforcement unit within the office of sheriff.

During calendar year 1999 and during each calendar year thereafter, any person employed or appointed as a peace officer shall complete twenty (20) hours of training as provided in this Code Section; provided, however that any peace officer serving with the Department of Public Safety who is a commissioned officer shall receive annual training as specified by the commissioner of public safety.

(Adopted 1/9/2006; Effective 1/19/2006)

B. Bond and Oath. Prior to entering upon the discharge of his duties, the Police Chief of the City shall execute a bond in the amount as determined by the Mayor and City Council and shall take and subscribe the oath prescribed by this Code.

C. Duties. The Police Chief shall have the following duties:

- (1) To attend all meetings of the City Council and all trials before the Municipal Court;
- (2) To see to the proper service of all summonses, subpoenas, citations, executions, attachments, and rules of the City Council;
- (3) To see to the collection of all fines and costs imposed by the Municipal Court;
- (4) To see that the ordinances, rules, and regulations of the City and all statute

applicable therein are faithfully enforced (*Amended 11/4/2002*);

(5) To preserve the public peace, prevent infractions of the law, and arrest violators thereof;

(6) To protect the rights of persons and property;

(7) To establish procedures, rules and regulations for the conduct of the officers and men of the police force, and to be held strictly responsible for such conduct and for the general good order of the department;

(8) To keep adequate records of all personnel and equipment of the department including a log of all questions, activities, and investigations;

(9) To maintain the City jail and be responsible for the custody and care of prisoners and cooperate with all county, state, and federal law enforcing officers in the prevention and detection of acts of crime;

(10) To make available a monthly report to the City Council outlining the number and type of arrests for state offenses, the number and type of cases involving violations of municipal ordinances, and the number of arrests made and cases reported by each police officer (*Amended 11/4/2002*);

(11) To complete such training requirements required of police chiefs according to Chapter 8, Title 35 of the *O.C.G.A.*; and

(12) To discharge such other duties as may be required of him by the Mayor or City Council.

D. Resignation, Removal, Death, or Disability. In the event of resignation, removal, death, or disability of the Police Chief, the officer next in rank shall perform the duties of the chief until removal of such disability or until a successor has been duly appointed.

4. Police Officers.

A. Qualifications. Any person employed by the City as a police officer shall have the following qualifications:

(1) Be at least eighteen (18) years of age;

(2) Be a citizen of the United States;

(3) Have a high school diploma or its recognized equivalent;

(4) Not have been convicted by any state or by the federal government of any crime, the punishment for which could have been imprisonment in a federal or state prison or institution; nor shall he have been convicted of sufficient misdemeanors to

establish a pattern of disregard for the law;

(5) Be fingerprinted and a search made of local, state, and national fingerprint files to disclose any criminal record;

(6) Possess good moral character as determined by investigation under procedure established by the Georgia Peace Officers Standards and Training Council;

(7) Have an oral interview with the Mayor and City Council to determine such things as applicant's appearance, background, and ability to communicate;

(8) Be found, after examination by a licensed physician or surgeon, to be free from any physical, emotional, or mental conditions which might adversely affect his exercising the powers or duties of a police officer; and

(9) Satisfactorily complete a basic training course as required by Chapter 8, Title 35 of the *O.C.G.A.* and the Georgia Peace Officer Standards and Training Council.

B. Bond and Oath. Prior to entering upon the duties of their respective offices, all officers of the Police Department shall execute a bond in the amount as determined by the Mayor and City Council and shall take and subscribe the oath prescribed by this Code.

C. Duties. It shall be the duty of the officers of the Police Department to acquire a full knowledge of and to enforce all of the ordinances of the City and all statutes applicable therein, to become familiar with the rules and regulations established by the Police Chief concerning the discipline, good order, proper conduct, care, and management of the Police Department, and to respect and obey all orders of the Police Chief not in conflict with the law or ordinances of the City.

D. Conduct. Every member of the Police Department shall conduct himself or herself in a proper and law-abiding manner at all times and shall avoid the use of any unnecessary force. Prohibited conduct shall include, but not limited to the following:

(1) Absence from regular hours of duty without permission;

(2) Sleeping on duty;

(3) Insubordination or disobedience or orders;

(4) Drinking any alcohol or intoxicating beverages while on duty or in uniform.

(5) Willful maltreatment of any person or prisoner;

(6) Using profane language;

(7) Giving out or releasing any information concerning the affairs, business or operation of the Police Department without the consent of the Police Chief;

(8) Receiving or accepting a reward from any person, firm, or corporation for any services rendered in the line of duty;

(9) Accepting bribes of money, gifts, or other articles of apparent or actual value, or accepting any fee, reward, or gift of any kind from a person arrested or from any friend in his behalf while he is in custody or after his discharge; or

(10) Active participation in any political campaign to neglect of his official duty.

E. Penalties for Improper Conduct. Any police officer violating the rules or regulations of the Police Department or of this Code, upon conviction therefor by the City Council, after due notice and hearing, upon the plea of guilty, shall be reprimanded, fined, suspended, or dismissed by the City Council. Any one or more of said penalties may be imposed at the discretion of the City Council.

5. Arms and Uniforms. Each officer and member of the Police Department shall be furnished with such uniform, arms, and police equipment as provided for by the City Council. Uniforms shall be kept clean and pressed and shall be worn on duty at all times, unless otherwise ordered by a superior officer. The equipment, arms, and uniforms furnished by the City shall be and always remain the property of the City and shall be, when a change is in order or on retirement from officer, returned to the City. The members of the department shall be liable on their bonds for any loss or careless destruction of or damage to their arms and uniforms.

6. Arrests. Police officers of the City may make arrests for violations of municipal ordinances and state laws when such violations are committed in their presence or when they have obtained a valid arrest warrant from the Judge of the Municipal Court or from some other proper authority. In exercising such power of arrest, all police officers shall see that all necessary warnings are given to the accused as required by law.

7. Entering Private Dwellings. No police officer shall enter a private dwelling without a search or arrest warrant unless he is in pursuit of a fugitive who the officer has personal knowledge or probable cause to believe has committed or attempted to commit a felony.

8. Disposition of Stolen, Abandoned, or Impounded Property. All personal property which comes into the custody of the Police Department, where said property was stolen or impounded or where the ownership is unknown, shall be held for period of ninety (90) days awaiting claim by its owner. The owner of said property, upon proving ownership and paying all expenses and costs, including reasonable charges for storage, shall have the right to have such property returned to him.

If after the expiration of ninety (90) days the property is unclaimed, the Police Chief shall advertise the property for sale in the newspaper in which the City's legal advertisements are printed. Such advertising shall take place at least once every week for four (4) weeks before the date set for the sale and shall give a description

of the property to be sold and specify the time and place of sale. If the property is still unclaimed by the time of the sale, it shall be sold as advertised and the proceeds shall be placed in the City treasury.

(Code 1991, § 3-705; Ord. of 11-4-2002; Ord. of 1-9-2006)

ARTICLE VIII. BOARDS AND COMMISSIONS

Section 3-801 Planning and Zoning Commission

(Amended 3/7/2016; Effective 3/17/2016)

(Adopted 1/9/2006; Effective 1/19/2006)

1. General.

- A. **Purposes and Findings.** The Mayor and City Council recognizes that City business is best conducted by reliance on citizen involvement through the use of advisory committees.

2. Appointment and Removal, Term, Absences, Conflict of Interest.

- A. **Appointment.** Members of the Planning and Zoning Commission shall be appointed by City Council and shall serve at the pleasure of the City Council. The Commission shall be comprised of five members. At least three members of the Commission shall be residents of the City of Hoschton. No more than two members may be nonresidents of the City of Hoschton, and any such nonresident shall be either an owner of property in the City of Hoschton or an owner or part owner of a business with its principal business location in the City of Hoschton.

(Amended 3/7/2016; Effective 3/17/2016)

- B. **Vacancies.** Ninety (90) days prior to the expiration of a term, the City Clerk shall announce each vacancy, and shall state that it is seeking applicants and shall set forth the qualifications required, if any. The City Council may interview each applicant, after which a majority of the City Council may select the applicant to fill the vacancy. Vacancies occurring prior to expiration of a term shall be filled by appointment for the unexpired portion of the term, in the same manner provided herein for initial appointment.

(Amended 3/7/2016; Effective 3/17/2016)

- C. **Removal.** The City Council may remove any member by majority vote at a regularly scheduled City Council meeting, for due cause shown.

(Amended 3/7/2016; Effective 3/17/2016)

- D. **Term.** The term of office for members of committees shall be two (2) years. The annual expiration date of a term shall be December 31. Terms shall be staggered. To accomplish the staggering of terms, City Council may appoint up to three members for one-year terms.

(Amended 3/7/2016; Effective 3/17/2016)

- E. **Absences.** If any member of a Commission is absent for three regularly scheduled meetings in a calendar year, the secretary to the Commission shall certify that fact to the City Council, and the City Council shall thereafter declare that position on the Commission to be vacant.
- F. **Conflict of Interest.** Any member of the Planning Commission who has a property interest in any real property affected by a rezoning action to be considered by the Hoschton City Council, or has a financial interest in any business entity which has a property interest in any real property affected by a rezoning action to be considered by the Hoschton City Council, or who has a family member with such a real property interest or financial interest in a business entity, pursuant to O.C.G.A. 36-67A-2, shall immediately disclose the nature and extent of such interest, in writing, to the Hoschton City Council. The planning commissioner who has an interest as defined in this paragraph shall disqualify himself from voting on the rezoning action. The disqualified planning commissioner shall not take any other action on behalf of himself or any other person to influence action on the application for rezoning. The disclosures provided for in this paragraph shall be a public record and available for public inspection at any time during normal working hours. A member of the Commission may raise the question of conflict of interest of another member regarding a specific issue that is before the Commission. A majority vote of those planning commissioners without such conflict shall determine if such conflict does exist.

(Amended 3/7/2016; Effective 3/17/2016)

3. **Members, Officers, and Duties.**

- A. **Chairperson.** The members of the Planning Commission shall elect a chairperson. His/her term of office shall be one year. The chairperson shall decide all points of order and procedures, subject to these rules, unless directed otherwise by a majority of the Planning Commission in session at the time. The chairperson may appoint one or more committees to investigate and report on matters which come before the Planning Commission. The chairperson may make motions and vote in all matters that come before the Commission.
- B. **Vice-Chairperson.** The members of the Planning Commission shall elect a vice-chairperson. His/her term of office shall be for one year. The vice-

chairperson shall serve as acting chairperson in the absence of the chairperson. When acting as chairperson, the vice-chairperson shall have the same powers and duties as the chairperson.

- C. **Secretary.** Hoschton City Clerk shall serve as the secretary. The secretary shall keep all records and generally supervise the clerical work of the Planning Commission, including but not limited to, the agenda and minutes of every meeting. Meeting minutes shall indicate all important facts pertaining to each meeting, every resolution acted upon, all votes taken by the members and those members who are in attendance and who are absent from the meeting.

4. **Organization, Compensation, Quorum, Minutes and Meetings.**

- A. **Organization.** Each committee shall annually, at the first regularly scheduled meeting of the fiscal year, elect its chairperson and vice-chairperson from among its appointed members.
- B. **Compensation.** The members of the Planning Commission shall not be compensated for their services, but shall be reimbursed for any training expenses approved by City Council.
- C. **Quorum.** A majority of the Commission shall constitute a quorum for purposes of conducting business.
- D. **Minutes.** The Secretary shall take minutes at each meeting and shall make such minutes available within a reasonable time following each meeting and shall be subject to approval by the appropriate body.
- E. **Meetings.** Regular meetings of the Planning and Zoning Commission shall be held on the third Monday of each month, 6:15 p.m. or at another time agreed to at Hoschton City Hall. Whenever there is no business for the Planning Commission, the chairperson or City Clerk may dispense with a regular meeting by giving notice to all members at least forty-eight (48) hours prior to the time set for the meeting.

(Amended 3/7/2016; Effective 3/17/2016)

- 5. **Powers and Duties.** It is the duty of this Commission to provide recommendations to the City Council regarding the implementation of the City's comprehensive plan and its zoning, subdivision, and other related policies, ordinances and standards.

(Amended 3/7/2016; Effective 3/17/2016)

Section 3-802 Hoschton Industrial Development Authority

1. The Mayor with approval of the City Council shall appoint seven (7) directors to the Hoschton Industrial Development Authority. Three (3) of these directors shall have six (6) year terms, two (2) shall have four (4) year terms, and two (2) shall have two (2) year terms. Directors shall serve until their successors are appointed.
 - A. Vacancies shall be filled by appointments for unexpired terms only.
 - B. Any director may be removed by majority vote of the Mayor and City Council.
 - C. All directors shall serve without compensation but may be reimbursed for actual expenses incurred in the performance of their duties. Such reimbursement is at the discretion of the Mayor and City Council and shall not be made without presentation of valid proofs of such expenses.
 - D. The authority shall perform duties as instructed by the City Council.

Section 3-803 Reserved

[Section 3-803, previously titled Hoschton Historical Commission, repealed by this 2016 code update dated _____, 2016.]

Section 3-804 Hoschton Economic Development Commission

1. **General.**
 - A. **Purposes and Findings.** The Mayor and City Council recognize that City business is best conducted by reliance on citizen involvement through the use of advisory committees.
2. **Appointment and Removal, Term, Absences, Conflict of Interest.**
 - A. **Appointment.** Members of the Hoschton Economic Development Commission shall be appointed by the City Council by vote. The Hoschton Economic Development Commission shall be comprised of six (6) members. All members of the Hoschton Economic Development Commission must be a city resident or city licensed business owner/operator or have a business background that is conducive to enhancing the economic benefit of the community.

(Adopted 2/4/2008; Effective 2/14/2008)

(Adopted 3/5/2007; Effective 3/15/2007)

(Adopted 1/9/2006; Effective 1/19/2006)

- B. **Vacancies.** Ninety (90) days prior to the expiration of a term, the City Clerk shall announce each vacancy, and shall state that it is seeking applicants and shall set forth the qualifications required, if any. The members of the Economic Development Committee shall interview and recommend applicants to fill the vacancy. Vacancies occurring during the middle of a term shall be filled by appointment for the unexpired portion of the term, in the same manner provided herein for initial appointment.

(Adopted 3/5/2007; Effective 3/15/2007)

- C. **Removal.** The Mayor and City Council may remove any member by majority vote at a regularly scheduled City Council meeting.

(Adopted 3/5/2007; Effective 3/15/2007)

- D. **Term.** The term of office for members of the Commission shall be two years. The annual expiration date of a term shall be December 31. Terms shall be staggered. Initially, position 1, 2, and 3 will serve a one-year term and position 4, 5, 6 and 7 will serve a two-year term.

(Adopted 3/5/2007; Effective 3/15/2007)

- E. **Conflict of Interest.** Should any member of the Hoschton Economic Development Commission be financially or otherwise closely associated with any issue that comes before the Commission, said member shall disqualify himself from participating in considering the issue and shall not sit with the Commission during such consideration. A member of the Commission may raise the question of conflict of interest of another member regarding a specific issue that is before the commission. A majority vote of those without such conflict shall determine if such conflict does exist.

(Adopted 3/5/2007; Effective 3/15/2007)

3. Members, Officers, and Duties.

- A. **Chairperson.** The members of the Hoschton Economic Development Commission shall elect a chairperson. His/her term of office shall be one year. The Chairperson shall decide all points of order and procedures, subject to these rules, unless directed otherwise by a majority of the Hoschton Economic Development Commission in session at the time. The Chairperson may appoint one or more committees to investigate and report on matters which come before the Hoschton Economic Development Commission.

(Adopted 3/5/2007; Effective 3/15/2007)

(Adopted 1/9/2006; Effective 1/19/2006)

- B. **Vice-chairperson.** The members of the Hoschton Economic Development Commission shall elect a vice-Chairperson. His/her term of office shall be for one year. The Vice-Chairperson shall serve as acting Chairperson in the absence of the Chairperson. When acting as chairperson, the vice-chairperson shall have the same powers and duties as the chairperson.
- C. **Secretary.** The members of the Hoschton Economic Development Committee shall elect a secretary. His/her term of office shall be for one year. The secretary shall keep all records and generally supervise any clerical work of the Hoschton Economic Development Commission, including but not limited to, the agenda and minutes of every meeting. Meeting minutes shall indicate all important facts pertaining to each meeting, every resolution acted upon, all votes taken by the members and those members who are in attendance and who are absent from the meeting.

(Adopted 3/5/2007; Effective 3/15/2007)

4. Organization, Compensation, Quorum, Minutes and Meetings.

- A. **Organization.** The Commission shall annually, at the first regularly scheduled meeting of the fiscal year, elect its chairperson, vice-chairperson and secretary from its appointed members.
- B. **Compensation.** The members of the Hoschton Economic Development Commission shall not be compensated for their services, but shall be reimbursed for any training expenses approved by Mayor and City Council.
- C. **Quorum.** A majority of the Commission shall constitute a quorum for purposes of conducting business.
- D. **Minutes.** The Secretary shall take minutes at each meeting and shall make such minutes available within a reasonable time following each meeting and shall be subject to approval by the appropriate body.
- E. **Meetings.** Regular meetings of the Hoschton Economic Development Commission shall be called by the Chairperson and appropriate notice shall be filed at the City Hall.

(Adopted 3/5/2007; Effective 3/15/2007)

- F. Whenever there is no business for the Hoschton Economic Development, the chairperson may dispense with a regular meeting by giving notice to all members at least forty-eight (48) hours prior to the time set for the meeting.

5. Powers and Duties.

- A. To confer with and advise the Mayor, City Council and Planning Commission on all matters concerning general economic development of the City of Hoschton;

(Adopted 3/5/2007; Effective 3/15/2007)

- B. To advertise the advantages and opportunities of the City of Hoschton within the means provided by any appropriations made by the Mayor and City Council;
- C. To collect data and information as to the type of businesses and industries best suited to the City of Hoschton;
- D. To develop, compile, and coordinate information regarding available areas suitable for general economic and industrial development;
- E. To encourage the proper zoning and orderly development of areas suitable for industrial development and to promote the interest of industrialization of such areas of the City of Hoschton.
- F. To encourage the economic development along Highway 53, proper zoning and orderly economic development of the downtown area, suitable for business development.

(Adopted 3/5/2007; Effective 3/15/2007)

- G. To aid the Mayor, City Council and Planning Commission by attracting new businesses and industries and encouraging expansion of existing businesses and industries.

(Adopted 3/5/2007; Effective 3/15/2007)

- H. To cooperate with all community groups which are dedicated to orderly industrial and economic expansion of the City of Hoschton, and to furnish them such aid and advice as is deemed appropriate.
- I. To cooperate with all industries and businesses in the City of Hoschton in the solution of any community problems which they might have. To encourage the management of such concerns in order that there is healthy and constructive interest in the City of Hoschton's welfare.

(Adopted 3/5/2007; Effective 3/15/2007)

- J. To periodically survey the overall condition of the City of Hoschton from the standpoint of determining whether the City has a community climate and

furnishes such services and facilities as are conducive to industrial and economic expansion.

K. General Information:

- (1) **Advisory Capacity.** Except as may otherwise be provided by ordinance, the powers and duties of the Economic Development Commission are of an advisory nature only and the Commission shall not have any powers or duties which conflict with or supersede the powers and duties of the Mayor and City Council or other City of Hoschton commissions or committees.
- (2) **City of Hoschton Officials to Cooperate.** All officers and department heads of the City of Hoschton shall cooperate with the Commission and render all reasonable assistance.
- (3) **Power to Incur Liability Limited.** Neither the Commission nor any member thereof shall incur any financial liability in the name of the City of Hoschton. It is expressly understood that incurring any financial liability requires approval from the Mayor and City Council.

(Adopted 3/5/2007; Effective 3/15/2007)

- (4) **Annual Report.** The Commission shall keep the Mayor and City Council regularly apprised of its activities and shall annually provide a full report of its work to the Mayor and City Council. In addition, the Mayor and City Council may request, and the Commission shall promptly provide such additional updates as the Mayor and City Council deems appropriate.

(Adopted 5/2/2005)

Section 3-805 Limits on Terms of Services

No Board member, Committee member or Commission member appointed for two (2) consecutive terms shall be eligible for the succeeding term. However, said official shall be eligible to reapply for said office after having been off the Board, Committee or Commission for one (1) term. Provided, however, if the deadline for submission of applications for positions on a Board, Committee or Commission expires and the City has not received sufficient qualified applicants to fill the vacancies, the Mayor and Council may appoint an individual that may otherwise be ineligible pursuant to this Section.

(Adopted 2/2/2005)

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, downtown 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 effect 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 sub authority 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.

**CHAPTER 4
REVENUE AND FINANCE**

ARTICLE I. TAXES

Section 4-101	Ad Valorem Tax
Section 4-102	Malt Beverage Excise Tax
Section 4-103	Alcoholic Beverage Excise Tax
Section 4-104	Reserved
Section 4-105	Reserved
Section 4-106	Reserved
Section 4-107	Reserved
Section 4-108	Gross Direct Premiums Tax
Section 4-109	Business License Tax on Depository Institutions
Section 4-110	Reserved
Section 4-111	Public Utility Franchise Tax
Section 4-112	Local Option Sales Tax
Section 4-113	Local Option Income Tax
Section 4-114	Municipal Tax Sales
Section 4-115	Occupation Tax Ordinance
Section 4-116	Reserved

ARTICLE II. MUNICIPAL BONDS

Section 4-201	Preliminary Review by Finance Committee
Section 4-202	Bond Ordinances
Section 4-203	Bond Sales
Section 4-204	Bond Records
Section 4-205	Registration of Bonds
Section 4-206	Lost, Destroyed, or Defaced Bonds
Section 4-207	Disposition of Bonds and Coupons
Section 4-208	Sinking Fund

ARTICLE III. BUDGET

Section 4-301	Fiscal Year
Section 4-302	Requirement of Annual Balanced Budget
Section 4-303	Adoption of Budget Ordinances or Resolutions
Section 4-304	Budget Officer
Section 4-306	Form and Content of Budget
Section 4-307	Adoption
Section 4-308	Effective Date
Section 4-309	Budget Message
Section 4-310	Amendments
Section 4-311	Audits Required
Section 4-312	Conduct of Audits

Section 4-313	Contents of Audit Reports
Section 4-314	Forwarding Audits to State Auditor
Section 4-315	Public Inspection of Audits
Section 4-316	Annual Report, Submitted to the Department of Community Affairs
Section 4-317	Capital Program
Section 4-318	Transfer of Appropriations
Section 4-319	Emergency Appropriations
Section 4-320	Lapse of Appropriations
Section 4-321	Uniform Chart of Accounts

ARTICLE IV. FINANCIAL POLICY

Section 4-401	Financial Policy
Section 4-402	Council Approval of Expenditures

ARTICLE V. SPECIAL TAX DISTRICTS

Section 4-501	Lighting Districts
---------------	--------------------

ARTICLE VI. ENERGY EXCISE TAX

Section 4-601	Short Title
Section 4-602	Findings and Intent
Section 4-603	Definitions
Section 4-604	Energy Excise Tax Imposed
Section 4-605	Energy Excise Tax Rate and Phase-In
Section 4-606	Energy Excise Tax Imposition, Remittance and Recovery
Section 4-607	Exemption Certificates
Section 4-608	Commencement of Collections and Due Date
Section 4-609	Expenditure of Proceeds
Section 4-610	Termination of Municipal Excise Tax
Section 4-611	Administrative Provisions and Audit

ARTICLE I. TAXES

Section 4-101 Ad Valorem Tax

1. **Rate of Levy.** There is hereby set and levied to meet the ordinary current expenses of the City of Hoschton an annual ad valorem tax as determined by the Mayor and City Council upon all real and personal property within the City. There is also hereby set and levied, for the payment of principal and interest on general obligation bonds, an annual ad valorem tax as determined by the Mayor and City Council upon all real and personal property within the City. Such levies shall be shown separately on all tax bills.
2. **Assessment and Fair Market Value.** All property subject to municipal ad valorem taxation shall be assessed at forty percent (40%) of its fair market value. The basis for fair market value shall be one hundred percent (100%) of the fair market value determined for the property by the county for county ad valorem tax purposes.
3. **Appeal of Assessment.** Any taxpayer may appeal from an assessment by the county Board of Tax Assessors to the county Board of Equalization as to matters of taxability, uniformity of assessment, and value. The taxpayer or the county Board of Tax Assessors may appeal to the Jackson County Superior Court from a decision of the county Board of Equalization. All such appeals shall be made in the manner provided in O.C.G.A. § 48-5-311.
4. **When Taxes Due and Payable.** Ad valorem taxes shall become due on the twentieth (20th) day of each year and shall be deemed delinquent if not paid within thirty (30) days after said due date. Tax bills showing the assessed valuations, amount of taxes due, tax due dates, and information as to delinquency dates and penalties shall be sent to all taxpayers at least thirty (30) days prior to the due date, but failure to send a tax bill shall not invalidate any tax. Any taxes willfully not paid within ninety (90) days of the due date shall be delinquent. Delinquent taxes shall bear an interest at one percent (1%) per month from the date the tax is due in addition to a penalty of ten percent (10%) of the amount of revenue held in trust and not paid on or before the time prescribed by law. (See O.C.G.A. § 48-2-44).
5. **Failure to Pay Tax.** The City shall forthwith issue an execution against any person who has defaulted in the payment of any ad valorem tax to be paid. The execution thus issued shall be a lien on all the property of such person, both real and personal, and shall be placed in the hands of the City Officer responsible for collection by levy and sale.

The City Treasurer or other person authorized to collect the taxes due to the municipality may attach the property of the delinquent taxpayer on any ground

provided by O.C.G.A. § 18-3-1 or on the ground that the taxpayer is liquidating his property in an effort to avoid payment of the tax. The City Treasurer may use garnishment to collect the tax pursuant to O.C.G.A. § 48-3-1 et seq., or may levy upon all property and rights to property belonging to the taxpayer not otherwise exempt, for the payment of the amount due, together with any interest on the amount, any penalty for non-payment, and such further amount as shall be sufficient for the fees, costs, and expenses of the levy. Judicial sales shall be conducted pursuant to O.C.G.A. § 48-2-55.

The finance officer or other person authorized to collect taxes shall enter on the execution the name of the person garnished and shall return the execution to the court. The subsequent proceedings on the garnishment shall be the same as on garnishments in cases when judgment has been obtained.

6. **Against Whom Charged.** Taxes are to be charged against the owner of the property, if known, or against the specific property itself if the owner is not known. Life tenants and those who enjoy the use of the property are chargeable with the tax thereon.
7. **Exempted Property.** The following property shall be exempt from ad valorem taxation:
 - A. All public property;
 - B. All places of religious worship and places of burial;
 - C. All property owned by religious groups and used only for single family residences when no income is derived from the property;
 - D. All public charities;
 - E. All nonprofit hospitals; and
 - F. All buildings used as a college, university, or other seminary of learning.

NOTE: See O.C.G.A. § 48-5-41 for a complete list of exempted property. See O.C.G.A. §§ 48-5-354 through 48-5-356 for additional special exempt municipal property.

8. **Homestead Exemption.** A homestead exemption of two hundred dollars (\$200.00) in addition to the amount allowed exempted for state tax purposes shall be granted to any person sixty-five (65) years of age or older.

Section 4-102 Malt Beverage Excise Tax

1. **Rate of Levy.** Municipalities permitting the sale of malt beverages shall impose an excise tax, in addition to the excise taxes levied by the state, as follows:

- A. Where malt beverages, commonly known as tap or draft beer, are sold in or from a barrel or bulk container, a tax of six dollars (\$6.00) on each container sold containing not more than fifteen and one-half (15½) gallons and a proportionate tax at the same rate on all fractional parts of fifteen and one-half (15½) gallons;
- B. Where malt beverages are sold in bottles, cans, or other containers, except barrel or bulk containers, a tax of five cents (\$.05) per twelve (12) ounces and a proportionate tax at the same rate on all fractional parts of twelve (12) ounces.

NOTE: See O.C.G.A. § 3-5-60 for the state malt beverage excise tax.

- 2. **Against Whom Levied.** The malt beverage excise tax is levied against and shall be paid by each licensed wholesale dealer in malt beverages in the municipality.
- 3. **Due Date and Required Report.** The malt beverage excise tax shall be paid on or before the tenth (10th) day of the month following the calendar month in which the beverages are sold or disposed of, and payment shall be accompanied by a report itemizing the exact quantities of malt beverages sold for the preceding calendar month by size and type of container. Any tax remaining unpaid at the expiration of fifteen (15) days from the due date shall be delinquent.
- 4. **Enforcement.** The tax levied by this Section may be enforced by execution in the same manner as other taxes of the City, and in addition, any failure of payment of such tax shall be grounds for revocation or refusal of the business license of the delinquent taxpayer.
- 5. **Exemption.** Malt beverages which contain less than one-half of one percent (0.5%) alcohol by volume shall not be subject to any tax levied under Title 3 of the Official Code of Georgia Annotated or any tax levied pursuant to authority granted by said title.
- 6. **Returns and Credits.** The City of Hoschton may issue refunds or credits for malt beverage taxes paid by or due from the wholesaler when it can be shown to the City Council's satisfaction that an amount of malt beverages was destroyed while in the possession of the wholesaler by act of God, such as fire, flood, lightning, wind, or other natural calamity.

Section 4-103 Alcoholic Beverage Excise Tax

- 1. **Rate of Levy.** There is hereby set and levied on the sale of alcoholic beverages, excluding fortified wine, an excise tax in the sum of eighty cents (\$.80) cents per wine gallon and in similar proportion for bottles and containers of various sizes.

2. **Against Whom Levied.** The alcoholic beverage excise tax shall be paid by each licensed wholesale dealer in alcoholic beverages in the City of Hoschton.
3. **Due Date and Required Report.** The alcoholic beverage excise tax shall be paid on or before the tenth (10th) day of the month following the calendar month in which the beverages are sold or disposed of, and payment shall be accompanied by a report itemizing the exact quantities of alcoholic beverages sold for the preceding calendar month by size of container. Any tax remaining unpaid at the expiration of fifteen (15) days from the due date shall be delinquent.

Section 4-104 Reserved

Section 4-105 Reserved

Section 4-106 Reserved

Section 4-107 Reserved

Section 4-108 Gross Direct Premiums Tax

1. **Insurers License Fees.** There is hereby levied for the year 1999 and for each year thereafter an annual license fee upon each insurer doing business within the City of Hoschton, Georgia in the amount of twenty-five dollars (\$25.00). For each separate business location in excess of one not covered by Section 4-108-2, which is operating on behalf of such insurers within the City of Hoschton, Georgia, there is hereby levied a license fee in the amount of fifteen dollars (\$15.00). For the purposes of this Ordinance, the term "Insurer" means a company which is authorized to transact business in any of the classes of insurance designated in *O.C.G.A. § 33-3-5*.
2. **License Fees for Insurers Insuring Certain Risks at Additional Business Locations.** For each separate business location, not otherwise subject to a license fee hereunder, operated and maintained by a business organization which is engaged in the business of lending money or transacting sales involving term financing and in connection with such loans or sales offers, solicits or takes application for insurance through a licensed agent of an insurer for insurance said insurer shall pay an additional license fee of ten dollars (\$10.00) per location for the year 1999 and for each year thereafter.
3. **Gross Premium Tax Imposed on Life Insurers.** There is hereby levied for the year 1999 and for each year thereafter an annual tax based solely upon gross direct premiums upon each insurer writing life, accident and sickness insurance within the State of Georgia in an amount equal to one percent (1%) of the gross direct premiums received during the preceding calendar year in accordance with *O.C.G.A. § 33-8-8.1*. Gross direct premiums as used in this Section shall mean gross direct premiums as used in *O.C.G.A. § 33-8-4*. The premium tax levied by

this Section is in addition to the license fees imposed by paragraph 1 of this Section.

4. **Gross Premiums Tax, All Other Insurers.** There is hereby levied for the year 1999 and for each year thereafter an annual tax based solely upon gross direct premiums upon each insurer, other than an insurer transacting business in the class of insurance designated in subsection 1 of O.C.G.A. § 33-3-5, doing business within the State of Georgia in an amount equal to two and one-half percent (2.5%) of the gross direct premiums received during the preceding calendar year in accordance with O.C.G.A. § 33-8-8.2. Gross direct premiums as used in this Section shall mean gross direct premiums as used in O.C.G.A. § 33-8-4. The premium tax levied by this Section is in addition to the license fees imposed by Paragraph 1 of this Section.
5. **Due Date for License Fees.** License fees imposed in Section 4-108-1 and 4-108-2 shall be due and payable on the first day of 1999 and on the first date of each subsequent year.

Section 4-109 Business License Tax on Depository Institutions

1. **Definitions.**
 - A. **Bank.** Any financial institution chartered under to laws of any state or under the laws of the United States which is authorized to receive deposits in this state and which has a corporate structure authorizing the issuance of capital stock.
 - B. **Depository Financial Institution.** A bank or a savings and loan association.
 - C. **Savings and Loan Association.** Any financial institution, other than a credit union, chartered under the laws of any state of under the laws of the United States which is authorized to receive deposits in this state and which has a mutual corporate form.
2. **Rate of Levy.** There is hereby set and levied for 2004 and each calendar year thereafter upon each depository financial institution having an office located with the City of Hoschton, a business license tax of twenty-five hundredths percent (0.25%) on the Georgia gross receipts as defined and allocated in O.C.G.A. § 48-6-95.
3. **Due Date and Required Report.** Every depository financial institution subject to the business license tax authorized by this Ordinance shall file a return of its gross receipts with the City of Hoschton by March 1 of the year following the year in which such gross receipts are measured. Said return shall be in the manner and form prescribed by the Commissioner of the Department of Revenue based on the allocation method set forth in O.C.G.A. § 48-6-93(a). The City of Hoschton

shall assess and collect said tax based upon the information provided in the return. Payment shall be deemed delinquent if not received within forty-five (45) 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 tax levied by this Section may be enforced by execution in the same manner as other taxes of this municipality.

(Adopted 8/2/2004; Effective 8/12/2004)

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 Hoschton for the purpose of rendering utility services, a franchise tax in the amount of four percent (4%) 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 Ordinance

1. **Occupation Tax Required; Occupation Tax Required for Business Dealings in the City.** For the year 1995 and succeeding years thereafter, each person engaged in any business, trade, profession, or occupation in Hoschton, Georgia, whether with location in Hoschton 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 Hoschton, Georgia. If the taxpayer has no permanent business location in Hoschton, Georgia, such business tax registration shall be shown to the City Clerk or her designee or to any police officer of said Hoschton, Georgia, upon request.
2. **Construction of Terms; Definitions.**
 - A. Wherever the term Hoschton is used herein, such term shall be construed to mean Hoschton, Georgia; wherever the term City is used herein, it shall be construed to mean Hoschton, Georgia.

B. As used in this Code Section, the term:

- (1) **Administrative Fee** means a component of an occupation tax which approximates the reasonable cost of handling and processing the occupation tax.
- (2) **Location of Office** shall not include a temporary work site which serves a single customer or project.
- (3) **Occupation Tax** means a tax levied on person, 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 local government as an exercise of its police power and as a part of or 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 fee 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** shall be held to include sole proprietors, corporations, partnerships, nonprofits, or any other form of business organization, but specifically excludes charitable nonprofit organizations which utilize fifty percent (50%) of their proceeds for charitable purposes.
- (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.
- (9) **Employee** means an individual whose work is performed under the direction and supervision of the employer and whose employer withholds FICA, Federal Income Tax, or State Income Tax or whose employer issues to such individual for purposes of documenting compensation a form IRS W -2 but not a form IRM 1099. A full-time employee means an employee working forty (40) hours or more weekly. For the purposes of counting part time employees, the average weekly hours of employees

who work less than forty (40) hours weekly shall be added and the total divided by forty (40) to produce full-time position equivalents. The number of employees shall be deemed to be the monthly average number of full-time employees or full-time equivalents employed during the previous calendar year, or in the case of a newly established business, the projected average number of full-time employees or full-time equivalents employed during the year.

(Amended 12/4/1995)

- (10) **Peddler** is one who goes from place to place within the City exhibiting his wares or goods and actually selling them to the consumer or end user within the City provided that, Peddler shall not include a route salesperson who services a route or repeat customers in the City on a monthly basis or more frequently.

3. Regulatory Fee Structure; Occupation Tax Structure.

- A. A regulatory fee will be imposed as provided under O.C.G.A. § 48-13-9 on those applicable businesses.
- B. The regulatory fee schedule for persons in occupations and professions is set forth below:

<u>Business</u>	<u>Regulatory Fee</u>
*Auctioneer	\$50.00 per auction
*Bail Bondsman	\$50.00 per year
*Carnivals, Circuses & Fairs	\$50.00 per day (Fees shall be waived when a nonprofit organization is the sponsor (Amended 12/4/1995)
*Dealers in gold, silver & precious metals	\$50.00 per year
Fortunetellers/ Palm Readers	\$50.00 per year
*Game Room/Pool Halls	\$50.00 per year
*Malt beverage sales (package or on premises)	\$50.00 per year
*Wine sales (Package or on premises)	\$50.00 per year
*Pawnbrokers	\$100 per year

- *Peddlers of produce including flowers or agricultural products \$20 per year
- *Scrap Metal/Salvage Dealers \$50.00 per year
- *Taxicab & Limousine Operators \$25.00 per vehicle per year and \$10.00 per operator per year

(*requires Council approval)

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 corporate limits of the City and 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. The tax rate determined by number of employees for each business, trade, profession, or occupation is as follows and will be developed and updated from time to time by the City Clerk's office. This rate is based on the maximum number of employees associated with each business.

<u>Number of Employees</u>	<u>Tax Liability</u>
Home Occupation	\$45.00
<u>Business</u>	
Owner or 1 st Employee – Up to five employees	\$100.00
Over 5 employees	\$100.00 + \$10.00 for each additional employee over 5

(Adopted 12/4/2006; Effective 12/14/2006)

C. There shall be a maximum tax liability of five hundred dollars (\$500.00) per business.

5. Paying Occupation Tax of Business with No Location in Georgia.

Registration and 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's largest dollar volume of business in Georgia is in Hoschton and the business or practitioner:

- A. Has one or more employees or agents who exert substantial efforts within the jurisdiction of Hoschton for the purpose of soliciting business or serving customers or clients; or
 - B. Owns personal or real property which generates income and which is located within the jurisdiction of Hoschton.
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 lines of business that the business conducts. No business shall conduct any line of business without first having that line of business registered with the City Clerk's Office and that line of business being noted by the City Clerk upon the business registration form which is to be displayed by the business owner.
7. **The Number of Businesses Considered to Be Operating in the 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. **Professionals as Classified in O.C.G.A. § 48-13-9(c), Paragraphs 1 through 18.** Practitioners of professions as described in O.C.G.A. § 48-18-9c(1) through (18) shall elect as their entire occupation tax one of the following:
- A. The occupation tax based on Number of Employees.
 - B. A fee of one hundred dollars (\$100.00) per practitioner who is licensed to provide the service, such tax to be paid at the practitioner's office or location; provided, however, that a practitioner paying according to this paragraph shall not be required to provide information to the local government relating to the gross receipts of the business or practitioner. The per-practitioner fee applies to each person in the business who qualifies as a practitioner under the state's regulatory guidelines and framework.
 - C. This election is to be made on an annual basis and must be done prior to April 15 each year.
9. **Practitioners Exclusively Practicing for a 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 shall not be required to obtain a license or pay an occupation tax for that practice.

10. Purpose of 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 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 and 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, if not paid by April 15th of each year, be subject to penalties for delinquency as prescribed in this Section. On any new profession, trade, or calling begun in the City 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 City Clerk's Office 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 Hoschton, any of the kind of profession, trade, or calling subject to this Ordinance without having first obtained said registration, such offender shall, upon conviction by the Municipal Court Judge, be punished by a fine not less than one hundred dollars (\$100.00), or imprisonment not to exceed thirty (30) days, either or both in the discretion of the presiding judge.

B. In addition to the above remedies, the City may proceed to collect in the same manner as provided by law for tax executions.

12. Exemption for Certain Organizations. No business registration or occupation tax shall be levied on any state or local authority or any non-profit organization. *(Amended 12/4/1995)*

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 license 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.

14. Evidence of Qualification Required if Applicable. Any business required to obtain health permits, bonds, certificate of qualification, sales tax certificates, certificates of competency, or any other regulatory matter shall first, before the issuance of a City business registration, show evidence that such requirements have been met.

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 Hoschton 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 Hoschton, 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 an obtain an appropriate business registration and pay all tax and fees as provided herein before April 15th of each year, and by April 15th each year hereafter. Every person commencing business in Hoschton after January 1 of each year shall obtain the registration required before commencing such business. Any person transacting or offering to transact in Hoschton any business, trade, profession, or occupation without first having obtained said registration shall be subject to the penalties provided in Section 4-115-13 through 4-115-17. 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 City Clerk's Office, and if any person, firm, or corporation whose duty it is to obtain a registration shall, after said occupation tax becomes delinquent, transact or offer to transact, in Hoschton, any of the kind of business, trade, profession, or occupation without having first obtained said registration, such offender shall be subject to the penalties provided thereof.

17. Penalty of Ordinance Violation. Any person violating any provisions of this Ordinance shall, upon conviction before the City judge, be fined in an amount not

less than one hundred dollars (\$100.00) or imprisoned not exceeding thirty (30) days, either or both, in the discretion of the City judge.

18. **Subpoena and Arrest Powers.** The Hoschton Police Chief and his duly designated officers and inspectors or their successors shall be classified as Deputy Marshall-Business Inspectors with full subpoena and arrest powers in conjunction with any violation pertaining to the Business Tax Ordinance for 1995 and succeeding years.
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 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. § 48-5-355.
 - 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. § 48-013-55.
20. **Restrictions upon Persons Exempt from City License; Registration, Compliance with Ordinances, Laws.** It shall be the duty of any person authorized under the laws of the state to engage in business in the City without paying license for the privilege, before engaging in business in the City to register with the City Clerk in a book to be provided for said purpose, and it shall be unlawful for any person to engage in business in the City without registering with the Clerk as aforesaid, provided that no person shall be allowed to register by the said Clerk who is guilty of violating any of the ordinances of the City, or under charge thereof, or who is guilty of violating any law of the state or the United

States of America, or under charge thereof; and provided further, that if any person after registering as aforesaid, shall then be convicted of violating any of the ordinances of the City or any law of the state or of the United States, the said person shall no longer be authorized to engage in business in the City, and it shall be unlawful for such person to engage in business in the City thereafter; and provided further, that it shall be unlawful for any person after registering as aforesaid, who is engaged in any business in the City and who, thereafter, is charged with violating any ordinance of the City or law of the state or of the United States to continue to engage in business in the City pending the trial of said charges and until acquitted of the charge then pending.

21. **Disabled Persons' Statutory Certificates of Exemption.** Veterans of the armed services and blind persons holding a certificate of exemption shall, before doing business thereunder in the City, exhibit such certificate and register annually with the City Clerk and receive a no-fee license from the City. To be exempt from paying "Rental motor vehicle concern" means a person or legal entity which owns or leases five or more rental motor vehicles and which regularly rents or leases such vehicles to the public for value.
22. **Occupation Tax Inapplicable Where Prohibited by Law or Provided for Pursuant to Other Existing Law.** An occupation tax shall not apply to a business where such levy is prohibited or exempted by the law of Georgia or of the United States. This Ordinance shall not be construed to limit the City's liability to levy an occupation tax, registration fee, or regulatory fee for any business or practitioner of professions or occupations as authorized by other State Laws or local ordinances and not covered by O.C.G.A. § 48-13-5 to 48-13-26.
23. **When Occupation Tax Due and Payable.** The amount of occupation tax shall be payable to the said City, at the City Clerk's Office on January 1 each year and delinquent if not paid on or before April 15th each year.
24. **Payment of Occupation Tax by Newly Established Businesses.** In the case of a business subject to occupation tax for a calendar year, which was not conducted for any period of time in the corporate limits of the City in the preceding year, the owner, proprietor, manager, or executive officer of the business liable for occupation tax shall estimate the number of employees from commencing date to the end of the calendar year and such tax shall be paid. Said tax due the City shall be prorated based on a semi-annual basis for any portion of the year yet remaining.
25. **More than One Place or Line of Business.** Where a business is operated at more than one place or where the business includes more than one line, said business shall be required to obtain the necessary registration for each location and line and pay an occupation tax in accordance with the prevailing taxing method and tax rate for each location and line.

- 26. 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 Hoschton, 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 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, the United States, and other local governments.
- 27. Transfers of Occupational Tax Certificate, Personnel.** No tax certificate may be transferred from one person to another. Additions to or deletions from the ownership of a business, which do not affect the liability of the principal ownership of a business for which the certificate is issued, may be made without cancelling the old occupational tax certificate and applying for a new certificate.
- 28. Inspections of Books and Records.** In any case, the City, through its officers, agents, employees, or representatives, may inspect the books of the business for which the returns are made to determine the accuracy of the return as herein provided. The City shall have the right to inspect the books or records for the business of which the return was made in Hoschton, Georgia, and upon demand of the City such books or records shall be submitted for inspection by a representative of the City 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. Adequate records shall be kept in Hoschton for examination by the City at its officer’s discretion.
- 29. Effect of Failure to Comply with Ordinance Provisions; Continuing in Business after Tax Registration Revocation.** Any persons, their managers, agents, or employees, who do business in said City after the registration for said business has been revoked as above, hereby required to make occupation tax returns, and who fail to make said returns within the time and in the manner herein provided, who refuse to amend such returns so as to set forth the truth, or who shall make false returns; and any person, their managers, agents, or employees who refuse to permit an inspection of books in their charge when the officer, agents, employees, or representatives of the City request such inspection, during business hours for the purpose of determining the accuracy of the returns herein provided for, shall be subject to penalties provided herein. In the case of those practitioners where the local government cannot suspend the right of the practitioner to conduct business, the imposition of civil penalties shall be permitted and pursued by the local government as in the case of delinquent

occupation tax. These penalties shall consist of a fine of ten percent (10%) of the tax or fee due.

30. **Revocation of License.** The Mayor and Council shall have the right to revoke any license issued under this Code whenever the business conducted is in violation of any law of the state or the City, or is being conducted in manner detrimental to the moral and general welfare of the citizens of the City; said license shall stand revoked until the next regular meeting of the Mayor and Council, at which such action in the premises either shall be sustained by action of the Council and the said license shall be permanently revoked, or it shall be restored.
31. **Lien Taken for Delinquent Occupation Tax.** In addition to the other remedies herein provided for the collection of the occupation tax herein levied, the City Clerk of Hoschton, 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%) per annum from the date when such tax or installment becomes delinquent, and lien shall cover the property in the City of the person, partnership or corporation liable for said tax, all as provided by the ordinances and Charter of said City and the law 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 Police Chief or other appropriate officer of said City upon the property of defendant located in said jurisdiction, 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 shall be had as is provided by ordinances and Charter of said City and the law of Georgia, and the defendant in said execution shall have rights of defense, by affidavit of illegality and otherwise, which are provided by the applicable laws in regard to tax executions. When a nulla bona entry has been entered by proper authority upon an execution issued by the City Clerk's Office against any person defaulting on the occupation tax, the person against who the entry was made shall not be allowed or entitled to have or collect any fees or charges whatsoever for services rendered after the entry of the nulla bona. If, at any time after the entry of nulla bona has been made, the person against whom the execution issues pays the tax in full together with all interest and costs accrued in the tax, the person may collect any fees and charges due him or her as though he or she had never defaulted in the payment of the taxes.
32. **Amendment, Repeal Provision.** This Section shall be subject to amendment or repeal, in whole or in part, at any time, and no such amendment or repeal shall be construed to deny the right of the Mayor and Council to access and collect any of the taxes or other charges prescribed. Said amendment may increase or lower the amounts of tax rates of any occupation and may change the classification thereof. The payment of any occupation tax provided for shall not

be construed as prohibiting the levy or collection by the jurisdiction of additional occupation taxes upon the same person, property, or business.

- 33. Applications of Provisions to Prior Ordinance.** This Ordinance does not repeal or affect the force of any part of any ordinance heretofore passed where taxes levied under such prior ordinance have not been paid in full. So much and such parts of ordinances heretofore and hereinafter passed as provided for the issuing and enforcing of execution for any tax or assessment required by such ordinances, or that imposed fines or penalties for the nonpayment of such tax, or the failure to pay regulatory fees provided for in said ordinances, or failure to comply with any other provisions hereof, shall continue and remain in force until such tax, regulatory fee, or assessment shall be fully paid.
- 34. Provisions for Non-payment.** A person engaged in any business, trad, profession, or occupation in Hoschton, Georgia, whether with a location in Hoschton 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, will not be allowed to pay an occupational tax for a new calendar year until all outstanding or delinquent balances of ad valorem taxes, regulatory fees, or any other form of taxes are paid. The non-payment of this occupational tax will prohibit a business to continue its operation until all such outstanding balances are paid.
- 35. Enforcement of Provisions.** It is hereby made the duty of the City Clerk and/or the Chief of Police to see that the provisions of this Ordinance relating to occupation taxes are observed; and to summon all violators of the same to appear before the court. It is hereby made the further duty of the City Clerk's Office, the Chief of Police, members of the police department, and their assistants to inspect all registrations issued by the City as often as in their judgment it may seem necessary to determine whether the registration held is the proper one for the business sought to be transacted thereunder.
- 36. Provisions to Remain in Full Force and Effect until Changed by the Mayor and Council.** This Section shall remain in full force and effect until changed by amendment adopted by the Hoschton Mayor and 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.
- 37. Requirement of Public Hearings.** After January 1, 1996, the Mayor and Council shall conduct at least one public hearing before adopting any ordinance or resolution regarding the occupation tax as set forth in this Article. In any year when revenue from occupation taxes is greater than revenue from occupation taxes for the preceding year, the City shall hold one or more public hearings as a part of the process of determining how to use the additional revenue. Such hearings may be held as a part of budget hearings.

(Amended 12/4/1995)

38. Option to Establish Exemption or Reduction in Occupation Tax. The Mayor and Council of the City of Hoschton 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 exemption or reductions in occupation tax shall not be arbitrary or capricious.

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

40. Scope of Article. All persons operating pool and/or billiard rooms, bowling alleys, and/or game rooms shall apply for and hold a permit for such operation subject to this Article. A game room shall be defined as any business in which amusement machines, coin operated or otherwise, are available for the entertainment of the public, and where the proceeds from the operation of said amusement machines constitutes fifty percent (50%) or more of the gross revenue of said business.

(Adopted 12/5/1994)

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) A 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 (0.1%) 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 and 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 is 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.

Section 4-204 Bond Records

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 November 15, 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 December 31 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 department appropriation, as defined in the budget, by more than ten percent (10%); or

(Adopted 2/4/2008; Effective 2/14/08)

- 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.
2. **Biennial Audit.** The governing authority of each local unit of government not included in paragraph (1) of this subsection shall provide for and cause to be made the audit required pursuant to paragraph (1) not less often than once every two (2) fiscal years. Audits performed pursuant to this paragraph shall be for both fiscal years.
3. **Report of Receipts and Disbursements.** The Mayor and City Council of each local unit of government having expenditures of less than one hundred seventy-five thousand dollars (\$175,000.00) in that government's most recently ended fiscal year may elect to prepare, in lieu of the biennial audit otherwise required under paragraph (2) of this subsection, an annual financial report of receipts and disbursements for that fiscal year upon such forms and in such manner as shall be prescribed by the state auditor, and that financial report shall constitute an

annual audit report for purposes of and within the meaning of the requirements of Section 4-312 of this Code.

- 4. Audits Performed Before Years End.** At the option of the Mayor and City Council, an audit may be made at a lesser interval than one (1) year.

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 unit 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.

ARTICLE IV. FINANCIAL POLICY

Section 4-401 Financial Policy

The City of Hoschton Financial Policy is incorporated by reference as if fully set out here.

Section 4-402 Council Approval of Expenditures

Any expenditures over \$2,500.00 must be approved by the City Council except for the following:

1. Expenditures that were approved through the budget process; or
2. Expenditures required by a written contract approved by City Council; or
3. Expenditures required to comply with federal, state or local laws, regulations or guidelines.

(Adopted 3/6/2006, Effective 3/16/2006)

ARTICLE V. SPECIAL TAX DISTRICTS

Section 4-501 Lighting Districts

1. The developer of property lying within a proposed major subdivision that is subject to the subdivision regulations provided by the City, with lots less than two (2) acres in size of land, shall be required to construct and install lighting fixtures for the illumination of public rights-of-way to be located within such proposed subdivision, subject to the provisions of this Section.

The developer shall submit plans and specifications which shall be approved by the public utility company which will provide electric service to the proposed subdivision and shall include, but not be limited to, a preliminary plat of the proposed subdivision showing the approved location of the lighting fixtures within the subdivision as required by the appropriate public utility, and a description of the fixtures, poles, and other components approved for use by such utility company.

When seventy-five percent (75%) of the platted lots of subject development are lawfully occupied, the home owner's association, developer, or appropriate entity may petition the City to assume financial responsibility of any electric power bill arising from operation of said street lights. Nothing herein shall obligate the City to assume financial responsibility for the maintenance, operation, or service of such streetlights. The developer may petition the City to transfer at lower occupancy rate at which point, the developer assumes financial responsibility for all lots that are not lawfully occupied.

The City is hereby authorized to levy and collect a special assessment or fee per individual or lot owner of the development to defray electricity expense paid to the respective power company and any administrative costs. The City is further authorized to bill the individuals or lot owners on their monthly utility bills. Late assessment may be levied by the City for any unpaid services received. These assessments may include, but are not limited to, monetary charges, loss of City services and property liens.

2. The owners of lots within an existing major subdivision, who have existing street lights, may submit a petition to City Council, requesting establishment of a street

lighting district. The petition must contain the signatures of at least seventy-five percent (75%) of the owners of the property lying within the proposed street lighting district in favor of such designation. Unless one hundred percent (100%) of the lot owners have signed the petition, a public hearing shall be advertised one (1) time in the official organ of the county; and signs shall be posted in the proposed street lighting district giving notice of the hearing at least ten (10) days before the public hearing. The number and size of the signs shall be such as required by the City Zoning Ordinance for a request to levy and collect a special assessment or fee per individual or lot owner of the development to defray electricity expense paid to the respective power company and any administrative costs. The City is further authorized to bill the occupants or lot owners on their monthly utility bills.

(Effective 9/18/2003)

ARTICLE VI. ENERGY EXCISE TAX *(Amended 12/3/2012; Effective 12/13/2012)*

Section 4-601 Short Title

This Article shall be known as the “Hoschton Energy Excise Tax Ordinance.”

Section 4-602 Findings and Intent

This ordinance is adopted to address the interest of public finance. Georgia law authorizes counties and municipalities to impose an excise tax on the sale or use of energy but the imposition of the excise tax on the sale or use of energy in the law is contingent upon the enactment of an ordinance of the municipality in question. In order for the municipality to properly impose such excise tax the municipality must follow all of the provisions of Article 6 of Chapter 13 of Title 48 of the Official Code of Georgia Annotated, one provision of which is the enactment of this Article.

Section 4-603 Definitions

1. “Dealer” shall have the same meaning as provided for in the Official Code of Georgia Annotated, Section 48-13-110.
2. “Energy” shall have the same meaning as provided for in the Official Code of Georgia Annotated, Section 48-13-110.
3. “Local Sales and Use Tax” shall have the same meaning as provided for in the Official Code of Georgia Annotated, Section 48-13-110.
4. “Purchaser” shall have the same meaning as provided for in the Official Code of Georgia Annotated, Section 48-13-110.

Section 4-604 Energy Excise Tax Imposed

1. In accordance with the provisions of Article 6 of Chapter 13 of Title 48 of the Official Code of Georgia Annotated, there is imposed within the territorial limits of the municipality, an excise tax on the sale or use of energy when such sale or use would have constituted a taxable event for purposes of sales and use tax under Article 1 of Chapter 8 of Title 48 of the Official Code of Georgia Annotated but for the exemption found in the Official Code of Georgia Annotated, Section 48-8-3.2.
2. The sale or use of energy when such sale or use would have constituted a taxable event for purposes of sales and use tax under Article 1 of Chapter 8 of Title 48 of the Official Code of Georgia Annotated but for the exemption found in the Official Code of Georgia Annotated, Section 48-8-3.2 includes, but is not limited to, the sales and use of energy that is necessary and integral to the manufacture of tangible personal property such as:
 - A. Machinery or equipment used to convey or transport industrial materials, work in process, consumable supplies, or packaging materials at or among manufacturing plants or to convey and transport finished goods to a distribution or storage point at the manufacturing plant. Specific examples may include, but are not limited to, forklifts, conveyors, cranes, hoists, and pallet jacks;
 - B. Machinery or equipment used to gather, arrange, sort, mix, measure, blend, heat, cool, clean, or otherwise treat, prepare, or store industrial materials for further manufacturing;
 - C. Machinery or equipment used to control, regulate, heat, cool, or produce energy for other machinery or equipment that is necessary and integral to the manufacture of tangible personal property. Specific examples may include, but are not limited to, boilers, chillers, condensers, water towers, dehumidifiers, humidifiers, heat exchangers, generators, transformers, motor control centers, solar panels, air dryers, and air compressors;
 - D. Testing and quality control machinery or equipment located at a manufacturing plant used to test the quality of industrial materials, work in process, or finished goods;
 - E. Starters, switches, circuit breakers, transformers, wiring, piping, and other electrical components, including associated cable trays, conduit, and insulation, located between a motor control center and exempt machinery or equipment or between separate units of exempt machinery or equipment;
 - F. Machinery or equipment used to maintain, clean, or repair exempt machinery or equipment;

- G. Machinery or equipment used to provide safety for the employees working at a manufacturing plant, including, but not limited to, safety machinery and equipment required by federal or state law, gloves, ear plugs, face masks, protective eyewear, hard hats or helmets, or breathing apparatuses, regardless of whether the items would otherwise be considered consumable supplies;
- H. Machinery or equipment used to condition air or water to produce conditions necessary for the manufacture of tangible personal property, including pollution control machinery or equipment and water treatment systems;
- I. Pollution control, sanitizing, sterilizing, or recycling machinery or equipment;
- J. Industrial materials bought for further processing in the manufacture of tangible personal property for sale or further processing or any part of the industrial material or by-product thereof which becomes a wasteful product contributing to pollution problems and which is used up in a recycling or burning process;
- K. Machinery or equipment used in quarrying and mining activities, including blasting, extraction, and crushing; and
- L. Energy used at a manufacturing plant.

Section 4-605 Energy Excise Tax Rate and Phase-In

- 1. The rate of the excise tax levied and collected pursuant to this Article shall be phased in over a four-year period as directed by the Official Code of Georgia Annotated, Sections 48-13-112(a)(3) and 48-13-112(b) and as set forth below:
 - A. For the period commencing January 1, 2013, and concluding at the last moment of December 31, 2013, such excise tax shall be at a rate equivalent to 25 percent of the total amount of local sales and use tax in effect in such special district that would be collected on the sale, use, storage, or consumption of energy but for the exemption in the Official Code of Georgia Annotated, Section 48-8-3.2;
 - B. For the period commencing January 1, 2014, and concluding at the last moment of December 31, 2014, such excise tax shall be at a rate equivalent to 50 percent of the total amount of local sales and use tax in effect in such special district that would be collected on the sale, use, storage, or consumption of energy but for the exemption in the Official Code of Georgia Annotated, Section 48-8-3.2;

- C. For the period commencing January 1, 2015, and concluding at the last moment of December 31, 2015, such excise tax shall be at a rate equivalent to 75 percent of the total amount of local sales and use tax in effect in such special district that would be collected on the sale, use, storage, or consumption of energy but for the exemption in the Official Code of Georgia Annotated, Section 48-8-3.2; and
 - D. On or after January 1, 2016, such excise tax shall be at a rate equivalent to 100 percent of the total amount of local sales and use tax in effect in such special district that would be collected on the sale, use, storage, or consumption of energy but for the exemption in the Official Code of Georgia Annotated, Section 48-8-3.2.
- 2. In accordance with Official Code of Georgia Annotated, Section 48-8-3.2 (c)(4), if a project of regional significance under Official Code of Georgia Annotated, Section 48-8-3(92) is started in the special district, it shall not be subject to the phase-in period contained in paragraphs A, B, and C of subsection 1 of this section, and the sale, use, storage, or consumption of energy in connection therewith shall be subject to the rate specified in paragraph D of subsection 1 of this section notwithstanding the January 1, 2016 limitation in that paragraph D.
 - 3. Following such initial imposition during the phase-in time period, on or after January 1, 2016, the rate of the excise tax levied and collected by the governing authority of the city shall be directed by the Official Code of Georgia Annotated, Section 48-13-112(d). Such rate shall be controlled by the maximum amount of local sales and use tax in effect in the special district, but in no event more than two (2) percent.
 - 4. In the event the total rate of local sales and use taxes in effect in the special district decreases from two (2) percent to one (1) percent, the rate of the excise tax under this Article shall likewise be reduced at the same time such local sales and use tax rate reduction becomes effective.
 - 5. In the event the total rate of local sales and use taxes in effect in the special district increases from one (1) percent to two (2) percent, the rate of the excise tax under this article shall likewise be increased at the same time such local sales and use tax rate increase becomes effective.

Section 4-606 Energy Excise Tax Imposition, Remittance and Recovery

- 1. The excise tax levied and collected pursuant to this Article shall be imposed at the time and be recoverable as governed by the Official Code of Georgia Annotated, Section 48-13-112(c).
- 2. The excise tax shall be a debt of the purchaser of energy until it is paid and shall be recoverable at law in the same manner as authorized for the recovery of other

debts as governed by the Official Code of Georgia Annotated, Section 48-13-112(c).

3. The dealer collecting the excise tax shall remit the excise tax to the city if the city is the governing authority imposing the excise tax as governed by the Official Code of Georgia Annotated, Section 48-13-112(c).
4. Every dealer subject to an excise tax under this Article shall be liable for the excise tax at an applicable rate on the charges actually collected or the amount of the excise taxes collected from the purchasers, whichever is greater as governed by the Official Code of Georgia Annotated, Section 48-13-112(c).

Section 4-607 Exemption Certificates

1. The governing authority of the city, or the collecting officer appointed under this Article, shall make diligent efforts to identify all energy providers and purchasers in the city and to ascertain whether such purchasers have completed a uniform exemption certificate provided by the Georgia Department of Revenue seeking to qualify such purchaser under the exemption found in the Official Code of Georgia Annotated, Section 48-8-32.2. Such certificate shall be utilized by such governing authority or collecting officer for the purpose of determining the applicability of the excise tax under this Article.
2. An energy provider shall be authorized to rely upon such uniform exemption certificates provided by the Georgia Department of Revenue. The energy provider shall not be liable for failing to collect and remit the excise tax imposed under this Article if a purchaser has failed to submit the uniform exemption certificate provided by the Georgia Department of Revenue to such energy provider.

Section 4-608 Commencement of Collections and Due Date

1. The excise tax imposed pursuant to this ordinance shall become effective on January 1, 2013.
2. The excise tax levied pursuant to this Article shall be imposed only at the time that sales and use tax on the sale and use of such energy would have been due and payable under the Official Code of Georgia Annotated, Section 48-8-30 but for the exemption in Official Code of Georgia Annotated, Section 48-8-3.2.
3. The excise tax shall be due and payable in the same manner as would otherwise be required under Article 1 of Chapter 8 of Title 48 of the Official Code of Georgia Annotated.
4. All sales and purchases taxable under this Article during the preceding calendar month shall be due and payable to the City monthly on or before the twentieth

day of every month and each respective month in which such taxes are collected, and payment shall be accompanied by a return for the preceding monthly period showing the gross sales and purchases arising from all sales and purchases taxable under this Article during the preceding calendar month.

Section 4-609 Expenditure of Proceeds

The proceeds of the excise tax levied and collected pursuant to this Article shall not be subject to any use or expenditure requirements provided for under any of the local sales and use taxes but shall be authorized to be expended in the same manner as otherwise would have been required under such local sales and use taxes or may be expended for any lawful purpose as governed by the Official Code of Georgia Annotated, Section 48-13-112(c). Any proceeds received by the city pursuant to this Article shall be deposited in the general fund of the city.

Section 4-610 Termination of Municipal Excise Tax

1. If the city has levied and collected an excise tax within the corporate limits of municipality under this Article because the county in which the city is located has refused or failed to enter into an intergovernmental agreement with each municipality wishing to participate in such excise tax as allowed by the Official Code of Georgia Annotated, Section 48-13-115(a)(1) and then the county determines to commence proceedings for the imposition of the excise tax as allowed by the Official Code of Georgia Annotated, Section 48-13-115(b)(2), then the excise tax levied and collected by the municipality shall cease to the extent as provided for by the Official Code of Georgia Annotated, Section 48-13-115(b)(2).
2. If the county has commenced proceedings for the imposition of the excise tax as allowed by the Official Code of Georgia Annotated, Section 48-13-115(b)(2) and the excise tax levied and collected by the municipality has terminated and the municipality has chosen to participate in the county excise tax, then this Article shall remain effective for the purposes of Article 6 of Chapter 13 of Title 48 of the Official Code of Georgia Annotated and particularly for the rates required by the Official Code of Georgia Annotated, Section 48-13-112.

Section 4-611 Administrative Provisions and Audit

1. The city governing authority shall be authorized to designate a collecting officer for collection and administration of the excise tax under this ordinance.
2. The collecting officer shall be authorized to provide for procedures necessary to the proper implementation of this ordinance, including, but not limited to, periodic auditing of dealers collecting and remitting the excise tax.

3. The collecting officer, or designee, may examine the books, papers, records, financial reports, equipment and other facilities of and locations within the city of any purchaser which is required to remit the excise tax to the energy dealer under this Article.
4. As part by the audit report required by the Official Code of Georgia Annotated, Section 36-81-7 the auditor shall include, in a separate schedule, a report of the revenues pertaining to the excise tax under this Article.

(Adopted December 3, 2012; Effective December 13, 2012)

CITY OF HOSCHTON
COUNTY OF JACKSON
STATE OF GEORGIA

ORDINANCE

AN ORDINANCE REPEALING CHAPTER 5, "MUNICIPAL COURT" OF THE CODE OF ORDINANCES OF THE CITY OF HOSCHTON AND ADOPTING A NEW CHAPTER 5, "MUNICIPAL COURT" INCLUDING APPOINTMENT OF JUDGE; TIME AND PLACE; LIST OF FINES, AND FOR OTHER PURPOSES.

IT IS HEREBY ORDAINED BY THE GOVERNING AUTHORITY OF THE CITY OF HOSCHTON, AN ORDINANCE TO PROTECT THE PUBLIC HEALTH, SAFETY AND GENERAL WELFARE BY ESTABLISHING RULES AND REGULATIONS RELATING TO MUNICIPAL COURT OF THE CITY OF HOSCHTON, GEORGIA, AND TO REPEAL ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT THEREWITH.

Chapter 5, "Municipal Court" is hereby repealed, and a new Chapter 5, "Municipal Court," is adopted to read as follows:

CHAPTER 5 MUNICIPAL COURT

- Section 5-101. Creation and Scope of Jurisdiction.
- Section 5-102. Appointment and Qualifications of Judge.
- Section 5-103. Reserved.
- Section 5-104. Bailiff.
- Section 5-105. Time and Place.
- Section 5-106. Record of Cases.
- Section 5-107. Limitations.
- Section 5-108. Service of Summons.
- Section 5-109. Subpoenas.
- Section 5-110. Failure to Obey Summons or Subpoenas.
- Section 5-111. Reserved.
- Section 5-112. Reserved.
- Section 5-113. Court Costs.
- Section 5-114. Malicious Prosecution.
- Section 5-115. Collection of Fines.
- Section 5-116. Reserved.
- Section 5-117. Contracting for Municipal Court Services.
- Section 5-118. Reserved.
- Section 5-119. Municipal Court List of Fines.
- Section 5-120. Technology Surcharge.
- Section 5-121. Rules for Municipal Court.
- Section 5-122. Certiorari.

Section 5-101. Creation and Scope of Jurisdiction.

- (a) There shall be a court to be known as the Municipal Court of the City of Hoschton;
- (b) The Municipal Court of this municipality shall try and punish violations of the City of Hoschton Charter, all Municipal Ordinances of the City of Hoschton and such other violations as provided by law, 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 in such fines are not paid;
- (c) The Municipal Court may compel the presence of all parties necessary to a proper disposal of each case by the issuance of summonses, subpoenas and warrants which may be served as executed by any officer as authorized by this ordinance or by law;
- (d) The presiding officer of the Municipal Court of the City of Hoschton shall be known as the Municipal Court Judge;
- (e) Each Judge of the Municipal Court shall be authorized to issue warrants for the arrest of persons charged with offenses against any ordinance of the city, and each Judge of the Municipal Court shall have the same authority as a magistrate of the state to issue warrants for offenses against state laws committed within the city;
- (f) City courts shall function according to the guidelines found in O.C.G.A. § 36-21-1 et. seq.;
- (g) The Municipal Court Judge shall have the power to impose fines, costs and forfeitures for the violation of any law or ordinance of the city, and shall have the authority to punish for contempt by imposing a fine of no more than one thousand (\$1,000) dollars or imprisonment not to exceed one hundred eighty (180) days or any combination of the two;
- (h) The Municipal Court shall have the same authority as Superior Courts to compel the production of evidence in the possession of any party; to enforce obedience to its orders, judgements and sentences; and to administer such oaths as necessary;
- (i) The Municipal Court is specifically vested with all the jurisdiction and powers throughout the geographical area of this city granted by law to municipal courts, and particularly by such laws as authorized the abatement of nuisances and prosecution of traffic violations;
- (j) All rules of the Municipal Court of the City of Hoschton are effective the date of this section, and shall remain valid and in force until otherwise repealed, amended or changed as provided herein.

Section 5-102. Appointment and Qualifications of Judge.

- (a) The Municipal Court Judge shall be appointed by the mayor and council, and shall serve in lieu of the mayor or other members of said council;
- (b) A Municipal Court Judge Pro Tem may be appointed by the mayor and council to serve in the absence of the Municipal Court Judge, and judge pro tem shall have the same qualifications as the judge;

- (c) The Municipal Court Judge shall serve a term of one (1) year, and may be reappointed annually by the mayor and council, and shall preside over the Municipal Court part-time, full-time or standby as provided by ordinance;
- (d) Any person appointed as judge shall be at least twenty-on (21) years of age, and shall be a member of the State Bar of Georgia, and shall possess all qualifications required by law;
- (e) Compensation of the judge shall be fixed by the mayor and council, and shall serve at the pleasure of the governing authority;
- (f) No person shall be qualified or eligible to serve as Municipal Court Judge if they have been convicted of a crime involving moral turpitude;
- (g) Before entering the duties of his/her office, the Municipal Court Judge and/or Municipal Court Judge Pro Tem shall take an oath before an officer duly authorized to administer oaths, that he/she will truly, honestly and faithfully discharge the duties of his/her office to the best of their ability without fear, favor or partiality. This oath shall be entered upon the minutes of the meeting of the mayor and council.

Section 5-103. Reserved.

Section 5-104. Bailiff.

The Bailiff of the Municipal Court shall be appointed by the mayor, by and with the advice and consent of city council. The duties of the bailiff shall consist generally of seeing the courtroom is in proper condition for sessions of the court; of assisting in keeping order while court is in session, and of doing such other acts of assistance as may be required by the Judge of the Municipal Court, the city clerk or a designated person of the City of Hoschton.

Section 5-105. Time and Place.

The Municipal Court shall be held at Hoschton City Hall, and be convened at regular intervals as provided by resolution, and may be changed at the direction of the council from time to time.

Section 5-106. Record of Cases.

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

Section 5-107. Limitations.

All prosecutions for violations of City Ordinances shall be commenced within the time required by law.

Section 5-108. 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, building inspector, code

enforcement officer or any officer designated by the City of Hoschton. 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 court requiring the accused to appear before the Judge of the Municipal Court to answer to the accusations made. Service of the summons shall be made by the building inspector, code enforcement officer or any officer designated by the City of Hoschton either by serving the accused personally or by leaving a copy at his/her most notorious place of abode. 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 5-109. Subpoenas.

The city clerk or designated officer of the City of Hoschton, 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 5-110. Failure to Obey Summons or Subpoenas.

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

Section 5-111. Reserved.

Section 5-112. Reserved.

Section 5-113. Court Costs.

In all cases in the Municipal Court, the costs incurred and allowable herein may be calculated under the provisions of the Laws of the State of Georgia, or the mayor and city council may establish a schedule of fees to defray the costs of operation, and the city shall be entitled to reimbursement of costs. All costs which shall be charged against a defendant in the Municipal Court in the event of his/her conviction shall be paid into the city treasury.

Section 5-114. Malicious Prosecution.

Whenever the Judge of the Municipal Court, after 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 5-115. Collection of Fines.

When directed by the Judge of the Municipal Court, the city clerk or designated officer of the City of Hoschton, shall issue executions for fines imposed by the court, including the costs, which executions may be levied upon any goods or possessions, lands or tenements of the person so fined.

Section 5-116. Reserved.

Section 5-117. Contracting for Municipal Court Services.

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

Section 5-118. Reserved.

Section 5-119. Municipal Court List of Fines.

Unless otherwise provided by ordinance or law, the mayor and council may, from time to time, establish by resolution, fines or fees to be paid upon conviction for violation of the laws, ordinances and regulations as found by a court of competent jurisdiction.

Section 5-120. Technology Surcharge.

There shall be imposed by the Municipal Court of the City of Hoschton a Technology Surcharge in the amount of twenty dollars (\$20.00) per offense for all offenses except O.C.G.A. Sections 40-8-76 and 40-8-76.1. Said Technology Surcharge to be in addition to all other fines and fees imposed by the Municipal Court of the City of Hoschton.

Section 5-121. Rules for Municipal Court.

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

Section 5-122. Certiorari.

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

**CHAPTER 6
PERSONNEL POLICY**

Section 6-101 Personnel Plan

Section 6-101 Personnel Plan

The City of Hoshton Personnel Plan is incorporated by reference as if fully set out herein.

**CHAPTER 7:
LAW ENFORCEMENT
POLICE OPERATING MANUAL**

Section 7-101 Police Operating Manual.

The City of Hoschton Police Operating Manual is incorporated by reference as if fully set out herein.

(Code 1991, § 7-101)

**CHAPTER 8
RESERVED**

**CHAPTER 9
RESERVED**

PART II. PUBLIC HEALTH AND SAFETY

CHAPTER 10 FIRE PREVENTION AND PROTECTION

Section 10-101	State Minimum Fire Safety Standards
Section 10-102	West Jackson Fire District
Section 10-103	Enforcement
Section 10-104	Power to Make Modifications
Section 10-105	Penalties

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 Hoschton. The City of Hoschton 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.

Note: This Section needs updating to refer to more recent codes applicable.

Section 10-102 West Jackson Fire District

The City of Hoschton is a part of the West Jackson Fire District.

Section 10-103 Enforcement

The Fire Prevention Code shall be enforced by the Mayor or delegatee(s), who may be assisted by as many others as are necessary to effectuate the provisions of this Chapter.

Section 10-104 Power to Make Modifications

The Mayor is authorized to modify any provisions of the Fire Prevention Code upon application in writing by the owner or lessee of any property or a duly authorized agent of the owner or lessee when there are practical difficulties in the way of carrying out the strict letter of the code, provided that the spirit of the code shall be observed and the public safety secured. Each application for modification and the Mayor's decision thereon shall be reported by the Mayor to the City Council at its next regular meeting.

Section 10-105 Penalties

Any person who shall violate any of the provisions of the Fire Prevention Code or fail to comply therewith, or shall violate or fail to comply with any order made thereunder, shall be punished for each such failure, violation, or noncompliance as for a misdemeanor unless otherwise provided in this Chapter.

**CHAPTER 11
TRAFFIC CONTROL**

ARTICLE I. TRAFFIC CONTROL

Section 11-101	Uniform Rules of the Road
Section 11-102	Speed Zone
Section 11-103	Weight Regulations in Residential Areas
Section 11-104	Bell Street
Section 11-105	Speed Limits
Section 11-106	No Parking in Designated Fire Lanes
Section 11-107	Criminal Trespass by Motor Vehicle
Section 11-108	Exceeding the Time Limit in a Marked Parking Space
Section 11-109	Railroad Avenue a One-Way Street
Section 11-110	Mill Street a One-Way Street

ARTICLE II. MOTORIZED CARTS

Section 11-201	Findings
Section 11-202	Definitions
Section 11-203	Registration/Transfer Requirements
Section 11-204	Operation Regulations
Section 11-205	Recreation Path Users – Authorized
Section 11-206	Recreation Path Users – Prohibited
Section 11-207	Hazardous Activities and Special Rules
Section 11-208	Motorized Play Vehicle
Section 11-209	Liability
Section 11-210	Penalties

ARTICLE I. TRAFFIC CONTROL

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 (\$1,000.00) or imprisonment for not more than thirty (30) 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 Hoschton 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 Zone

1. In any urban or residential district, the maximum speed limit shall be twenty-five miles per hour (25 m.p.h.) for all streets other than main thoroughfares.
2. On main thoroughfares, the maximum speed limit shall be thirty-five miles per hour (35 m.p.h.), except for those streets enumerated in this Section.
3. On all streets or highways, the maximum speed limit shall be fifty-five miles per hour (55 m.p.h.), except for those streets enumerated in this Section.

The following speed zones are established based on a completed engineering and traffic investigation.

HOSCHTON'S ON-SYSTEM STREETS & ROADS	
SR 53 from N. Hoschton City limits (M.L. 4.00)	to 150 feet north of SR 332 (M.L. 4.72), a distance of 0.72 miles to be zoned 35 MPH.
SR 53 from 158 feet east of Henry Street (East Braselton City Limits) (West Braselton City Limits) (M.L. 3.94)	to 50 feet west of SR 332 (M.L. 4.67), a distance of 0.73 miles to be zoned 35 MPH.
SR 53 from 50 feet west of State Route 332 (M.L. 4.67)	to 1055 feet east of Peachtree Street (M.L. 5.33), a distance of 0.66 miles to be zoned 45 MPH.
SR 53 from 1055 east of Peachtree Street (M.L. 5.33)	to 50 feet east of Jackson Trail Road (East City Limits) (M.L. 5.91), a distance of 0.58 miles to be zoned 55 MPH.
HOSCHTON'S ON-SYSTEM STREETS & ROADS	
SR 332 from SR 53 (M.L. 0.00)	to 500 feet east of New Street (M.L. 0.27), a distance of 0.27 miles to be zoned 35 MPH.
SR 332 from 500 feet east of New Street (M.L. 0.27)	to 1056 feet west of E. G. Barnett Road (East City Limits) (M.L. 0.83), a distance of 0.56 miles to be zoned 45 MPH.
School zone 7:30 to 8:30 a.m. and 14:00 to 15:30 p.m. school days only (Jackson Elementary)	
SR 53 from N. Hoschton City limits (M.L. 4.00)	to 940 feet south of West Jackson Road (M.L. 4.11), a distance of 0.11 miles to be zoned 25 MPH
SR 53 from 150 feet north of SR 332 (M.L. 4.72)	to 1056 feet south of Peachtree Street (M.L. 5.41), a distance of 0.69 miles to be zoned 45 MPH.

SR 53 from 1056 feet south of Peachtree Street (M.L. 5.41)	to south City limits (.43 mi. s./cr. 168) (M.L. 6.42), a distance of 1.01 miles to be zoned 55 MPH.
SR 332 from SR 53 (M.L. 0.00)	to 500 feet east of New Street (cs.506) (M.L. 0.49), a distance of 0.49 miles to be zoned 35 MPH.
SR 332 from 500 feet east of New Street (cs. 506) (M.L. 0.49)	to East Hoschton City limits (M.L. 0.83), a distance of 0.34 miles to be zoned 45 MPH.
SR 53 from 211 feet east of Henry Street (Note: The west beacon is located at MP 3.82 in the City of Braselton) (M.L. 3.95)	to 940 feet south of West Jackson Road (M.L. 4.11), a distance of 0.29 miles to be zoned 25 MPH.
HOSCHTON'S OFF-SYSTEM STREETS & ROADS	
Peachtree Road from SR 53	to south Hoschton City limits, a distance of 0.28 miles to be zoned 35 MPH.
East Jefferson Street from SR 53	to east Hoschton City limits, a distance of 0.61 miles to be zoned 25 MPH.
West Jefferson Street from west Hoschton City limits	to SR 53, a distance of 0.78 miles to be zoned 25 MPH.
SCHOOL ZONE 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	

It is unlawful to use radar on "any" state route, county road or City street not listed in this Section. This Section includes "all" construction/work zones on "any" state route posted with the statutory 40 MPH speed limit.

The City of Hoschton agrees to allow the Jackson County Sheriff's Office to enforce the zones established in this Ordinance.

Section 11-103. Weight Regulations in Residential Areas

In order to preserve the road surface adjoining residential areas, and in order to improve the traffic conditions within the Hoschton City limits, in areas so posted, no person shall operate a motor vehicle of any type or description whose aggregate weight is six tons (12,000 pounds) or more without the express written consent of the City provided that nothing in this Section shall prevent state, county, or City owned vehicles from using the roads in these posted residential areas for a specific purpose for which they are designed; and, provided further, that this Section shall not apply to any vehicle actually engaged in loading or unloading activity on that roadway where the driver is present and in charge thereof.

Above section shall apply to the following posted areas:

Peachtree Road from Covered Bridge Road to SR Hwy. 53; and West Jefferson Street between the City limits to the west and SR 53 to the east

Violation of this Section is punishable a fine of one thousand dollars (\$1,000.00) or imprisonment for not more than thirty (30) days, or both such fine and imprisonment.

(Effective 9/18/03)

Section 11-104. Bell Street

Bell Street between Georgia Highway 53 and White Street shall be a one-way street. Traffic on Bell Street shall only be allowed to go in a west/southwest direction or away from Georgia Highway 53 and toward White Street.

(Adopted 12/5/2005)

Section 11-105. Speed Limits

The maximum speed at which any motor vehicle can be operated shall be set and established by ordinance of the mayor and city council. A sign shall be clearly posted in each direction of the street stating the speed limit. Streets having no posted speed limit sign will be set at thirty-five (35) miles per hour maximum. It shall be unlawful and violation for any person to operate a motor vehicle in excess of such established or posted speed limits. This shall not apply to marked and permitted emergency vehicle in the performance of their official duties and on emergency calls.

(Adopted 2/5/2007, Effective 2/15/2007)

Section 11-106. No Parking in Designated Fire Lanes

There will be no parking in any designated fire lane in the City of Hoschton except to load or unload not to exceed a period of three minutes. Fire lanes will be designated by curbing painted "Traffic Yellow" or "Traffic Red" or by the placement of fire lane signs.

Enforcement. Citation for parking in a fire lane can be issued by a member of the Hoschton Police Department. A fine not to exceed \$50.00 may be imposed by the city court judge of the City of Hoschton.

(Adopted 2/5/2007, Effective 2/15/2007)

Section 11-107. Criminal Trespass by Motor Vehicle

Adoption by reference. Pursuant to the O.C.G.A. 40-6-252, the same is hereby adopted as and for traffic regulations of this municipality, with the like effect as if recited in full herein.

(Adopted 2/5/2007, Effective 2/15/2007)

Penalties. Unless another penalty is expressly provided by law, any person convicted of a violation of any provision of this section shall be punished by a fine not to exceed \$50.00 for the first conviction, a fine not to exceed \$100.00 for the second such violation and fine not to exceed \$150.00 for the third or subsequent violation.

Section 11-108. Exceeding the Time Limit in a Marked Parking Space

It shall be illegal for a motor vehicle to be parked in a parking space past the designated time limit. The city police may use any method deemed necessary to time these vehicles not in compliance and issue citations to the operators of these vehicles.

Penalties. The fine for illegally parking past the designated time limit shall be \$25.00 payable to the city court of Hoschton. Repeated violations may be punishable by a fine up to \$100.00 to be imposed by the municipal court judge of Hoschton.

Repeal. All ordinances, code sections or part of ordinances or code sections inconsistent with provisions of this section are hereby repealed.

(Adopted 2/5/2007, Effective 2/15/2007)

Section 11-109. Railroad Avenue a One-Way Street

Railroad Avenue between Georgia Highway 53 and East Broad Street shall be a one-way street. Traffic on Railroad Avenue shall only be allowed to go in a north and northwest direction or away from East Broad and toward Georgia Highway 53.

(Adopted 5/5/2008; Effective 5/15/2008)

Section 11-110. Mill Street a One-Way Street

Mill Street between Broad Street and Cabin Drive shall be a one-way street. Traffic on Mill Street shall only be allowed to go in a south/southeast direction or away from Broad Street and toward Cabin Drive.

(Adopted 6/2/2008; Effective 6/12/2008)

ARTICLE II. MOTORIZED CARTS *(Adopted 9/8/2008; Effective 9/18/2008)*

Section 11-201. Findings

The City Council finds that all streets and paved recreational paths located within the territorial boundaries of the city and under its jurisdiction are designed and constructed so as to safely permit their use by operators of motorized carts, electric bicycles, and low speed motor vehicle ("LSV"), except as stated elsewhere in this article.

Section 11-202. Definitions

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section:

1. *All-terrain vehicle* means any motorized vehicle designed for off-road use which is equipped with three or more low pressure tires and with a seat to be straddled by the operator and with handlebars for steering control.
2. *Bicycle* means every device propelled by human power upon which any person may ride, having only two wheels which are in tandem and either of which is more than 13 inches in diameter.
3. *Dealer* means a person engaged in the business of buying, selling, or exchanging vehicles who has an established place of business in this state.
4. *Electric bicycle* means a device with two or three wheels which has a saddle and fully operative pedals for human propulsion and also has an electric motor. For such a device to be considered an electric assisted bicycle, it shall meet the requirements of the Federal Motor Vehicle Safety Standards, as set forth in 49 C.F.R. Section 571, et seq., and shall operate in such a manner that the electric motor disengages or ceases to function when the brakes are applied. The electric motor in an electric assisted bicycle shall:
 - A. Have a power output of not more than 1,000 watts;
 - B. Be incapable of propelling the device at a speed of more than 20 miles per hour on level ground; and
 - C. Be incapable of further increasing the speed of the device when human power alone is used to propel the device at or more than 20 miles per hour.
5. *Electric personal assistive mobility device or EPAMD* means a self-balancing, two non-tandem wheeled device designed to transport only one person and having an electric propulsion system with average power of 750 watts (one horsepower) and a maximum speed of less than 20 miles per hour on a paved level surface when powered solely by such propulsion system and ridden by an operator who weighs 170 pounds.
6. *Gross weight* means the weight of a vehicle without load plus the weight of any load thereon.
7. *Low-speed vehicle or LSV* means any four-wheeled electric vehicle whose top speed attainable in one mile is greater than 20 miles per hour but not greater than 25 miles per hour on a paved level surface and which is manufactured in

compliance with those federal motor vehicle safety standards for low-speed vehicles set forth in 49 C.F.R. Section 571.500 and in effect on January 1, 2001.

8. *Moped* means a motor driven cycle equipped with two or three wheels, with or without foot pedals to permit muscular propulsion, and an independent power source providing a maximum of two brake horsepower. If a combustion engine is used, the maximum piston or rotor displacement shall be 3.05 cubic inches (50 cubic centimeters) regardless of the number of chambers in such power source. The power source shall be capable of propelling the vehicle, unassisted, at a speed not to exceed 30 miles per hour (48.28 kilometers per hour) on level road surface and shall be equipped with a power drive system that functions directly or automatically only, not requiring clutching or shifting by the operator after the drive system is engaged.
9. *Motorcycle* means every motor vehicle having a seat or saddle for the use of the rider and designed to travel on not more than three wheels in contact with the ground, but excluding a tractor, all-terrain vehicle, dirt bike, and moped.
10. *Motor driven cycle* means every motorcycle, including every motor scooter, with a motor which produces not to exceed five brake horsepower, every bicycle with a motor attached, and every moped.
11. *Motorized cart* means every motor vehicle having no less than three wheels and an unladen weight of 1,300 pounds or less and which cannot operate at more than 20 miles per hour.
12. *Motorized play vehicle* means a coaster, scooter, pocket bike, any other alternatively fueled device, or other motorized vehicle that is self-propelled by a motor engine, gas or electric, and is not otherwise defined in this code as a "motorized cart", "low speed motor vehicle (LSV)" "motor vehicle", "motorcycle", "electric bicycle", motorized skateboard", "electric personal assistive mobility device" or "motorized wheelchair".
13. *Motorized skateboard or motorized scooter* means a self-propelled device that has a motor, gas or electric, a deck upon which a person may ride, not equipped with a seat, and at least two tandem wheels in contact with the ground and which is not otherwise defined in this Code as a "motor vehicle," "motorcycle," "motorized play vehicle," "electric personal assistive mobility device" or "motorized wheelchair."
14. *Motorized wheelchair* means a self-propelled wheelchair that is used by a physically disabled person for mobility.
15. *Pocket motorcycle or pocket bike* means a two-wheeled vehicle other than a motor vehicle, bicycle with helper motor or a motorized scooter and which is propelled by an internal combustion engine, electric motor or other mechanical

means, is capable of carrying a rider and/or passenger at a speed in excess of 20 miles per hour, and is designed to replicate the general appearance of a motorcycle, regardless of the scale of the replication.

(Adopted 9/8/2008; Effective 9/18/2008)

Section 11-203. Registration/Transfer Requirements

1. Motorized carts. It shall be the duty of every owner of an electric or gasoline-powered motorized cart that is operated over the recreation paths and streets and those areas accessible by the public to register the cart with the city within ten business days of the date of purchase. Two numerical decals shall be issued upon registration; and a record of each motorized cart number, along with the name and address of the owner, shall be maintained by the city clerk's office. The decals must be affixed to the sides of the cart in such a manner as to be fully visible at all times. The failure to have a current registration decal on a motorized cart shall be a violation of this section and subject the owner of such cart to the penalties set forth in this article.
 - A. Resident fee. The registration fee for motorized carts owned by city residents shall be \$25.00, and the registration shall be effective until the next regular registration period. Registration periods shall occur every five years, beginning in 2008.
 - B. Non-resident fee. In addition to the initial \$25.00 fee for the registration and decal, an annual registration/user fee of \$ [REDACTED] shall be charged to nonresidents of the city. The nonresident fee is due by January 31 each year until such time as the cart is sold or otherwise disposed of. This nonresident registration/user fee shall be prorated for carts purchased after January 31 of the first calendar year of ownership, unless the nonresident had previously paid the registration/user fee the same calendar year, in which case the \$25.00 registration fee would be required to register and obtain decals for the new cart.
 - C. Registration deadline. If the cart is not registered within 30 days of purchase, a \$20.00 penalty will be applied in addition to the registration fee; and the cart shall be considered an unregistered cart after the 30-day period.
 - D. Transfers. Upon occurrence of a sale of the cart to another person who shall operate the cart over the recreation paths and streets of the city, the registration must be transferred to the new owner within 30 days of the change in ownership at a cost of \$5.00, and if the new owner is not a city resident, the nonresident registration/user fee for the balance of the year shall be due from the new owner. If the registration is not transferred within 30 days, a \$20.00 penalty will be applied in addition to the \$5.00 transfer charge; and the cart shall be considered an unregistered cart after the 30th day period.

Dealers acquiring a registered cart exclusively for resale (non-rental) shall not be required to pay the transfer charge, but shall notify the city of the transfer within 30 days of receiving the cart, and of the ultimate disposition of the cart within ten business days of sale.

E. Special tourism events. Council may, at its discretion, waive registration requirements for special events of a limited duration to which out-of-city residents may bring carts as participants.

2. Gasoline carts.

A. Every gasoline powered motorized cart shall at all times be equipped with an exhaust system in good working order and in constant operation, meeting the following specifications:

(1) The exhaust system shall include the piping leading from the flange of the exhaust manifold to and including the muffler and exhaust pipes or include any and all parts specified by the manufacturer.

(2) The exhaust system and its elements shall be securely fastened, including the consideration of missing or broken brackets or hangers.

(3) The engine and powered mechanism of every cart shall be so equipped, adjusted and tuned as to prevent the escape of excessive smoke or fumes.

B. It shall be unlawful for the owner of any gasoline powered motorized cart to operate or permit the operation of such cart on which any device controlling or abating atmospheric emissions, which is placed on a cart by the manufacturer, to render the device unserviceable by removal, alteration or which interferes with its operation.

3. Rental carts. Cart dealers and distributors, as well as other commercial establishments, may rent carts to the public for use on the recreation paths and streets and those areas accessible by the public of the city. Each such establishment renting carts shall be required to register each such rental cart in accordance with this article and shall maintain a written record of each person who rents each cart. Renters shall be required to furnish positive identification, shall be provided a copy of this article to read, and must be at least 16 years of age. The registration fee and transfer fees and regulations shall be the same as those specified in this section.

4. Electric personal assistive mobility device (EPAMD). EPAMDs shall be subject to the same registration requirements of this article.

5. Age, number of registrants limited. Only those persons 18 years of age or older may register a motorized cart. Cart registration may be in one person's name only, and the registration form must be signed by that person.
6. LSV. No LSV shall be operated on the paved recreational paths or streets located within the territorial boundaries of the city unless it is legally registered and insured according to laws of the state.

(Adopted 9/8/2008; Effective 9/18/2008)

Section 11-204. Operation Regulations

1. Those persons who are 16 years of age and older may drive a motorized cart on the recreation paths and/or streets and those areas accessible by the public of the city unless such person has had his or her license to operate a motor vehicle suspended or revoked by the state which issued said license in which case such person shall not be permitted to operate a motorized cart on the recreation paths and/or streets and those areas accessible by the public of the city during the time of suspension or revocation.
2. Those persons who are 15 years of age but not yet 16 years of age may drive a motorized cart on the recreation paths and/or streets and those areas accessible by the public of the city:
 - A. If he or she does not have in his or her possession a valid instructional permit issued by the state pursuant to O.C.G.A. § 40-5-11, as may be amended, and has not had his or her instructional permit suspended or revoked, then he or she shall be accompanied in the front seat by a person at least 18 years of age who holds a valid motor vehicle driver's license or he or she shall be accompanied in the front seat by a parent, grandparent or legal guardian; or
 - B. If he or she has in his or her possession a valid instructional permit issued by the state pursuant to O.C.G.A. § 40-5-11, as may be amended, and is unaccompanied by a licensed driver as provided in subsection (b)(1), or is unaccompanied by a parent, grandparent or legal guardian as provided in section (b)(1), then he or she may be accompanied in the vehicle by up to one other person who must be at least 15 years of age, or he or she may be accompanied by up to three immediate family members.
3. Those persons who are 12 years of age but not yet 15 years of age may drive a motorized cart on the recreation paths and/or streets and those areas accessible by the public of the city if they are accompanied in the front seat by a parent, grandparent or legal guardian.

4. No person under the age of 12 shall be permitted to drive a motorized cart on the recreation paths and/or streets and those areas accessible by the public of the city under any circumstances.
5. All operators shall abide by all traffic regulations applicable to vehicular traffic when using the recreation paths, streets and those areas accessible by the public in the city. Where cart paths exist, they must be used in preference to parallel city.
6. Motorized carts shall not be operated on sidewalks at any time.
7. Motorized carts may be operated over those authorized streets, recreational paths and those areas accessible by the public only during daylight hours unless such motorized carts are equipped with functional headlights and taillights.
8. No motorized cart shall be permitted to operate over, along, or across Highway 53, Highway 332, Peachtree Road or Jackson Trail Road within the boundaries of the city except where authorized crossings are provided.
9. It shall be unlawful for the owner of any motorized cart or LSV or any other person operating, employing, permitting the use of or otherwise directing the use of such motorized cart or LSV to operate or permit the operator of any motorized cart or LSV to drive over the recreational paths, streets or those areas accessible by the public in the city in violation of this article.
10. LSV. Only persons possessing a valid license issued by the state, other state of the United States of America, or international agency which permits such person to operate a motor vehicle on the highways of the state may operate a LSV on the paved recreational paths or streets located within the territorial boundaries of the city.
11. No LSV shall be permitted to operate on, over, along, or across Highway 53, Highway 332, Peachtree Rd or Jackson Trail Road within the boundaries of the city except where authorized crossings are provided. No LSV shall be permitted to operate on any street of which the posted speed limit exceeds 35 miles per hour. Except as prohibited above, LSVs shall be permitted to cross over streets of which the posted speed limit exceeds 35 miles per hour.
12. EPAMD. Only persons possessing a valid driver's license, or in lieu of a driver's license, persons who are at least 18 years of age and older, may operate an EPAMD on the paved recreational paths or streets located within the territorial boundaries of the city.
13. No EPAMD shall be permitted to operate on, over, along, or across Highway 53, Highway 332, Peachtree Rd or Jackson Trail Road within the boundaries of the city except where authorized pedestrian crossings are provided. No EPAMD shall

be permitted to operate on any street of which the posted speed limit exceeds 35 miles per hour. Except as prohibited above, EPAMD's shall be permitted to cross over streets of which the posted speed limit exceeds 35 miles per hour.

14. EPAMDs shall be equipped with the following: front, rear, and side reflectors which shall be visible from a distance of 300 feet when directly in front of lawful upper beams of headlights on a motor vehicle; a system that when employed will enable the operator to bring the device to a controlled stop; and, if the device is operated between one-half hour after sunset and one-half hour before sunrise, a lamp emitting a white light which, while the device is in motion, illuminates the area in front of the operator for a distance of 300 feet.
15. No person shall operate an EPAMD at a speed greater than seven miles per hour when traveling on any path or sidewalk or 15 miles per hour or any other city right-of-way. (This again is limited by state law, see O.C.G.A. § 40-6-322).
16. No person shall operate an EPAMD with more than a single user at any time.

(Adopted 9/8/2008; Effective 9/18/2008)

Section 11-205. Recreation Path Users – Authorized

Authorized users of asphalt recreation paths and sidewalks are as follows:

1. Pedestrians;
2. Non-motorized vehicles;
3. Roller skates, roller blades and skateboarders (daylight only);
4. Registered electric-powered golf carts;
5. Registered gasoline-powered golf carts;
6. Emergency and authorized maintenance vehicles;
7. Bicycles, traditional and electric (as defined in this article);
8. Electric and conventional wheelchairs;
9. Electric vehicles designed to carry one person at a speed not to exceed 20 miles per hour except as may be otherwise prohibited;
10. LSV provided that the vehicle is operated only in a mode or other restriction which does not allow the vehicle to exceed 20 miles per hour; and

11. Registered EPAMDs.

(Adopted 9/8/2008; Effective 9/18/2008)

Section 11-206. Recreation Path Users – Prohibited

Prohibited uses of recreation paths are as follows:

1. Automobiles and trucks (except authorized maintenance vehicles);
2. Motorcycles;
3. Street and trail motorized bikes or vehicles (not to include electric bicycles);
4. Minibikes and mopeds;
5. Horses;
6. Go-carts;
7. Un-registered electric-powered golf carts or motorized carts;
8. Un-registered gasoline-powered golf carts or motorized carts;
9. Motorized skateboards or motorized scooters;
10. Motorized play vehicles;
11. Un-registered LSVs;
12. Except as otherwise specifically permitted, any vehicle designed by the manufacturer to be able to travel at speeds in excess of 20 miles per hour under its own power on a flat surface; and
13. Un-registered EPAMDs.

(Adopted 9/8/2008; Effective 9/18/2008)

Section 11-207. Hazardous Activities and Special Rules

1. Paths are for transportation and public recreation by the various groups of permitted users. No individual or group shall engage in hazardous activities on the paths and streets and those areas accessible by the public. Such hazardous activities, and the special rules pertaining to them, include but are not limited to the following:

- A. Racing of any form, except for special events approved by the city; and
 - B. Blocking of public access, except for special events approved by the city.
2. None of the prohibited users in shall use the path system or the bridges and/or their underpasses for any purpose whatsoever.
 3. Pedestrians, skaters and permitted vehicles shall not loiter or park on recreation path bridges or in underpasses.
 4. Normal rules of the road shall apply to the recreation paths. For instance, when approaching oncoming path users, each user shall move to his right side of the path. Passing shall be on the left side of the path.
 5. Pedestrians should be given due consideration and reasonable right-of-way by other users of the recreation paths to ensure them safe passage.
 6. A warning or announcement shall be given by operators of golf carts and other users of the recreation paths, such as bicyclists and skaters, when approaching pedestrians from the rear. This warning or announcement may be verbal, but it is recommended that bicyclists and golf cart operators equip their vehicles with a warning device such as a horn or bell. Each user of the recreation paths shall be considerate of the safety and welfare of other users, and dangerous conduct will not be tolerated.
 7. All laws and ordinances relative to alcohol and its use, including open container laws, which apply to traffic on the streets of the city also apply to the recreation paths.
 8. All litter shall be deposited in the receptacles provided along the recreation paths or retained by the path user for proper disposal later. Littering on the recreation paths shall be subject to twice the fines and penalties as littering on the streets.
 9. All users of electric bicycles shall wear a properly fitted and fastened bicycle helmet which meets the standards of the American National Standards Institute or the Snell Memorial Foundation's Standards for Protective Headgear for Use in Bicycling or a motorcycle helmet while operating an electric bicycle on the recreational paths.
 10. No one under the age of 15 shall operate an electric bicycle on the recreational paths.
 11. Seat belts on LSVs shall be worn by all occupants at all times the vehicle is moving.

12. All operators and passengers must remain seated at all times during the operation of the golf cart. No person may sit on the operator's lap during the operation of the golf cart.

(Adopted 9/8/2008; Effective 9/18/2008)

Section 11-208. Motorized Play Vehicle

1. No motorized play vehicle may be operated on any public street, public roadway, public sidewalk, public park, public or private parking lot, public trail, public shared multi-use path, public bicycle path, and all other public property.
2. Motorized play vehicles are permitted on private residential property with the permission of the property owner. In the case of residential property commonly owned by a homeowner association, the homeowner association may regulate such usage.
3. No motorized play vehicle may be operated on any private commercial/industrial property unless the location where the vehicles are to be operated is inaccessible to normal pedestrian or vehicular traffic (such as an enclosed warehouse or fenced parking lot with a locked gate). Motorized play vehicles may be operated on private commercial/industrial property meeting these restrictions with the written permission of the owner, the person entitled to immediate possession of the property, or the authorized agent of either.
4. No person shall operate a motorized play vehicle on any private property in a manner causing excessive, unnecessary, or offensive noise which disturbs the peace and quiet of any neighborhood or which causes discomfort or annoyance to a reasonable person of normal sensitivity.
5. The parent, guardian, or legal custodian of any minor shall not authorize or knowingly permit such minor to violate any of the provisions of this section.
6. It is unlawful for any vendor or merchant to sell motorized play vehicles without making disclosures required by this section. Any merchant or vendor who sells motorized play vehicles within the city shall:
 - A. Post in a prominent place at each location where motorized play vehicles are on display, a notice, on a sign not less than 96 square inches and visible to the public, stating that operation of motorized play vehicles:
 - (1) Are prohibited on any public street, public roadway, public sidewalk, public park, public parking lot, public trail, public shared multi-use path, public highway or any part of a highway, public bicycle path and all other public property in the city.

- (2) Are allowed to be used on private residential property with owner's written permission.
 - (3) Are allowed to be used on private commercial/industrial property only in areas inaccessible to normal pedestrian or vehicular traffic and only with the written permission of the owner/agent.
- B. Provide a copy of such notice to each purchaser of a motorized play vehicle, either before or in connection with the purchase of a motorized play vehicle. If the purchaser is a minor, the minor's parent or legal guardian must sign a receipt of said notice.
 - C. Any motorized play vehicle owned by a governmental entity and which is operated in the performance of authorized duties or activities, is exempt from the provisions of this section.
7. Temporary suspension of all or part of this section may be granted by the city council for special events.

(Adopted 9/8/2008; Effective 9/18/2008)

Section 11-209. Liability

Each person using the recreation paths is liable for his own actions. Liability insurance coverage varies, and each person operating a golf cart on the recreation paths and public streets and those areas accessible by the public should verify their coverage. Those vehicles approved to travel on other roads applicable shall maintain insurance for their type of vehicle of travel.

(Adopted 9/8/2008; Effective 9/18/2008)

Section 11-210. Penalties

- 1. Any person who violates the terms of this article, except as otherwise specifically provided in this section, shall be punished as provided in Section 1-108 of this Code; except that any fine for a littering offense shall be doubled.
- 2. Any penalties established in this Section shall be charged against the registered owner of the motorized cart, and all fines and penalties shall be levied against the registered owner of the motorized cart as follows:
 - A. For the first offense, a fine of not less than \$250.00.
 - B. For the second offense, a fine of not less than \$500.00.

- C. For a third offense committed within one year of conviction for a second offense for a motorized cart, a fine of \$1,000.00, and the registered owner's motorized cart registration shall be revoked. The registered owner or family member cannot thereafter register a motorized cart for use in the city for a period of two years following the third conviction.

- 3. Any violation by an operator of a LSV shall be charged against the operator according to the provisions of Title 40 of the Official Code of Georgia and this Code. Any violation by an owner of a LSV shall be charged against the owner according to the provisions of Title 40 of the Official Code of Georgia and this Code.

(Adopted 9/8/2008; Effective 9/18/2008)

**CHAPTER 12
SOLID WASTE MANAGEMENT**

ARTICLE I. IN GENERAL

Section 12-101	Purpose
Section 12-102	Enforcement
Section 12-103	Preparation and Storage
Section 12-104	Hazardous Waste
Section 12-105	Collectors
Section 12-106	Fees
Section 12-107	Billing
Section 12-108	Notice of Noncompliance
Section 12-109	Penalties
Section 12-110	Northeast Georgia Solid Waste Management Plan

ARTICLE II. YARD TRIMMINGS DISPOSAL REGULATIONS

Section 12-201	Definitions
Section 12-202	Placement and Disposal of Yard Trimmings; Prohibitions
Section 12-203	Sorting, Storing Composting and Collecting Yard Trimmings
Section 12-204	Penalties

ARTICLE III. DUMPSTERS

Section 12-301	Dumpsters
----------------	-----------

ARTICLE I. IN GENERAL

Section 12-101 Purpose

The purpose of the rules and regulations contained in this Chapter is to provide for the protection of the public health by prescribing the manner of storage, collection, transportation and disposal of residential and industrial waste, rubbish, garbage and refuse.

Section 12-102 Enforcement

1. The Personnel Administrator shall designate a person to be responsible for the administration and enforcement of this Chapter and shall prescribe duties for that person.
2. **Limitations of Authority.** All regulatory actions of the person so designated shall be subject to the review of the Mayor and City Council.

- 3. Appeal.** Any person aggrieved by a requirement of or a fee charged by the person so designated shall have the right to appeal, first to the person so designated, and second to the Mayor and City Council, which body after a hearing may confirm, modify or revoke such requirement or fee.

Section 12-103 Preparation and Storage

- 1. In General.** No person shall keep or store solid waste outside of any residence or building with the City except in provided containers for collection or otherwise prepared as set forth herein or with the express prior approval of the person designated to enforce this Chapter. Any unauthorized accumulation of solid waste is hereby declared to be nuisance and is prohibited. The person designated to enforce this Chapter by written notice shall notify the owner or occupant of any premise with such solid waste accumulation to remove same. Failure to do so within two (2) weeks of the date of such written notice shall be deemed a violation of this Chapter subject to penalties hereinafter set forth. A separate violation shall be deemed committed each day during or upon which such unlawful accumulation continues.
- 2. Containers.** Each residence and commercial establishment shall dispose of all solid waste for collection in containers provided.
- 3. Placement.** On days designated as collection days for respective routes solid waste shall be placed for collection at a visible place in front of a residence or establishment, or if the property abuts an alley at the rear of the property, but not in the gutter or in the street or alley in such manner as to interfere with pedestrian or vehicular traffic.

Section 12-104 Hazardous Waste

It shall be a violation of these regulations to place or to cause to be placed for collection any hazardous waste of any kind except upon specific prior arrangement with the person designated to enforce this Chapter.

Section 12-105 Collectors

No person or corporation other than the one contracted with for the purpose of collection by the City of Hoschton shall collect, transport, or dispose of solid waste for pay in the City.

Section 12-106 Fees

Fees for solid waste collection shall be determined from time to time by the Mayor and City Council.

Section 12-107 Billing

- 1. Against Whom Levied.** Service charges in accordance with the schedule in Section 12-107-2 are levied against both the owner and the occupant of premises, jointly and severally, but collecting from the one shall relieve the other.
- 2. Charges for Solid Waste Collection and Disposal.** Charges set out above shall be billed and collected monthly in advance by the tenth (10th) day of each month and shall be payable by the owner or occupant at City Hall. When such payment has not been made by the tenth (10th) day of the month, a ten percent (10%) penalty shall be added and collected. When such payment has not been made by the tenth (10th) day of any month, service shall be discontinued until all arrears, including penalty, have been paid in advance.

Section 12-108 Notice of Noncompliance

Customers shall abide by rules and regulations in regard to recycling as approved by Mayor and City Council. If customer fails to comply with rules and regulations as approved by Mayor and City Council, customer will be notified of noncompliance. If customer fails to comply a second time, customer will be notified of a deadline to comply. If customer fails to comply a third time, a fine, not to exceed one thousand dollars (\$1,000.00), as determined by the Municipal Court Judge shall be levied.

Section 12-109 Penalties

Any person convicted of violating any of the provisions of this Chapter shall be punished by a fine not exceeding one thousand dollars (\$1,000.00) and on failure to pay the fine, imprisonment not to exceed thirty (30) days at the discretion of the Judge of the Municipal Court.

Section 12-110 Northeast Georgia Solid Waste Management Plan

The Solid Waste Management Plan for Northeast Georgia is incorporated by reference as if fully set out herein.

ARTICLE II. YARD TRIMMINGS DISPOSAL REGULATIONS

Section 12-201 Definitions

- 1. Commercial Solid Waste.** All types of solid waste generated by stores, offices, restaurants, warehouses and other non-manufacturing activities, excluding residential waste.
- 2. Composting.** The controlled biological decomposition of organic matter into a stable, odor-free humus.

3. **Municipal Solid Waste.** Any solid waste derived from households, including garbage, trash and sanitary waste in septic tanks and includes solid waste from single-family and multi-family residences, hotels, motels, bunkhouses, campgrounds, picnic grounds, and day use recreation areas. The term includes yard trimmings and commercial solid waste but does not include solid waste from mining, agricultural or silvicultural operations, or industrial processes or operations.
4. **Municipal Solid Waste Disposal Facility.** Any facility or location where the final deposition of any amount of municipal solid waste occurs, whether or not mixed with/or including commercial or industrial solid waste, including, but not limited to, municipal solid waste.
5. **Municipal Solid Waste Landfill.** A disposal facility where any amount of municipal solid waste, whether or not mixed with or including commercial waste, industrial waste, non-hazardous sludge or small quantity generator hazardous waste, is disposed of by means of placing an approved cover thereon.
6. **Yard Trimmings.** Leaves, brush, grass clippings, shrub and tree pruning, discarded Christmas trees, nursery and greenhouse vegetative residuals, and vegetative matter resulting from landscaping development and maintenance, other than mining, agricultural and silvicultural operations.

Section 12-202 Placement and Disposal of Yard Trimmings; Prohibitions

1. It shall be unlawful to place or mix yard trimmings with municipal solid waste within the City of Hoschton.
2. Yard Trimmings shall not be disposed at any municipal solid waste disposal facility having a liner and leachate collection system or requiring vertical expansion located within the City of Hoschton.
3. Yard trimmings shall be picked up on a call in basis only and disposed of in a manner that complies with the State Solid Waste Management Act and the Northeast Georgia Solid Waste Management Plan. The fees for collection of yard trimmings shall be determined from time to time by the Mayor and City Council. Such fees shall be billed and collected as provided in Section 12-107

(Adopted 8/7/2006; Effective 8/17/2006)

Section 12-203 Sorting, Storing Composting and Collecting Yard Trimmings

Yard trimmings shall be sorted and stored in the following manner:

1. Naturalized, low-maintenance landscaping requiring little or no cutting;

2. Grass cycling by mowing it high and letting it lie;
3. Stacking branches into brush piles for use as wildlife habitats and for gradual decomposition into the soil;
4. Composting on the site where the material was grown, followed by incorporation of the finished compost into the soil at that site;
5. Chipping woody material on the site where such material was generated;
6. Collecting yard trimmings, no longer than four feet (4') in length and four inches (4") in diameter, and transporting them to another site to be chipped or composed for later use; and
7. Chipping woody material for later use as landscaping mulch.

Section 12-204 Penalties

Any person violating this Chapter shall be punished by a fine not to exceed one thousand dollars (\$1,000.00), by imprisonment for a term not to exceed ninety (90) days or a combination of such fine and imprisonment.

ARTICLE III. DUMPSTERS

Section 12-301 Dumpsters

All dumpsters shall be screened from view from any public street rights-of-way or adjacent residentially zoned land. Screening shall be accomplished by a closed fence or wall, or combination of both, which is at least six feet (6') high and is of the same or compatible, in terms of texture and quality, material and color of the principal building. Screening plans shall be approved by Building Inspector prior to construction. All businesses with dumpsters shall have ninety (90) days from enactment of this Ordinance to comply with requirements.

(Effective 12/16/99)

CHAPTER 13
AIR QUALITY CONTROL

Section 13-101	Emissions of Gases, Vapors, and Odors
Section 13-102	Open Burning
Section 13-103	Enforcement
Section 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. dyestuff manufacture;
 - M. fat rendering;

- N. fertilizer manufacture and bone grinding;
- O. glue or gelatin 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 contaminant 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:

- (1) 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 permitted 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 feet (500') 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
Section 14-102	Noises Prohibited
Section 14-103	Exemptions
Section 14-104	Penalties
Section 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 twenty-five dollars (\$25.00) or imprisonment for a period not exceeding thirty (30) 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.

**CITY OF HOSCHTON
COUNTY OF JACKSON
STATE OF GEORGIA**

“EXHIBIT A”

**AN ORDINANCE AMENDING THE CODE OF ORDINANCES OF THE CITY OF HOSCHTON,
GEORGIA, TO ADOPT A NEW CHAPTER 15, ROAD NAMING AND ADDRESSING, AND TO
REPEAL CONFLICTING ORDINANCES**

THE GOVERNING AUTHORITY OF THE CITY OF HOSCHTON HEREBY ORDAINS AS
FOLLOWS:

The Code of Ordinances of the City of Hoschton, Georgia, is hereby amended to adopt a new
Chapter 15, “Road Naming and Addressing,” to read as follows:

**CHAPTER 15
ROAD NAMING AND ADDRESSING**

ARTICLE I. GENERAL PROVISIONS

- Section 15-101. Title.
- Section 15-102. Purpose.
- Section 15-103. Authority.
- Section 15-104. Delegation.
- Section 15-105. Applicability.
- Section 15-106. Definitions.
- Section 15-107. Abbreviations.
- Section 15-108. Reserved.
- Section 15-109. Reserved.
- Section 15-110. Reserved.

ARTICLE II. ROAD NAMING

- Section 15-201. Consideration of New or Proposed Road Names.
- Section 15-202. Selection Standards.
- Section 15-203. Prefixes and Suffixes.
- Section 15-204. Road Types.
- Section 15-205. Reserving Road Names.
- Section 15-206. Approvals.
- Section 15-207. Change to Approved Road Names.
- Section 15-208. Road Naming or Road Name Change by Petition.
- Section 15-209. Honorary Designations.
- Section 15-210. Renaming Existing Roads for Emergency Purposes.
- Section 15-211. Temporary Road Names.
- Section 15-212. Road Name Signage.
- Section 15-213. Official Road Name Database/Road Book.
- Section 15-214. Reserved.
- Section 15-215. Reserved.
- Section 15-216. Reserved.

ARTICLE III. ADDRESSING

- Section 15-301. Addressing Applicability.
- Section 15-302. Property Legal Descriptions.
- Section 15-303. Ordering of Addressing Components.
- Section 15-304. Assignment and Standards.
- Section 15-305. Numbering System.
- Section 15-306. Specifications and Placement of Address Numbers.
- Section 15-307. Responsibility for Placement of Address Numbers.
- Section 15-308. Change of Addresses.
- Section 15-309. Reserved.
- Section 15-310. Reserved.

ARTICLE IV. ADMINISTRATION, ENFORCEMENT AND LEGAL STATUS PROVISIONS

- Section 15-341. Compliance.
- Section 15-402. Development Plan Requirements.
- Section 15-403. Business Occupation Taxes.
- Section 15-404. Building Permits.
- Section 15-405. Certificate of Occupancy.
- Section 15-406. Enforcement Responsibilities.
- Section 15-407. Penalties for Violation.
- Section 15-408. Appeals.
- Section 15-409. Repeal of Conflicting Ordinances.
- Section 15-410. Severability.
- Section 15-411. Liability
- Section 15-412. Reserved.
- Section 15-413. Reserved.
- Section 15-414. Reserved.
- Section 15-415. Reserved.

ARTICLE I. GENERAL PROVISIONS

Section 15-101. Title.

This Ordinance shall be known as the Road Name and Addressing Ordinance of the City of Hoschton, Georgia.

Section 15-102. Purpose.

These regulations are established to provide a system of unique road names and addresses which are essential for successfully: improving the response time of fire, police, ambulance vehicles and other emergency services; expediting postal and general delivery services; and enhancing the ability to locate a business and/or residences based on their address. This ordinance is adopted to promote the public health, safety, morals, convenience, order, prosperity and general welfare of the present and future inhabitants of Jackson County, Georgia.

Section 15-103. Authority.

This Ordinance is enacted pursuant to the authority conferred by Section 46-5-122 of the Official Code of Georgia Annotated, as amended.

Section 15-104. Delegation.

- (a) The Jackson County Geographic Information Systems (GIS) Department and the Jackson County Public Development Department are hereby assigned responsibility for the naming of public/private roads and addressing as directed by provisions of this ordinance. Final authority for approval of road names will lie with the City of Hoschton.
- (b) The Jackson County GIS Department will be tasked with the maintenance of addressing data, coordinating with the Public Development Department, designating road or street numbers, the approval of road or street names and the assignment of road or street names.
- (c) The Jackson County Public Development Department will be tasked with coordinating initial applications, code enforcement (shared authority with the city), coordinating with the GIS Department and assisting public inquiries.

Section 15-105. Applicability.

The provisions set forth herein shall apply to those roads, both public and private (including manufactured/mobile home parks, condominium developments, apartment complexes, malls, shopping plazas, strip buildings, businesses, business or office parks) and addresses which are currently or will be located within the City of Hoschton in Jackson County, Georgia.

Section 15-106. Definitions.

For the purpose of this ordinance, the following terms are defined. Unless specifically defined, words or phrases used in this ordinance shall be interpreted to have the meaning in common usage and to give this ordinance the most reasonable application.

Apartment: Unit within a building consisting of two (2) units or more for rent.

Commission: The Jackson County Board of Commissioners (BOC).

Building: A structure having a roof supported by columns or walls for the shelter, support or enclosure of persons, animals, or equipment and requiring a separate power meter to be installed for the building to have electrical service. This will also include mobile homes or manufactured homes. For the purposes of this Ordinance, the term “building” may also include other manmade structures meeting the same requirement as in the first sentence.

Condominium: Ownership of a single unit within a structure that may include common areas and facilities.

Driveway: A private road, easement, or private right-of-way, giving access from a public road, private road or private right-of-way leading to a building. A driveway does not serve more than two (2) lots/buildings that have or require separate power meters to be installed for electrical service. If a driveway is said to serve more than two (2) lots/buildings, it then shall be assigned and designated with a private road name with all properties addressed along such named private road.

Frontage unit: A frontage unit is a standard interval in feet used to assign consecutive property numbers on a street or road.

GIS: Geographic Information Systems.

GIS addressing coordinator: An employee or other designated official or person charged with the responsibility of assigning addresses and approving road names as defined in this ordinance. This person shall be designated by the Jackson County GIS Manager, and will be an employee of Jackson County GIS Department.

GIS manager: An employee or other designated official or person charged with the responsibility of managing the Jackson County GIS Department.

Honorary road name: A secondary road name designated to an individual person or organization.

House number: The number assigned by the GIS Addressing Coordinator to any building for the purpose of identification of the location.

Mailing address: The address assigned by the GIS Addressing Coordinator and used by the United States Postal Service (USPS) for the purpose of delivery of the United States mail. The property address and mailing address shall be the same for all buildings unless the property owners utilize a post office box for delivery of their mail.

Mobile home: A moveable or transportable dwelling.

Mobile home park: Any site or parcel of land under single ownership where land or units are rented, and community utility(ies) provide for the occupancy of mobile homes.

Official road name: The name as designated in the complete list of all roads in Jackson County and on file with the Jackson County GIS Department.

Private road: Any road which is not maintained by GDOT and/or Jackson County or its municipalities through the use of public funds, or is not a driveway as defined by this ordinance.

Public road: Any road which is maintained by Jackson County, a Jackson County municipality and/or by Georgia Department of Transportation.

Road: A public or private one-way or two-way road for ingress and/or egress. Such roads may be of various types including frontage roads, rear access roads, roads with cul-de-sacs and dead-end roads. This definition includes secondary roads, but does not include driveways. For purposes of this ordinance, road and street shall have the same meaning.

Road sign: A metal blade and necessary hardware used to convey a road name, block range and, where applicable, the state road number.

Unit designator: The portion of the mailing address used to distinguish individual units within the same structure.

Section 15-107. Abbreviations.

For the purpose of this ordinance, the following abbreviations are defined.

E 9-1-1: Emergency 9-1-1; a system used that links emergency callers with the appropriate public services.

ESRI: Environmental Systems Research Institute; a global company that provides the means for organizing and analyzing geographical information to help land planners and resource managers make well-informed environmental decisions.

FGDC: Federal Geographic Data Committee; a U. S. committee that coordinates the development of the National Spatial Data Infrastructure.

FHWA: Federal Highway Administration; agency in the U. S. Department of Transportation that supports states and local governments in the design, construction and maintenance of the nation's highway system.

GDOT: Georgia Department of Transportation.

GISOP: The Jackson County GIS Department Operating Procedures Technical Guide; the document used as a guideline by the GIS Addressing Coordinator and GIS Department that will have the authority to authorize and approve alternate methods of displaying road naming and addressing which meet the intent of this ordinance. This document may be changed periodically at the discretion of GIS Department.

MRAD: Master Road and Address Database

MUTCD: Manual on Uniform Traffic Control Devices; standard for signs, signals and pavement markings in the United States. MUTCD is published by the FHWA.

NENA: National Emergency Numbering Association; professional organization that promotes the implementation and awareness of 9-1-1 and the international three-digit emergency communication systems.

USPS: United States Postal Service.

Section 15-108. Reserved.

Section 15-109. Reserved.

Section 15-110. Reserved

ARTICLE II. ROAD NAMING

Section 15-201. Consideration of New or Proposed Road Names.

The naming of roads, particularly in new subdivisions, shall be reviewed and approved by the Jackson County GIS Department and the Jackson County Public Development Department per the selection standards provided in this article. Persons submitting road names that are rejected shall be notified so that changes may be made prior to the plan review process.

Section 15-202. Selection Standards.

In addition to those outlined in the GISOP, the following standards will be used in consideration of new or proposed road names. All current roads that would otherwise not meet these standards will be granted exceptions and maintain those names until changes, if considered, can be made to conform to this ordinance.

- (a) Names of new roads or proposed changes must not duplicate, in wording, sound or pronunciation, an existing road within Jackson County regardless of distance between occurrences or in address ranges/block numbers. For communities that cross county boundaries the road names should not duplicate any other road name within the incorporated boundaries of that municipality or the same zip code community name even if it crosses into another adjoining county.
- (b) Road names may not contain abbreviations of words, names or initials.
- (c) Numerical references are prohibited such as Fifth, Ten.
- (d) Names of individuals will only be permitted for honorary purposes unless the individual holds a state, national or local significance.
- (e) Single alphabetical characters are prohibited.
- (f) Road names must be easy to pronounce and easily recognizable in emergency situations.
- (g) Special characters will not be permitted; periods, dashes, apostrophes, hyphens, etc.
- (h) Names that may be offensive (slang, words with double-meanings) will not be allowed.
- (i) Road names will be continuous throughout their entire length, when feasible.
- (j) Names which have homonyms (i.e., other words pronounced similarly but spelled differently) should not be used on any street and certainly not on multiple streets even if the street type is different (e.g., Steven Lane/Stephen Lane; Disk Drive/Disc Lane).

Section 15-203. Prefixes and Suffixes.

Directional prefixes and suffixes will be used only when necessary. If used, cardinal (north, south, east and west) directions will only be used as prefixes, and ordinal (northwest, northeast, southwest and southeast) directions will only be used as suffixes in accordance to established baselines as outlined in the GISOP. The use of both a prefix and suffix for addresses and road names will not be permitted.

Section 15-204. Road Types.

- (a) Each approved road name will be required to have a road type. There shall only be one (1) road type per road name. Road types permitted for use in Jackson County will be in compliance with the standards of the USPS Publication 28.
- (b) Both the Jackson County GIS Department and the Jackson County Public Development Department have the authority to determine which road type(s) shall be suitable for the new or proposed name, as outlined in the GISOP.
- (c) If the requested type is deemed inappropriate by the Jackson County Public Development Department, a new one must be chosen.

Section 15-205. Reserving Road Names.

- (a) A request for road name reservation can be presented to the Jackson County Public Development Department for any new planned development. These road names will be reviewed and reserved in the road name inventory, if approved.
- (b) Road names may only be reserved for two (2) years. Upon reaching the two (2) -year mark from date of reservation, the names will no longer be reserved should a written extension request not be made. A new request for an additional one (1) year extension of the road name(s) reservation must be submitted to the Jackson County Public Development Department.

Section 15-206. Approvals.

All proposed road names shall be reviewed and approved by the Jackson County GIS Department and the Jackson County Public Development Department during the site or development plan review period. The appropriate Jackson County GIS Layers shall be amended by the Jackson County GIS Department to reflect all newly approved road names.

Section 15-207. Change to Approved Road Names.

Roads name changes shall be authorized only by action of the City Council of Hoschton.

Section 15-208. Road Naming or Road Name Change by Petition.

Whenever a change to an approved and addressed road name is requested by a property owner or developer with access to the subject road, the following procedures shall apply:

- (a) A complete application shall be made with the Jackson County Department of Public Development which shall be accompanied by a petition signed by sixty-six percent (two-

thirds; 66%) or more of the property owners adjoining the said road in agreement (an affected property owner is one who owns an interest in property contiguous to the street). A nonrefundable application fee of \$250.00 must be submitted to the Jackson County Public Development Department prior to processing, however, applications initiated by city or county staff will have no fees associated with them.

- (b) Within thirty (30) days of submittal, the department will determine the percentage of the affected property owners that has signed the petition. If less than sixty-six percent (66%) of the affected property owners have signed the petition, it will not be processed, and will be returned to the applicant. If sixty-six percent (66%) or more have signed, the department will review the proposed road name for compliance with the requirements of this article.
- (c) If the proposed road name meets all criteria provided in the GISOP, the proposed road name will be placed on a "reserve list" in the road book. A letter will then be sent by the Jackson County GIS department to affected county departments for review and comments. If the requested name change receives any unfavorable comments, the Jackson County GIS Department will schedule a meeting with affected departments and agencies to develop recommendations as to the beginning and ending points of said change (if necessary) or name change, or any road number changes that may be applicable.
- (d) After review and acceptance by the county departments of the request, and if sixty-six percent (66%) or more of the affected property owners have signed a petition, then the proposal will be placed on the agenda of the Hoschton City Council. If all of the affected property owners do not agree to the requested road name change, or if less than one-hundred percent (100%) have signed the petition, then an advertised public hearing before the Hoschton City Council will be scheduled and held. Note, however, that at least sixty-six percent (66%) of the affected property owners must sign the petition for it to be accepted for processing.
- (e) A notice advertising the name change shall be required to be published in a newspaper of general circulation in the city and county for at least fifteen (15) days, but not more than forty-five (45) days, before the public hearing.
- (f) If, after public hearing, the name change is approved by the Hoschton City Council, the county departments will make changes as necessary, and again notify affected property owners and public agencies in writing at least ten (10) days before the change becomes effective.
- (g) The applicant for road name change that has been approved shall be responsible for revising any final plats and paying any associated fees. The applicant shall also be responsible for the cost of new road name signs that will replace existing road name signs.

Section 15-209. Honorary Designations.

Honorary designations are discouraged but can be initiated by the Hoschton City Council.

Section 15-210. Renaming Existing Roads for Emergency Purposes.

Road names (public or private) may be changed by the Jackson County GIS Department as necessary for health, safety and welfare reasons and efficiency of the emergency response

system. Owners of adjoining properties shall be notified in writing that the change is taking place and provided a list of proposed road names from which input shall be considered. A selection will be chosen after receiving input and be presented to the Hoschton City Council for approval. For any case in which a continuous road has multiple names, the Jackson County GIS Department will determine the correct name and notify owners along such road of the name change. In the event of a conflict in either road naming or addressing, the Jackson County GIS Department will use its best judgment to resolve the conflict and have the responsibility of notifying the owner, E 9-1-1, USPS and other agencies.

Section 15-211. Temporary Road Names.

Temporary road names for events or special occasions will not be permitted.

Section 15-212. Road Name Signage.

Sign location and installation shall be in accordance with the Manual on Uniform Traffic Control Devices (MUTCD), published by the Federal Highway Administration (FHWA) under 23 Code of Federal Regulations (CFR), Part 655, Subpart F. Road signs will contain the prefix (if used), road name, road type, suffix (if used) and block numbers. Private roads will be marked as such in accordance with the Manual on Uniform Traffic Control Devices (MUTCD).

Section 15-213. Official Road Name Database/Road Book.

Road names that are assigned to roads shall be kept in a "road book" and have the road characteristics for each road centerline of the master road dataset. The Jackson County GIS Department shall make this information available via internet (for public use) and intranet (for internal use). The Jackson County GIS Department may designate other departments and/or personnel to maintain information as it is deemed practical, and shall provide means for the designated personnel to update the road book accordingly.

Section 15-214. Reserved.

Section 15-215. Reserved

Section 15-216. Reserved

ARTICLE III. ADDRESSING

Section 15-301. Addressing Applicability.

Addresses will be assigned on all roads and shall have a road sign placed on the main road or highway.

Section 15-302. Property Legal Descriptions.

The adoption and implementation of this ordinance shall not affect the legal descriptions of any property or be used to determine legal descriptions.

Section 15-303. Ordering of Addressing Components.

Components of a property address shall always be in the following order: address number, address number suffix (if used prior to ordinance), directional prefix (if any), road name, road type, directional suffix (if any), unit type designation (if applicable) and a unit number (if applicable).

Section 15-304. Assignment and Standards.

Addresses shall be determined based on the distance from the intersection of the driveway with the road and the current surrounding addresses, if compliant with this Ordinance. Additional standards used to determine addresses are as provided in the GISOP.

- (a) Multiple structures sharing driveway. If more than two (2) addressable structures access a common driveway as defined, that driveway will be assigned a private road name and all addresses will be assigned along such private road.
- (b) Corner and multiple fronting parcels. Corner or double fronting parcels shall be assigned an address based on the driveway location of the intersecting road. If that entrance is not visible from that road or is inaccessible for emergency services, then the address shall be based on the road which the structure faces.
- (c) Duplex/attached structures. Each unit of structure shall receive its own individual address as determined by the Jackson County GIS Department. This would include townhouses and condominiums.
- (d) Multiple unit structures. Separate internal units within, or associated with, residential or commercial complexes shall have an individual address and be uniquely identified by the use of a unit type. All educational, medical, residential, industrial facility and/or any other type of property with private roads that is sold shall not be allowed to change addressing or road names without written approval of the Jackson County GIS Department. If road names or addresses are changed without approval, the property owner will be subject to penalties as provided for in this chapter.
- (e) Vacant parcels. Vacant parcels less than one acre may be pre-addressed at the discretion of the Jackson County GIS Department. This pre-address shall be assigned to the center point of the parcel frontage. All other parcels will not carry an address until placement of a structure.
- (f) Miscellaneous structures. Structures requiring an address for metering or permitting purposes shall be given their own individual address, and a unit designator. These structures may include billboards/signs, power poles, utility assets and others.
- (g) Mobile/manufactured home parks. Mobile home lots shall have sequential address numbers throughout the mobile home park. Each lot will have a separate address number assigned. The address number of each lot must be clearly displayed on the mobile home which is located on that lot, and must be clearly visible from the road. If the lot is more than fifty (50) feet from the road, the address number shall be displayed at the end of the road or easement giving access to that mobile home. Addresses are not transferrable with the mobile home.

- (h) Wireless towers. Wireless towers shall be assigned one address to the tower owner. Should the tower have multiple carriers, each carrier will be assigned a suite number that will include the address of the tower owner. A sign or post which clearly indicated the address number assigned to the tower shall be located at the entry point of the road on which the tower is located.

Section 15-305. Numbering System.

The Jackson County GIS Department shall develop and maintain a uniform scaled system of numbering addresses. This addressing system shall be used in designating addresses for new and existing structures and to resolve address problems which tend to confuse the traveling public or tend to delay the response of emergency services, mail delivery and other service providers. Baselines and the point of origin shall be defined in the GISOP to include the numbering structure for Jackson County. Addressing shall conform to the GISOP, however; the Jackson County GIS Department reserves the right to amend as needed.

Section 15-306. Specifications and Placement of Address Numbers.

- (a) All structure numbers shall be constructed of a durable, weather resistant material. The color shall contrast with the color scheme of the structure, and if mounted on glass, shall contrast with the background and be clearly visible. Reflective numbers for nighttime identification are required, if not in a well-lit area.
- (b) In accordance with Section 505 of the 2012 International Fire Code and the city's property maintenance code, address numbers for both residential and commercial buildings shall not be less than four (4) inches in height. Unit designators for these facilities shall not be less than four (4) inches. In all cases, a number larger than the minimum size may be required where the minimum size does not provide adequate identification from the traveled roadway or is proportional to the building size. All numerical identifications must be easily identifiable without obstruction of view. Any dwelling or individual business located at more than fifty (50) feet from the roadway and/or not clearly visible shall be required to have numerical posting at both the entrance or driveway and located in close proximity to the front door or entrance way.

Section 15-307. Responsibility for Placement of Address Numbers.

It shall be the responsibility of each and every property owner, trustee, lessee, agent and occupant of each residence, apartment building, business or industry to post and maintain, at all times, address numbers as required under this ordinance. All addresses shall be displayed in such a way that they are unobstructed and legible from the traveled roadway.

- (a) New addresses. The owner, occupant or agent of each house, building or other structure assigned an address under the uniform numbering system shall place or cause to be placed the number on the house, building, or other structure within thirty (30) days after receiving notification from the Jackson County GIS Department and or the Jackson County Public Development Department of the proper number assignment or within thirty (30) days of occupancy, whichever is sooner.
- (b) Existing addresses. The owner, occupant or agent of any existing house, building or other structure existing as of the date of the adoption of this ordinance shall place or cause to

be placed the number on the house, building or other structure within sixty (60) days after the adoption of this ordinance.

Section 15-308. Changes of Addresses.

- (a) If an address number is changed for any reason, the Jackson County GIS Department shall be responsible for assigning the new address number. Requests for address reassignment should be made to the Jackson County Public Development Department. An application fee for reassignment shall be required prior to processing. Application fees are subject to change at the discretion of the Jackson County Public Development Department as outlined in the schedule of fees. The form shall be available online on the Jackson County website and at the Jackson County Public Development Department office. The Jackson County GIS Department has the authority to change addresses as necessary to ensure conformity throughout Jackson County and efficiency of the emergency response system.
- (b) Requests will be reviewed within five (5) business days for consideration and approval, but may be extended should further consideration be needed. When such a change is made, the Jackson County Public Development Department shall notify the building owner, the property owner, the Jackson County Road Department, all USPS, Jackson County offices and emergency services.
- (c) The owner of the building shall post the changed address numbers within thirty (30) days of receipt of such notice. The owner/resident of the building will be responsible for notifying all suppliers and others of the address change.

Section 15-309. Reserved.

Section 15-310. Reserved.

ARTICLE IV. ADMINISTRATION, ENFORCEMENT AND LEGAL STATUS PROVISIONS

Section 15-401. Compliance.

- (a) No owner of real property shall attempt to number or fail to number the property or the principal building, if not in conformity with this ordinance. Either the Jackson County Public Development Department or the City of Hoschton shall be authorized to send a written notice to any owner not in compliance with this ordinance, to the owner's address as stated in Jackson County records directing specific compliance with a provision of this ordinance.
- (b) If corrective measures have not been taken within thirty (30) days of the notification of violation, a person or business will be subject to penalties provided in Section 15-407 of this article.
- (c) Jackson County and the City of Hoschton will not assume any responsibility for the inability of emergency services (i.e. sheriff, fire, 911 departments) to locate the property in the event of an emergency due to incorrect property identification.

Section 15-402. Development Plan Requirements.

All land subdivisions that create a new public or private road or road section in any jurisdiction within Jackson County must have a pre-approved list of road names and addresses from the Jackson County GIS Department or the Jackson County Public Development Department before submitting subdivision and development plans to the city department with jurisdiction. All multi-unit and multi-structure developments must submit the site plan with building layout, for unit numbering to the Jackson County Public Development Department prior to occupancy. Any subdivision or site that requires new addresses will be reviewed within seven (7) business days for assignment and subject to the final development/site plan approval before release.

Section 15-403. Business Occupation Taxes.

All businesses, new or existing must have their address properly displayed in accordance to this ordinance or a penalty will be assessed. All new businesses must have their address verified/confirmed against the master road and address database before an occupational tax certificate will be issued.

Section 15-404. Building Permits.

No permit shall be issued for any structure until the owner/developer/contractor obtains an official address assigned by the Jackson County GIS Department.

Section 15-405. Certificate of Occupancy.

A certificate of occupancy (CO) for any structure erected, repaired or modified shall be withheld until the assigned address is posted on the structure as required by this article.

Section 15-406. Enforcement Responsibilities.

This ordinance may be enforced by the Jackson County Public Development Department as well as the City of Hoschton. The Code Enforcement division or any designee(s) of the Jackson County Public Development Department or local municipality shall have the responsibility for enforcing this ordinance and issuing citations for violations.

Section 15-407. Penalties for Violation.

Any person, business or property owner that violates or fails to comply with the provisions of this ordinance shall be guilty of an infraction punishable by a fine not to exceed \$1,000.00, but in no event to be less than \$300.00. Each day any violation with the provisions of the ordinance shall continue as a separate offense. In the event that violations of this ordinance are not corrected within thirty (30) days of receiving the fine, Jackson County or the City of Hoschton may perform the work needed to comply and bill the property owner(s). If the bill for work performed is not paid within ninety (90) days of mailing, a lien may be put on the property to include the cost of the work and any applicable court costs.

Section 15-408. Appeals.

Any owner or occupant can submit an informal appeal of an administrative decision made pursuant to this chapter in writing to the Director of Public Development or to the GIS Manager of the GIS Addressing Coordinator. Road naming and/or addressing decisions will be made within

ten (10) days of the notification date. The GIS Manager shall review, within reasonable time, to determine if he/she will affirm, modify or revoke the decision of the GIS Addressing Coordinator. If the appellant still finds the decision unsatisfactory, he/she may, within fifteen (15) days of the notification date, submit a formal appeal to the Hoschton City Council. The notice of appeal shall include the application, and the appellant shall submit any applicable fees for filing an appeal application. The City Council shall make its final decision on the appeal, in conformity with this chapter, and it shall be final and conclusive. In the absence of an appeal within the designated timeframes, the decisions of the GIS Addressing Coordinator or GIS Manager shall be final.

Section 15-409. Repeal of Conflicting Ordinances.

All provisions in other ordinances in conflict with this ordinance are hereby repealed.

Section 15-410. Severability.

If any provisions of this ordinance or the application thereof to any person or circumstance are held invalid, the invalidity shall not affect other provisions or applications of this ordinance which can be given effect without the invalid provision or application and to this end, the provisions of this ordinance are severable.

Section 15-411. Liability.

Jackson County and the City of Hoschton, its officers, agents or employees, together with any person following their instructions in rendering services, shall not be liable for civil damages as a result of an act or omission under this ordinance, including but not limited to, developing, adopting, operating or implementing an addressing system or plan.

Section 15-412. Reserved.

Section 15-413. Reserved.

Section 15-414. Reserved.

Section 15-415. Reserved.

CHAPTER 16
RESERVED

CHAPTER 17
RESERVED

CHAPTER 18
RESERVED

**CHAPTER 19
FLOOD DAMAGE PREVENTION**

ARTICLE I. PURPOSE, FINDINGS AND OBJECTIVES

Section 19-101 Authorization
Section 19-102 Findings of Fact
Section 19-103 Purposes
Section 19-104 Objectives

ARTICLE II. GENERAL PROVISIONS

Section 19-201 Lands to Which this Ordinance Applies
Section 19-202 Basis for Area of Special Flood Hazard
Section 19-203 Establishment of Development Permit
Section 19-204 Compliance
Section 19-205 Abrogation and Greater Restrictions
Section 19-206 Interpretation
Section 19-207 Warning and Disclaimer of Liability
Section 19-208 Penalties for Violation
Section 19-209 Severability

ARTICLE III. ADMINISTRATION

Section 19-301 Designation of Administrator
Section 19-302 Permit Procedures
Section 19-303 Permit Procedures – Application Stage
Section 19-304 Permit Procedures – Construction Stage
Section 19-305 Duties and Responsibilities of the Administrator

ARTICLE IV. PROVISIONS FOR FLOOD HAZARD REDUCTION

Section 19-401 General Standards
Section 19-402 New Construction and/or Substantial Improvements
Section 19-403 Non-Residential Construction
Section 19-404 Manufactured Homes
Section 19-405 Recreational Vehicles
Section 19-406 Floodway
Section 19-407 Building Standards for Streams without Established Base Flood Elevations and/or Floodway (A-Zones)
Section 19-408 Standards for Areas of Special Flood Hazard (Zones AE) With Established Base Flood Elevations Without Designated Floodways
Section 19-409 Standards for Areas of Shallow Flooding (AO Zones)
Section 19-410 Subdivisions
Section 19-411 Critical Facilities

ARTICLE V. VARIANCE PROCEDURES

- Section 19-501 Variance Procedures
- Section 19-502 Conditions for Variances

ARTICLE VI. DEFINITIONS

ARTICLE I. PURPOSE, FINDINGS AND OBJECTIVES

Section 19-101 Authorization

Chapter IX, Section II of the Constitution of the State of Georgia and Section 36-1-20(a) of the Official Code of Georgia Annotated have delegated the responsibility to local governmental units to adopt regulations designed to promote the public health, safety, and general welfare of its citizenry. Therefore, the Mayor and Council of the City of Hoschton does hereby adopt this Chapter.

(Adopted 3/5/2012; Effective 3/15/2012)

Section 19-102 Findings of Fact

1. The flood hazard areas in the City of Hoschton, Georgia, are subject to periodic inundation which results in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood relief and protection, and impairment of the tax base, all of which adversely affect the public health, safety and general welfare.
2. These flood losses are caused by the occupancy in flood hazard areas of uses vulnerable to floods, which are inadequately elevated, flood-proofed, or otherwise unprotected from flood damages, and by the cumulative effect of obstructions in floodplains causing increases in flood heights and velocities.

(Adopted 3/5/2012; Effective 3/15/2012)

Section 19-103 Purposes

It is the purpose of this Chapter to promote the public health, safety and general welfare and to minimize public and private losses due to flood conditions in specific areas by provisions designed to:

1. Require that uses vulnerable to floods, including facilities, which serve such uses, be protected against flood damage at the time of initial construction;

2. Restrict or prohibit uses which are dangerous to health, safety and property due to water or erosion hazards, or which increase flood heights, velocities, or erosion;
3. Control filling, grading, dredging and other development which may increase flood damage or erosion;
4. Prevent or regulate the construction of flood barriers which will unnaturally divert flood waters or which may increase flood hazards to other lands; and
5. Control the alteration of natural floodplains, stream channels, and natural protective barriers, which are involved in the accommodation of floodwaters.

(Adopted 3/5/2012; Effective 3/15/2012)

Section 19-104 Objectives

The objectives of this Chapter are to:

1. Protect human life and health;
2. Minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, streets and bridges located in floodplains;
3. Help maintain a stable tax base by providing for the sound use and development of flood prone areas in such a manner as to minimize flood blight areas;
4. Minimize expenditure of public money for costly flood control projects;
5. Minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
6. Minimize prolonged business interruptions, and;
7. Insure that potential homebuyers are notified that property is in a flood area.

(Adopted 3/5/2012; Effective 3/15/2012)

ARTICLE II. GENERAL PROVISIONS

Section 19-201 Lands to Which this Ordinance Applies

This Chapter shall apply to all Areas of Special Flood Hazard within the jurisdiction of City of Hoschton, Georgia.

(Adopted 3/5/2012; Effective 3/15/2012)

Section 19-202 Basis for Area of Special Flood Hazard

1. The Areas of Special Flood Hazard identified by the Federal Emergency Management Agency in its Flood Insurance Study (FIS), dated December 17, 2010, for the City of Hoschton, with accompanying maps and other supporting data and any revision thereto, are adopted by reference and declared a part of this Chapter.
2. For those land areas acquired by a municipality through annexation, the current effective Flood Insurance Study dated December 17, 2010 (with accompanying maps and other supporting data and any revision thereto), are hereby adopted by reference and declared to be a part of this Chapter.
3. Areas of Special Flood Hazard may also include those areas known to have flooded historically or defined through standard engineering analysis by governmental agencies or private parties but not yet incorporated in a Flood Insurance Study.
4. The Repository for public inspection of the Flood Insurance Study (FIS), accompanying maps and other supporting data is Hoschton City Hall, 79 City Square, Hoschton, Georgia 30548.

(Adopted 3/5/2012; Effective 3/15/2012)

Section 19-203 Establishment of Development Permit

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

(Adopted 3/5/2012; Effective 3/15/2012)

Section 19-204 Compliance

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

(Adopted 3/5/2012; Effective 3/15/2012)

Section 19-205 Abrogation and Greater Restrictions

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

(Adopted 3/5/2012; Effective 3/15/2012)

Section 19-206 Interpretation

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

(Adopted 3/5/2012; Effective 3/15/2012)

Section 19-207 Warning and Disclaimer of Liability

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

(Adopted 3/5/2012; Effective 3/15/2012)

Section 19-208 Penalties for Violation

Failure to comply with the provisions of this Chapter or with any of its requirements, including conditions and safeguards established in connection with grants of variance or special exceptions shall constitute a violation. Any person who violates this Chapter or fails to comply with any of its requirements shall, upon conviction thereof, be fined not more than \$1,000.00 or imprisoned for not more than 180 days, or both, and in addition, shall pay all costs and expenses involved in the case. Each day such violation continues shall be considered a separate offense. Nothing herein contained shall prevent the City of Hoschton from taking such other lawful actions as is necessary to prevent or remedy any violation.

(Adopted 3/5/2012; Effective 3/15/2012)

Section 19-209 Severability

If any section, clause, sentence, or phrase of this Chapter is held to be invalid or unconstitutional by any court of competent jurisdiction, then said holding shall in no way affect the validity of the remaining portions of this Chapter.

(Adopted 3/5/2012; Effective 3/15/2012)

ARTICLE III. ADMINISTRATION

Section 19-301 Designation of Administrator

The City Administrator or his or her designee is hereby appointed to administer and implement the provisions of this Chapter.

(Adopted 3/5/2012; Effective 3/15/2012)

Section 19-302 Permit Procedures

Application for a Development Permit shall be made to the City Clerk on forms furnished by the Zoning Administrator prior to any development activities, and may include, but not be limited to the following: plans in sufficient number as specified by the City Clerk, drawn to scale showing the elevations of the area in question and the nature, location, dimensions, of existing or proposed structures, earthen fill placement, storage of materials or equipment, and drainage facilities.

(Adopted 3/5/2012; Effective 3/15/2012)

Section 19-303 Permit Procedures – Application Stage

The following information is required at the application stage:

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

(Adopted 3/5/2012; Effective 3/15/2012)

Section 19-304 Permit Procedures – Construction Stage

The following information is required at the construction stage:

1. For all new construction and substantial improvements, the permit holder shall provide to the Administrator an as-built certification of the regulatory floor elevation or flood-proofing level immediately after the lowest floor or flood proofing is completed. Any lowest floor certification made relative to mean sea

level shall be prepared by or under the direct supervision of a registered land surveyor or professional engineer and certified by same. When flood proofing is utilized for non-residential structures, said certification shall be prepared by or under the direct supervision of a professional engineer or architect and certified by same.

2. Any work undertaken prior to submission of these certifications shall be at the permit holder's risk.
3. The Administrator shall review the above referenced certification data submitted. Deficiencies detected by such review shall be corrected by the permit holder immediately and prior to further progressive work being allowed to proceed. Failure to submit certification or failure to make said corrections required hereby, shall be cause to issue a stop-work order for the project.

(Adopted 3/5/2012; Effective 3/15/2012)

Section 19-305 Duties and Responsibilities of the Administrator

Duties of the Administrator shall include, but shall not be limited to:

1. Review proposed development to assure that the permit requirements of this Chapter have been satisfied.
2. Review proposed development to assure that all necessary permits have been received from governmental agencies from which approval is required by Federal or State law, including section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1334. Require that copies of such permits be provided and maintained on file.
3. Review all permit applications to determine whether proposed building sites will be reasonably safe from flooding.
4. When Base Flood Elevation data or floodway data have not been provided in accordance with this Chapter, then the Administrator shall obtain, review and reasonably utilize any base flood elevation and floodway data available from a Federal, State or other sources in order to administer the provisions of this Chapter.
5. Review and record the actual elevation in relation to mean sea level (or highest adjacent grade) of the lowest floor, including basement, of all new or substantially improved structures in accordance with this Chapter.
6. Review and record the actual elevation, in relation to mean sea level to which any new or substantially improved structures have been flood-proofed, in accordance with this Chapter.

7. When flood-proofing is utilized for a structure, the Administrator shall obtain certification of design criteria from a registered professional engineer or architect in accordance with this Chapter.
8. Make substantial damage determinations following a flood event or any other event that causes damage to structures in flood hazard areas.
9. Notify adjacent communities and the Georgia Department of Natural Resources prior to any alteration or relocation of a watercourse and submit evidence of such notification to the Federal Emergency Management Agency (FEMA).
10. For any altered or relocated watercourse, submit engineering data/analysis within six (6) months to the FEMA to ensure accuracy of community flood maps through the Letter of Map Revision process. Assure flood carrying capacity of any altered or relocated watercourse is maintained.
11. Where interpretation is needed as to the exact location of boundaries of the Areas of Special Flood Hazard (for example, where there appears to be a conflict between a mapped boundary and actual field conditions) the Administrator shall make the necessary interpretation. Any person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in this Chapter.
12. All records pertaining to the provisions of this Chapter shall be maintained in the office of the Administrator and shall be open for public inspection.

(Adopted 3/5/2012; Effective 3/15/2012)

Section 19-401 General Standards

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

1. New construction and substantial improvements of existing structures shall be anchored to prevent flotation, collapse or lateral movement of the structure.
2. New construction and substantial improvements of existing structures shall be constructed with materials and utility equipment resistant to flood damage.
3. New construction or substantial improvements of existing structures shall be constructed by methods and practices that minimize flood damage.
4. Elevated Buildings. All new construction or substantial improvements of existing structures that include any fully enclosed area located below the lowest floor formed by foundation and other exterior walls shall be designed so as to be an unfinished or flood resistant enclosure. The enclosure shall be designed to

equalize hydrostatic flood forces on exterior walls by allowing for the automatic entry and exit of floodwater.

- A. Designs for complying with this requirement must either be certified by a professional engineer or architect or meet the following minimum criteria:
 - (1) Provide a minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding;
 - (2) The bottom of all openings shall be no higher than one foot above grade; and,
 - (3) Openings may be equipped with screens, louvers, valves or other coverings or devices provided they permit the automatic flow of floodwater in both directions.
 - B. So as not to violate the "Lowest Floor" criteria of this Article, the unfinished or flood resistant enclosure shall only be used for parking of vehicles, limited storage of maintenance equipment used in connection with the premises, or entry to the elevated area, and
 - C. The interior portion of such enclosed area shall not be partitioned or finished into separate rooms.
- 5. All heating and air conditioning equipment and components (including ductwork), all electrical, ventilation, plumbing, and other service facilities shall be designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.
 - 6. Manufactured homes shall be anchored to prevent flotation, collapse, or lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors. This standard shall be in addition to and consistent with applicable State requirements for resisting wind forces.
 - 7. New and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system.
 - 8. New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters.
 - 9. On-site waste disposal systems shall be located and constructed to avoid impairment to them or contamination from them during flooding, and

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

(Adopted 3/5/2012; Effective 3/15/2012)

Section 19-402 New Construction and/or Substantial Improvements

In all areas of special flood hazard the following provisions are required for new construction and/or substantial improvements.

1. Where base flood elevation data are available, new construction and/or substantial improvement of any structure or manufactured home shall have the lowest floor, including basement, elevated no lower than one foot above the base flood elevation. Should solid foundation perimeter walls be used to elevate a structure, openings sufficient to facilitate equalization of flood hydrostatic forces on both sides of exterior walls shall be provided in accordance with standards of this Chapter for "Elevated Buildings."
2. All heating and air conditioning equipment and components (including ductwork), all electrical, ventilation, plumbing, and other service facilities shall be elevated at or above one foot above the base flood elevation.

(Adopted 3/5/2012; Effective 3/15/2012)

Section 19-403 Non-Residential Construction

New construction and/or the substantial improvement of any structure located in A1-30, AE, or AH zones, may be flood-proofed in lieu of elevation. The structure, together with attendant utility and sanitary facilities, must be designed to be water tight to one foot above the base flood elevation, with walls substantially impermeable to the passage of water, and structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effect of buoyancy. A registered professional engineer or architect shall certify that the design and methods of construction are in accordance with accepted standards of practice for meeting the provisions above, and shall provide such certification to the official as set forth above and in this Chapter.

(Adopted 3/5/2012; Effective 3/15/2012)

Section 19-404 Manufactured Homes

Where base flood elevation data are available:

1. All manufactured homes placed and/or substantially improved on: (1) individual lots or parcels, (2) in new and/or substantially improved manufactured home parks or subdivisions, (3) in expansions to existing manufactured home parks or

subdivisions, or (4) on a site in an existing manufactured home park or subdivision where a manufactured home has incurred "substantial damage" as the result of a flood, must have the lowest floor including basement, elevated no lower than one foot above the base flood elevation.

2. Manufactured homes placed and/or substantially improved in an existing manufactured home park or subdivision may be elevated so that either: the lowest floor of the manufactured home is elevated no lower than one foot above the level of the base flood elevation; or the manufactured home chassis is elevated and supported by reinforced piers (or other foundation elements of at least an equivalent strength) of no less than 36 inches in height above grade.
3. All manufactured homes must be securely anchored to an adequately anchored foundation system to resist flotation, collapse and lateral movement.

(Adopted 3/5/2012; Effective 3/15/2012)

Section 19-405 Recreational Vehicles

All recreational vehicles placed on sites must either:

1. Be on the site for fewer than 180 consecutive days;
2. Be fully licensed and ready for highway use, (a recreational vehicle is ready for highway use if it is licensed, on its wheels or jacking system, attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached structures or additions); or
3. The recreational vehicle must meet all the requirements for "New Construction," including the anchoring and elevation requirements of this Chapter.

(Adopted 3/5/2012; Effective 3/15/2012)

Section 19-406 Floodway

Located within Areas of Special Flood Hazard established in this Chapter, are areas designated as floodway. A floodway may be an extremely hazardous area due to velocity floodwaters, debris or erosion potential. In addition, the area must remain free of encroachment in order to allow for the discharge of the base flood without increased flood heights. Therefore, the following provisions shall apply:

1. Encroachments are prohibited, including earthen fill, new construction, substantial improvements or other development within the regulatory floodway. Development may be permitted however, provided it is demonstrated through hydrologic and hydraulic analyses performed in accordance with standard engineering practice that the encroachment shall not result in any increase in

flood levels or floodway widths during a base flood discharge. A registered professional engineer must provide supporting technical data and certification thereof.

2. Only if the provision of this subsection above is satisfied, then any new construction or substantial improvement shall comply with all other applicable flood hazard reduction provisions of this Chapter.

(Adopted 3/5/2012; Effective 3/15/2012)

Section 19-407 Building Standards for Streams without Established Base Flood Elevations and/or Floodway (A-Zones)

Located within the Areas of Special Flood Hazard established in this Chapter, where streams exist but no base flood data have been provided (A-Zones), or where base flood data have been provided but a Floodway has not been delineated. When base flood elevation data or floodway data have not been provided in accordance with this Article, then the Administrator shall obtain, review, and reasonably utilize any scientific or historic base flood elevation and floodway data available from a Federal, State, or other source, in order to administer the provisions of this Chapter. Only if data are not available from these sources, then the following provisions shall apply:

1. No encroachments, including structures or fill material, shall be located within an area equal to the width of the stream or twenty feet, whichever is greater, measured from the top of the stream bank, unless certification by a registered professional engineer is provided demonstrating that such encroachment shall not result in more than a one foot increase in flood levels during the occurrence of the base flood discharge.
2. In special flood hazard areas without base flood elevation data, new construction and substantial improvements of existing structures shall have the lowest floor of the lowest enclosed area (including basement) elevated no less than three feet above the highest adjacent grade at the building site. (NOTE: Require the lowest floor to be elevated one foot above the estimated base flood elevation in A-Zone areas where a Limited Detail Study has been completed). Openings sufficient to facilitate the unimpeded movements of floodwaters shall be provided in accordance with standards of this article for "Elevated Buildings".
3. All heating and air conditioning equipment and components (including ductwork), all electrical, ventilation, plumbing, and other service facilities shall be elevated no less than three feet above the highest adjacent grade at the building site.
4. The Administrator shall certify the lowest floor elevation level and the record shall become a permanent part of the permit file.

(Adopted 3/5/2012; Effective 3/15/2012)

Section 19-408 Standards for Areas of Special Flood Hazard (Zones AE) With Established Base Flood Elevations Without Designated Floodways

Located within the Areas of Special Flood Hazard established in this Chapter, where streams with base flood elevations are provided but no floodways have been designated, (Zones AE) the following provisions apply:

1. No encroachments, including fill material, new structures or substantial improvements shall be located within areas of special flood hazard, unless certification by a registered professional engineer is provided demonstrating that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot at any point within the community. The engineering certification should be supported by technical data that conforms to standard hydraulic engineering principles.
2. New construction or substantial improvements of buildings shall be elevated or flood-proofed to elevations established in accordance with this Chapter.

(Adopted 3/5/2012; Effective 3/15/2012)

Section 19-409 Standards for Areas of Shallow Flooding (AO Zones)

Areas of Special Flood Hazard established in this Article, may include designated "AO" shallow flooding areas. These areas have base flood depths of one to three feet above ground, with no clearly defined channel. The following provisions apply:

1. All new construction and substantial improvements of residential and non-residential structures shall have the lowest floor, including basement, elevated to the flood depth number specified on the Flood Insurance Rate Map (FIRM), above the highest adjacent grade. If no flood depth number is specified, the lowest floor, including basement, shall be elevated at least three feet above the highest adjacent grade. Openings sufficient to facilitate the unimpeded movements of flood waters shall be provided in accordance with standards of this Chapter for "Elevated Buildings". The Administrator shall certify the lowest floor elevation level and the record shall become a permanent part of the permit file.
2. New construction or the substantial improvement of a non-residential structure may be flood-proofed in lieu of elevation. The structure, together with attendant utility and sanitary facilities, must be designed to be water tight to the specified FIRM flood level plus one foot, above highest adjacent grade, with walls substantially impermeable to the passage of water, and structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effect of buoyancy. A registered professional engineer or architect shall certify that the design and methods of construction are in accordance with accepted

standards of practice for meeting the provisions above, and shall provide such certification to the official as set forth above and as required in this Chapter.

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

(Adopted 3/5/2012; Effective 3/15/2012)

Section 19-410 Subdivisions

1. All subdivision and/or development proposals shall be consistent with the need to minimize flood damage.
2. All subdivision and/or development proposals shall have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize flood damage.
3. All subdivision and/or development proposals shall have adequate drainage provided to reduce exposure to flood hazards.
4. For subdivisions and/or developments greater than fifty lots or five acres, whichever is less, base flood elevation data shall be provided for subdivision and all other proposed development, including manufactured home parks and subdivisions. Any changes or revisions to the flood data adopted herein and shown on the FIRM shall be submitted to FEMA for review as a Conditional Letter of Map Revision (CLOMR) or Conditional Letter of Map Amendment (CLOMA), whichever is applicable. Upon completion of the project, the developer is responsible for submitting the "as-built" data to FEMA in order to obtain the final LOMR.

(Adopted 3/5/2012; Effective 3/15/2012)

Section 19-411 Critical Facilities

1. Critical facilities shall not be located in the 100-year floodplain or the 500-year floodplain.
2. All ingress and egress from any critical facility must be protected to the 500-year flood elevation.

(Adopted 3/5/2012; Effective 3/15/2012)

ARTICLE V. VARIANCES

Section 19-501 Variance Procedures

1. The Mayor and Council shall hear and decide requests for appeals or variance from the requirements of this Chapter.
2. The Mayor and Council shall hear and decide appeals when it is alleged an error in any requirement, decision, or determination is made by the Administrator in the enforcement or administration of this Chapter.
3. Any person aggrieved by the decision of the Mayor and Council may appeal such decision to the Superior Court of Jackson County, as provided in Section 5-4-1 of the Official Code of Georgia Annotated.
4. Variances may be issued for the repair or rehabilitation of Historic Structures upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a Historic Structure and the variance is the minimum to preserve the historic character and design of the structure.
5. Variances may be issued for development necessary for the conduct of a functionally dependent use, provided the criteria of this Chapter are met, no reasonable alternative exists, and the development is protected by methods that minimize flood damage during the base flood and create no additional threats to public safety.
6. Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.
7. In reviewing such requests, the Mayor and Council shall consider all technical evaluations, relevant factors, and all standards specified by this Section and other sections of this Chapter.

(Adopted 3/5/2012; Effective 3/15/2012)

Section 19-502 Conditions for Variances

1. A variance shall be issued only when there is:
 - A. A finding of good and sufficient cause,
 - B. A determination that failure to grant the variance would result in exceptional hardship, and

- C. A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisance, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.
2. The provisions of this Chapter are minimum standards for flood loss reduction; therefore any deviation from the standards must be weighed carefully. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief; and, in the instance of an Historic Structure, a determination that the variance is the minimum necessary so as not to destroy the historic character and design of the building.
 3. Any applicant to whom a variance is granted shall be given written notice specifying the difference between the base flood elevation and the elevation of the proposed lowest floor and stating that the cost of flood insurance will be commensurate with the increased risk to life and property resulting from the reduced lowest floor elevation.
 4. The City Clerk shall maintain the records of all appeal actions and report any variances to the Federal Emergency Management Agency upon request.
 5. Upon consideration of the factors listed above and the purposes of this Chapter, the Mayor and Council may attach such conditions to the granting of variances as it deems necessary to further the purposes of this Chapter.

(Adopted 3/5/2012; Effective 3/15/2012)

ARTICLE VI. DEFINITIONS

Unless specifically defined below, words or phrases used in this Chapter shall be interpreted so as to give them the meaning they have in common usage and to give this Chapter its most reasonable application.

Accessory Structure: A structure having minimal value and used for parking, storage and other non-habitable uses, such as garages, carports, storage sheds, pole barns, hay sheds and the like.

Addition (to an existing building): Any walled and roofed expansion to the perimeter of a building in which the addition is connected by a common load-bearing wall other than a firewall. Any walled and roofed addition, which is connected by a firewall or is separated by an independent perimeter load-bearing wall, shall be considered "New Construction".

Appeal: A request for a review of the Administrator's interpretation of any provision of this Chapter.

Area of Shallow Flooding: A designated AO or AH Zone on a community's Flood Insurance Rate Map (FIRM) with base flood depths from one to three feet, and/or where a clearly defined channel does not exist, where the path of flooding is unpredictable and indeterminate, and where velocity flow may be evident.

Area of Special Flood Hazard: The land in the floodplain within a community subject to a one percent or greater chance of flooding in any given year. In the absence of official designation by the Federal Emergency Management Agency, Areas of Special Flood Hazard shall be those designated by the local community and referenced in this Chapter.

Base Flood: The flood having a one percent chance of being equaled or exceeded in any given year.

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

Basement: That portion of a building having its floor sub grade (below ground level) on all sides.

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

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

1. structures or facilities that produce, use, or store highly volatile, flammable, explosive, toxic, or water-reactive materials;
2. hospitals and nursing homes, and housing for the elderly, which are likely to contain occupants who may not be sufficiently mobile to avoid the loss of life or injury during flood and storm events;
3. emergency operation centers or data storage centers which contain records or services that may become lost or inoperative during flood and storm events; and
4. generating plants, and other principal points of utility lines.

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

Elevated Building: A non-basement building built to have the lowest floor of the lowest enclosed area elevated above the ground level by means of fill, solid foundation perimeter walls, pilings, columns, piers, or shear walls adequately anchored so as not to impair the structural integrity of the building during a base flood event.

Existing Construction: For the purposes of determining rates, structures for which the "start of construction" commenced before November 16, 1990 (the effective date of the initial FIRM for that community).

Existing Manufactured Home Park or Subdivision: A manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum the installation of utilities, the construction of streets, and final site grading or the pouring of concrete pads) was completed before November 16, 1990 (the effective date of the initial FIRM for that community).

Expansion to an Existing Manufactured Home Park or Subdivision: The preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed, including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads.

Flood or Flooding: A general and temporary condition of partial or complete inundation of normally dry land areas from: the overflow of inland or tidal waters; or the unusual and rapid accumulation or runoff of surface waters from any source.

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

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

Floodplain: Any land area susceptible to flooding.

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

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

Freeboard: A factor of safety usually expressed in feet above a flood level for purposes of floodplain management. "Freeboard" tends to compensate for the many unknown factors that could contribute to flood heights greater than the height calculated for a

selected size flood and floodway conditions, such as wave action, bridge openings, and the hydrological effect of urbanization of the watershed.

Highest Adjacent Grade: The highest natural elevation of the ground surface, prior to construction, adjacent to the proposed foundation of a building.

Historic Structure: Any structure that is: Listed individually in the National Register of Historic Places (a listing maintained by the U.S. Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register; certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district; individually listed on a state inventory of historic places and determined as eligible by states with historic preservation programs which have been approved by the Secretary of the Interior; or individually listed on a local inventory of historic places and determined as eligible by communities with historic preservation programs that have been certified either: (a) by an approved state program as determined by the Secretary of the Interior, or (b) directly by the Secretary of the Interior in states without approved programs.

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

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

Manufactured Home Park or Subdivision: A parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

Mean Sea Level: The average height of the sea for all stages of the tide. It is used as a reference for establishing various elevations within the floodplain. For purposes of the National Flood Insurance Program, the National Geodetic Vertical Datum (NGVD) of 1929 or other datum, to which base flood elevations shown on a community's Flood Insurance Rate Map are referenced.

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

New Construction: For the purposes of determining insurance rates, structures for which the "start of construction" commenced after November 16, 1990 and includes any

subsequent improvements to such structures. For floodplain management purposes, “new construction” means structures for which the “start of construction” commenced after November 16, 1990 and includes any subsequent improvements to such structures.

New Manufactured Home Park or Subdivision: A manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed after November 16, 1990.

North American Vertical Datum (NAVD): A vertical control which has replaced the National Geodetic Vertical Datum of 1929 in existing and future FEMA Flood Modernization Maps.

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

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

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

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

Substantial Damage: Damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed fifty (50) percent of the market value of the structure before the damage occurred.

Substantial Improvement: Any reconstruction, rehabilitation, addition, or other improvement of a structure, taking place during a 5-year period, in which the cumulative cost equals or exceeds fifty (50) percent of the market value of the structure prior to the “start of construction” of the improvement. Note: The market value of the structure should be (1) the appraised value of the structure prior to the start of the initial repair or improvement, or (2) in the case of damage, the value of the structure prior to the damage occurring. This term includes structures, which have incurred "substantial damage", regardless of the actual amount of repair work performed.

For the purposes of this definition, "substantial improvement" is considered to occur when the first alteration of any wall, ceiling, floor, or other structural part of the building commences, whether or not that alteration affects the external dimensions of the building. The term does not, however, include (1) those improvements of a structure required to comply with existing violations of state or local health, sanitary, or safety code specifications which are solely necessary to assure safe living conditions and which have been identified by the Code Enforcement Official, and not solely triggered by an improvement or repair project, or (2) any alteration of a “historic structure” provided that the alteration will not preclude the structure’s continued designation as a “historic structure.”

Substantially Improved Existing Manufactured Home Parks or Subdivisions:

Where the repair, reconstruction, rehabilitation or improvement of the streets, utilities and pads equals or exceeds 50 percent of the value of the streets, utilities and pads before the repair, reconstruction or improvement commenced.

Variance: A grant of relief from the requirements of this Chapter, which permits construction in a manner otherwise prohibited by this Chapter.

Violation: The failure of a structure or other development to be fully compliant with the community’s floodplain management regulations. A structure or other development without the elevation certificate, or other certifications, or other evidence of compliance required by this Chapter is presumed to be in violation until such time as that documentation is provided.

**CHAPTER 20
WATER AND SEWERAGE SYSTEMS**

ARTICLE I IN GENERAL

Section 20-101	Water and/or Sewer Works for the City of Hoschton
Section 20-102	Service Area
Section 20-103	Application for Water/Sewer, Consumers Responsibility and Liability
Section 20-104	Charges for Initial Water and Sewer Service
Section 20-105	Plumbing
Section 20-106	City's Responsibility and Liability
Section 20-107	Water Restrictions
Section 20-108	Use During Fire Alarm & Water Emergencies
Section 20-109	Water and Sewer Rates
Section 20-110	No Free Service
Section 20-111	Fire Hydrant Meters
Section 20-112	Permit and Deposit
Section 20-113	Water Bills
Section 20-114	Meter Reading, Billing, Collection
Section 20-115	Charges for Reconnection
Section 20-116	Change of Rates
Section 20-117	Unlawful Connection
Section 20-118	Change of Occupancy
Section 20-119	Pre-Purchase of Water and Sewage Treatment Connection(s)
Section 20-120	Wellhead Protection Plan
Section 20-150	Purchase of Sewage Treatment Connection(s) by Owners Using Septic Tanks

ARTICLE II. CITY OF HOSCHTON CROSS-CONNECTION CONTROL ORDINANCE

Section 20-201	Purpose
Section 20-202	Authority
Section 20-203	Responsibility
Section 20-204	Definitions
Section 20-205	Administration
Section 20-206	Requirements
Section 20-207	Degree of Hazard
Section 20-208	Permits
Section 20-209	Existing In-use Backflow Prevention Devices
Section 20-210	Periodic Testing
Section 20-211	Records and Reports
Section 20-212	Fees and Charges

ARTICLE III. SEWER USE ORDINANCE

Section 20-301	Definitions
----------------	-------------

Section 20-302	Use of Public Sewers Required
Section 20-303	Private Wastewater Disposal
Section 20-304	Building Sewers and Connections
Section 20-305	Restricted Use of the Public Sewers
Section 20-306	Malicious Damage
Section 20-307	Powers and Authority of Inspectors
Section 20-308	Compliance with Regulatory Requirements
Section 20-309	Violations
Section 20-310	Service Charges
Section 20-311	Authority to Disconnect Service

ARTICLE IV. OUTDOOR WATERING

Section 20-401	Restriction on Outdoor Water of Landscape
Section 20-402	Enforcement

ARTICLE V. MANDATORY WATER CONNECTION *(amended 12/6/10; adopted 12/16/10)*

Section 20-500	Purpose
Section 20-501	Definitions
Section 20-502	Connection Required
Section 20-503	Rules of Connection
Section 20-504	Property Owner Responsible for Connection
Section 20-505	Connection Fee
Section 20-506	Notice
Section 20-507	Disconnection Prohibited
Section 20-508	Penalty

ARTICLE VI. ILLICIT DISCHARGE AND ILLEGAL CONNECTION

Section 20-601	Introduction
Section 20-602	General Provisions
Section 20-603	Definitions
Section 20-604	Prohibitions
Section 20-605	Industrial or Construction Activity Discharges
Section 20-606	Access and Inspection of Properties and Facilities
Section 20-607	Notification of Accidental Discharges and Spills
Section 20-608	Violations, Enforcement, and Penalties

ARTICLE VII. STANDARD SPECIFICATIONS AND DETAILS OF DESIGN AND CONSTRUCTION OF WATER AND SEWER LINES

Section 20-701	Standard Specifications and Details Adopted
----------------	---

ARTICLE I IN GENERAL

Section 20-101. Water and/or Sewer Works for the City of Hoschton

The water and/or sewer works shall be under the immediate control and supervision of a person designated by the Mayor and City Council, who shall perform all acts that may be necessary for the prudent, efficient and economical management and protection of water works and sewerage system.

Section 20-102. Service Area

1. All structures and buildings located in the service area of the City of Hoschton as established by House Bill 489 and approved by the Georgia Department of Community Affairs shall utilize the City's sewage system, and shall comply with all the rules and regulations, including the fees and charges for the use thereof, promulgated by the governing authority of the City of Hoschton.
2. Extensions to the system shall be made only when the consumer shall grant or convey, or shall cause to be granted or conveyed, to the City of Hoschton a permanent easement of right of way across any property traversed by the water and sewer lines.

Section 20-103. Application for Water/Sewer, Consumers Responsibility and Liability

Water furnished by the City of Hoschton shall be used for consumption by the consumer or tenant, members of his/her household and employees only. Except as specifically allowed herein, the consumer shall not sell water to any other person or permit any other person to use said water. Water shall not be used for irrigation, fire protection, or other purposes except when water is available in sufficient quantity without interfering with the regular domestic consumption in the area served. Disregard for this rule shall be sufficient cause for refusal and/or discontinuance of service.

1. Customers shall prevent unnecessary waste of water and keep all water outlets closed when not in actual use. Outlets must not be allowed to run for any purpose other than the use for which they were intended. When any such waste occurs, the water service may be terminated.
2. Where meter or meter box is placed on the premises of a consumer, a suitable place shall be provided by the consumer therefore, unobstructed and accessible at all times to the meter reader.
3. The consumer shall furnish and maintain a private cut-off valve on the consumer's side of the meter.

4. In order to be received as a consumer and entitled to receive water for the City's water system, all applicants must offer proof that any private wells on their property are not connected to the City's water system.
5. Application for the use of water shall be made to the City Clerk by the owner or agent of the property to be benefitted, designate the location of the property and stating the purpose or which the water may be required.
6. Master meters are not allowed for any residential service unless specifically reviewed and recommended by the City Engineer and approved by the Mayor and Council. All building units shall be individually metered.
7. Commercial and industrial service to a building with a single owner may be by a single master meter. If commercial or industrial septic is to a building containing two (2) or more separately owned units, each unit must have a separate meter. The applicant must pay a connection fee for each unit that will be served.

(Adopted 7/5/2004; Effective 7/15/2004)

Section 20-104. Charges for Initial Water and Sewer Service

- 1.a. Each consumer subscribing to the use of water and sewer service of the City of Hoschton shall pay a separate installation fee and separate connection fee as established by resolution of the Mayor and Council of the City of Hoschton. A separate installation fee and separate connection fee shall be paid for both water and sewer services.

(Adopted 3/06/2006; Effective 3/16/2006; Amended March 3, 2008; Effective March 13, 2008)

- 1.b. Unless the owner enters into an agreement with the City, ratified by the Mayor and Council, each tenant or business in a building must have a separate meter or sub-meter. Each such tenant shall pay a separate installation fee and separate connection fee. A separate installation fee and separate connection fee shall be paid for both water and sewer services.

(Adopted March 3, 2008; Effective March 13, 2008)

2. The City of Hoschton shall own and maintain the service line from the main through the meter box and the property owner shall own and maintain the connection line from the meter box to the premises served. The City of Hoschton shall own the sewer main and the service wye or tee at the tap. The property owner shall own and maintain the sewer service line from the main sewer line wye or tee at the tap to the structure served provided however that the property owner shall not encroach into the City right of way or sewer easement of the

sewer main without the expressed written permission or permit issued by the City Clerk.

3. All work upon service shall be inspected, before it is covered, by a person employed by the City of Hoschton and trained by the City Engineer.
4. Water and sewer connection fees shall be computed in accordance with the procedures in Section 20-119.

(Adopted 2/2/2004; Effective 3/9/2004)

Section 20-105. Plumbing

1. All plumbing, including pipes, valves, fittings and interior fixtures shall meet the applicable minimum health and sanitation standards of the State of Georgia and the City of Hoschton.
2. Customer shall be responsible for any pressure reduction devices desired by the customer on his side of the service meter.

Section 20-106. City's Responsibility and Liability

1. The City of Hoschton shall run a service line from its distribution line to the property line where the distribution line exists or is to be constructed, and runs immediately adjacent and parallel to the property to be served.
2. The City may make connections to service other properties not adjacent to its lines upon payment of reasonable costs for the extensions of its distribution lines as may be required to render such service. Such costs shall be in addition to the installation fee and connection fee shown in Section 20-104.
3. The City may install its meter at or near the property line, or at the City's option, on the consumer's property within three feet (3') of the property line. If located on the consumer's property. The City shall have the right of ingress and egress to the meter for reading servicing and other purposes as related to the City's water system.
4. The City reserves the right to refuse service unless the consumer's lines or piping are installed in such a manner as to prevent cross-connection or backflow.
5. The City reserves the right to modify their water system and adjust the operating pressure up or down as deemed necessary for the operation of the system. The City shall maintain minimum pressure in compliance with EPD regulations. The City shall not be responsible for a maximum pressure or exceedance thereof.

6. Under normal conditions the consumer will be notified of any anticipated interruptions of service by the City of Hoschton.

Section 20-107. Water Restrictions

In case of water shortage, the Mayor and City Council may by resolution place any restrictions upon the use of water, which they deem necessary and in accordance with the City ordinance and EPD rules and regulations.

Any person violating water restrictions set by the Mayor and City Council of Hoschton shall be guilty of a misdemeanor with a maximum fine not to exceed one thousand dollars (\$1,000.00).

Any person found violating the outdoor watering ban will be subject to the following:

Violation	Penalty
1 st Offense	Verbal warning
2 nd Offense	Water cut off with a \$250.00 reconnection fee
3 rd Offense	Meter will be pulled*

*If meter is pulled, customer may request a hearing before the Hoschton City Council. Hoschton City Council will determine if water is to be reconnected and what fees to assess.

Exceptions: Landscaping contractors, developers installing new sod yards and nurseries and greenhouses will be allowed to request a waiver from City Hall to continue using water from 10:00 p.m. to 10:00 a.m. on the previous odd-even day schedule for a 30-day period.

(Amended 11/4/2002)

Section 20-108. Use During Fire Alarm & Water Emergencies

During all fire alarms and water emergencies the City shall have the right to restrict all non-potable water use for the duration of the fire alarm or emergency plus the time for the City's water system to recover as determined by the City Engineer. Any person violating restriction during a period of water restrictions or emergency curtailment shall be guilty of a misdemeanor with a maximum fine not to exceed one thousand dollars (\$1,000.00).

Section 20-109. Water and Sewer Rates

RESIDENTIAL WATER RATE SCHEDULE - PER MONTH	
Monthly Usage	Cost
0 – 2,000	\$12.50 total
2,001 – 5,000	\$4.00/1,000 gallons
5,001 – over	\$6.00/1,000 gallons
RESIDENTIAL SEWAGE RATE SCHEDULE - PER MONTH	
0 – 2,000	\$12.50 total
2,001 – 5,000	\$4.00/1,000 gallons
5,001 – over	\$6.00/1,000 gallons
Services with separate irrigation meters are exempt from paying sewage service fees on irrigation water usage provided none of it ends up in the sewer system.	

COMMERCIAL WATER RATE SCHEDULE - PER MONTH	
Monthly Usage	Cost
0 – 2,000	\$25.00 total
2,001 – 5,000	\$5.00/1,000 gallons
5,001 – over	\$7.50/1,000 gallons
COMMERCIAL SEWAGE RATE SCHEDULE - PER MONTH	
0 – 2,000	\$12.50 total
2,001 – 5,000	\$5.00/1,000 gallons
5,001 – over	\$7.50/1,000 gallons
Services with separate irrigation meters are exempt from paying sewage service fees on irrigation water usage provided none of it ends up in the sewer system.	

(Adopted 4/02/2007; Effective 4/12/2007)

Section 20-110. No Free Service

1. All water and sewer service shall be on a fully metered basis, and no free service shall be furnished.
2. The rate schedule set forth above contemplates a single user, such as one-dwelling, one farm dwelling with appurtenances, or one commercial operation.
3. Rates for commercial services to a single meter supplying multiple units, and extraordinary circumstances, such as multiple dwelling units, industrial users, and special fire protection needs, shall be established by special contract agreements approved by the Mayor and City Council.

(Adopted 4/02/2007; Effective 4/12/2007)
(Adopted 7/5/2004; Effective 7/15/2004)

Section 20-111. Fire Hydrant Meters

1. Fire hydrant meter may be rented by the City of Hoschton to private individuals, firms, or corporations at a rate of one hundred dollars (\$100.00) per week (one week minimum) and a usage charge equal to the commercial water rates in effect at the time the meter is read.
2. A deposit of one thousand (\$1,000) per meter will be paid at the time of rental. Deposit(s) will be refunded in full upon return of the meter(s) in undamaged and satisfactory operating condition, and payment of charges for water used.
3. Fire hydrant meters kept more than three (3) months without prior arrangement with the City of Hoschton will be collected by the City and the deposit forfeited. The renter will remain responsible for all rental and usage charges.
4. Any person tampering with fire hydrants without the expressed authorization of either the City of Hoschton or the West Jackson Fire District shall be guilty of a misdemeanor and shall be subject to a fine not to exceed one thousand dollars (\$1,000) plus the cost of any water used.

(Adopted 7/10/2007; Effective 7/20/2007)

Section 20-112. Permit and Deposit

Before connecting with the water system each customer shall obtain a permit from the City Clerk and shall deposit as security for the prompt payment of all accounts of the customer with the water system. Before connecting with the sewer system, each customer shall obtain a permit from the City Clerk and shall make a cash deposit as security for the prompt payment of all accounts of the customer within the sewer system. The amount of such deposits shall be established by resolution of the Mayor and Council. Such deposit shall be returned to the customer upon termination of the services if all charges due to system have been paid, but in the event that the customer becomes in arrears in such charges, then such deposit shall be used in whole or in part in liquidation of same, and the deposit by the customer shall be construed as consent to such use. In the case of a customer becoming arrears of charges, the deposit may be applied to the payment of the delinquent charge.

[Amended May 1, 2017; Effective May 11, 2017]

Section 20-113. Water Bills

1. 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 twentieth (20th) day of the month following the reading of the meter, if not paid by such date, a penalty of fifteen percent (15%) of the amount of the bill shall be added thereto and paid by the water customer.
2. Complaints and Adjustments. If the consumer believes his bill to be in error, he shall present his claim in person at the City Hall of the City of Hoschton before the bill becomes delinquent. Such claim, if made after the bill has become delinquent shall not be effective in preventing discontinuance of service as heretofore provided. The consumer may pay such bill under protest and said payment shall not prejudice his claim.
 - A. The City will make a special meter reading at the request of a consumer for a fee of five dollars (\$5.00) provided, however, that if such special reading discloses that the meter was over read, no charge will be made.
 - B. Water meters will be tested at the request of the consumer upon payment to the City of the actual costs of making the test, provided, however that if the meter is found to over-register beyond three percent (3%) of the correct volume, no charge will be made.
 - C. If the seal of a meter is broken by other than the City's representative or if the meter fails to register correctly or is stopped for any cause, the consumer shall pay an amount estimated from the record of his previous bills and/or from other proper data.
3. The customer can appeal any decision by the staff for partial adjustment of water bill or non-adjustment of water bill to the Mayor and Council for final resolution. Decision by the Mayor and Council shall be final. During the period of dispute or appeal to the Mayor and Council the customer shall be expected to have paid the average water bill and any overage thereof shall be noted to be in appeal. During the appeal process time the customer's water service shall not be discontinued for lack of payment of the amount in appeal. If the customer appeals to the Mayor and Council, the appeal shall be presented by the customer to the Mayor and Council at the next Council meeting. The Mayor and Council will issue a ruling on the matter. Any payment resulting from a decision by the Mayor and Council on the appealed amount shall be deemed due and payable by the customer within seven (7) days or the service will then be subject to termination for non-payment. Guidelines and policies to govern the adjustment of water bills shall be developed by the City and approved for use by the Mayor and Council.

Section 20-114. Meter Reading, Billing, Collection

1. Except as noted in Section 20-113-3, customers with unpaid bills on the 25th day of the month will be notified by mail that water service may be shut-off on the 5th day of the following month unless payment is made. This shut-off notice will be mailed no later than 10 days prior to termination of service.
2. Nonpayment by 30th of the month that the bill is due will allow the City, in addition to all other rights and remedies, to terminate agreement. In such event, the water user shall not be entitled to receive, nor the City obligated to supply, any water under this agreement.
3. When water and sewer service is discontinued and all bills paid, the security deposit shall be refunded to the consumer by the City.
4. The Mayor and Council may by resolution provide for the return of security deposits to consumers who have no history of delinquency in paying deposits to consumers who have no history of delinquency in paying their water and/or sewer bills for a period of twenty-four (24) consecutive months.
5. The City reserves a right to discontinue its service without notice for the following additional causes:
 - A. To prevent fraud or abuse.
 - B. Consumer's willful disregard of the City's rules.
 - C. Emergency repairs.
 - D. Insufficiency of water supply due to circumstances beyond the City's control.
 - E. Legal processes.
 - F. Discharge of wastewater flow or strength in violation of EPD rules and regulations or City rules, regulations and ordinances.
 - G. Violation of City cross connection and backflow prevention program or ordinance.
 - H. Violation of City or State Plumbing Code.
 - I. Direction of public authorities.
 - J. Strike, riot, flood, unavoidable accident.
 - K. Customer disregard of leakage of water on customer side of meter.

6. Water service may be provided to customers with or without sewer service at the sole discretion of the Mayor and Council.
7. Sewage service shall not be provided without water service being provided unless such is approved by the Mayor and Council.
8. Disconnection of water service for cause shall be defined as disconnection of both water and sewage service if both are provided.
9. Disconnection of sewage service for cause shall be defined as disconnection of both water and sewage service.
10. A customer may apply for deferred payment before the shut-off date by claiming a hardship by going to the City Hall and filing with the City Clerk. If the hardship qualifies, the customer will sign a deferred payment plan.

Hardships eligible for time payment plans include: Loss of job, medical emergency, and excessive bill due to large leaks.

The maximum length of a deferred payment plan shall be 90 days unless the approved plan specifies otherwise.

Minimum monthly payment amounts shall be in addition to the regular service bill amount.

(Adopted 12/04/2006; Effective 12/04/2006)

Section 20-115. Charges for Reconnection

If the water supply to any premise is turned off for any reason, a charge of fifty dollars (\$50.00) shall be made for reconnecting the water.

(Adopted 8/7/2006, Effective 8/17/2006)

Section 20-116. Change of Rates

Since the issuance and sale of water revenue obligations is predicated upon a covenant by the City of Hoschton to maintain such rates for the services provided by the water system as shall produce income and revenues sufficient to pay the reasonable cost of the operation and maintenance of said system and to pay the principal of and interest on revenue obligation of the system punctually and promptly as the same shall become due, and to maintain a reasonable reserve therefore, the rates in this Chapter shall not be changed to the extent that the covenant above referred to will be impaired or adversely affected.

Section 20-117. Unlawful Connection

It shall be unlawful for any person or persons to make any connection to the water or sewerage system without permission from the City of Hoschton, or to reconnect service when it has been disconnected for non-payment of a bill for service until such bill has been paid in full, including the reconnection fee. Upon conviction, there shall be a fine imposed of not more than one thousand dollars (\$1,000.00) plus the value of the water or sewerage service obtained. Without records by the consumer to confirm the quantity of water or sewerage service obtained, the minimum charge shall be five hundred dollars (\$500.00) for water and five hundred dollars (\$500.00) for sewer to be levied if either or both are used. If records are presented confirming usage, the charge shall be ten dollars (\$10.00) per one thousand (1,000) gallons for water usage and ten dollars (\$10.00) per one thousand (1,000) gallons for sewer service, if both are used.

Section 20-118. Change of Occupancy

Not less than three (3) days' notice must be given, in person or in writing at the City Hall of the City of Hoschton to discontinue water and sewer service or to change occupancy. The outgoing party shall be responsible for all water consumed up to the date/time of departure or the time specified for departure whichever period is longer. The new occupant shall apply for water service within forty-eight (48) hours after occupying the premises and failure to do so will make him liable for paying the water consumed since the last meter reading.

Section 20-119. Pre-Purchase of Water and Sewage Treatment Connection(s)

Owners of property within the water and sewer service area of Hoschton or their representatives may pre-purchase water and sewer connections to the City water and sewerage systems as provided in this Section. It is the intent of the Mayor and Council to pre-sell connections up to the point that eighty percent (80%) of the anticipated capacity of either the water source or the wastewater treatment plant as provided by upgrades to the Hoschton water system and wastewater treatment facility. It is the intent of the Mayor and Council to pre-sell water and sewer connections and not capacity, although sufficient capacity to serve the connections shall be reserved as provided in this Section. The Clerk shall stop pre-selling connections if the City Engineer states that existing and pre-sold connections may use eighty percent (80%) of the anticipated water source and/or wastewater treatment plant capacity. Water and sewer connections are sold together; that is neither can be purchased without the other.

1. Written Request; Cost. In order to pre-purchase the combination of water and sewer connections to the City water and sewerage systems a person must make written request to the City Clerk. The request must designate whether the connection or connections sought are for single-family residential use or other use.

- A. Information Provided with Request. If the pre-purchased connection(s) is(are) for single-family residential use, the person must state the number of proposed units. If the pre-purchased connection(s) is(are) for a non-single family residential use, the type of use proposed must be specified as well as any additional information required by the Clerk to calculate the cost of the capacity. Additional information required is set forth in the Manual for Onsite Sewage Management System: Table JT-1, Sewage Flow Schedule. For the purpose of calculating the amount of flow for both single family residential and non-single family residential usage, shall be assumed that water usage is the same as wastewater flow.
- B. Calculation of Cost. Using the information provided, the City Clerk or designee shall calculate the total cost of the connection(s) (both water and sewer together) the person seeks to pre-purchase.
- (1) The cost for single family residential use connections will be the number of proposed units multiplied by the connection fees established by the Mayor and Council.
 - (2) The cost for non-single family residential uses will be calculated as follows: The estimated sewage flow will be calculated based upon the information provided in the request and Sewage Flow Schedule in Table JT-1. That amount will be divided by the estimated gallons per day usage for a single family residential unit stated in the current City of Hoschton Construction Standards and Water and Sanitary Sewer System Specifications approved by the Georgia Environmental Protection Division. That estimated usage, referred to as an Equivalent Dwelling Unit (EDU) or Equivalent Residential Unit (ERU) and defined in the Specifications is three hundred (300) gallons per day. That resulting figure shall be multiplied by the connection fees established by the Mayor and Council for single family residential units.
2. Payment of Costs. The City Clerk shall provide the requesting person with the amount of the total cost amount for both water and sewer connections as requested within fifteen (15) days of the request. The person shall then have thirty (30) days within which to pay the cost in full. Upon the failure of the person to pay the full cost within thirty (30) days, the Clerk shall notify the person that the request is denied.
3. Limitations on Transfer. Except as is provided in this paragraph, no person who has pre-purchased water and sewer connection(s) may sell or otherwise transfer such connection(s). If the person pre-purchasing the water and sewer connection has an approved final plat or site plan, and has been issued building permits for ten percent (10%) of the units or ten percent (10%) of the total square footage shown on the plan, such person may transfer pre-purchased connection(s) to a

subsequent buyer, but only such connection(s) as would be adequate to serve the units or square footage purchase by the buyer.

Any subsequent sale of pre-purchased connection(s) must be approved by the City and the seller may not charge more to a subsequent buyer for such connections than the seller paid.

4. Denial and Appeal. In addition to non-payment, the Clerk may deny a request for pre-purchase of water and sewer connection(s) if the amount requested exceeds the required for the total permitted use of the property, if the remaining capacity may be insufficient to meet the anticipated needs of the City, or if denial is deemed by the Clerk and City Engineer to be in the best interest of the health, safety or welfare of the citizens of Hoschton. The person whose request for pre-purchase of water and sewer connection(s) has been denied may appeal the Clerk's decision to the Mayor and Council upon written notice provided to the Clerk within thirty (30) days of the denial. The Mayor and Council shall hear the matter at its next regular meeting, and render decision within forty-five (45) days. An appeal may be had from the decision of the Mayor and Council to the Superior Court of Jackson County as provided by law.

5. Reservation of Pre-Purchased Connection(s); Lapse After Three Years.

- A. **Reservation.** Upon payment of the total cost amount, the pre-purchased connection(s) shall be reserved for a period of three (3) years. The three (3) year period begins to run from the later of the time the Environmental Protection Division activates the City's NPDES permit for the expanded wastewater plant or the time the total cost amount is paid. During that time, capacity shall be reserved to that person, and the City shall not allocate the use of the water or sewer systems such that no capacity would remain to serve the pre-purchased connection(s).
 - B. **Lapse.** If the person, or transferee shall not have used the pre-purchased connection(s) within three (3) years of the later of the permit activation or the original pre-purchase, the reservation shall lapse and that person shall no longer have any claim for connection(s) to the City of Hoschton water or sewer system nor have any priority for such connection(s). The person whose reservation lapses shall not be entitled to a refund of any amounts paid, and shall not have any claim against the City as the result of the lapse of the reserved connection(s). Use of the pre-purchased connection(s) shall mean that the person, or transferee, has an approved final plat or site plan for the property.
6. Infrastructure. By pre-selling water and sewer connection(s) the City's only obligation is to provide water source capacity and wastewater treatment plant capacity. The City shall not be obligated or required to provide any other necessary infrastructure improvements, including but not limited to storage tank,

pump or lift stations, water mains, force mains, sewer lines, manholes, or any other appurtenances normally associated with water or wastewater systems. The purchase of water and sewer connections is for the reserving of water system and sewer system capacity as the said capacity relates to the source of water and treatment of wastewater.

(Adopted 2/2/2004; Effective 2/12/2004)

Section 20-120. Wellhead Protection Plan *(approved 7/6/09; adopted 7/16/09)*

The Wellhead Protection Plan is to ensure the provision of a safe and sanitary drinking water supply for the City of Hoschton by the establishment of wellhead protection zones surrounding the wellheads for all wells and springs which are the supply sources for the City of Hoschton water system, and by the designation and regulation of property uses and conditions which may be maintained within such zones.

- A. Establishment of a wellhead protection zone. There is hereby established a use district to be known as a wellhead protection zone as identified and described within the Wellhead Protection Plan approved by the State of Georgia.
- B. Prohibited Uses. Land use and activities in the wellhead protection zones as identified and described as potential pollution sources in the Wellhead Protection Plan approved by the State of Georgia will be prohibited as stated in the plan.
- C. Administration. Policies and procedures for administration of any wellhead protection zone established under this ordinance shall be the same as provided in the existing zoning ordinance for the City of Hoschton, as the same is presently enacted or may from time to time be amended.

Section 20-150. Purchase of Sewage Treatment Connection(s) by Owners Using Septic Tanks

Owners of residential property within the service area of Hoschton that as of the date of the adoption of this ordinance are served by an existing septic tank or other existing on-site system may purchase sewer connections to the city sewerage systems as provided in this ordinance. It is the intent of the Mayor and Council to encourage residents with septic tanks to connect to the city's sewerage system if collection lines are available near those properties.

1. Written Request. In order to purchase a sewer connection to the city sewerage system the owner of the property to be served must make written request to the City Clerk.
2. Calculation of Cost. Using the information provided, the City Clerk or a designee shall calculate the cost of the connection(s) the person seeks to purchase. The cost for a single family residential use connection for the owner of such property will be the connection fee specified in the City of Hoschton Fee Schedule.

3. **Payment of Costs.** The City Clerk shall notify the property owner of the amount of the total cost within three (3) days of the request. The property owner shall then have thirty (30) days within which to pay the cost in full or make a request to make payments. Upon the failure to pay the full cost or make such a request within thirty (30) days, the Clerk shall notify the person that the request is denied. If the owner requests to make payments the Clerk may grant the request and allow the person to pay the amount in 60 equal monthly installments. The unpaid principal balance will bear interest equal to the prime rate reported in the Wall Street Journal on the date of the owner's request.
4. **Infrastructure.** By allowing such sewerage treatment connection(s) the City shall not be obligated or required to provide any necessary infrastructure improvements or plumbing modifications, including but not limited to pump or lift stations.
5. **Lien Rights.** The cost of the connection, once made, shall be a lien against the property. The owner shall execute and the Clerk shall file the necessary documents with the Clerk of Superior Court of Jackson County to perfect this lien. Such lien shall have the same priority and may be collected in the same manner as unpaid taxes.
6. **Severance.** If any portion or subsection of this ordinance or its application to any person or circumstance is held invalid by a court of competent jurisdiction, the remainder or application to other persons or circumstances shall not be affected.

(Adopted 12/3/07; Effective 12/13/07)

ARTICLE II. CITY OF HOSCHTON CROSS-CONNECTION CONTROL ORDINANCE

Section 20-201. Purpose

1. To protect the public potable water supply served by the Hoschton Water Department from the possibility of contamination or pollution by isolating, within its customer's internal distribution system, such contaminants or pollutants which could backflow or back-siphon into the public water system.
2. To promote the elimination or control of existing cross-connections, actual or potential, between its customers in-plant potable water system, and non-potable water systems by cross-connection.
3. To provide for the maintenance of a continuing program of cross-connection control which will effectively prevent the contamination or pollution of all potable water systems by cross-connection.

Section 20-202. Authority

1. The Federal Safe Drinking Water Act of 1974, and the statutes of the State of Georgia, the water purveyor has the primary responsibility for preventing water from unapproved sources, or any other substances, from entering the public potable water system.
2. Hoschton Water Department, Rules and Regulations, adopted.

Section 20-203. Responsibility

The Director of Municipal Services, City Clerk, or other designee of the City Council shall be responsible for the protection of the public potable water distribution system from contamination or pollution due to the backflow or back-siphonage or contaminants or pollutants through the water service connection. If, in the judgement of the Director of Municipal Services, City Clerk, or other designee of the City Council, an approved backflow device is required at the City's water service connection to any customer's premises, the Director, or his delegated agent, City Clerk, or other designee of the City Council, shall give notice in writing to said customer to install an approved backflow prevention device at each service connection to his premises. The customer shall, within ninety (90) days install such approved device, or devices, at his own expense, and failure or refusal, or inability on the part of the customer to install said device or devices within ninety (90) days, shall constitute grounds for discontinuing water service to the premises until such device or devices have been properly installed.

Section 20-204 Definitions

1. Approved. Accepted by the Director of Municipal Services, City Clerk, or other designee of the City Council as meeting an applicable specification stated or cited in this regulation, or as suitable for the proposed use.
2. Auxiliary Water Supply. Any water supply, on or available, to the premises other than the purveyor's approved public potable water supply.
3. Backflow. The flow of water or other liquids, mixtures or substances, under positive or reduced pressure in the distribution pipes of a potable water supply from any source other than its intended source.
4. Backflow Preventer. A device or means designed to prevent backflow or back-siphonage. Most commonly categorized as air gap, reduced pressure principal device, double check valve assembly, pressure vacuum breaker, atmospheric vacuum breaker, hose bibb vacuum breaker, residential dual check, double check with intermediate atmospheric vent, and barometric loop.
 - A. Air Gap. A physical separation sufficient to prevent backflow between the free-flowing discharge end of the potable water system and any other system. Physically defined as a distance equal to twice the diameter of the supply side pipe diameter but never less than one inch (1").

- B.** Atmospheric Vacuum Breaker. A device which prevents back-siphonage by creating an atmospheric vent when there is either a negative pressure or sub-atmospheric pressure in a water system.
 - C.** Barometric Loop. A fabricated piping arrangement rising at least thirty-five feet (35') at its topmost point above the highest fixture it supplies. It is utilized in water supply systems to protect against back-siphonage.
 - D.** Double Check Valve Assembly. An assembly of two (2) independently operating spring loaded check valves with tightly closing shut off valves on each side of the check valves, plus properly located test cocks for the testing of each check valve.
 - E.** Double Check Valve with Intermediate Atmospheric Vent. A device having two (2) spring loaded check valves separated by an atmospheric vent chamber.
 - F.** Hose Bibb Vacuum Breaker. A device which is permanently attached to a hose bibb and which acts as an atmospheric vacuum breaker.
 - G.** Pressure Vacuum Breaker. A device containing one or two independently operated spring loaded check valves and an independently operated spring loaded air inlet valve located on the discharge side of the check or checks. Device includes tightly closing shut-off valves on each side of the check valves and properly located test cocks for the testing of the check valve(s).
 - H.** Reduced Pressure Principal Backflow Preventer. An assembly consisting of two (2) independently operating approved check valves with an automatically operating differential relief valve located between the two (2) check valves, tightly closing shut-off valves on each side of the check valves plus properly located test cocks for the testing of the check valves and the relief valve.
 - I.** Residential Dual Check. An assembly of two (2) spring loaded, independently operating check valves without tightly closing shut-off valves and test cocks. Generally employed immediately downstream of the water meter to act as containment device.
5. Backpressure. A condition in which the owner's system pressure is greater than the supplier's system pressure.
 6. Back-siphonage. The flow of water or other liquids, mixtures or substances into the distribution pipes of a potable water supply system from any source other than its intended source caused by the sudden reduction of pressure in the potable water supply system.

7. Commission. The State of Georgia Water Supply and Pollution Control Commission.
8. Containment. A method of backflow prevention which requires a backflow prevention presented at the water service entrance.
9. Contaminant. A substance that will impair the quality of the water to a degree that it creates a serious health hazard to the public leading to poisoning or the spread of disease.
10. Cross-connection. Any actual or potential connection between the public water supply and a source of contamination or pollution.
11. Department. City of Hoschton Water Department.
12. Fixture Isolation. A method of backflow prevention in which a backflow prevented is located to correct a cross connection at an in-plant location rather than at a water service entrance.
13. Owner. Any person who has legal title to, or license to operate or habitat in, a property upon which a cross-connection inspection is to be made or upon which a cross-connection is present.
14. Person. Any individual, partnership, company, public or private corporation, political subdivision or agency of the State Department, agency or instrumentality or the United States or any other legal entity.
15. Permit. A document issued by the Department which allows the use of a backflow prevented.
16. Pollutant. A foreign substance, that if permitted to get into the public water system, will degrade its quality so as to constitute a moderate hazard, or impair the usefulness or quality of the water to a degree which does not create an actual hazard to the public health but which does adversely and unreasonably effect such water for domestic use.
17. Water Service Entrance. That point in the owner's water system beyond the sanitary control of the District; generally considered to be the outlet end of the water meter and always before any unprotected branch.
18. Director of Municipal Services. The Director, or his delegated representative in charge of the Department of Municipal Service, the City Clerk, or other designee of the City Council, is invested with the authority and responsibility for the implementation of a cross-connection control program and for the enforcement of the provisions of the Ordinance.

Section 20-205. Administration

1. The Department will operate a cross-connection control program, to include the keeping of necessary records, which fulfills the requirements of the Commission's Cross-connection Regulations and is approved by the Commission.
2. The owner shall allow his property to be inspected for possible cross-connections and shall follow the provisions of the Department's program and the Commission's Regulations if a cross-connection is permitted.
3. If the department requires that the public supply be protected by containment, the owner shall be responsible for water quality beyond the outlet end of the containment device and should utilize fixture outlet protection for that purpose.

He may utilize public health officials, or personnel from the Department, or their delegated representatives, to assist him in the survey of his facilities and to assist him in the selection of proper fixture outlet devices, and the proper installation of these devices.

Section 20-206. Requirements

1. Department.
 - A. On new installations, the Department will provide on-site evaluation and/or inspection of plans in order to determine the type of backflow presented, if any, that will be required, will issue permit, and perform inspection and testing. In any case, a minimum of a dual check valve will be required in any new construction.
 - B. For premises existing prior to the start of this program, the Department will perform evaluations and inspections of plans and/or premises and inform the owner by letter of any corrective action deemed necessary, the method of achieving the correction and the time allowed for the correction to be made. Ordinarily, ninety (90) days will be allowed, however, this time period may be shortened depending upon the degree of hazard involved and the history of the device(s) in question.
 - C. The department will not allow any cross-connection to remain unless it is protected by an approved backflow presented for which a permit has been issued and which will be regularly tested to insure satisfactory operation.
 - D. The department shall inform the owner by letter, of any failure to comply, by the time of the first re-inspection. The department will allow an additional fifteen (15) days from the correction. In the event the owner fails to comply with the necessary correction by the time of the second re-inspection, the

- department will inform the owner by letter, that the water service to the owner's premises will be terminated within a period not to exceed five (5) days. In the event that the owner informs the department of extenuating circumstances as to why the correction has not been made, a time extension of extenuating circumstances as to why the correction has not been made, a time extension may be granted by the department but in no case will exceed an additional thirty (30) days.
- E. If the department determines at any time that a serious threat to the public health exists, the water service will be terminated immediately.
 - F. The department shall have on file, a list of private contractors who are certified backflow device testers. All charges for these tests will be paid by the owner of the building or property.
 - G. The department will begin initial premise inspections to determine the nature of existing or potential hazards, following the approval of this program by the commission, during the calendar year 2001. Initial focus will be on high hazard industries and commercial premises.

2. Owner.

- A. The owner shall be responsible for the elimination or protection of all cross-connections on his premises.
- B. The owner, after having been informed by a letter from the department, shall at his expense, install, maintain, and test, or have tested, any and all backflow preventers on his premises.
- C. The owner shall correct any malfunction of the backflow preventer which is revealed by periodic testing.
- D. The owner shall inform the department of any proposed or modified cross-connections and also any existing cross-connections of which the owner is aware but has not been found by the department.
- E. The owner shall not install a by-pass around any backflow preventer unless there is a backflow preventer of the same type on the bypass. Owners who cannot shut down operation for testing of the device(s) must supply additional devices necessary to allow testing to take place.
- F. The owner shall install backflow preventers in a manner approved by the department.
- G. The owner shall install only backflow preventers approved by the department or commission.

- H. Any owner having an irrigation system, swimming pool, or other direct connection to the water system which creates a cross connection must have a permit and must comply with this Ordinance.
- I. Any owner having a private well or other private water source, must have a permit if the well or source is cross-connected to the department's system. Permission to cross-connect may be denied by the department. The owner may be required to install a backflow preventer at the service entrance if a private water source is maintained, even if it is not cross-connected to the department's system.
- J. In the event the owner installs plumbing to provide potable water for domestic purposes which is on the department's side of the backflow prevented, such plumbing must have its own backflow prevented installed.
- K. The owner shall be responsible for the payment of all fees for permits, annual or semi-annual device testing, re-testing in the case that the device fails to operate correctly, and second re-inspections for non-compliance with the department or commission requirements.
- L. Residential Dual Check. Effective the date of the acceptance of this Cross-Connection Control Program for the City of Hoschton all new residential buildings will be required to install a residential dual check device immediately downstream of the water meter. Installation of this residential dual check device on a retrofit basis on existing service lines will be instituted at a time and at a potential cost to the homeowner as deemed necessary by the department.

The owner must be aware that installation of a residential dual check valve results in a potential closed plumbing system within his residence. As such, provisions may have to be made by the owner to provide for thermal expansion within his closed loop system, i.e., the installation of thermal expansion devices and/or pressure relief valves.

(Amended 4/2/2001)

- M. Strainers. The department strongly recommends that all new retrofit installations of reduced pressure principal devices and double check valve backflow preventers include the installation of strainers located immediately upstream of the backflow device. The installation of strainers will preclude the fouling of backflow devices due to both foreseen and unforeseen circumstances occurring to the water supply system such as water main repairs, water main breaks, fires, periodic cleaning and flushing of mains, etc. These occurrences may "stir up" debris within the water main that will cause fouling of backflow devices installed without the benefit of strainers.

(Amended 4/2/2001)

Section 20-207. Degree of Hazard

The department recognizes the threat to the public water system arising from cross-connections. All threats will be classified by degree of hazard and will require the installation of approved reduced pressure principal backflow prevention devices or double check valves.

Section 20-208. Permits

The department shall not permit a cross-connection within the public water supply system unless it is considered necessary and that it cannot be eliminated.

1. Cross-connection permits that are required for each backflow prevention device are obtained from the department. A fee of fifty dollars (\$50.00) will be charged for the initial permit and fifty dollars (\$50.00) for the renewal of each permit.
2. Permits shall be renewed every five (5) years and are non-transferable. Permits are subject to revocation and become immediately revoked if the owner should so change the type of cross-connection or degree of hazard associated with the service.
3. A permit is not required when fixture isolation is achieved with the utilization of a non-testable backflow preventer.

Section 20-209. Existing In-use Backflow Prevention Devices

Any existing backflow preventer shall be allowed by the department to continue in service unless the degree of hazard is such as to supersede the effectiveness of the present backflow preventer, or result in an unreasonable risk to the public health. Where the degree of hazard has increased, as in the case of a residential installation converting to a business establishment, any existing backflow preventer must be upgraded to a reduced pressure principal device, or a reduced pressure principal device must be installed in the event that no backflow device was present.

Section 20-210. Periodic Testing

1. Reduced pressure principal backflow devices shall be tested and inspected at least semi-annually.
2. Periodic testing shall be performed by the department's certified tester or his delegated representative. This testing will be done at the owner's expense.

3. The testing shall be conducted during the department's regular business hours. Exceptions to this, when at the request of the owner, may require additional charges to cover the increased costs to the department.
4. Any backflow preventer which fails during a periodic test will be repaired or replaced. When repairs are necessary, upon completion of the repair the device will be re-tested at owners expense to insure correct operational. High hazard situations will not be allowed to continue unprotected if the backflow preventer fails the test and cannot be repaired immediately. In other situations, a compliance date of not more than thirty (30) days after the test date will be established. The owner is responsible for spare parts, repair tools, or a replacement device. Parallel installation of two (2) devices is an effective means of the owner ensuring that uninterrupted water service during testing or repair of devices and is strongly recommended when the owner desires such continuity.

Section 20-211. Records and Reports

1. Records. The department will initiate and maintain the following:
 - A. Master files on customer cross-connection tests and/or inspections.
 - B. Master files on cross-connection permits.
 - C. Copies of permits and permit applications.
 - D. Copies of lists and summaries supplied to the commission.
2. Reports. The department will submit the following to the commission.
 - A. Initial listing of low hazard cross-connection to the state.
 - B. Initial listing of high hazard cross-connections to the state.
 - C. Annual update lists of items (A) and (B) above.
 - D. Annual summary of cross-connection inspections to the state.

Section 20-212. Fees and Charges

The department will publish a list of fees or charges for the following services or permits:

1. Testing fees.
2. Re-testing fees.
3. Fee for re-inspection.

4. Charges for after-hours inspection or tests.
(Adopted 4/2/2001)

ARTICLE III. SEWER USE ORDINANCE

Section 20-301. Definitions

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

1. Act. The Federal Water Pollution Control Act Amendments of 1972, PL 92—500, as amended by the Clean Water Act of 1977, PL 95-217, and as subsequently amended, 33 USC 1251 et seq.
2. Biochemical Oxygen Demand (BOD). The quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure prescribed in "Standard Methods for the Examination of Water and Wastewater" in five (5) days at twenty (20) degrees Celsius, expressed in milligrams per liter.
3. Building Drain. That part of the lowest horizontal piping of a drainage system which receives the discharge from soil, waste and other drainage pipes inside the walls of the building and conveys it to the building sewer, beginning five feet (5') outside the outer face of the building wall.
4. Building Sewer. The extension from the building drain to the public sewer or other place of disposal, also called house connection or service connection.
5. Categorical Standard. National pretreatment standards applicable to industrial users specifying quantities or concentrations of pollutants or pollutant properties which may be discharged to a City-owned wastewater treatment works. Categorical standards are established in 40 CFR, chapter 1, subchapter N, relating to effluent guidelines and standards.
6. Chemical Oxygen Demand. The quantity of oxygen or oxygen utilized in the oxidation of organic matter under standard laboratory procedures prescribed in "Standard Methods for the Examination of Water and Wastewater," expressed in milligrams per liter.
7. Combined Sewer. A sewer intended to receive both wastewater and stormwater or surface water.
8. Composite Sample. The accumulation of a number of individual samples over a period of time, so taken as to represent the nature of the wastewater.

9. Cooling Water. The water discharged from any use such as air conditioning, cooling, refrigeration, or to which the only pollutant added is heat.
10. Customer. Every person who is responsible for contracting (expressly or implicitly) with the City in obtaining, having or using sewer connections with, or sewer tap to, the sewerage system of the City and in obtaining, having or using water and other related services furnished by the City for the purpose of disposing of wastewater and sewage through the system. Such terms shall include the occupants of each unit of a multiple-family dwelling unit building as a separate and distinct customer.
11. Designated City Representative. The City Clerk or his/her authorized deputy or representative.
12. Easement. An acquired legal right for the specific use of land owned by others.
13. Floatable Oil. Oil, fat or grease in a physical state such that it will separate by gravity from wastewater by treatment in an approved pretreatment facility. Wastewater shall be considered free of floatable oil if it is properly pretreated and the wastewater does not interfere with the collection system.
14. Flush Toilet. The common sanitary flush commode in general use for the disposal of human excrement.
15. Garbage. The animal and vegetable waste resulting from the handling, preparation, cooking and serving of foods.
16. General Pretreatment Regulations. 40 CFR, chapter 1, part 403, General Pretreatment Regulations for Existing and New Sources of Pollution, as amended.
17. Grab Sample. A sample which is taken from a wastewater stream on a one (1) time basis with no regard to the flow in the wastewater stream and without consideration of time.
18. Grease. A group of substances, including fats, waxes, free fatty acids, calcium and magnesium soaps, mineral oils, and certain other nonfatty materials.
19. Grease Interceptor. A tank or vessel designed to remove and retain grease and floatable oil from a wastewater stream prior to discharge to a public sewer.
20. Grit. The heavy suspended mineral matter present in wastewater such as sand or gravel.

21. Grit Interceptor. A tank or vessel designed to interrupt the flow of wastewater so as to cause grit to settle out of the wastewater stream prior to discharge to a public sewer.
22. Industrial Wastes. The wastewater from industrial processes, trade or business as distinct from domestic or sanitary wastes.
23. Infiltration/inflow. Groundwater and surface water which leaks into the sewers through cracks in pipes, joints, manholes or other openings.
24. Municipality. The government body having jurisdiction over the maintenance and operations of the water and sanitary sewer systems within the City and adjacent areas of the county.
25. Natural Outlet. Any outlet, including storm sewers and combined sewer overflows, into a watercourse, pond, ditch, lake or other body of surface water or groundwater.
26. Normal Wastewater. Wastewater discharged into the sanitary sewers in which the average concentration of total suspended solids is not more than three hundred milligrams per liter (300 mg/l), BOD 5 is not more than three hundred milligrams per liter (300 mg/l), total phosphorous is not more than fifteen milligrams per liter (15 mg/l), total oil and grease is not more than one hundred milligrams per liter (100 mg/l), total Kjeldahl nitrogen is not more than twenty milligrams per liter (20 mg/l), and the total flow is not more than thirty-six thousand gallons per day (36,000 gpd).
27. pH. The reciprocal of the logarithm of the hydrogen ion concentration. The concentration is the weight of hydrogen ions, in grams, per liter of solution.
28. Pit Privy. A shored, vertical pit in the earth completely covered with a flytight slab on which is securely located a flytight riser covered with hinged flytight seat and lid.
29. Properly Shredded Garbage. The wastes from the preparation, cooking and dispensing of food that have been shredded to such a degree that all particles will be carried freely under the flow conditions normally prevailing in public sewers, with no particle greater than one-half inch ($\frac{1}{2}$ ") in any dimension.
30. Public Sewer. A common sewer controlled by a governmental agency or public utility.
31. Sanitary Sewer. A sewer than carries liquid and water-carried wastes from residences, commercial buildings, industrial plants and institutions, together with minor quantities of groundwater, stormwater, and surface waters that are not admitted intentionally.

32. **Septic Tank.** A subsurface impervious tank designed to temporarily retain sewage or similar waterborne wastes, together with a: Sewer line constructed with solid pipe, with the joints sealed, connecting the impervious tank with a plumbing stub-out; and Subsurface system of trenches, piping and other materials constructed to drain the clarified discharge from the tank and distribute it underground to be absorbed or filtered.
33. **Sewage.** The spent water of a community. The equivalent term is "wastewater."
34. **Sewer.** A pipe or conduit that carries wastewater or drainage water.
35. **Slug.** Any discharge of water or wastewater which in concentration of any given constituent or in quantity of flow exceeds for any period or duration longer than fifteen (15) minutes more than five (5) times the average twenty-four (24) hour concentration of flows during normal operation and shall adversely affect the collection system and/or performance of the wastewater treatment works.
36. **Storm Drain (Sometimes Termed "Storm Sewer").** A drain or sewer for conveying water, groundwater, subsurface water, or unpolluted water from any source any excluding sewage and industrial wastes other than unpolluted cooling water.
37. **Suspended Solids.** A 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 as prescribed in "Standard Methods for the Examination of Water and Wastewater" and referred to as nonfilterable residue.
38. **Toxic Pollutant.** Any pollutant or combination of pollutants listed as toxic in 40 CFR 401.15.
39. **Unpolluted Water.** Water of quality equal to or better than the effluent criteria in effect or water than 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.
40. **User.** Any person who contributes, causes or permits the contribution of wastewater into public wastewater facilities.
41. **Wastewater.** The spent water of a community. From the standpoint of source, it may be a combination of the liquid and water-carried wastes from residences, commercial buildings, industrial plants, and institutions, together with any groundwater, surface water and stormwater that may be present.
42. **Wastewater Facilities.** The structures, equipment and processes required to collect, carry away and treat domestic and industrial wastes and dispose of the effluent.

43. Wastewater Treatment Works. An arrangement of devices and structures for treating wastewater, industrial wastes and sludge; sometimes used as synonymous with "waste treatment plant" or "wastewater treatment plant" or "water pollution control plant."
44. Watercourse. A natural or artificial channel for the passage of water, either continuously or intermittently.

Section 20-302. Use of Public Sewers Required

1. 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 or in any area under the jurisdiction of the City any human excrement or objectionable waste.
2. It shall be unlawful to discharge to any natural outlet within the City, or in any area under the jurisdiction of the City, any wastewater or other polluted waters, except where suitable treatment has been provided in accordance with the provisions of this Article.
3. Except as otherwise 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.
4. The owner 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, easement or right-of-way in which there is located a public sanitary sewer of the City and not served by an approved and properly functioning private wastewater disposal system as of the effective date of this Article, is required at the owner's expense to install suitable toilet facilities in such places, and to connect such facilities directly with the proper public sewer in accordance with the provisions of this Article, within ninety (90) days after date of official notice to do so, provided the public sewer is within two hundred feet (200') of the property line. Any house, building or property used for human occupancy, employment, recreation or other purposes, situated within the City, which has an approved and properly functioning private wastewater disposal system as of the effective date of this Article will not be required by the City to connect to a public sanitary sewer as long as the private wastewater disposal system functions in accordance with requirements of the state Department of Human Resources, the state Department of Natural Resources and the county sanitarian. For septic tanks or other private subsurface disposal facilities, the Jackson County Health Department shall determine if the wastewater disposal system is functioning properly.
5. All sinks, dishwashing machines, lavatories, basins, shower baths, bathtubs, laundry tubs, washing machines, and similarly plumbing fixtures or appliances

and swimming pool drains and overflows shall be connected to the public sewer; provided, that where no sewer is available, septic tanks or other private subsurface disposal facilities approved by the Jackson County Health Department may be used.

Section 20-303. Private Wastewater Disposal

1. Where a public sanitary sewer is not available under the provisions of Section 20-302, the building sewer shall be connected to a private wastewater disposal system complying with the provisions of this Section and the regulations of state Department of Human Resources or the state Department of Natural Resources.
2. Before commencement of construction on any private wastewater disposal system, except for septic tanks, the owner shall first obtain a written permit from the designated City representative. Septic tank installations are under the jurisdiction of the Jackson County Health Department.
3. Septic tanks shall be constructed, repaired, altered, enlarged and maintained in accordance with plans and specifications approved by the Jackson County Health Department. Septic tanks shall be maintained in sanitary working order.
4. No person shall construct, repair, alter or enlarge any septic tank unless the person holds a valid permit for such work issued by the Jackson County Health Department. The Jackson County Health Department may withhold the issuance of such a permit pending the inspection and approval by the Jackson County Health Department of the site and location of the proposed work, before constructed, repaired, altered or enlarged, it shall be inspected and approved by the Jackson County Health Department. A copy of the approval shall be provided to the City by the owner of the private wastewater disposal system.
5. The type, capacities, location and layout of a private wastewater disposal system shall comply with all requirements of state and federal water pollution control agencies of jurisdiction and with the Jackson County Health Department. No permit shall be issued for any private wastewater disposal system employing subsurface solid absorption facilities where the area of the lot is less than forty-three thousand, five hundred sixty square feet (43,560 sq. ft.). No septic tank shall be permitted to discharge to any natural outlet.
6. No septic tank or other subsurface disposal facility shall be installed where a public sewer is accessible within two hundred feet (200') of the premises involved, nor in any place where the Jackson County Health Department deems the use to be a menace to human health or well-being.
7. At such time as a public sewer becomes available to a property served by a private wastewater disposal system, as provided in this Section, and the Jackson

County Health Department determines that the private wastewater disposal system is not functioning properly, a direct connection shall be made to the public sewer within sixty (60) days after official notice to do so. Any septic tanks or similar private wastewater disposal facilities shall then be cleaned of sludge and filled with suitable material.

8. The owner shall operate and maintain the private wastewater disposal facilities in a sanitary manner at all times, at no expense to the City.
9. No subsurface disposal facilities shall be installed in any place where the Jackson County Health Department deems the use of such facilities to be a menace to human health or well-being.
10. Every flush toilet shall be connected to a public sewer where available, to a septic tank, or other permitted private wastewater disposal system. Flush toilets shall be provided at all times with sufficient running water under pressure to flush the toilet clean after each use.

11. Discharge of septic tank contents into the sewer system shall be as follows:

- A. Restricted. It shall be unlawful to empty, dump or otherwise discharge into any manhole or other opening, into the City sewer system, or any system connected with and discharging into the City sewer system the contents of any septic tank, sludge sewage, or other similar matter or material, except as provided in subsection (B). Pumpings or contents taken from grease, grit or oil interceptors are prohibited.
- B. Permits. The designated City representative is authorized to issue permits to discharge the contents of septic tanks at locations specified by the designated City representative and under his supervision. Such permits may be revoked at any time if, in the opinion of the designated City representative, continued dumping of such matter into the sewers will be injurious to the sewer system or treatment processes. Prior to permit issuance, the designed City representative may require a complete analysis of waste products to be discharged to determine compatibility with the treatment process. The analysis will be at the expense of the person requesting the discharge permit.
- C. Charges. A charge shall be made for the privilege of dumping the contents of septic tanks, as provided in the City's fee schedule. A record shall be kept of such dumpings. Fees for dumping shall be paid prior to the City's accepting the waste material.

12. Any premises with a septic tank or any other sewage, industrial waste or liquid waste disposal system located on the premises that does not function in a sanitary manner shall be corrected within sixty (60) days from the receipt of written notification from the county sanitarian, the state or the City that the

system is not functioning in a sanitary manner, and order that the system be corrected.

13. No statement contained in this Section shall be constructed to interfere with any additional requirements that may be imposed by the Jackson County Health Department or the state.

Section 20-304. Building Sewers and Connections

1. No unauthorized person shall uncover, make any connections with or opening into, use, alter, or disturb any public sewer or appurtenance of such sewer without first obtaining a written permit from the City.
2. There shall be two (2) classes of building sewer permits, for residential and commercial service, and for service to establishments producing industrial wastes. In either case, the owner or the owner's agent shall make application on a special form furnished by the City. The permit application shall be supplemented by any plans, specifications or other information considered pertinent in the judgment of the designated City representative. A permit and inspection fee for a residential or commercial building or either an industrial building sewer permit shall be paid to the City at the time the application is filed.
3. All costs and expenses incidental to the installation and connection of the building sewer shall be borne by the owner. The owner shall indemnify the City from any loss or damage that may directly or indirectly be occasioned by the installation of the building sewer.
4. A separate and independent building sewer shall be provided for every building, except where one building stands at the rear of another on an interior lot and no private sewer is available or can be constructed to the rear building through an adjoining alley, court yard, or driveway, the 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 obligation or responsibility for damage caused by or resulting from any such single connection.
5. Existing building sewers may be used in connection with new buildings only when they are found, on examination and test by the designated City representative, to meet all requirements of this Article.
6. The size, slope, alignment, materials of construction of a building sewer, and the methods to be used in construction, shall all conform to the requirements of the building and plumbing codes or other applicable rules and regulations of the City. The installation of all building sewer and connections to the public sewer shall conform with all pertinent Occupational Health and Safety Act (OSHA) requirements.

7. Whenever possible, the building sewer shall be brought to the building at an elevation below the basement floor. No building sewer shall be built parallel to or within three feet (3') of any bearing wall which might thereby be weakened. In all buildings in which any building drain is too low to permit gravity flow to the public sewer, sanitary sewage carried by such building drain shall be lifted by an approved means and discharged to the building sewer.
8. No person shall make connection of roof downspouts, foundation drains, areaway drains, or other sources of surface runoff or groundwater to a building sewer or building drain which in turn is connected directly or indirectly to a public sanitary sewer unless such connection is approved by the designated City representative for purposes of disposal of polluted surface drainage.
9. The connection of the building sewer into the public sewer shall conform to the requirements of the building and plumbing codes or other applicable rules and regulations of the City, or the procedures set forth in appropriate specifications of the ASTM and the WEF Manual of Practice No. 9, latest edition. All such connections shall be made gastight and watertight and verified by proper testing. Any deviation from the prescribed procedures and materials must be approved by the designated City representative before installation.
10. The applicant for the building sewer permit shall notify the designated City representative when the building sewer is ready for inspection and connection to the public sewer. The connection and testing shall be made under the supervision of the designated City representative.
11. All excavations for building sewer installation shall be adequately guarded with barricades, lights and other devices so as to protect the public from hazard. Streets, alleys, sidewalks and other public property disturbed in the course of the work shall be restored in a manner satisfactory to the City.
12. The City will define the availability of sewers and any costs associated with sewer permits or construction.
13. If any building sewer permits the entrance of infiltration or inflow, the City may:
 - A. Require the owner to repair the building sewer.
 - B. Charge the owner a sewer rate that reflects the costs of the additional expense of sewage treatment from the owner's property.
 - C. Require the owner to disconnect his sewer from the City sewer system.

Section 20-305. Restricted Use of the Public Sewers

1. No person shall discharge or cause to be discharged any unpolluted waters such as stormwater, groundwater, roof runoff, subsurface drainage, cooling water or unpolluted industrial process waters, to any sewer; except stormwater runoff from limited areas such as solid waste dumpster pads, which stormwater may be polluted at times, may be discharged to the sanitary sewer by permission of the designated City representative.
2. Stormwater other than that exempted under subsection (1) of this Section and all other unpolluted drainage shall be discharged to storm sewers or to a natural outlet approved by the designated City representative and other regulatory agencies. Unpolluted industrial cooling or condensing water may be discharged, on approval of the designated City representative and the state Environmental Protection Division, to a storm sewer, or natural outlet.
3. No person shall discharge or cause to be discharged any sanitary wastewater into a storm sewer system.
4. No person shall discharge or cause to be discharged any of the following described waters or wastes to any public sewers:
 - A. Any gasoline, kerosene, benzene, naphtha, acetone, toluene, turpentine, xylene, ethers, alcohols, ketones, aldehydes, peroxides, chlorates, perchlorates, bromates, carbides, hydrides, sulfides, fuel oil, mineral spirits or other flammable or explosive liquid, solid or gas in sufficient quantity, either singly or by interaction with other waste, to injure or interfere with any waste treatment process, constitute a hazard to humans or animal, create a public nuisance, or create any hazard in the receiving waters of the wastewater treatment plant.
 - B. Any waters containing toxic or poisonous solids, liquids or gases in sufficient quantity, either singly or by interaction with other wastes, to injure or interfere with any waste treatment process, constitute a hazard to humans or animals, create a public nuisance, or create any hazard in the receiving waters of the wastewater treatment plant.
 - C. Any waters or wastes having a pH lower than six (6.0) or higher than nine (9.0), or having any other corrosive property capable of causing damage or hazard to structures, equipment and personnel of the wastewater treatment works.
 - D. 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, grinding and polishing wastes, sand, mud, grass clippings, leaves, straw, shavings, metal, glass, rags, fibers, feathers, tar, plastics, rubber, latex, wood, underground garbage, whole blood, paunch manure, hair and

fleshings, entrails, offal, paper or plastic dishes and cups, milk containers, etc., either whole or ground by garbage grinders.

5. The following described substances, materials, waters or waste shall be limited in discharges to municipal systems to concentrations or quantities which will not, either singly or by interaction with other substances, 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 designated City representative may set limitations lower than the limitations established in the regulations of this subsection if in his opinion such more severe limitations are necessary to meet the objectives of this Section. In forming an opinion as to the acceptability, the designated City representative will give consideration to such factors as the quantity of subject waste in relation to flows and velocities in the sewers, materials of construction of the sewers, the wastewater treatment process employed, capacity of the wastewater treatment plant, degree of treatability of the waste in the wastewater treatment plant, and other pertinent factors. The limitations or restrictions on materials or characteristics of waste or wastewaters discharged to the sanitary sewer which shall not be violated without approval of the City are as follows:
 - A. Wastewater having a temperature higher than one hundred fifty (150) degrees Fahrenheit (sixty-five [65] degrees Celsius) or wastewater which will elevate the temperature of the influent to the City wastewater treatment works to one hundred four (104) degrees Fahrenheit (forty [40] degrees Celsius) or higher.
 - B. Wastewater containing more than twenty-five milligrams per liter (25 mg/l) of petroleum oil, non-biodegradable cutting oils, or products of mineral oil origin.
 - C. Wastewater containing more than one hundred milligrams per liter (100 mg/l) of oils, fat, grease or wax, whether emulsified or not, or containing substances which may solidify or become viscous at temperatures between thirty-two (32) degrees Fahrenheit (zero [0] degrees Celsius) and one hundred fifty [150] degrees Fahrenheit (sixty-five [65] degrees Celsius).
 - D. Any garbage that has not been properly shredded (See definition, "Properly Shredded Garbage," in Section 20-301). Garbage grinders may be connected to sanitary sewers from homes, hotels, motels, institutions, restaurants, hospitals, catering establishments or similar places where garbage originates from the preparation of food in kitchens for the purpose of consumption on the premises or when served by caterers.
 - E. Any waters or wastes containing heavy metals and similar objectionable or toxic substances to such degree that any such material at the point of discharge exceeds the following limits:

(1) Metals Parameters

Pollutant	Maximum Daily Concentration (mg/l)	Maximum Monthly Concentration (mg/l)
Antimony	0.2370	0.1410
Arsenic	0.1620	0.1040
Barium	0.4270	0.2810
Cadmium	0.0172	0.0102
Chromium	0.7460	0.3230
Cobalt	0.1920	0.1240
Copper	0.5000	0.2420
Lead	0.3500	0.1600
Mercury	0.0023	0.0007
Molybdenum	1.0100	0.9650
Nickel	3.9500	1.4500
Selenium	1.6400	0.4080
Silver	0.1200	0.0351
Tin	0.4090	0.1200
Titanium	0.0510	0.0299
Vanadium	0.2180	0.0662
Zinc	0.4970	0.4200

(2) Organic Parameters

Pollutant	Maximum Daily Concentration (mg/l)	Maximum Monthly Concentration (mg/l)
Acetone	30.2000	7.9700
Acetophenone	0.1140	0.0562
Aniline	0.0333	0.0164
Bis (2-ethylhexyl)	0.2150	0.1010
2-Butanone	4.8100	1.8500
Butylbenzyl phthalate	0.1880	0.0887
Carbazole	0.5980	0.2760
o-Cresol	1.9200	0.5610
p-Cresol	0.6980	0.2050
n-Decane	0.9480	0.4370
2,3-Dichloroaniline	0.0731	0.0361
Flouranthene	0.0537	0.0268
n-Octadecane	0.5890	0.3020
Phenol	3.6500	1.0800
Pyridine	0.3700	0.1820
2,4,6-Trichlorophenol	0.1550	0.1060

Concentrations apply at the point where the industrial waste is discharged to the public

sewer. In addition, any element or substance which in the judgment of the designated City representative will damage collection facilities or be detrimental to the treatment process may be prohibited. These limits may be amended if such amendment is deemed necessary to protect the facilities or life or health and/or to comply with applicable state or federal regulations.

- F. All industrial discharges to the City sewer system must comply with the Federal Industrial Pretreatment Standards (40 CFR parts 401 to 471) and those industrial pretreatment standards established or set by the state environmental protection division.
- G. Any waters or wastes containing odor-producing substances exceeding limits which may be established by the designated City representative.
- H. Any radioactive wastes or isotopes of such half-life or concentration as may exceed limits established in compliance with applicable state or federal regulations.
- I. Quantities of flow, concentrations, or both which constitutes a slug.
- J. Waters or wastes containing substances which are not amenable to treatment or reduction by the wastewater treatment processes employed, or are amendable to treatment only to such degree that the wastewater treatment plant effluent cannot meet the requirements of other agencies having jurisdiction over discharge to receiving waters.
- K. Any water or wastes which, by interaction with other waters or wastes in the public sewer system, release obnoxious gases, form solids which interfered with the collection system, or create a condition deleterious to structures and treatment processes.
- L. Any gasoline, kerosene, benzene, naphtha, acetone, toluene, turpentine, xylene, ethers, alcohols, ketones, aldehydes, peroxides, chlorates, perchlorates, bromates, carbides, hydrides, sulfides, fuel oil, mineral spirits or other flammable or explosive liquid, solid or gas.
- M. Materials which exert or cause:
 - (1) Any unusual concentration or inert suspended solids (such as, but not limited to fuller's earth, lime slurries and lime residues) or of dissolved solids (such as but not limited to sodium chloride and sodium sulfate).
 - (2) Excessive discoloration (such as but not limited to dye wastes and vegetable tanning solutions), which imparts color that cannot be removed by the treatment process, and consequently imparts color to the plant's effluent thereby violating the City's discharge permit.

- (3) Unusual BOD (above three hundred milligrams per liter [300 mg/l]), biochemical oxygen demand in such quantities as to constitute a significant load on the sewage treatment plant.
 - (4) Unusual suspended solids (above three hundred milligrams per liter [300 mg/l]) in such quantities as to constitute a significant load on the sewage treatment plant.
6. If any waters or wastes are discharged or are proposed to be discharged to the public sewers which waters contain the substances or possess the characteristics enumerated in subsection (5) of this Section and which in the judgment of the City may have a deleterious effect upon the wastewater facilities, processes, equipment or receiving waters, or which otherwise create a hazard to life or constitute a public nuisance, the City may:
- A. Reject the wastes;
 - B. Require pretreatment to an acceptable condition for discharge to the public sewers;
 - C. Require control over the quantities and rates of discharge; and/or
 - D. Require surcharge payment to cover added cost of handling and treating the wastes.

7. Grease, Oil and Sand Interceptors.

A. Requirement for:

- (1) Except where more complete pretreatment may be required, all users involved in the preparation of food for commercial purposes, including but not limited to restaurants, commercial kitchens, schools where meals are prepared, hospitals and nursing homes shall provide oil/grease and/or sand interceptors or traps. Grease traps shall be designed as appropriate for the size of facility as specified in subsection B, below.
- (2) Additionally, any user who generates a wastewater which contains greater than 100 mg/l of fats, oils and grease, and provided that the excess fats, oil and grease is floatable and can be effectively removed in an oil/grease interceptor or trap, then said user will be required to install a grease/oil interceptor or trap. All interceptors or traps shall be designed as specified in subsection B.
- (3) Other users including but not limited to service stations, car washes, laundries, and any facility where oily or flammable waste are produced, and all other users covered by the City's duly adopted Plumbing Code,

shall install oil separators and other such devices as provided in said Plumbing Code or the City's Standard Specifications for the Construction of Water and Sewer. All installed devices shall be designed as specified in Subsection B.

- (4) All users whose wastewater stream is associated with unusually large quantities of grit, sand or gravel shall be required to install a sand trap. All car/truck wash systems shall be required to install a sand trap and design and installation shall be approved by the City.
- (5) The requirements of this ordinance section shall not apply to private living quarters or dwelling units.

B. Design Criteria:

- (1) For restaurants and other eating establishments. All oil/grease interceptors used in conjunction with restaurants, commercial kitchens, schools, hospitals, nursing homes and the like shall comply with detail S24 and S25 of the City's Standards Specifications for the Construction of Water and Sewer Mains.
- (2) For facilities other than eating establishments. All sand and oil/grease interceptors and oil separators shall be sized, located and constructed with the provisions of the duly adopted City Plumbing Code where such parameters have not been otherwise set forth herein or in the Standard Specifications for Construction of Water and Sewer Mains.

C. Maintenance.

- (1) All grease, oil, and sand interceptors or traps shall be maintained by the user at his/her expense, in continuously efficient operation at all times.
- (2) In the maintaining of these interceptors, the owner shall be responsible for the proper removal and disposal by appropriate means of the captured material, and shall maintain records of the dates, and means of disposal which are subject to review by the City. All manifests or other records of removal shall be provided to the City on a monthly basis, and shall be provided to the Public Works Director. The frequency of removal shall be such as to ensure that no overflows of oil, grease or sand into the wastewater system ever results. The frequency for maintaining these interceptors shall at the minimum be as follows based on the classifications listed, or as often as needed to maintain a detention capacity of at least seventy-five percent (75%).

Class	Description of User	Grease Trap Pumping Frequency*
I	Food establishments with an under-the-counter grease trap.	Monthly
II	Food establishments with an in-ground grease trap of at least one thousand five hundred (1,500) gallons and serving less than one hundred (100) customers in a twenty-four-hour day.	Four (4) times/year
III	Food establishments with an in-ground grease trap of at least one thousand five hundred (1,500) gallons and serving one hundred (100) customers to two hundred fifty (250) customers in a twenty-four-hour day.	Four (4) times/year
IV	Food establishments with an in-ground grease trap of at least one thousand five hundred (1,500) gallons and serving more than two hundred fifty (250) customers in a twenty-four-hour day.	Monthly
* The utilities director may in writing or verbally increase or decrease a user's grease trap pumping frequency on a case-by-case basis based on actual observation of material buildup in the grease trap.		

D. Proper Disposal of Collected Materials.

Any removal and hauling of the collected materials not performed by the owner's employees must be performed by currently licensed waste disposal firms. Under no circumstances shall the collected materials ever be returned to the wastewater system. Pumping requires the complete removal of the entire contents of the trap and with no reintroduction of any portion of the waste into the trap. The City may seek additional enforcement action under O.C.G.A. 12-8-2.

E. Program Manual.

The Public Works Department is authorized to develop policies, forms, applications, procedures, fees not to exceed those necessary to recover program costs, best management practices, and any other documents necessary for the implementation, administration and enforcement of the grease management program. All documents shall be included in that certain documents entitled "City of Hoschtou Grease Control Program Manual dated May, 2015, and is hereby incorporated by references as if full set forth herein. Said program and its requirements shall be considered a part of this ordinance and shall govern applicable businesses and establishments within the corporate limits of the City. A violator may be issued a citation to appear in the

Municipal Court of the City of Hoschton although such citation shall not be the exclusive remedy of the City and the City may seek enforcement through other means.

(Amended 4/5/2015; Effective 4/15/2015)

8. Flammable Substances. Users with the potential to discharge flammable substances may be required to install and maintain an approved combustible gas detection meter.

(Adopted 8/1/2005; Effective 8/11/2005)

9. All pretreatment facilities shall be operated and maintained continuously in satisfactory and effective operation by the owner at his expense. O&M records shall be made available to the City Clerk immediately upon request.

(Adopted 8/1/2005; Effective 8/11/2005)

10. When required by the designated City representative, the owner of any property serviced by a building sewer carrying industrial wastes shall install a suitable structure together with such necessary meters and other appurtenances in the building sewer to facilitate observation, sampling and measurements of the wastes. Such structure, when required, shall be accessible and safely located, protected against vandalism, supplied with electrical current, and constructed in accordance with plans approved by the designated City representative. The structure shall be installed by the owner at his expense and shall be maintained by the owner so as to be safe and accessible at all times.

11. The industrial users may be required to provide information needed to determine compliance with this Article. These requirements may include:

- A. Wastewater discharge peak rate and volume over a specified time period;
- B. Chemical analyses of wastewaters;
- C. Information on raw materials, processes and products affecting wastewater volume and quality;
- D. Quantity and disposition of specific liquid, sludge, oil, solvent or other materials important to sewer use control;
- E. A plot plan of sewers of the user's property showing sewer and pretreatment facility location;
- F. Details of wastewater pretreatment facilities; and

- G. Details of systems to prevent and control the losses of materials through spills to the public sewer.
12. All measurements, tests, and analyses of the characteristics of waters and wastes to which reference is made in this Article shall be determined in accordance with the latest edition of "Standard Methods for the Examination of Water and Wastewater," published by the American Public Health Association. Sampling methods, locations, times, durations and frequencies are to be determined on an individual basis subject to approval by the designated City representative.
13. No statement contained in this Section shall be constructed as preventing any special agreement or arrangement between the City and any industrial concern whereby an industrial waste of unusual strength or character may be accepted by the City for treatment provided that all applicable state and federal pretreatment requirements are met.
14. Persons discharging industrial wastes into the sewer system may be required to pretreat such wastes. Plans for all pretreatment facilities shall be approved prior to construction. At the time written plans are submitted for approval, written maintenance plans shall also be submitted and approved by the designated City representative. The facilities shall be allowed to operate only as long as they are maintained in accordance with the approved maintenance plans. Pretreatment requirements shall be determined on a case-by-case basis and shall include the following facilities as a minimum:
- A. Screening. Screens shall be required ahead of the receiving manhole of the City sewer system when deemed necessary by the designated City representative to prevent excess suspended solids from reaching the City system.
 - B. Neutralization. If plans are submitted for the neutralization of strong acid or alkaline wastes, the plans shall include the necessary instrumentation and controls to assure compliance with the regulations of this subsection at all times.
 - C. Equalization. Holding tanks or equalization basins shall be required ahead of the receiving manhole of the City sewer system when deemed necessary by the designated City representative to prevent peak flows that exceed the capacity of the system or that result in operational problems.
15. There shall be no provision for the granting of variances for discharge of incompatible wastes. If a user begins to violate any of the provisions of this Section, it shall be his responsibility to apply to the designated City representative who can issue a temporary permit along with a compliance schedule for planning and construction of necessary treatment or pretreatment

works. Each case will be carefully evaluated with respect to its effect on the wastewater treatment system and the environment prior to issuance of a temporary permit and compliance schedule.

Section 20-306. Malicious Damage

No person shall maliciously, willfully or negligently break, damage, destroy, uncover, deface or tamper with any structure, appurtenance or equipment which is a part of the wastewater facilities. Any person violating this Section shall be subject to immediate arrest under charge of disorderly conduct.

Section 20-307. Powers and Authority of Inspectors

1. Duly authorized employees of the City, bearing proper credentials and identification shall be permitted to enter all properties for the purposes of inspection, observation, measurement, sampling and testing pertinent to discharge to the public wastewater system in accordance with the provisions of this Article.
2. Duly authorized employees are authorized to obtain information concerning industrial processes which have a direct bearing on the kind and source of discharge to the public wastewater system.
3. The City Clerk or his designated representative shall have administrative authority over the operations of wastewater facilities which are owned and/or operated by the City.
4. The City Clerk shall designate the City representative who shall be responsible for the enforcement of this Article, and shall approve the appointment of identification set forth in subsection (1) of this Section. In addition, the City Clerk shall appoint the Hearing Officer, who shall carry out the provisions of this Ordinance related to such officer.

Section 20-308. Compliance with Regulatory Requirements

The provisions of this Article shall not be deemed as alleviating compliance with applicable state and federal regulations. All nonresidential users will be required to comply with pretreatment standards as set forth in 40 CFR 403, as amended.

Section 20-309. Violations

1. Violation of this Article shall be a misdemeanor punishable under the laws of the state. Each day of continuing violation shall be considered a separate offense. Any persons violating any of the provisions of this Article shall become liable to the City for any expense, loss or damage occasioned the City by reason of violation.

2. In the event of violation of this Article, the Jackson County Health Department or designated City representative may verbally instruct the owner as to the necessary corrective action. If the owner fails to carry out verbal instructions in a timely manner or if a serious violation or hazard to public health exists, the Jackson County Health Department or City may issue to the owner a written order stating the nature of the violation, the corrective action, and the time limit for completing the corrective action. The records of the mailing of the notice or order shall be prima facie evidence of the notice, and failure of the owner to receive the notice shall in no way affect the validity of any proceedings conducted pursuant to this Article.
3. Failure to comply with any written order duly issued by the Jackson County Health Department, the City or the Hearing Officer pursuant to this Article or continuation of any violation of this Article beyond the applicable time limit will constitute a separate offense and upon conviction in the municipal court shall be punished by the judge of such court within limits provided by the Charter and this Ordinance.
4. Compliance with this Article is required notwithstanding the fact that a written order might not have been issued.
5. The violation of any provisions of this Article may be enjoined by instituting appropriate proceedings for injunction in the courts of competent jurisdiction in this state. Any public nuisance which is injurious to the public health, safety or comfort may be abated by instituting appropriate proceedings for injunction in the court of competent jurisdiction in this state. Such actions may be maintained notwithstanding the fact that such violation also constitutes a crime, and notwithstanding that other adequate remedies at law exists. Such actions may be instituted in the name of the City.
6. Upon the receipt of a notice of a violation of this Article and/or an order of the City requiring an act or action to be done or to cease, the owner of any premises then in question may, in writing, demand a hearing before a Hearing Officer to present the evidence challenging the validity of the City's order. The owner may appear in person, by agent or by attorney. This demand must be filed with the City Clerk and be made within five (5) days from the receipt of the order being challenged. Upon the receipt of a demand for a hearing, the City will set a date, time and place for the hearing, to be not less than forty-five (45) days from the date of filing of the demand. The hearing shall apply to any customer's complaint, dispute or challenge of the City's rules, regulations, resolutions, ordinances or policies. Upon the customer's written complaint filed with the City Clerk, the Hearing Officer shall set a hearing as provided in this subsection or at a time agreed upon by the parties. The Hearing Officer shall, at such hearing, hear evidence presented by the designated City representative and the owner or customer; and if the Hearing Officer determines from such evidence that the violation exists and is of such magnitude that the effectiveness of the City's

wastewater treatment works is diminished, the Hearing Officer may order water and sewer service to the offending location terminated. However, it shall, be within the power of the Hearing Officer to delay the termination of services for up to thirty (30) calendar days if from evidence presented, it appears that the offender will in good faith cure such violations within the time stated in the delay. In the event of any such delayed termination order by the Hearing Officer, it shall be the duty of the offender within the time specified in the delayed termination order to cure such violations, obtain an affidavit of the designated City representative that the violations have in fact been permanently cured, and present such affidavit to the Hearing Officer, else, the termination order shall remain effective and City water and sewer services shall be discontinued on the date specified in the order. When City water and sewer services have been terminated under this Section, such services shall be provided to the location only upon application to the City for such services in the manner and form required by the City of any new customer, and under City policies relating to the provisions of such services as such policies exist at the time of application. If the Hearing Officer determines from evidence presented that the violations are less than contended by the City, the Hearing Officer may modify, alter or cancel previous actions or orders by the City.

7. Evidence before the City of any hearing conducted pursuant to subsections (5) and (6) shall be admitted in accordance with the rules of evidence of the superior courts of the state; however, the City may take official notice of any order, rule, regulations, or any other document, record or entry contained in its official record or minutes for evidentiary purposes.
8. For the purposes of this Article, the decisions of the City will prevail in any instance in which there is a conflict between it and the Jackson County Health Department on any issue of sanitation, or lack of it, and its effect on human health or well-being.

Section 20-310. Service Charges

It is determined necessary to fix and collect sewer service charges from customers. Such charges shall be published separate from this Article; and the revenue received shall be used for operation, maintenance, debt retirement and other authorized expenses.

Section 20-311. Authority to Disconnect Service

1. The City reserves the right to terminate water and wastewater disposal services and disconnect a customer from the system when:
 - A. So ordered by the Hearing Officer as prescribed in Section 20-309-6;

- B. Acids or chemicals damaging to sewer lines or treatment process are released into the public sewer causing rapid deterioration of these structures or interfering with property conveyance and treatment of wastewater;
 - C. A governmental agency informs the City that the effluent from the wastewater treatment plant is no longer of a quality permitted for discharge into a watercourse, and it is found that the customer is discharging wastewater into the public sewer that cannot be sufficiently treated or requires treatment that is not provided by the City as normal domestic treatment; or
 - D. The customer:
 - (1) Discharges industrial waste or wastewater that is in violation of a permit issued by the approving authority; or
 - (2) Discharges wastewater at an uncontrolled, variable rate in sufficient quantity to cause an imbalance in the wastewater treatment process; or
 - (3) Fails to pay monthly bills for sanitary sewer services, surcharge, or fines, when due; or
 - (4) Repeats a discharge of prohibited wastes into public sewers; or
 - (5) Discharges any parameter measured in the wastewater in violation of this ordinance; or
 - (6) Fails to maintain any pretreatment facility or equipment, including grease traps.
2. Notification processes for discontinuance of service are presented in Section 309-2.

(Adopted 1/3/2005)

ARTICLE IV. OUTDOOR WATERING

Section 20-401. Restriction on Outdoor Water of Landscape

Outdoor watering for purposes of planting, growing, managing or maintaining ground cover, trees, shrubs or other plants may occur only between the hours of 4:00 p.m. and 10:00 a.m.; provided, however, that this limitation shall not create any limitation upon the following outdoor water uses:

- 1. Commercial raising, harvesting, or storing of crops; feeding, breeding, or managing livestock or poultry; the commercial production or storing of feed for use in the production of livestock, including, but not limited to, cattle, calves,

swine, hogs, goats, sheep, and rabbits, or for use in the production of poultry, including, but not limited to, chickens, hens, ratites, and turkeys; producing plants, trees, fowl, or animals; or the commercial production of aquacultural, horticultural, dairy, livestock, poultry, eggs, and apiarian products or as otherwise defined in O.C.G.A. § 1-3-3;

2. Capture and reuse of cooling system condensate or storm water in compliance with applicable ordinances and state guidelines;
3. Reuse of gray water in compliance with O.C.G.A. § 31-3-5.2 and applicable local board of health regulations;
4. Use of reclaimed waste water by a designated user from a system permitted by the Environmental Protection Division of the Georgia Department of Natural Resources to provide reclaimed waste water;
5. Watering personal food gardens;
6. Watering new and replanted plant, seed, or turf in landscapes, golf courses, or sports turf fields during installation and for a period of 30 days immediately following the date of installation;
7. Drip irrigation or irrigation using soaker hoses;
8. Hand watering with a hose with automatic cutoff or handheld container;
9. Use of water withdrawn from private water wells or surface water by an owner or operator of property if such well or surface water is on said property;
10. Watering horticultural crops held for sale, resale, or installation;
11. Watering athletic fields, golf courses, or public turf grass recreational areas;
12. Installation, maintenance, or calibration of irrigation systems; or
13. Hydroseeding.

(Adopted 12/6/2010; Effective 12/16/2010)

Section 20-402. Enforcement

1. No person shall use or allow the use of water in violation of the restrictions on outdoor water use contained in ordinance.

2. The City Clerk or her shall be the enforcement authority for this ordinance. The county/city manager may also authorize other departments as may be deemed necessary to support enforcement.
3. Criminal and alternative penalties. Any violation of this section may also be enforced by a citation or accusation returnable to the magistrate court/municipal court or by any other legal means as set forth in this Code.

(Adopted 12/6/2010; Effective 12/16/2010)

ARTICLE V. MANDATORY WATER CONNECTION

Section 20-500. Purpose

The requirement for mandatory connection to a public water utility facility is to protect the public health, welfare, safety, and environment; to promote water resource conservation; to eliminate inferior treatment processes; to make sure conditions within buildings are as sanitary as possible; and to create economies of scale for treatment processes and conveyance operations.

(Adopted 3/05/2012; Effective 3/15/2012)

Section 20-501. Definitions

1. Water System. Capital projects that have been or will in the future be undertaken by the City to provide water to the residents of the City.
2. Connection Fees. The capacity fee charged by the City and required to be paid by each property owner in the City for connecting to the water system. This fee does not include the cost of the meter, or installation of the meter or any other parts necessary to make the connection.
3. Water Rates. The monthly rates (including base, administrative, and usage or consumption charges however, demonstrated) established from time to time by the Mayor and Council, charged by the City for water supplied to the property owners in the City who are supplied water through The Water System.

(Adopted 3/05/2012; Effective 3/15/2012)

Section 20-502. Connection Required

All properties within the City where a water supply main is adjacent or is separated by no more than the width of public right of way shall be required to connect to the water system of the City and to pay the appropriate connection fees and monthly water rates for such water services. The time required for such connection and the payment of the appropriate connection fees and monthly water rates shall be as follows:

1. For property owners where new lines are constructed by or on behalf of the City and available for such water services, within one (1) year from the date of notice by the City or its designee; if such properties have not connected to the water system within the one (1) year period, the property owner shall be required to pay the monthly water rates and a lien shall be placed on the property in the amount of the connection fee.
2. For property owners where water services already exist, within one (1) year from the date of notice by the City or its designee or immediately upon change in property ownership; if such properties have not connected to the water system within the one (1) year period, the property owner shall pay the monthly water rates and a lien shall be placed on the property in the amount of the connection fee.
3. Residential connection fees may be paid in five (5) equal annual installments upon timely connection to the system within the one (1) year period from the date of notice from the City or its designee as provided for in this ordinance and with interest at the rate established for unpaid user fees on any unpaid balance beginning at the end of year five (5). The first payment shall be made upon connection, and the four remaining payments by the same date in each of the four succeeding years. Failure to comply with the payment plan be required to will result in a lien being placed on the property for any balance due with interest.

(Adopted 3/05/2012; Effective 3/15/2012)

Section 20-503. Rules of Connection

The property owner and the connection shall be subject to the rules and regulations of the City.

(Adopted 3/05/2012; Effective 3/15/2012)

Section 20-504. Property Owner Responsible for Connection

The obligation to comply with the terms of this Article shall be the obligation of the record owner of the property, regardless of any lease provision.

(Adopted 3/05/2012; Effective 3/15/2012)

Section 20-505. Connection Fee

The amount of the residential connection fee shall be that amount established by resolution of the Mayor and Council.

(Adopted 3/05/2012; Effective 3/15/2012)

Section 20-506. Notice

All notices required by this Article shall be sent first class regular mail and certified mail, return receipt requested, to the last known property address for the owner of the affected property as contained in the then current City tax records, and shall be deemed delivered 3 days after mailing.

(Adopted 3/05/2012; Effective 3/15/2012)

Section 20-507. Disconnection Prohibited

Any property currently connected to the Water System must remain connected unless the City takes action as a result of non-payment of fees and charges. For any property that would be connected to the Water System but for the fact that the City has disconnected the water for non-payment of fees and charges, the owner must cause the property to be reconnected within 30 days. The water rates, and other fees and charges, will continue to accrue.

(Adopted 3/05/2012; Effective 3/15/2012)

Section 20-508. Penalty

In the event that the property owner refuses to make such connection or pay such connection fee or user fees within the applicable period of time set forth in this chapter, the unpaid connection fee and monthly water rates shall constitute a lien on the affected property.

(Adopted 3/05/2012; Effective 3/15/2012)

Article VI. ILLICIT DISCHARGE AND ILLEGAL CONNECTION

(approved 5/4/15; adopted 5/15/15); (amended 10/6/15; adopted 10/16/15)

Section 20-601. Introduction

The City of Hoschton adopts this ordinance to prohibit non-stormwater discharges to the municipal separate storm sewer system. It is determined that the regulation of spills, improper dumping and discharges to the municipal separate storm sewer system is in the public interest and will prevent threats to public health and safety, and the environment.

(Adopted 10/6/2015; Effective 10/16/2015)

Section 20-602. General Provisions

1. Purpose and Intent. The purpose of this ordinance is to protect the public health, safety, environment, and general welfare through the regulation of non-

stormwater discharges to the municipal separate storm sewer system to the maximum extent practicable as required by Federal law. This ordinance establishes methods for controlling the introduction of pollutants into the municipal separate storm sewer system in order to comply with requirements of the National Pollutant Discharge Elimination System (NPDES) permit process. The objectives of this ordinance are to:

- A. Regulate the contribution of pollutants to the municipal separate storm sewer system by any person;
 - B. Prohibit illicit discharges and illegal connections to the municipal separate storm sewer system;
 - C. Prevent non-stormwater discharges, generated as a result of spills, inappropriate dumping or disposal, to the municipal separate storm sewer system; and,
 - D. To establish legal authority to carry out all inspection, surveillance, monitoring, and enforcement procedures necessary to ensure compliance with this ordinance.
2. **Applicability.** The provisions of this ordinance shall apply throughout the incorporated limits of the City of Hoschton.
 3. **Compatibility with Other Regulations.** This ordinance is not intended to modify or repeal any other ordinance, rule, regulation, or other provision of law. The requirements of this ordinance are in addition to the requirements of any other ordinance, rule, regulation, or other provision of law, and where any provision of this ordinance imposes restrictions different from those imposed by any other ordinance, rule, regulation, or other provision of law, whichever provision is more restrictive or imposes higher protective standards for human health or the environment shall control.
 4. **Severability.** If the provisions of any section, subsection, paragraph, subdivision or clause of this ordinance shall be adjudged invalid by a court of competent jurisdiction, such judgement shall not affect or invalidate the remainder of any section, subsection, paragraph, subdivision or clause of this ordinance.
 5. **Responsibility for Administration.** The City of Hoschton shall administer, implement, and enforce the provisions of this ordinance.

(Adopted 10/6/2015; Effective 10/16/2015)

Section 20-603. Definitions

1. "Accidental Discharge" means a discharge prohibited by this ordinance which occurs by chance and without planning or thought prior to occurrence.
2. "Clean Water Act" means the Federal Water Pollution Control Act (33 U.S.C. § 1251 et seq.), and any subsequent amendments thereto.
3. "Construction Activity" means activities subject to the Georgia Erosion and Sedimentation Control Act or NPDES General Construction Permits. These include construction projects resulting in land disturbance. Such activities include but are not limited to clearing and grubbing, grading, excavating, and demolition.
4. "Illicit Discharge" means any direct or indirect non-stormwater discharge to the municipal separate storm sewer system, except as exempted in Section 20-404 of this ordinance.
5. "Illegal Connection" means either of the following:
 - A. Any pipe, open channel, drain or conveyance, whether on the surface or subsurface, which allows an illicit discharge to enter the storm drain system including but not limited to any conveyances which allow any non-stormwater discharge including sewage, process wastewater, and wash water to enter the storm drain system, regardless of whether such pipe, open channel, drain, or conveyance has been previously allowed, permitted, or approved by an authorized enforcement agency; or
 - B. Any pipe, open channel, drain, or conveyance connected to the municipal separate storm sewer system which has not been documented in plans, maps, or equivalent records and approved by an authorized enforcement agency.
6. "Industrial Activity" means activities subject to NPDES Industrial Permits as defined in 40 CFR, Section 122.26 (b)(14).
7. "National Pollutant Discharge Elimination System (NPDES) Storm Water Discharge Permit" means a permit issued by the Georgia EPD under authority delegated pursuant to 33 U.S.C. § 1342(b) that authorizes the discharge of pollutants to waters of the United States, whether the permit is applicable on an individual, group, or general area-wide basis.
8. "Municipal Separate Storm Sewer System" means any facility designed or used for collecting and/or conveying stormwater, including but not limited to any roads with drainage systems, highways, City streets, curbs, gutters, inlets, catch basins, piped storm drains, pumping facilities, structural stormwater controls, ditches, swales, natural and man-made or altered drainage channels, reservoirs, and other drainage structures, and which is:

- A. Owned or maintained by the City of Hoschton;
 - B. Not a combined sewer; and
 - C. Not part of a publicly owned treatment works.
9. “Non-Stormwater Discharge” means any discharge to the storm drain system that is not composed entirely of stormwater.
10. “Person” means, except to the extent exempted from this ordinance, any individual, partnership, firm, association, joint venture, public or private corporation, trust, estate, commission, board, public or private institution, utility, cooperative, city, county, or other political subdivision of the State, any interstate body, or any other legal entity.
11. “Pollutant” means anything which causes or contributes to pollution. Pollutants may include, but are not limited to: paints, varnishes, and solvents; petroleum hydrocarbons; automotive fluids; cooking grease; detergents (biodegradable or otherwise); degreasers; cleaning chemicals; non-hazardous liquid and solid wastes and yard wastes; refuse, rubbish, garbage, litter, or other discarded or abandoned objects and accumulations, so that the same may cause or contribute to pollution; floatables; pesticides, herbicides, and fertilizers; liquid and solid wastes; sewage, fecal coliform and pathogens, dissolved and particulate metals; animal wastes; wastes and residues that result from constructing a building or structure; concrete and cement; and noxious or offensive matter of any kind.
12. “Pollution” means the contamination or other alteration of any water’s physical, chemical, or biological properties by the addition of any constituent and includes, but is not limited to, a change in temperature, taste, color, turbidity, or odor of such waters, or the discharge of any liquid, gaseous, solid, radioactive, or other substance into any such waters as will or is likely to create a nuisance or render such waters harmful, detrimental, or injurious to the public health, safety, welfare, or environment, or to domestic, commercial, industrial, agricultural, recreational, or other legitimate beneficial uses, or to livestock, wild animals, birds, fish, or other aquatic life.
13. “Premises” means any building, lot, parcel of land, or portion of land whether improved or unimproved including adjacent sidewalks and parking strips.
14. “State Waters” means any and all rivers, streams, creeks, branches, lakes, reservoirs, ponds, drainage systems, springs, wells, and other bodies of surface and subsurface water, natural or artificial, lying within or forming a part of the boundaries of the State of Georgia which are not entirely confined and retained completely upon the property of a single person.

15. "Stormwater Runoff" or "Stormwater" means any surface flow, runoff, and drainage consisting entirely of water from any form of natural precipitation, and resulting from such precipitation.
16. "Structural Stormwater Control" means a structural stormwater management facility or device that controls stormwater runoff and changes the characteristics of that runoff including, but not limited to, the quantity and quality, the period of release, or the velocity of flow.

(Adopted 10/6/2015; Effective 10/16/2015)

Section 20-604. Prohibitions

1. Prohibition of Illicit Discharges. No person shall throw, drain, or otherwise discharge, cause, or allow others under its control to throw, drain, or otherwise discharge into the municipal separate storm sewer system any pollutants or waters containing any pollutants, other than stormwater. The following discharges are exempt from the prohibition provision above:
 - A. Water line flushing performed by a government agency, other potable water sources, landscape irrigation or lawn watering, diverted stream flows, rising ground water, ground water infiltration to storm drains, uncontaminated pumped ground water, foundation or footing drains (not including active groundwater dewatering systems), crawl space pumps, air conditioning condensation, springs, natural riparian habitat or wetland flows, and any other water source not containing pollutants;
 - B. Discharges or flows from firefighting and other discharges specified in writing by the City of Hoschton as being necessary to protect public health and safety;
 - C. The prohibition provision above shall not apply to any non-stormwater discharge permitted under an NPDES permit or order issued to the discharger and administered under the authority of the State and the Federal Environmental Protection Agency, provided that the discharger is in full compliance with all requirements of the permit, waiver, or order and other applicable laws and regulations, and provided that written approval has been granted for any discharge to the municipal separate storm sewer system.
2. Prohibition of Illegal Connections. The construction, connection, use, maintenance, or continued existence of any illegal connection to the municipal separate storm sewer system is prohibited.
 - A. This prohibition expressly includes, without limitation, illegal connections made in the past, regardless of whether the connection was permissible under law or practices applicable or prevailing at the time of connection.

- B. A person violates this ordinance if the person connects a line conveying sewage to the municipal separate storm sewer system, or allows such a connection to continue.
- C. Improper connections in violation of this ordinance must be disconnected and redirected, if necessary, to an approved onsite wastewater management system or the City's sanitary sewer system upon approval of the City of Hoschton Wastewater Manager.
- D. Any drain or conveyance that has not been documented in plans, maps, or equivalent, and which may be connected to the storm sewer system, shall be located by the owner or occupant of that property upon receipt of written notice of violation from the City of Hoschton requiring that such locating be completed. Such notice will specify a reasonable time period within which the location of the drain or conveyance is to be completed, that the drain or conveyance be identified as storm sewer, sanitary sewer or other, and that the outfall location or point of connection to the storm sewer system, sanitary sewer system, or other discharge point be identified. Results of these investigations are to be documented and provided to the City of Hoschton.

(Adopted 10/6/2015; Effective 10/16/2015)

Section 20-605. Industrial or Construction Activity Discharges

Any person subject to an industrial or construction activity NPDES stormwater discharge permit shall comply with all provisions of such permit. Proof of compliance with said permit may be required in a form acceptable to the City of Hoschton prior to allowing discharges to the municipal separate storm sewer system.

(Adopted 10/6/2015; Effective 10/16/2015)

Section 20-606. Access and Inspection of Properties and Facilities

The City of Hoschton shall be permitted to enter and inspect properties and facilities at reasonable times as often as may be necessary to determine compliance with this ordinance.

1. If a property or facility has security measures in force which require proper identification and clearance before entry into its premises, the owner or operator shall make the necessary arrangements to allow access to representatives of the City of Hoschton.
2. The owner or operator shall allow the City of Hoschton ready access to all parts of the premises for the purposes of inspection, sampling, photography, videotaping, examination, and copying of any records that are required under the conditions of an NPDES permit to discharge stormwater.

3. The City of Hoschton shall have the right to set up on any property or facility such devices as are necessary in the opinion of the City of Hoschton to conduct monitoring and/or sampling of flow discharges.
4. The City of Hoschton may require the owner or operator to install monitoring equipment and perform monitoring as necessary, and make the monitoring data available to the City of Hoschton. This sampling and monitoring equipment shall be maintained at all times in a safe and proper operating condition by the owner or operator at his/her own expense. All devices used to measure flow and quality shall be calibrated to ensure their accuracy.
5. Any temporary or permanent obstruction to safe and easy access to the property or facility to be inspected and/or sampled shall be promptly removed by the owner or operator at the written or oral request of the City of Hoschton and shall not be replaced. The costs of clearing such access shall be borne by the owner or operator.
6. Unreasonable delays in allowing the City of Hoschton access to a facility is a violation of this ordinance.
7. If the City of Hoschton has been refused access to any part of the premises from which stormwater is discharged, and the City of Hoschton is able to demonstrate probable cause to believe that there may be a violation of this ordinance, or that there is a need to inspect and/or sample as part of a routine inspection and sampling program designed to verify compliance with this ordinance or any order issued hereunder, or to protect the overall public health, safety, environment, and welfare of the community, then the City of Hoschton may seek issuance of a search warrant from any court of competent jurisdiction.

(Adopted 10/6/2015; Effective 10/16/2015)

Section 20-607. Notification of Accidental Discharges and Spills

1. Notwithstanding other requirements of law, as soon as any person responsible for a facility, activity or operation, or responsible for emergency response for a facility, activity, or operation has information of any known or suspected release of pollutants or non-stormwater discharges from that facility or operation which are resulting or may result in illicit discharges or pollutants discharging into stormwater, the municipal separate storm sewer system, State Waters, or Waters of the U.S., said person shall take all necessary steps to ensure the discovery, containment, and cleanup of such release so as to minimize the effects of the discharge.
2. Said person shall notify the authorized enforcement agency in person or by phone, facsimile or in person no later than 24 hours of the nature, quantity, and time of occurrence of the discharge. Notifications in person or by phone shall be

confirmed by written notice addressed and mailed to the City of Hoschton within three business days of the phone or in person notice. If the discharge of prohibited materials emanates from a commercial or industrial establishment, the owner or operator of such establishment shall also retain an on-site written record of the discharge and the actions taken to prevent its recurrence. Such records shall be retained for at least three years. Said person shall also take immediate steps to ensure no recurrence of the discharge or spill

3. In the event of such a release of hazardous materials, emergency response agencies and/or other appropriate agencies shall be immediately notified.
4. Failure to provide notification of a release as provided above is a violation of this ordinance.

(Adopted 10/6/2015; Effective 10/16/2015)

Section 20-608. Violations, Enforcement and Penalties

1. Violations. It shall be unlawful for any person to violate any provision or fail to comply with any of the requirements of this ordinance. Any person who has violated or continues to violate the provisions of this ordinance, may be subject to the enforcement actions outlined in this section or may be restrained by injunction or otherwise abated in a manner provided by law.

In the event the violation constitutes an immediate danger to public health or public safety, the City of Hoschton is authorized to enter upon the subject private property, without giving prior notice, to take any and all measures necessary to abate the violation and/or restore the property. The City of Hoschton is authorized to seek costs of the abatement as outlined in Section 20-608.5.

2. Notice of Violation. Whenever the City of Hoschton finds that a violation of this ordinance has occurred, the City of Hoschton may order compliance by written notice of violation.

A. The notice of violation shall contain:

- (1) The name and address of the alleged violator;
- (2) The address when available or a description of the building, structure, or land upon which the violation is occurring, or has occurred;
- (3) A statement specifying the nature of the violation;
- (4) A description of the remedial measures necessary to restore compliance with this ordinance and a time schedule for the completion of such remedial action;

- (5) A statement of the penalty or penalties that shall or may be assessed against the person to whom the notice of violation is directed; and,
 - (6) A statement that the determination of violation may be appealed to the City of Hoschton by filing a written notice of appeal within thirty (30) days of service of notice of violation.
- B. Such notice may require without limitation:
- (1) The performance of monitoring, analyses, and reporting;
 - (2) The elimination of illicit discharges and illegal connections;
 - (3) That violating discharges, practices, or operations shall cease and desist;
 - (4) The abatement or remediation of stormwater pollution or contamination hazards and the restoration of any affected property;
 - (5) Payment of costs to cover administrative and abatement costs; and,
 - (6) The implementation of pollution prevention practices.
3. Appeal of Notice of Violation. Any person receiving a Notice of Violation may appeal the determination of the City of Hoschton. The notice of appeal must be received within thirty (30) days from the date of the Notice of Violation. Hearing on the appeal before the Mayor and City Council shall take place within 15 days from the date of receipt of the notice of appeal. The decision of the appropriate authority or their designee shall be final.
 4. Enforcement Measures After Appeal. If the violation has not been corrected pursuant to the requirements set forth in the Notice of Violation, or, in the event of an appeal, within 30 days of the decision of the appropriate authority upholding the decision of the City of Hoschton, then representatives of the City of Hoschton may enter upon the subject private property and are authorized to take any and all measures necessary to abate the violation and/or restore the property. It shall be unlawful for any person, owner, agent, or person in possession of any premises to refuse to allow the government agency or designated contractor to enter upon the premises for the purposes set forth above.
 5. Costs of Abatement of the Violation. Within 30 days after abatement of the violation, the owner of the property will be notified of the cost of abatement, including administrative costs. The property owner may file a written protest objecting to the assessment or to the amount of the assessment within 30 days of such notice. If the amount due is not paid within thirty (30) days after receipt of the notice, or if an appeal is taken, within thirty (30) days after a decision on said

appeal, the charges shall become a special assessment against the property and shall constitute a lien on the property for the amount of the assessment.

Any person violating any of the provisions of this article shall become liable to the City of Hoschton by reason of such violation.

6. **Civil Penalties.** In the event the alleged violator fails to take the remedial measures set forth in the notice of violation or otherwise fails to cure the violations described therein within ten (10) days, or such greater period as the City of Hoschton shall deem appropriate, after the City of Hoschton has taken one or more of the actions described above, the City of Hoschton may impose a penalty not to exceed \$1,000 (depending on the severity of the violation) for each day the violation remains unremedied after receipt of the notice of violation.
7. **Criminal Penalties.** For intentional and flagrant violations of this ordinance, the City of Hoschton may issue a citation to the alleged violator requiring such person to appear in the Magistrate Court of Jackson County to answer charges for such violation. Upon conviction, such person shall be punished by a fine not to exceed \$1,000 or imprisonment for 60 days or both. Each act of violation and each day upon which any violation shall occur shall constitute a separate offense.
8. **Violations Deemed a Public Nuisance.** In addition to the enforcement processes and penalties provided, any condition caused or permitted to exist in violation of any of the provisions of this ordinance is a threat to public health, safety, welfare, and environment and is declared and deemed a nuisance, and may be abated by injunctive or other equitable relief as provided by law.
9. **Remedies Not Exclusive.** The remedies listed in this ordinance are not exclusive of any other remedies available under any applicable Federal, State, or local law and the City of Hoschton may seek cumulative remedies.

The City of Hoschton may recover attorney's fees, court costs and other expenses associated with enforcement of this ordinance including sampling and monitoring expenses. *(Adopted 10/6/2015; Effective 10/16/2015)*

ARTICLE VII. ADOPTION OF STANDARD SPECIFICATIONS AND DETAILS OF DESIGN AND CONSTRUCTION OF WATER AND SEWER MAINS

(Approved and adopted 11/5/2018)

Section 20-701. Standard Specifications and Details Adopted

- (A) It is hereby declared to be the intention of the Hoschton City Council to enforce the latest edition of the following Standard Specifications and Details for Design and Construction of Water Mains and Sewer Mains, of which includes the following:

1. Sanitary Sewer/General Pipeline Details

2. Lift Station Details
3. Water Main Details
4. Traffic Control Specifications
5. Earthwork for Utilities Specifications
6. Temporary Erosion Control and Rip Rap Specifications
7. Boring and Jacking; Horizontal Directional Drilling Specifications
8. Sidewalks, Curbs, Gutters and Storm Drainage Structures Specifications
9. Manhole Specifications
10. Coating Specifications
11. Fire Hydrants Specifications
12. Water Distribution Systems Specifications
13. Water Service Connections Specifications
14. Storm Drainage Specifications
15. Lift Station Specifications
16. Sanitary Sewer Specifications
17. Protection, Relocation and Restoration of Existing Utilities Specifications
18. Inspection and Testing Specifications
19. Chain Link Fence and Gates Specifications
20. Site Restoration Specifications
21. Grassing Specifications
22. Concrete Reinforcement; Concrete; Grout Specifications
23. Standby Generator Specifications
24. Interior and Exterior Pipe Coating Specifications

(B) The following codes, the latest editions as adopted and amended by the Hoschton City Council, are hereby adopted by reference as though they were copied herein fully:

1. Standard Specifications and Details of Design and Construction of Water and Sewer Mains

(C) A copy of codes adopted herein shall be maintained on file at City Hall and with the City Engineer.

CHAPTER 21 STORMWATER MANAGEMENT

ARTICLE I. POST-DEVELOPMENT STORMWATER MANAGEMENT FOR NEW DEVELOPMENT AND REDEVELOPMENT

Section 21-101	Introduction
Section 21-102	General Provisions
Section 21-103	Applicability
Section 21-104	Exemptions
Section 21-105	Designation of Administrator
Section 21-106	Compatibility with Other Regulation
Section 21-107	Severability
Section 21-108	Stormwater Design Manual
Section 21-109	Definitions

ARTICLE II. PERMIT PROCEDURES AND REQUIREMENTS

Section 21-201	Permit Application Requirements
Section 21-202	Stormwater Concept Plan and Consultation Meeting
Section 21-203	Stormwater Management Plan Requirements
Section 21-204	Stormwater Management Inspection and Maintenance Agreements
Section 21-205	Performance and Maintenance Bonds
Section 21-206	Application Procedure
Section 21-207	Application Review Fees
Section 21-208	Modification for Off-Site Facilities

ARTICLE III. POST-DEVELOPMENT STORMWATER MANAGEMENT PERFORMANCE CRITERIA

Section 21-301	Water Quality
Section 21-302	Stream Channel Protection
Section 21-303	Overbank Flooding Protection
Section 21-304	Extreme Flooding Protection
Section 21-305	Structural Stormwater Controls
Section 21-306	Stormwater Credits for Nonstructural Measures
Section 21-307	Drainage System Guidelines
Section 21-308	Dam Design Guidelines

ARTICLE IV. INSPECTION

Section 21-401	Inspections to Ensure Plan Compliance During Construction
Section 21-402	Final Inspection and As-Built Plans
Section 21-403	Long-Term Maintenance Inspection of Stormwater Facilities and Practices
Section 21-404	Right of Entry for Inspection

Section 21-405 Records of Maintenance Activities
Section 21-406 Failure to Maintain

ARTICLE V. VIOLATIONS, ENFORCEMENT AND PENALTIES

Section 21-501 Generally
Section 21-502 Notice of Violation
Section 21-503 Penalties Generally
Section 21-504 Stop Work Order
Section 21-505 Withhold Certificate of Occupancy
Section 21-506 Suspension, Revocation or Modification of Permit
Section 21-507 Civil Penalties
Section 21-508 Criminal Penalties

ARTICLE I. POST-DEVELOPMENT STORMWATER MANAGEMENT FOR NEW DEVELOPMENT AND REDEVELOPMENT

(Adopted October 6, 2015; Effective October 16, 2015)

Section 21-101. Introduction

The City of Hoschton has established this set of stormwater management policies to provide reasonable guidance for the regulation of post-development stormwater runoff for the purpose of protecting local water resources from degradation. It has determined that it is in the public interest to regulate post-development stormwater runoff discharges in order to control and minimize increases in stormwater runoff rates and volumes, post-construction soil erosion and sedimentation, stream channel erosion, and nonpoint source pollution associated with post-development stormwater runoff.

Section 21-102. General Provisions

Purpose and Intent. The purpose of this Chapter is to protect, maintain, and enhance the public health, safety, environment, and general welfare by establishing minimum requirements and procedures to control the adverse effects of increased post-development stormwater runoff and nonpoint source pollution associated with new development and redevelopment. It has been determined that proper management of post-development stormwater runoff will minimize damage to public and private property and infrastructure, safeguard the public health, safety, environment, and general welfare of the public, and protect water and aquatic resources. This Chapter seeks to meet that purpose through the following objectives:

1. Establish decision-making processes surrounding land development activities that protect the integrity of the watershed and preserve the health of water resources;
2. Require that new development and redevelopment maintain the pre-development hydrologic response in their post-development state as nearly as practicable in

order to reduce flooding, streambank erosion, nonpoint source pollution, and increases in stream temperature, and maintain the integrity of stream channels and aquatic habitats;

3. Establish minimum post-development stormwater management standards and design criteria for the regulation and control of stormwater runoff quantity and quality;
4. Establish design and application criteria for the construction and use of structural stormwater control facilities that can be used to meet the minimum post-development stormwater management standards;
5. Encourage the use of nonstructural stormwater management and stormwater better site design practices such as the preservation of greenspace and other conservation areas, to the maximum extent practicable.
6. Coordinate site design plans, which include greenspace, with the City's greenspace protection plan;
7. Establish provisions for the long-term responsibility for and maintenance of structural stormwater control facilities and nonstructural stormwater management practices to ensure that they continue to function as designed, are maintained, and pose no threat to public safety; and,
8. Establish administrative procedures for the submission, review, approval and disapproval of stormwater management plans, and for the inspection of approved active projects, and long-term follow up.

Section 21-103. Applicability. This Chapter shall be applicable to all land development including, but not limited to, site plan applications, subdivision applications, and grading applications unless exempt pursuant to this Chapter. These standards apply to any new development or redevelopment site that meets one or more of the following criteria:

1. New development that involves the creation or addition of 5,000 square feet or greater of new impervious surface area, or that involves other land disturbing activity of 5,000 square feet or greater;
2. Redevelopment that includes the creation, addition, or replacement of 5,000 square feet or greater of new impervious surface area, or that involves other land disturbing activity of one (1) acre or more;
3. Any new development or redevelopment, regardless of size, that is defined by the City Administrator or designee to be a hotspot land use; or,
4. Land development activities that are smaller than the minimum applicability criteria set forth in paragraphs 1 and 2 of this Section, if such activities are part of

a larger common plan of development, even though multiple, separate, and distinct land development activities may take place at different times on different schedules.

Section 21-104. Exemptions. The following activities are exempt from this Chapter:

1. Individual single-family or duplex residential lots that are not part of a subdivision or phased development project;
2. Additions or modifications to existing single-family or duplex residential structures;
3. Agricultural or silvicultural land management activities within areas zoned for these activities; and,
4. Repairs to any stormwater management facility or practice deemed necessary by the City Administrator or designee.

Section 21-105. Designation of Administrator. The City Administrator or designee is hereby appointed to administer and implement the provisions of this Chapter.

Section 21-106. Compatibility with Other Regulation. This Chapter is not intended to modify or repeal any other ordinance, rule, regulation, or other provision of law. The requirements of this Chapter are in addition to the requirements of any other ordinance, rule, regulation, or other provision of law, and where any provision of this Chapter imposes restrictions different from those imposed by any other ordinance, rule, regulation, or other provision of law, whichever provision is more restrictive or imposes higher protective standards for human health or the environment shall control.

Section 21-107. Severability. If the provisions of any section, subsection, paragraph, subdivision or clause of this Chapter shall be adjudged invalid by a court of competent jurisdiction, such judgement shall not affect or invalidate the remainder of any section, subsection, paragraph, subdivision or clause of this Chapter.

Section 21-108. Stormwater Design Manual. The City of Hoschton will utilize the policy, criteria, and information including technical specifications and standards in the latest edition of the Georgia Stormwater Management Manual and any relevant local addenda, for the proper implementation of the requirements of this Chapter. The manual may be updated and expanded periodically, based on improvements in science, engineering, monitoring, and local maintenance experience.

Section 21-109. Definitions

1. *Applicant.* A person submitting a post-development stormwater management application and plan for approval.

2. *Channel.* A natural or artificial watercourse with a definite bed and banks that conducts continuously or periodically flowing water.
3. *Conservation Easement.* An agreement between a land owner and the City of Hoschton or other government agency or land trust that permanently protects open space or greenspace on the owner's land by limiting the amount and type of development that can take place, but continues to leave the remainder of the fee interest in private ownership.
4. *Detention.* The temporary storage of stormwater runoff in a stormwater management facility for the purpose of controlling the peak discharge.
5. *Detention Facility.* A detention basin or structure designed for the detention of stormwater runoff and gradual release of stored water at controlled rates.
6. *Developer.* A person who undertakes land development activities.
7. *Development.* A land development or land development project.
8. *Drainage Easement.* An easement appurtenant or attached to a tract or parcel of land allowing the owner of adjacent tracts or other persons to discharge stormwater runoff onto the tract or parcel of land subject to the drainage easement.
9. *Erosion and Sedimentation Control Plan.* A plan that is designed to minimize the accelerated erosion and sediment runoff at a site during land disturbance activities.
10. *Extended Detention.* The detention of stormwater runoff for an extended period, typically 24 hours or greater.
11. *Extreme Flood Protection.* Measures taken to prevent adverse impacts from large low-frequency storm events with a return frequency of 100 years or more.
12. *Flooding.* A volume of surface water that is too great to be confined within the banks or walls of a conveyance or stream channel and that overflows onto adjacent lands.
13. *Greenspace or Open Space.* Permanently protected areas of the site that are preserved in a natural state.
14. *Hotspot.* An area where the use of the land has the potential to generate highly contaminated runoff, with concentrations of pollutants in excess of those typically found in stormwater.

15. *Hydrologic Soil Group (HSG)*. A Natural Resource Conservation Service classification system in which soils are categorized into four runoff potential groups. The groups range from group A soils, with high permeability and little runoff produced, to group D soils, which have low permeability rates and produce much more runoff.
16. *Impervious Cover*. A surface composed of any material that significantly impedes or prevents the natural infiltration of water into soil. Impervious surfaces include, but are not limited to, rooftops, buildings, streets and roads, and any concrete or asphalt surface.
17. *Industrial Stormwater Permit*. A National Pollutant Discharge Elimination System (NPDES) permit issued to an industry or group of industries which regulates the pollutant levels associated with industrial stormwater discharges or specifies on-site pollution control strategies.
18. *Infiltration*. The process of percolating stormwater runoff into the subsoil.
19. *Jurisdictional Wetland*. An area that is inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support a prevalence of vegetation typically adapted for life in saturated soil conditions, commonly known as hydrophytic vegetation.
20. *Land Development*. Any land change, including, but not limited to, clearing, digging, grubbing, stripping, removal of vegetation, dredging, grading, excavating, transporting and filling of land, construction, paving, and any other installation of impervious cover.
21. *Land Development Activities*. Those actions or activities which comprise, facilitate, or result in land development.
22. *Land Development Project*. A discrete land development undertaking.
23. *Inspection and Maintenance Agreement*. A written agreement providing for the long-term inspection and maintenance of stormwater management facilities and practices on a site or with respect to a land development project which when properly recorded in the deed records constitutes a restriction on the title to a site or other land involved in a land development project.
24. *New Development*. A land development activity on a previously undeveloped site.
25. *Nonpoint Source Pollution*. A form of water pollution that does not originate from a discrete point such as a sewage treatment plant or industrial discharge, but involves the transport of pollutants such as sediment, fertilizers, pesticides, heavy metals, oil, grease, bacteria, organic materials, and other contaminants

from land to surface water and groundwater via mechanisms such as precipitation, stormwater runoff, and leaching. Nonpoint source pollution is a by-product of land use practices such as agricultural, silvicultural, mining, construction, subsurface disposal, and urban runoff sources.

26. *Nonstructural Stormwater Management Practice or Nonstructural Practice.* Any natural or planted vegetation or other nonstructural component of the stormwater management plan that provides for or enhances stormwater quantity and/or quality control, or other stormwater management benefits, and includes, but is not limited to, riparian buffers, open and greenspace areas, overland flow filtration areas, natural depressions, and vegetated channels.
27. *Off-Site Facility.* A stormwater management facility located outside the boundaries of the site.
28. *On-Site Facility.* A stormwater management facility located within the boundaries of the site.
29. *Overbank Flood Protection.* Measures taken to prevent an increase in the frequency and magnitude of out-of-bank flooding (i.e. flow events that exceed the capacity of the channel and enter the floodplain), and that are intended to protect downstream properties from flooding for the 2-year through 25-year frequency storm events.
30. *Owner.* The legal or beneficial owner of a site, including but not limited to, a mortgagee or vendee in possession, receiver, executor, trustee, lessee or other person, firm, or corporation in control of the site.
31. *Permit.* The permit issued by the City of Hoschton to the applicant which is required for undertaking any land development activity.
32. *Person.* Except to the extent exempted from this Chapter, any individual, partnership, firm, association, joint venture, public or private corporation, trust, estate, commission, board, public or private institution, utility, cooperative, city, county, or other political subdivision of the State, any interstate body or any other legal entity.
33. *Post-development.* The time period, or the conditions that may reasonably be expected or anticipated to exist, after completion of the land development activity on a site as the context may require.
34. *Pre-development.* The time period, or the conditions that exist, on a site prior to the commencement of a land development project and at the time that plans for the land development of a site are approved by the plan approving authority. Where phased development or plan approval occurs (preliminary grading, roads

and utilities, etc.), the existing conditions at the time prior to the first item being approved or permitted shall establish pre-development conditions.

35. *Project*. A land development project.
36. *Redevelopment*. A land development project on a previously developed site, but excludes ordinary maintenance activities, remodeling of existing buildings, resurfacing of paved areas, and exterior changes or improvements which do not materially increase or concentrate stormwater runoff, or cause additional nonpoint source pollution.
37. *Regional Stormwater Management Facility or Regional Facility*. A stormwater management facilities designed to control stormwater runoff from multiple properties, where the owners or developers of the individual properties may assist in the financing of the facility, and the requirement for on-site controls is either eliminated or reduced.
38. *Runoff*. Stormwater runoff.
39. *Site*. The parcel of land being developed, or the portion thereof on which the land development project is located.
40. *Stormwater Better Site Design*. Nonstructural site design approaches and techniques that can reduce a site's impact on the watershed and can provide for nonstructural stormwater management. Stormwater better site design includes conserving and protecting natural areas and greenspace, reducing impervious cover, and using natural features for stormwater management.
41. *Stormwater Management*. The collection, conveyance, storage, treatment, and disposal of stormwater runoff in a manner intended to prevent increased flood damage, streambank channel erosion, habitat degradation and water quality degradation, and to enhance and promote the public health, safety, and general welfare.
42. *Stormwater Management Facility*. Any infrastructure that controls or conveys stormwater runoff.
43. *Stormwater Management Measure*. Any stormwater management facility or nonstructural stormwater practice.
44. *Stormwater Management Plan*. A document describing how existing runoff characteristics will be affected by a land development project and containing measures for complying with the provisions of this Chapter.

45. *Stormwater Management System.* The entire set of structural and nonstructural stormwater management facilities and practices that are used to capture, convey, and control the quantity and quality of the stormwater runoff from a site.
46. *Stormwater Retrofit.* A stormwater management practice designed for a currently developed site that previously had either no stormwater management practice in place or a practice inadequate to meet the stormwater management requirements of the site.
47. *Stormwater Runoff.* The flow of surface water resulting from precipitation.
48. *Structural Stormwater Control.* A structural stormwater management facility or device that controls stormwater runoff and changes the characteristics of that runoff including, but not limited to, the quantity and quality, the period of release or the velocity of flow of such runoff.
49. *Subdivision.* The division of a tract or parcel of land resulting in one or more new lots or building sites for the purpose, whether immediately or in the future, of sale, other transfer of ownership or land development, and includes divisions of land resulting from or made in connection with the layout or development of a new street or roadway or a change in an existing street or roadway.

Article II. Permit Procedures and Requirements

Section 21-201 Permit Application Requirements.

No owner or developer shall perform any land development activities without first meeting the requirements of this Chapter prior to commencing the proposed activity. Unless specifically exempted by this Chapter, any owner or developer proposing a land development activity shall submit to the City of Hoschton a permit application on a form provided by the City of Hoschton for that purpose. Unless otherwise exempted by this Chapter, a permit application shall be accompanied by the following items in order to be considered:

1. Stormwater concept plan and consultation meeting certification in accordance with this Article;
2. Stormwater management plan in accordance with this Article;
3. Inspection and maintenance agreement in accordance with this Chapter, if applicable;
4. Performance bond in accordance with this Chapter, if applicable; and
5. Permit application and plan review fees in accordance with this Chapter.

(Adopted October 6, 2015; Effective October 16, 2015)

Section 21-202. Stormwater Concept Plan and Consultation Meeting.

Before any stormwater management permit application is submitted, it is recommended that the land owner or developer meet with the City of Hoschton for a consultation meeting on a concept plan for the post-development stormwater management system to be utilized in the proposed land development project. This consultation meeting should take place at the time of the preliminary plan of subdivision or other early step in the development process. The purpose of this meeting is to discuss the post-development stormwater management measures necessary for the proposed project, as well as to discuss and assess constraints, opportunities and potential ideas for stormwater management designs before the formal site design engineering is commenced.

To accomplish this goal, the following information shall be included in the concept plan which shall be submitted in advance of the meeting:

1. Existing Conditions/Proposed Site Plans. Existing conditions and proposed site layout sketch plans, which illustrate at a minimum: existing and proposed topography; perennial and intermittent streams; mapping of predominant soils from soil surveys (when available); boundaries of existing predominant vegetation and proposed limits of clearing and grading; and location of existing and proposed roads, buildings, parking areas and other impervious surfaces.
2. Natural Resources Inventory. A written or graphic inventory of the natural resources at the site and surrounding area as it exists prior to the commencement of the project. This description should include a discussion of soil conditions, forest cover, topography, wetlands, and other native vegetative areas on the site, as well as the location and boundaries of other natural feature protection and conservation areas such as wetlands, lakes, ponds, floodplains, stream buffers and other setbacks (e.g., drinking water well setbacks, septic setbacks, etc.). Particular attention should be paid to environmentally sensitive features that provide particular opportunities or constraints for development.
3. Stormwater Management System Concept Plan. A written or graphic concept plan of the proposed post-development stormwater management system including: preliminary selection and location of proposed structural stormwater controls; location of existing and proposed conveyance systems such as grass channels, swales, and storm drains; flow paths; location of floodplain/floodway limits; relationship of site to upstream and downstream properties and drainages; and preliminary location of proposed stream channel modifications, such as bridge or culvert crossings.
4. Other. Local watershed plans, the City greenspace protection plan (if applicable), and any relevant resource protection plans will be consulted in the discussion of the concept plan.

(Adopted October 6, 2015; Effective October 16, 2015)

Section 21-203. Stormwater Management Plan Requirements

1. The stormwater management plan shall detail how post-development stormwater runoff will be controlled or managed and how the proposed project will meet the requirements of this ordinance, including the performance criteria set forth in this Chapter.
2. This plan shall be in accordance with the criteria established in this section and be prepared under the direct supervisory control of either a registered Professional Engineer or a registered Landscape Architect licensed in the State of Georgia. The plan shall be prepared under the direct supervisory control of a registered Professional Engineer, who shall seal and sign the work. Portions of the overall plan may be prepared and stamped by a registered Land Surveyor licensed in the State of Georgia as appropriate, such as boundary surveys, contour maps, erosion and sedimentation control plans.
3. The stormwater management plan must ensure that the requirements and criteria in this ordinance are being complied with and that opportunities are being taken to minimize adverse post-development stormwater runoff impacts from the development. The plan shall consist of maps, narrative, and supporting design calculations (hydrologic and hydraulic) for the proposed stormwater management system. The plan shall include all of the information required in the Stormwater Management Site Plan checklist found in the stormwater design manual. This includes:
 - a) Common address and legal description of site.
 - b) Vicinity Map.
 - c) Existing Conditions Hydrologic Analysis. The existing condition hydrologic analysis for stormwater runoff rates, volumes, and velocities, which shall include: a topographic map of existing site conditions with the drainage basin boundaries indicated; acreage, soil types and land cover of areas for each sub-basin affected by the project; all perennial and intermittent streams and other surface water features; all existing stormwater conveyances and structural control facilities; direction of flow and exits from the site; analysis of runoff provided by off-site areas upstream of the project site; and methodologies, assumptions, site parameters and supporting design calculations used in analyzing the existing conditions site hydrology. For redevelopment sites, pre-development conditions shall be modeled using the established guidelines for the portion of the site undergoing land development activities.

- d) **Post-Development Hydrologic Analysis.** The post-development hydrologic analysis for stormwater runoff rates, volumes, and velocities, which shall include: a topographic map of developed site conditions with the post-development drainage basin boundaries indicated; total area of post-development impervious surfaces and other land cover areas for each sub-basin affected by the project; calculations for determining the runoff volumes that need to be addressed for each sub-basin for the development project to meet the post-development stormwater management performance criteria of this Chapter; location and boundaries of proposed natural feature protection and conservation areas; documentation and calculations for any applicable site design credits that are being utilized; methodologies, assumptions, site parameters and supporting design calculations used in analyzing the existing conditions site hydrology. If the land development activity on a redevelopment site constitutes more than 50 percent of the site area for the entire site, then the performance criteria of this Chapter must be met for the stormwater runoff from the entire site.

- e) **Stormwater Management System.** The description, scaled drawings and design calculations for the proposed post-development stormwater management system, which shall include: A map and/or drawing or sketch of the stormwater management facilities, including the location of nonstructural site design features and the placement of existing and proposed structural stormwater controls, including design water surface elevations, storage volumes available from zero to maximum head, location of inlet and outlets, location of bypass and discharge systems, and all orifice/restrictor sizes; a narrative describing how the selected structural stormwater controls will be appropriate and effective; cross-section and profile drawings and design details for each of the structural stormwater controls in the system, including supporting calculations to show that the facility is designed according to the applicable design criteria; a hydrologic and hydraulic analysis of the stormwater management system for all applicable design storms (including stage-storage or outlet rating curves, and inflow and outflow hydrographs); documentation and supporting calculations to show that the stormwater management system adequately meets the post-development stormwater management performance criteria of this Chapter; drawings, design calculations, elevations and hydraulic grade lines for all existing and proposed stormwater conveyance elements including stormwater drains, pipes, culverts, catch basins, channels, swales and areas of overland flow; and where applicable, a narrative describing how the stormwater management system corresponds with any watershed protection plans and/or local greenspace protection plan.

- f) **Post-Development Downstream Analysis.** A downstream peak flow analysis which includes the assumptions, results and supporting calculations to show safe passage of post-development design flows downstream. The analysis of downstream conditions in the report shall address each and every point or

area along the project site's boundaries at which runoff will exit the property. The analysis shall focus on the portion of the drainage channel or watercourse immediately downstream from the project. This area shall extend downstream from the project to a point in the drainage basin where the project area is 10 percent of the total basin area. In calculating runoff volumes and discharge rates, consideration may need to be given to any planned future upstream land use changes. The analysis shall be in accordance with the stormwater design manual.

- g) Construction-Phase Erosion and Sedimentation Control Plan. An erosion and sedimentation control plan in accordance with the Georgia Erosion and Sedimentation Control Act and the local Erosion and Sedimentation Control Ordinance or NPDES Permit for Construction Activities. The plan shall also include information on the sequence/phasing of construction and temporary stabilization measures and temporary structures that will be converted into permanent stormwater controls.
- h) Landscaping and Open Space Plan. A detailed landscaping and vegetation plan describing the woody and herbaceous vegetation that will be used within and adjacent to stormwater management facilities and practices. The landscaping plan must also include: the arrangement of planted areas, natural and greenspace areas and other landscaped features on the site plan; information necessary to construct the landscaping elements shown on the plan drawings; descriptions and standards for the methods, materials and vegetation that are to be used in the construction; density of plantings; descriptions of the stabilization and management techniques used to establish vegetation; and a description of who will be responsible for ongoing maintenance of vegetation for the stormwater management facility and what practices will be employed to ensure that adequate vegetative cover is preserved.
- i) Operations and Maintenance Plan. Detailed description of ongoing operations and maintenance procedures for stormwater management facilities and practices to ensure their continued function as designed and constructed or preserved. These plans will identify the parts or components of a stormwater management facility or practice that need to be regularly or periodically inspected and maintained, and the equipment and skills or training necessary. The plan shall include an inspection and maintenance schedule, maintenance tasks, responsible parties for maintenance, funding, access and safety issues. Provisions for the periodic review and evaluation of the effectiveness of the maintenance program and the need for revisions or additional maintenance procedures shall be included in the plan.
- j) Maintenance Access Easements. The applicant must ensure access from public right-of-way to stormwater management facilities and practices requiring regular maintenance at the site for the purpose of inspection and

repair by securing all the maintenance access easement needed on a permanent basis. Such access shall be sufficient for all necessary equipment for maintenance activities. Upon final inspection and approval, a plat or document indicating that such easements exist shall be recorded and shall remain in effect even with the transfer of title of the property.

- k) Inspection and Maintenance Agreements. Unless an on-site stormwater management facility or practice is dedicated to and accepted by the City of Hoschton as provided in this Chapter, the applicant must execute an easement and an inspection and maintenance agreement binding on all subsequent owners of land served by an on-site stormwater management facility or practice in accordance with this Chapter.
- l) Evidence of Acquisition of Applicable Local and Non-local Permits. The applicant shall certify and provide documentation to the City of Hoschton that all other applicable environmental permits have been acquired for the site prior to approval of the stormwater management plan.

(Adopted October 6, 2015; Effective October 16, 2015)

Section 21-204. Stormwater Management Inspection and Maintenance Agreements

1. Prior to the issuance of any permit for a land development activity requiring a stormwater management facility or practice hereunder and for which the City of Hoschton requires ongoing maintenance, the applicant or owner of the site must, unless an on-site stormwater management facility or practice is dedicated to and accepted by the City of Hoschton, execute an inspection and maintenance agreement, and/or a conservation easement, if applicable, that shall be binding on all subsequent owners of the site.
2. The inspection and maintenance agreement, if applicable, must be approved by the City of Hoschton prior to plan approval, and recorded in the deed records upon final plat approval.
3. The inspection and maintenance agreement shall identify by name and official title the person(s) responsible for carrying out the inspection and maintenance. Responsibility for the operation and maintenance of the stormwater management facility or practice, unless assumed by a governmental agency, shall remain with the property owner and shall pass to any successor owner. If portions of the land are sold or otherwise transferred, legally binding arrangements shall be made to pass the inspection and maintenance responsibility to the appropriate successors in title. The arrangements shall designate for each portion of the site, the person to be permanently responsible for its inspection and maintenance.

4. As part of the inspection and maintenance agreement, a schedule shall be developed for when and how often routine inspection and maintenance will occur to ensure proper function of the stormwater management facility or practice. The agreement shall also include plans for annual inspections to ensure proper performance of the facility between scheduled maintenance and shall also include remedies for the default thereof. In addition to enforcing the terms of the inspection and maintenance agreement, the City of Hoschton may also enforce all of the provisions for ongoing inspection and maintenance in this Chapter.
5. The City of Hoschton, in lieu of an inspection and maintenance agreement, may accept dedication of any existing or future stormwater management facility for maintenance, provided such facility meets all the requirements of this ordinance and includes adequate and perpetual access and sufficient area, by easement or otherwise, for inspection and regular maintenance.

(Adopted October 6, 2015; Effective October 16, 2015)

Section 21-205. Performance and Maintenance Bonds. The City of Hoschton requires a Maintenance Bond to be issued at the completion of the project on the stormwater system for a minimum of 21 months.

(Adopted October 6, 2015; Effective October 16, 2015)

Section 21-206. Application Procedure

1. Applications for land development permits shall be filed with the City of Hoschton.
2. Permit applications shall include the items set forth in this Chapter (two copies of the stormwater management plan and the inspection maintenance agreement, if applicable shall be included).
3. The City of Hoschton shall inform the applicant whether the application, stormwater management plan and inspection and maintenance agreement are approved or disapproved.
4. If either the permit application, stormwater management plan or inspection and maintenance agreement are disapproved, the City of Hoschton shall notify the applicant of such fact in writing. The applicant may then revise any item not meeting the requirements hereof and resubmit the same, in which the requirements of this Section shall apply to such re-submittal.
5. Upon a finding by the City of Hoschton that the permit application, stormwater management plan and inspection and maintenance agreement, if applicable, meet the requirements of this ordinance, the City of Hoschton may issue a permit

for the land development project, provided all other legal requirements for the issuance of such permit have been met.

6. Notwithstanding the issuance of the permit, in conducting the land development project, the applicant or other responsible person shall be subject to the following requirements:
 - a) The applicant shall comply with all applicable requirements of the approved plan and this ordinance and shall certify that all land clearing, construction, land development and drainage will be done according to the approved plan;
 - b) The land development project shall be conducted only within the area specified in the approved plan;
 - c) The City of Hoschton shall be allowed to conduct periodic inspections of the project;
 - d) No changes may be made to an approved plan without review and written approval by the City of Hoschton; and,
 - e) Upon completion of the project, the applicant or other responsible person shall submit the engineer's report and certificate and as-built plans required by this Chapter.

(Adopted October 6, 2015; Effective October 16, 2015)

Section 21-207. Application Review Fees

The fee for review of any stormwater management application shall be based on the fee structure established by the City of Hoschton and shall be made prior to the review or issuance of any development permit for the proposed development project.

(Adopted October 6, 2015; Effective October 16, 2015)

Section 21-208. Modification for Off-Site Facilities

1. The stormwater management plan for each land development project shall provide for stormwater management measures located on the site of the project, unless provisions are made to manage stormwater by an off-site or regional facility.
2. The off-site or regional facility must be located on property legally dedicated for the purpose, must be designed and adequately sized to provide a level of stormwater quantity and quality control that is equal to or greater than that which would be afforded by on-site practices and there must be a legally-obligated

entity responsible for long-term operation and maintenance of the off-site or regional stormwater facility.

3. In addition, on-site measures shall be implemented, where necessary, to protect upstream and downstream properties and drainage channels from the site to the off-site facility.
4. A stormwater management plan must be submitted to the City of Hoschton, which shows the adequacy of the off-site or regional facility.
5. To be eligible for a modification, the applicant must demonstrate to the satisfaction of the City of Hoschton that the use of an off-site or regional facility will not result in the following impacts to upstream or downstream areas:
 - A. Increased threat of flood damage to public health, life, and property;
 - B. Deterioration of existing culverts, bridges, dams, and other structures;
 - C. Accelerated streambank or streambed erosion or siltation;
 - D. Degradation of in-stream biological functions or habitat; or
 - E. Water quality impairment in violation of State water quality standards, and/or violation of any state or federal regulations.

(Adopted October 6, 2015; Effective October 16, 2015)

ARTICLE III. POST-DEVELOPMENT STORMWATER MANAGEMENT PERFORMANCE CRITERIA

The following performance criteria shall be applicable to all stormwater management plans, unless otherwise provided for in this Chapter:

Section 21-301. Water Quality

All stormwater runoff generated from a site shall be adequately treated before discharge. It will be presumed that a stormwater management system complies with this requirement if:

1. It is sized to treat the prescribed water quality treatment volume from the site, as defined in the Georgia Stormwater Management Manual;
2. Appropriate structural stormwater controls or nonstructural practices are selected, designed, constructed or preserved, and maintained according to the specific criteria in the Georgia Stormwater Management Manual; and,

3. Runoff from hotspot land uses and activities identified by the City of Hoschton are adequately treated and addressed through the use of appropriate structural stormwater controls, nonstructural practices, and pollution prevention practices.

(Adopted October 6, 2015; Effective October 16, 2015)

Section 21-302. Stream Channel Protection

Protection of stream channels from bank and bed erosion and degradation shall be provided by using all of the following three approaches:

1. Preservation, restoration and/or reforestation (with native vegetation) of the applicable stream buffer;
2. 24-hour extended detention storage of the 1-year, 24-hour return frequency storm event;
3. Erosion prevention measures such as energy dissipation and velocity control.

(Adopted October 6, 2015; Effective October 16, 2015)

Section 21-303. Overbank Flooding Protection

Downstream overbank flood and property protection shall be provided by controlling (attenuating) the post-development peak discharge rate to the pre-development rate for the 25-year, 24-hour return frequency storm event. If control of the 1-year, 24-hour storm under Section 21-105.2 is exempted, then peak discharge rate attenuation of the 2-year through the 25-year return frequency storm event must be provided.

(Adopted October 6, 2015; Effective October 16, 2015)

Section 21-304. Extreme Flooding Protection

Extreme flood and public safety protection shall be provided by controlling and safely conveying the 100-year, 24 hour return frequency storm event such that flooding is not exacerbated.

(Adopted October 6, 2015; Effective October 16, 2015)

Section 21-305. Structural Stormwater Controls

1. All structural stormwater management facilities shall be selected and designed using the appropriate criteria from the Georgia Stormwater Management Manual.
2. All structural stormwater controls must be designed appropriately to meet their intended function. For other structural stormwater controls not included in the

Georgia Stormwater Management Manual, or for which pollutant removal rates have not been provided, the effectiveness and pollutant removal of the structural control must be documented through prior studies, literature reviews, or other means and receive approval from the City of Hoschton before being included in the design of a stormwater management system.

3. In addition, if hydrologic or topographic conditions, or land use activities warrant greater control than that provided by the minimum control requirements, the City of Hoschton may impose additional requirements deemed necessary to protect upstream and downstream properties and aquatic resources from damage due to increased volume, frequency, and rate of stormwater runoff or increased nonpoint source pollution loads created on the site in question.
4. Applicants shall consult the Georgia Stormwater Management Manual for guidance on the factors that determine site design feasibility when selecting and locating a structural stormwater control.

(Adopted October 6, 2015; Effective October 16, 2015)

Section 21-306. Stormwater Credits for Nonstructural Measures

1. The use of one or more site design measures by the applicant may allow for a reduction in the water quality treatment volume required under this Chapter.
2. The applicant may, if approved by the City of Hoschton, take credit for the use of stormwater better site design practices and reduce the water quality volume requirement.
3. For each potential credit, there is a minimum set of criteria and requirements which identify the conditions or circumstances under which the credit may be applied.
4. The site design practices that qualify for this credit and the criteria and procedures for applying and calculating the credits are included in the Georgia Stormwater Management Manual.

(Adopted October 6, 2015; Effective October 16, 2015)

Section 21-307. Drainage System Guidelines

Stormwater conveyance facilities, which may include but are not limited to culverts, stormwater drainage pipes, catch basins, drop inlets, junction boxes, headwalls, gutter, swales, channels, ditches, and energy dissipaters shall be provided when necessary for the protection of public right-of-way and private properties adjoining project sites and/or public right-of-ways. Stormwater conveyance facilities that are designed to carry runoff from more than one parcel, existing or proposed, shall meet the following requirements:

1. Methods to calculate stormwater flows shall be in accordance with the stormwater design manual;
2. All culverts, pipe systems, and open channel flow systems shall be sized in accordance with the stormwater management plan using the methods included in the stormwater design manual; and,
3. Design and construction of stormwater conveyance facilities shall be in accordance with the criteria and specifications found in the stormwater design manual.

(Adopted October 6, 2015; Effective October 16, 2015)

Section 21-308. Dam Design Guidelines

Any land disturbing activity that involves a site which proposes a dam shall comply with the Georgia Safe Dams Act and Rules for Dam Safety as applicable.

(Adopted October 6, 2015; Effective October 16, 2015)

ARTICLE IV. INSPECTION

Section 21-401. Inspections to Ensure Plan Compliance During Construction

1. Periodic inspections of the stormwater management system construction shall be conducted by the staff of the City of Hoschton or conducted and certified by a professional engineer who has been approved by the City of Hoschton. Construction inspections shall utilize the approved stormwater management plan for establishing compliance.
2. All inspections shall be documented with written reports that contain the following information:
 - A. The date and location of the inspection;
 - B. Whether construction is in compliance with the approved stormwater management plan;
 - C. Variations from the approved construction specifications; and,
 - D. Any other variations or violations of the conditions of the approved stormwater management plan.
3. If any violations are found, the applicant shall be notified in writing of the nature of the violation and the required corrective actions.

(Adopted October 6, 2015; Effective October 16, 2015)

Section 21-402. Final Inspection and As-Built Plans

1. Upon completion of a project, and before a certificate of occupancy shall be granted, the applicant is responsible for certifying that the completed project is in accordance with the approved stormwater management plan.
2. All applicants are required to submit actual “as built” plans for any stormwater management facilities or practices after final construction is completed. The plan must show the final design specifications for all stormwater management facilities and practices and must be certified by a Professional Engineer.
3. A final inspection by the City of Hoschton is required before the release of any performance securities can occur.

(Adopted October 6, 2015; Effective October 16, 2015)

Section 21-403. Long-Term Maintenance Inspection of Stormwater Facilities and Practices

1. Stormwater management facilities and practices included in a stormwater management plan which are subject to an inspection and maintenance agreement must undergo ongoing inspections to document maintenance and repair needs and ensure compliance with the requirements of the agreement, the plan, and this Chapter.
2. A stormwater management facility or practice shall be inspected on a periodic basis by the responsible person in accordance with the approved inspection and maintenance agreement.
3. In the event that the stormwater management facility has not been maintained and/or becomes a danger to public safety or public health, the City of Hoschton shall notify the person responsible for carrying out the maintenance plan by registered or certified mail to the person specified in the inspection and maintenance agreement. The notice shall specify the measures needed to comply with the agreement and the plan and shall specify the time within which such measures shall be completed. If the responsible person fails or refuses to meet the requirements of the inspection and maintenance agreement, the City of Hoschton, may correct the violation as provided in this Chapter.
4. Inspection programs by the City of Hoschton may be established on any reasonable basis, including but not limited to: routine inspections; random inspections; inspections based upon complaints or other notice of possible violations; and joint inspections with other agencies inspecting under environmental or safety laws. Inspections may include, but are not limited to:

reviewing maintenance and repair records; sampling discharges, surface water, groundwater, and material or water in stormwater management facilities; and evaluating the condition of stormwater management facilities and practices.

(Adopted October 6, 2015; Effective October 16, 2015)

Section 21-404. Right of Entry for Inspection

The terms of the inspection and maintenance agreement shall provide for the City of Hoschton to enter the property at reasonable times and in a reasonable manner for the purpose of inspection. This includes the right to enter a property when it has a reasonable basis to believe that a violation of this ordinance is occurring or has occurred and to enter when necessary for abatement of a public nuisance or correction of a violation of this Chapter.

(Adopted October 6, 2015; Effective October 16, 2015)

Section 21-405. Records of Maintenance Activities

Parties responsible for the operation and maintenance of a stormwater management facility shall provide records of all maintenance and repairs to the City of Hoschton.

(Adopted October 6, 2015; Effective October 16, 2015)

Section 21-406. Failure to Maintain

1. If a responsible person fails or refuses to meet the requirements of the inspection and maintenance agreement, the City of Hoschton, after thirty (30) days written notice (except, that in the event the violation constitutes an immediate danger to public health or public safety, 24 hours notice shall be sufficient), may correct a violation of the design standards or maintenance requirements by performing the necessary work to place the facility or practice in proper working condition.
2. The City of Hoschton may assess the owner(s) of the facility for the cost of repair work, which shall be a lien on the property, and may be placed on the ad valorem tax bill for such property and collected in the ordinary manner for such taxes.

(Adopted October 6, 2015; Effective October 16, 2015)

ARTICLE V. VIOLATIONS, ENFORCEMENT AND PENALTIES

Section 21-501. Generally

Any action or inaction which violates the provisions of this Chapter or the requirements of an approved stormwater management plan or permit, may be subject to the enforcement actions provided in this Article. Any such action or inaction, which is

continuous with respect to time, is deemed to be a public nuisance and may be abated by injunctive or other equitable relief. The imposition of any of the penalties described below shall not prevent such equitable relief.

(Adopted October 6, 2015; Effective October 16, 2015)

Section 21-502. Notice of Violation

If the City of Hoschton determines that an applicant or other responsible person has failed to comply with the terms and conditions of a permit, an approved stormwater management plan or the provisions of this ordinance, it shall issue a written notice of violation to such applicant or other responsible person. Where a person is engaged in activity covered by this ordinance without having first secured a permit therefor, the notice of violation shall be served on the owner or the responsible person in charge of the activity being conducted on the site.

The notice of violation shall contain:

1. The name and address of the owner or the applicant or the responsible person;
2. The address or other description of the site upon which the violation is occurring;
3. A statement specifying the nature of the violation;
4. A description of the remedial measures necessary to bring the action or inaction into compliance with the permit, the stormwater management plan or this ordinance and the date for the completion of such remedial action;
5. A statement of the penalty or penalties that may be assessed against the person to whom the notice of violation is directed; and,
6. A statement that the determination of violation may be appealed to the City of Hoschton by filing a written notice of appeal within thirty (30) days after the notice of violation (except, that in the event the violation constitutes an immediate danger to public health or public safety, 24-hour notice shall be sufficient).

(Adopted October 6, 2015; Effective October 16, 2015)

Section 21-503. Penalties Generally

1. In the event the remedial measures described in the notice of violation have not been completed by the date set forth for such completion in the notice of violation, any one or more of the actions or penalties specified in this Article may be taken or assessed against the person to who the notice of violation was directed.

2. Before taking any of the actions in this Article or imposing any of the penalties specified in this Article, the City of Hoschton shall first notify the applicant or other responsible person in writing of its intended action, and shall provide a reasonable opportunity, of not less than ten days (except, that in the event the violation constitutes an immediate danger to public health or public safety, 24-hour notice shall be sufficient) to cure such violation.
3. In the event the applicant or other responsible person fails to cure such violation after such notice and cure period, the City of Hoschton may take any one or more of the actions or impose any one or more of the penalties specified in this Article.

(Adopted October 6, 2015; Effective October 16, 2015)

Section 21-504. Stop Work Order

The City of Hoschton may issue a stop work order which shall be served on the applicant or other responsible person. The stop work order shall remain in effect until the applicant or other responsible person has taken the remedial measures set forth in the notice of violation or has otherwise cured the violation or violations described therein, provided the stop work order may be withdrawn or modified to enable the applicant or other responsible person to take the necessary remedial measures to cure such violation or violations.

(Adopted October 6, 2015; Effective October 16, 2015)

Section 21-505. Withhold Certificate of Occupancy

The City of Hoschton may refuse to issue a certificate of occupancy for the building or other improvements constructed or being constructed on the site until the applicant or other responsible person has taken the remedial measures set forth in the notice of violation or has otherwise cured the violations described therein.

(Adopted October 6, 2015; Effective October 16, 2015)

Section 21-506. Suspension, Revocation or Modification of Permit

The City of Hoschton may suspend, revoke or modify the permit authorizing the land development project. A suspended, revoked or modified permit may be reinstated after the applicant or other responsible person has taken the remedial measures set forth in the notice of violation or has otherwise cured the violations described therein, provided such permit may be reinstated [upon such conditions as the City of Hoschton may deem necessary] to enable the applicant or other responsible person to take the necessary remedial measures to cure such violations.

(Adopted October 6, 2015; Effective October 16, 2015)

Section 21-507. Civil Penalties

In the event the applicant or other responsible person fails to take the remedial measures set forth in the notice of violation or otherwise fails to cure the violations described therein within ten days, or such greater period as the City of Hoschton shall deem appropriate (except, that in the event the violation constitutes an immediate danger to public health or public safety, 24-hour notice shall be sufficient) after the City of Hoschton has taken one or more of the actions described above, the City of Hoschton may impose a penalty not to exceed \$1,000 (depending on the severity of the violation) for each day the violation remains unremedied after receipt of the notice of violation.

(Adopted October 6, 2015; Effective October 16, 2015)

Section 21-508. Criminal Penalties

For intentional and flagrant violations of this Chapter, the City of Hoschton may issue a citation to the applicant or other responsible person, requiring such person to appear in the City of Hoschton Municipal Court to answer charges for such violation. Upon conviction, such person shall be punished by a fine not to exceed \$1,000 or imprisonment for 60 days or both. Each act of violation and each day upon which any violation shall occur shall constitute a separate offense.

(Adopted October 6, 2015; Effective October 16, 2015)

CHAPTER 22
STREETS, CURBS AND SIDEWALKS

Section 22-101	General Regulations
Section 22-102	Street Construction and Improvements
Section 22-103	Reserved
Section 22-104	Reserved
Section 22-105	Reserved

Section 22-101. General Regulations

1. Generally. The powers of a municipality with respect to its municipal street system shall be subject but not limited to Chapter 4, Title 32, Chapter 34, Title 36 and Chapter 39, Title 36 of the Official Code of Georgia Annotated.
2. Maintenance and Repair of Public Streets. All maintenance and repair of public streets, alleys, curbs, sidewalks, and other public ways shall be under the supervision of the Mayor and City Council, which body shall have the responsibility of enforcing all provisions of state law, this Code, and all ordinances of the City relating to such public ways.
3. Maintenance of Sidewalks. It shall be the duty of all owners of property in the City upon which sidewalks have been laid to keep such walkways properly maintained at all times and to remove from them all materials and substances, including snow and ice, hazardous to passersby within twelve (12) hours after such material or substance accumulates thereon or within less time, if so ordered by the Police Chief or the Mayor and City Council.
4. Maintenance of Property Between Sidewalks and Streets. All persons who own real estate in the City which abuts upon any sidewalk which is paved shall be required to keep that portion of such sidewalk which lies between the property line and the curb line of the adjoining street, and upon which his real estate abuts, in good and smooth condition and free from growing weeds and other obnoxious and unsightly vegetation or other things which would mar or detract from the beauty and cleanliness of the street upon which their property abuts. Any property owner who shall place or allow grass to grow upon the portion of the sidewalk lying between the property line and the curb line of the street as aforesaid, and upon which his real estate abuts, shall keep such grass properly mowed and free from rubbish of all kinds. If such owners are not in the possession of their property, then this Section shall apply to their tenants or those who have possession or control of the same.
5. Defacing Sidewalks, Streets, and Curbs. It shall be unlawful for any person to deface any public sidewalk, street, or curb in the City by painting any signs thereon whether for commercial advertising purposes or not, or to walk on, drive any vehicle upon or injure in any way newly laid street, sidewalk, or curbing

pavement while the same is guarded by a warning sign or barricade or is soft or newly laid.

6. Obstructions. It shall be unlawful for any person to cause, create, or maintain any obstruction on any street, alley, sidewalk, or other public way, except as may be provided in this Chapter or in the ordinances and laws of the City without express legislative authority, a municipal corporation may not grant to any person the right to erect or maintain a structure or obstruction in a public street.
7. Deposits and Discharges onto Streets and Sidewalks.
 - A. It shall be unlawful for any person to deposit on any street or sidewalk any material which may be harmful to the pavement thereof, or any waste material or any glass or other article which may do injury to any person, animal, or property.
 - B. It shall be unlawful for any person to discharge or allow to be discharged onto any public street or sidewalk any water or other fluid material containing objectionable material such as sewerage, waste milk, or other organic material.
8. Report of Defects, Obstructions, Deposits, and Discharges. It shall be the duty of every City Officer and employee who becomes aware of any defect or obstruction, or of any unlawful deposit or discharge, in or on any public street, alley, curb, sidewalk, or other public way of the City, to report the same to the Director of Public Works or City Council designee, as soon as possible.
9. Private Use. It shall be unlawful for any person, firm, or corporation to use any street, sidewalk, or other public place as space for the display of goods or merchandise for sale or to write or make any sign or advertisement on any such pavement except as provided by law for the installation and operation of vending machines at welcome centers, tourist centers, and safety rest areas.
10. Encroachments. It shall be unlawful for any person to erect or maintain any building or structure which encroaches upon any public street or property, or to erect any poles or wires or maintain any poles or wires over any public place, street, alley, sidewalk, or other public way, without having first obtained a permit from the City Clerk/Treasurer in the manner specified in this Chapter.
11. Openings. It shall be unlawful for any person to construct or maintain any opening or stairway in any public street, sidewalk, or alley without first obtaining a permit from the City Clerk/Treasurer in the manner specified in this Chapter. All such lawfully maintained openings shall be guarded by a suitable strong cover or railing approved by the Director of Public Works or City Council designee.

12. Trees and Shrubs.

- A. Planting and Removal. It shall be unlawful for any person to plant, remove, injure, or cut any tree, bush, or shrub in or from any public street, parkway, or other public place without first obtaining a permit therefor from the City Clerk/Treasurer in the manner specified in this Chapter.
- B. Advertisements. It shall be unlawful for any person to attach any sign, advertisement, or notice to any tree or shrub in any public place.
- C. Dangerous Trees. Any tree or shrub which overhangs any sidewalk, street, or other public place in the City in such a way as to impede or interfere with traffic or travel shall be trimmed by the owner of the premises on which such tree or shrub grows so that the obstruction shall cease. Any tree or limb of a tree which is likely to fall on or across any public way or place shall be removed by the owner of the premises on which such tree grows or stands. The Director of Public Works or City Council designee may cause to be trimmed or removed any and all such trees or shrubs so that the obstruction or danger to traffic or passage shall be removed.
- D. Poles and Wires. Any person or company which maintains poles and wires in the streets, alleys, or other public places of the City shall keep such wires and poles free and away from any nearby trees or shrubs in such places, and keep all such trees and shrubs properly trimmed, subject to the supervision of the Director of Public Works or City Council designee, so that no injury shall befall either the poles and wires or the shrubs and trees by their contact.

13. Burning of Leaves and Rubbish. It shall be unlawful for any person, firm, or corporation to burn any leaves, paper, rubbish, or other substances upon any of the public streets, sidewalks, or alleys of the City.

Section 22-102. Street Construction and Improvements

- 1. City Council Resolution. Whenever the improvement of any street or part thereof shall be deemed necessary by the Mayor and City Council, a resolution stating the nature and location of the proposed improvement shall be declared and published one (1) time per week for three (3) consecutive weeks in the newspaper in which the county sheriff's advertisements are published. If the owners of a majority of the lineal feet of frontage of the land abutting on the proposed improvement do not, within fifteen (15) days after the last day of publication of said resolution, file with the City Clerk/Treasurer a written protest against such improvement, contracts for the work to be done shall be entered into and assessments and liens shall be fixed in accordance with the provisions of Chapter 39, Title 36 of the O.C.G.A.

2. Reserved.
3. Bonds. Each individual or company contracted with by the City of Hoschton to construct, repair or improve any pavement on any public way shall be required to file a bond in the amount set by the Mayor and City Council with surety to be approved by the Mayor and City Council, conditioned to indemnify the City of Hoschton from any loss or damage caused by or resulting from the work undertaken.
4. Repair. By resolution the Mayor and City Council may authorize ordinary repairs to the streets of the City of Hoschton, or the Mayor and City Council may delegate responsibility for all such ordinary repairs to the street supervisor.
5. Reserved.

Section 22-103 Reserved

Section 22-104 Reserved

Section 22-105 Reserved

CHAPTER 23
STREAM BUFFER PROTECTION ORDINANCE
(Approved and adopted 09-10-2018)

- Section 23-101. Title.
- Section 23-102. Findings and Purposes.
- Section 23-103. Definitions.
- Section 23-104. Applicability.
- Section 23-105. Land Development Requirements.
- Section 23-106. Compatibility with other Buffer Regulations and Requirements.
- Section 23-107. Additional Information Requirements for Development on Buffer Zone Properties.
- Section 23-108. Responsibility.
- Section 23-109. Inspection.
- Section 23-110. Violations, Enforcement and Penalties.
- Section 23-111. Administrative Appeal and Judicial Review.
- Section 23-112. Severability.

Section 23-101. Title.

This ordinance shall be known as the City of Hoschton Stream Buffer Protection Ordinance.

Section 23-102. Findings and Purposes.

1. *Findings.* Whereas, the Mayor and Council of the City of Hoschton finds that buffers adjacent to streams provide numerous benefits which include:
 - A. Protecting, restoring and maintaining the chemical, physical and biological integrity of streams and their water resources;
 - B. Removing pollutants delivered into urban stormwater;
 - C. Reducing erosion and controlling sedimentation;
 - D. Protecting and stabilizing stream banks;
 - E. Proving for infiltration of stormwater runoff;
 - F. Maintaining base flow of streams;
 - G. Contributing organic matter that is a source of food and energy for the aquatic ecosystem;
 - H. Providing tree canopy to shade streams and promote desirable aquatic habitat;
 - I. Providing riparian wildlife habitat;
 - J. Furnishing scenic value and recreational opportunity; and
 - K. Providing opportunities for the protection and restoration of green space.
2. *Purposes.* It is the purpose of this ordinance to protect the public health, safety, environment and general welfare; to minimize public and private losses due to erosion, siltation and water pollution; and to maintain stream water quality by provisions designed to:
 - A. Create buffer zones along the streams of the City of Hoschton for the protection of water resources; and
 - B. Minimize land development within such buffers by establishing buffer zone requirements, and by requiring authorization for any such activities.

Section 23-103. Definitions.

1. *Buffer.* Means, with respect to a stream, a natural or enhanced vegetated area (established by Section 23-105 (1)(A)), lying adjacent to the stream.
2. *Impervious Cover.* Any manmade paved, hardened or structural surface regardless of material. Impervious cover includes but is not limited to rooftops, buildings, streets, roads, decks, swimming pools and any concrete or asphalt.
3. *Land Development.* Any land change including but not limited to clearing, grubbing, stripping, removal of vegetation, dredging, grading, excavating, transporting and filling of land, construction, paving and any other installation of impervious cover.
4. *Land Development Activity.* Actions or activities which comprise, facilitate or result in land development.
5. *Land Disturbance.* Any land or vegetation change including but limited to clearing, grubbing, stripping, removal of vegetation, dredging, grading, excavating, transporting and filling of land, that do not involve construction, paving or any other installation of impervious cover.
6. *Land Disturbance Activity.* Those actions or activities which comprise, facilitate or result in land disturbance.
7. *Floodplain.* Any land area susceptible to flooding which would have at least a one (1) percent probability of flooding occurrence in any calendar year based on the basin being fully developed as shown on the current land use plan; i.e., the regulatory flood.
8. *Parcel.* Any plot, lot or acreage shown as a unit on the latest county tax assessment records.
9. *Permit.* The permit issued by the City of Hoschton required for undertaking any land development activity.
10. *Person.* Any individual, partnership, firm, association, joint venture, public or private corporation, trust, estate, commission, board, public or private institution, utility, cooperative, city, county or other political subdivision of the state, any interstate body or any other legal entity.
11. *Protection Area or Stream Protection Area.* With respect to a stream, the combined areas of all required buffers and setbacks applicable to such stream.
12. *Riparian.* Belonging or related to the bank of a river, stream, lake, pond or impoundment.
13. *Setback.* With respect to a stream, the area established by Section 12-105(1)(B) extending beyond any buffer applicable to the stream.
14. *Stream.* Means any stream beginning at:

- A. The location of a spring, seep or groundwater outflow that sustains streamflow;
 - B. A point in the stream channel with a drainage area of 25 acres or more;
 - C. Where evidence indicates the presence of a stream in a drainage area of other than 25 acres, the City of Hoschton may require field studies to verify the existence of a stream.
15. *Stream Bank*. The sloping land that contains the stream channel and the normal flows of the stream.
16. *Stream Channel*. The portion of a watercourse that contains the base flow of the stream.
17. *Watershed*. The land area that drains into a particular stream.

Section 23-104. Applicability.

This ordinance shall apply to all land development activity on property containing a stream protection area as defined in Section 23-103 of this ordinance. These requirements are in addition to, and do not replace or supersede, any other applicable buffer requirements established under state law and approval or exemption from these requirements do not constitute approval or exemption from buffer requirements established under state law or from other applicable local, state or federal regulations.

1. *Grandfather Provisions*. This ordinance shall not apply to the following activities:
 - A. Work consisting of the repair or maintenance of any lawful use of land that is zoned and approved for such use on or before the effective date of this ordinance.
 - B. Existing development and ongoing land disturbance activities including but not limited to existing agriculture, silviculture, landscaping, gardening and lawn maintenance, except that new development or land disturbance activities on such properties will be subject to all applicable buffer requirements.
 - C. Any land development activity that is under construction, fully approved for development, scheduled for permit approval or has been submitted for approval as of the effective date of this ordinance.
 - D. Land development activity that has not been submitted for approval, but that is part of a larger master development plan, such as for an office park or the phased development that has been previously approved within two (2) years of the effective date of this ordinance.
2. *Exemptions*. The following specific activities are exempt from this ordinance. Exemption of these activities does not constitute an exemption for any other activity proposed on a property:
 - A. Activities for the purpose of building one (1) of the following:
 - 1) Stream crossing by a driveway, transportation route or utility line;
 - 2) Public water supply intake or public wastewater outfall structures;
 - 3) Intrusions necessary to provide access to a property;
 - 4) Public access facilities that must be on the water including boat ramps, docks, foot trails leading directly to the river, fishing platforms and overlooks;

- 5) Unpaved foot trails and paths;
 - 6) Activities to restore and enhance stream bank stability, vegetation, water quality and/or aquatic habitat, so long as native vegetation and bioengineering techniques are used.
- B. Public sewer line easements paralleling the creek, except that all easements (permanent and construction) and land disturbance should be at least twenty-five (25) feet from the top of the bank. This includes such impervious cover as is necessary for the operation and maintenance of the utility including but not limited to manholes, vents and valve structures. This exemption shall not be construed as allowing the construction of roads, bike paths or other transportation routes in such easements, regardless of paving material, except for access for the uses specifically cited in Section 23-104(2)(A) above.
 - C. Land development activities within a right-of-way existing at the time this ordinance take effect or approved under the terms of this ordinance.
 - D. Within an easement of any utility existing at the time this ordinance takes effect or approved under the terms of this ordinance, land disturbance activities and such impervious cover as is necessary for the operation and maintenance of the utility, including but not limited to manholes, vents and valve structures.
 - E. Emergency work necessary to preserve life or property. However, when emergency work is performed under this section, the person performing it shall report such work to the City of Hoschton on the next business day after commencement of the work. Within ten (10) days thereafter, the person shall apply for a permit and perform such work within such time period as may be determined by the City of Hoschton to be reasonably necessary to correct any impairment such emergency work may have caused to the water conveyance capacity, stability or water quality of the protection area.
 - F. Forestry and silviculture activities on land that is zoned for forestry, silvicultural or agricultural uses and are not incidental to other land development activity. If such activity results in land disturbance in the buffer that would otherwise be prohibited, then no other land disturbing activity other than normal forest management practices will be allowed on the entire property for three (3) years after the end of the activities that intruded on the buffer.

After the effective date of this ordinance, it shall apply to new subdividing and platting activities.

Any land development activity within a buffer established hereunder or any impervious cover within a setback established hereunder is prohibited unless a variance is granted pursuant to Section 12-105(2) below.

Section 23-105. Land Development Requirements.

1. *Buffer and Setback Requirements.* All land development activities subject to this ordinance shall meet the following requirements:

- A. Any disturbed natural vegetative buffer shall be maintained for fifty (50) feet, measured horizontally on both banks (as applicable) of the stream as measured from the top of the stream bank.

B. An additional setback shall be maintained for twenty-five (25) feet, measured horizontally beyond the undisturbed natural vegetative buffer in which all impervious cover shall be prohibited. Grading, filling and earthmoving shall be minimized within the setback.

C. No septic tanks or septic tank drain fields shall be permitted within the buffer or setback.

2. *Variance Procedures.* Variances from the above buffer and setback requirements may be granted in accordance with the following provisions:

A. Where a parcel was platted prior to the effective date of this ordinance, and its shape, topography or other existing physical condition prevents land development consistent with this ordinance, and the City of Hoschton finds and determines that the requirements of this ordinance prohibit the otherwise lawful use of the property by the owner, the Planning and Zoning Commission of the City of Hoschton may grant a variance from the buffer and setback requirements hereunder, provided such variance require mitigation measures to offset the effects of any proposed land development on the parcel.

B. Except as provided above, the Planning and Zoning Commission of the City of Hoschton shall grant no variance from any provision of this ordinance without first conducting a public hearing on the application for variance and authorizing the granting of the variance by an affirmative vote of the Planning and Zoning Commission. The City of Hoschton shall give public notice of each such public hearing in a newspaper of general circulation within the City of Hoschton. The City of Hoschton shall require the applicant post a sign giving notice of the proposed variance and the public hearing. The sign shall be of a size and posted in such location on the property as to be clearly visible from the primary adjacent road right-of-way. Variances will be considered only in the following cases:

- 1) When a property's shape, topography or other physical conditions existing at the time of the adoption of this ordinance prevents land development unless a buffer variance is granted.
- 2) Unusual circumstances when strict adherence to the minimal buffer requirements in the ordinance would create an extreme hardship.

Variances will not be considered when, following the adoption of this ordinance, actions of any property owner of a given property have created conditions of a hardship on that property.

C. At a minimum, a variance request shall include the following information:

- 1) A site map that includes locations of all streams, wetlands, floodplain boundaries and other natural features, as determined by the field survey;
- 2) A description of the shape, size, topography, slope, soils, vegetation and other physical characteristics of the property;
- 3) A detailed site plan that shows the locations of all existing and proposed structures and other impervious cover, the limits of all existing and proposed land disturbance, both inside and outside the buffer and setback. The exact area of the buffer to be affected shall be accurately and clearly indicated;
- 4) Documentation of unusual hardship should the buffer be maintained;
- 5) At least one alternative plan which does not include a buffer or setback intrusion or an explanation of why such site plan is not possible;
- 6) A calculation of the total area and length of the proposed intrusion;
- 7) A stormwater management site plan, if applicable; and

- 8) Proposed mitigation, if any, for the intrusion. If no mitigation is proposed, the request must include an explanation of why none is being proposed.
- D. The following factors will be considered in determining whether to issue a variance:
- 1) The shape, size, topography, slope, soils, vegetation and other physical characteristics of the property;
 - 2) The locations of all streams on the property including along property boundaries;
 - 3) The location and extent of the proposed buffer or setback intrusion;
 - 4) Whether alternative designs are possible which require less intrusion or no intrusion;
 - 5) The long-term and construction water-quality impacts of the proposed variance; and
 - 6) Whether issuance of the variance is at least as protective of natural resources and the environment.

Section 23-106. Compatibility with Other Buffer Regulations and Requirements.

This ordinance is not intended to interfere with, abrogate or annul any other ordinance, rule or regulation, statute or other provision of the law. The requirements of this ordinance should be considered minimum requirements, and where any provision of this ordinance imposes restrictions different from those imposed by any other ordinance, rule, regulation or other provision of the law, whichever provisions are more restrictive or impose higher protective standards for human health or the environment shall be considered to take precedence.

The Grandfather Provisions, Exemptions and Variance Procedures sections of Chapter 23, Stream Buffer Protection, do not apply to this subsection. Applicable exemptions and variances are given below.

1. *Mulberry River Watershed Protection Requirements.* This Section of the Stream Buffer Protection Ordinance is adopted pursuant to Georgia Department of Natural Resources Rules for Environment Planning Criteria for water supply watersheds (O.C.G.A. 391-3-16).
 - A. Stream buffer zone/impervious surface setbacks shall meet minimum criteria for Large Water Supply Watersheds (O.C.G.A. 391-3-16 (6)).
 - 1) Roadways, bridges and drainage structures may encroach upon required buffers and setbacks where such structures are necessary to provide access. Such roadways and bridges shall cross streams perpendicularly where reasonably possible. The number of such stream crossings and associated structures shall be minimized to the greatest extent possible.
 - 2) Limited minor land disturbances such as trails and picnic areas are exempt.
 - B. Lots of records. All lots or parcels of record as of the date of adoption of this ordinance in the Mulberry River Watershed and all lots or parcels which have been submitted by way of preliminary plat and approved by the Planning Commission as of the date of adoption of this ordinance in the Mulberry River Watershed that are made unbuildable by the buffer and setback provisions may still be developed on a case-by-case basis. Requests for development of these lots shall be made to the City of Hoschton as Administrative Variances. If development is allowed, the maximum possible impervious surface setback and stream buffer width, given the configuration of the lot, shall be maintained.

- C. Limitation on variances. Variances from Subsection 1 (Mulberry River Watershed Protection Requirements) are prohibited except as provided by Subsection 1 (B).

Section 23-107. Additional Information Requirements for Development on Buffer Zone Properties.

Any permit applications for property requiring buffers and setbacks hereunder must include the following:

1. A site plan showing:
 - A. The location of all streams on the property;
 - B. Limits of required stream buffers and setbacks on the property;
 - C. Buffer zone topography with contour lines at no greater than five (5) foot contour intervals;
 - D. Delineation of forested and open areas in the buffer zone; and
 - E. Detailed plans of all proposed land development in the buffer and of all proposed impervious cover within the setback.
2. A description of all proposed land development within the buffer and setback.
3. Any other documentation the City of Hoschton may reasonably deem necessary for review of the application, and to insure the buffer zone ordinance is addressed in the approval process.

All buffer and setback areas must be recorded on the final plat of the property following plan approval.

Section 23-108. Responsibility.

Neither the issuance of a development permit nor compliance with the conditions thereof, nor with the provisions of this ordinance shall relieve any person from any responsibility otherwise imposed by the law for damage to persona or property; nor shall the issuance of any permit hereunder serve to impose any liability upon the City of Hoschton, its officers or employees, for injury or damage to persons or property.

Section 23-109. Inspection.

The City of Hoschton may cause inspections of the work in the buffer or setback to be made periodically during the course thereof, and shall make a final inspection following completion of the work. The permittee shall assist the City of Hoschton in making such inspections. The City of Hoschton shall have the authority to conduct such investigations as it may reasonably deem necessary to carry out its duties as prescribed in this ordinance, and for this purpose to enter at reasonable time upon any property, public or private, for the purpose of investigating and inspecting the sites of any land development activities within the protection area.

No person shall refuse entry or access to any authorized representative or agent who request entry for 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 official duties.

Section 23-110. Violations, Enforcement and Penalties.

Any action or inaction which violates the provisions of this ordinance or the requirements of an approved site plan or permit may be subject to the enforcement actions outlines in this Section. Any such action or inaction which is continuous with respect to time is deemed to be a public nuisance and may be abated by injunctive or other equitable relief. The imposition of any of the penalties described below shall not prevent such equitable relief.

1. *Notice of Violation.* If the City of Hoschton determines that an applicant or other responsible person has failed to comply with the terms and conditions of a permit, an approved site plan or the provisions of this ordinance, it shall issue a written notice of violation to such applicant or other responsible person. Where a person is engaged in activity covered by this ordinance without having first secured the appropriate permit therefore, the notice of violation shall be served on the owner or the responsible person in charge of the activity being conducted on the site. The notice of violation shall contain:
 - A. The name and address of the owner or the applicant or the responsible person;
 - B. The address or other description of the site upon which the violation is occurring;
 - C. A statement specifying the nature of the violation;
 - D. A description of the remedial measures necessary to bring the action or inaction into compliance with the permit, the approved site plan or this ordinance and the date for the completion of such remedial action;
 - E. A statement of the penalty or penalties that may be assessed against the person to whom the notice of violation is directed; and
 - F. A statement that the determination of violation may be appealed to the City of Hoschton by filing a written notice of appeal within thirty (30) days after the notice of violation (except that in the event the violation constitutes an immediate danger to public health or public safety, 24 hours' notice shall be sufficient).

2. *Penalties.* In the event the remedial measures described in the notice of violation have not been completed by the date set forth for such completion in the notice of violation, any one or more of the following actions or penalties may be taken or assessed against the person to whom the notice of violation was directed. Before taking any of the following actions or imposing any of the following penalties, the City of Hoschton shall first notify the applicant or other responsible person in writing of its intended action, and shall provide a reasonable opportunity, of not less than ten days (except that in the event the violation constitutes an immediate danger to public health or public safety, 24 hours' notice shall be sufficient) to cure such violation. In the event the applicant or other responsible person fails to cure such violation after such notice and cure period, the City of Hoschton may take any one or more of the following actions or impose any one or more of the following penalties:
 - A. *Stop Work Order* – The City of Hoschton may issue a stop work order which shall be served on the applicant or other responsible person. The stop work order shall remain in effect until the applicant or other responsible person has taken the remedial measures set forth in the notice of violation or has otherwise cured the violation or violations described therein, provided the stop work order may be withdrawn or modified to enable the applicant or other responsible person to take necessary remedial measures to cure such violation or violations.
 - B. *Withhold Certificate of Occupancy* – The City of Hoschton may refuse to issue a certificate of occupancy for the building or other improvements constructed or being constructed on the site until the applicant or other responsible person has taken the

remedial measures set forth in the notice of violation or has otherwise cured the violations described therein.

- C. *Suspension, Revocation or Modification to Permit* – The City of Hoschton may suspend, revoke or modify the permit authorizing the land development project. A suspended, revoked or modified permit may be reinstated after the applicant or other responsible person has taken the remedial measures set forth in the notice of violation, or has otherwise cured the violations described therein, provided such permit may be reinstated (upon such conditions as the City of Hoschton may deem necessary) to enable the applicant or other responsible person to take the necessary remedial measures to cure such violations.
- D. *Civil Penalties* – In the event the applicant or other responsible person fails to take the remedial measures set forth in the notice of violation, or otherwise fails to cure the violations described therein within ten days (or such greater period as the City of Hoschton shall deem appropriate except that in the event the violation constitutes an immediate danger to public health or public safety, 24 hours' notice shall be sufficient) after the City of Hoschton has taken one or more of the actions described above, the City of Hoschton may impose a penalty not to exceed \$1,000 (depending on the severity of the violation) for each day the violation remains unremedied after receipt of the notice of violation.
- E. *Criminal Penalties* – For intentional and flagrant violations of this ordinance, the City of Hoschton may issue a citation to the applicant or other responsible person requiring such person to appear in the Municipal Court of the City of Hoschton to answer charges for such violation. Upon conviction, such person shall be punishable by a fine not to exceed \$1,000 or imprisonment for 60 days or both. Each act of violation and each day upon which any violation shall occur shall constitute a separate offense.

Section 23-111. Administrative Appeal and Judicial Review.

1. Administrative Appeal. Any person aggrieved by a decision or order of the City of Hoschton, may appeal in writing within 30 days after the issuance of such decision or order to the City Administrator of the City of Hoschton, and shall be entitled to a hearing before the Mayor and Council of the City of Hoschton within ten days of receipt of written appeal.
2. Judicial Review. Any person aggrieved by a decision or order of the City of Hoschton, after exhausting all administrative remedies, shall have the right to appeal do novo to the Municipal Court of the City of Hoschton.

Section 23-112. Severability.

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

CITY OF HOSCHTON
COUNTY OF JACKSON
STATE OF GEORGIA

ORDINANCE

AN ORDINANCE REPEALING CHAPTER 24, “MUNICIPAL CEMETERIES” OF THE CODE OF ORDINANCES OF THE CITY OF HOSCHTON AND ADOPTING A NEW CHAPTER 24, “MUNICIPAL CEMETERIES” INCLUDING MAINTENANCE, PROCEDURES FOR PURCHASE, INTERMENTS, RULES AND REGULATIONS, AND FOR OTHER PURPOSES.

IT IS HEREBY ORDAINED BY THE GOVERNING AUTHORITY OF THE CITY OF HOSCHTON, AN ORDINANCE TO PROTECT THE PUBLIC HEALTH, SAFETY AND GENERAL WELFARE BY ESTABLISHING REGULATIONS RELATING TO THE OPERATION, CONTROL AND MANAGEMENT OF CEMETERIES OWNED BY THE CITY OF HOSCHTON, GEORGIA; TO PROVIDE PENALTIES FOR THE VIOLATION OF SAID ORDINANCE, AND TO REPEAL ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT THEREWITH.

Chapter 24, “Municipal Cemeteries” is hereby repealed, and a new Chapter 24, “Regulating Municipal Cemeteries,” is adopted to read as follows:

CHAPTER 24 MUNICIPAL CEMETERIES

- Section 24-101. Disclaimer of Responsibility.
- Section 24-102. Certain Rights and Privileges Reserved by the City.
- Section 24-103. Maintenance, Management and Supervision.
- Section 24-104. Vandalism, Trespass, Mischief and Other Offenses.
- Section 24-105. Cemetery Conduct.
- Section 24-106. Animals Prohibited.
- Section 24-107. Cemetery Hours.
- Section 24-108. Purchases and Conveyance of Lots.
- Section 24-109. Recording and Transfer of Cemetery Deeds.
- Section 24-110. Rules for Interment.
- Section 24-111. Devolution of Rights Upon Death of Lot Owner.
- Section 24-112. Grave Openings – Permit Required.
- Section 24-113. Headstones and Markers – Permit Required.
- Section 24-114. Restrictions on Use.
- Section 24-115. Disinterment.
- Section 24-116. Paupers.
- Section 24-117. Special Events.
- Section 24-118. Signs, Notices or Advertisements.
- Section 24-119. Penalties.
- Section 24-120. Reserved.
- Section 24-121. Reserved.
- Section 24-122. Reserved.

Section 24-101. Disclaimer of Responsibility.

For the purposes of this chapter, the city, its officials, officers, agents and employees disclaim all responsibility for loss or damage to property or rights of lot owners, purchaser of any cemetery lot, any person holding under them, family or relatives of any person buried in the cemetery or any person or family member who has erected any marker, monument or mausoleum therein, arising from causes beyond its control, damages caused by the elements, an act of God, common enemy, thieves, vandals, strikers, malicious mischief makers, unavoidable accidents, invasions, insurrections, riots or order of any military or civil authority, whether the damage be direct or collateral. Each purchaser agrees that all heirs and assignees shall hold such subject to all amendments hereto made by the mayor and council.

Section 24-102. Certain Rights and Privileges Reserved by the City.

- (a) The mayor and council of the city reserve to themselves and their successors in office the right to amend, alter, modify or add to the rules, regulations, conditions or restrictions herein set forth at any time it is deemed necessary and proper to do so in order to carry out the purpose of this chapter;
- (b) The city may rename sections, resurvey, enlarge, diminish, re-plat, alter in shape or size, or otherwise change all or any part, portion or subdivision of a city cemetery;
- (c) Any permit issued for any of the purposes enumerated in this chapter shall be subject to and shall set forth restrictions as the mayor and council deem necessary and proper;
- (d) The city reserves the right to refuse interment in any lot, and to refuse the opening of any lot or grave space if the appropriate paperwork is not completed and/or proof of ownership of said lot or grave space is not provided to the city;
- (e) The city shall have the right to correct any errors that may be made, either in making interments, disinterment or removal, or in the description transfer of conveyance of any interment property, either by cancelling any such conveyance and substituting and conveying in lieu thereof other interment of equal value and similar location as near as possible, or by refunding the amount of money paid for that purchase.

Section 24-103. Maintenance, Management and Supervision.

- (a) The responsibility for the management, operation, maintenance and general supervision of all municipal cemeteries shall be vested in the Public Works Department or designee of the city;
- (b) It shall be the responsibility and duty of each cemetery lot owner to care for and maintain in the same manner and condition of inspecting such cemetery lots or plot;
- (c) No grading, leveling or excavating upon burial space shall be allowed without the permission of the city;
- (d) General maintenance may be done by the owner of the lot at any time between sunrise and sunset except while a funeral procession, interment or memorial service is in

progress.

Section 24-104. Vandalism, Trespass, Mischief and Other Offenses.

- (a) It shall be unlawful for any person to disturb any grave or to remove, deface, pollute or injure any monument, tombstone, enclosure, mausoleum, ornament or anything to mark a grave;
- (b) It shall be unlawful for any person to disturb, destroy, cut, break, remove or injure any wall placed around any grave or plot, or to remove any plant, tree, flower, grass, shrub, post, timber, fence or any other structure placed in a city cemetery;
- (c) It shall be unlawful for any person to litter, put, throw or place trash, rubbish or any other waste material in any part, section, lot, driveway or walkway of any municipal cemetery;
- (d) It shall be unlawful for any person to enter any municipal cemetery on foot, by vehicle or other means of transportation or walk upon or across any such cemetery between sunset and sunrise without the written consent of the mayor and council;
- (e) Any person violating this section shall be punishable by a fine for each offense or violation, not to exceed one-thousand dollars (\$1,000) for each offense or violation.

Section 24-105. Cemetery Conduct.

- (a) It shall be unlawful for any person to operate a motor vehicle in the excess of fifteen (15) miles per hour in any part of the grounds of any municipal cemetery;
- (b) It shall be unlawful for any person to travel by vehicle or other means of transportation upon any part of the grounds of any municipal cemetery except on a street, walkway or path that is designated for the purpose of doing so. Cemetery maintenance, mowers and equipment needed for permitted burials are exempt to the extent there is no damage made to the grounds and features of the cemetery;
- (c) It shall be unlawful for any person to close or obstruct any walkway between lots in any municipal cemetery by erection of monuments, walls, coping or any other structure in or across the walkway that would prohibit full passage;
- (d) No person shall engage in any recreational activities upon streets abutting or traversing through cemetery property during a funeral procession, interment or memorial service;
- (e) No person shall possess or consume alcoholic beverages on the grounds of any municipal cemetery;
- (f) It shall be unlawful for any person to hunt or discharge any firearm on the grounds of any municipal cemetery except in connection with a veteran's memorial service;
- (g) It shall be unlawful for any person to enter any municipal cemetery on foot, by vehicle or other means of transportation or walk upon or across any such cemetery between sunset and sunrise without the written consent of the mayor and council;

- (h) No person shall create any unnecessary noise during an interment, funeral procession or memorial service in or near any municipal cemetery;
- (i) Any unlicensed vehicle, motorcycle, dirt bike, ATV or other means of transportation is prohibited from being on the property of any municipal cemetery.

Section 24-106. Animals Prohibited on Cemetery Grounds.

No dog or other animal shall be permitted to enter any municipal cemetery unless the animal is a service dog or horse to be used in a funeral procession. The city must be notified of the animal's entrance of such cemetery prior to any funeral procession, interment or memorial service.

Section 24-107. Cemetery Hours.

Any municipal cemetery shall be open to the general public from sunrise to sunset each day.

Section 24-108. Purchases and Conveyance of Lots.

- (a) The value upon any unsold lots in a municipal cemetery shall be set by the mayor and council from time to time;
- (b) No sale of any municipal cemetery lot shall be made to any funeral director, funeral home or any other affiliate of a funeral home or crematory;
- (c) Any person desiring to purchase an easement in a particular lot or lots of a municipal cemetery for the purpose for which it is intended shall be permitted to do so upon the payment of the full cost of the lot or lots selected;
- (d) All sales of lots shall be made on a form approved by the city council only;
- (e) At the time of the cemetery lot purchase, the purchaser shall be issued a receipt and will include the purchase price, name and address of purchaser, section and lot number, and any other information required by the city;
- (f) There shall be no discrimination in the sale of lots on any basis;
- (g) Conveyances of burial lots shall be executed in the name of the city, by the city clerk and city designees, and have affixed thereto the seal of the city. Such conveyances shall not convey fee simple title, but shall convey to the purchaser of each burial lot an easement for the exclusive right of interment in such lot as shown by the plat, and, by reference therein made, shall convey each lot subject to all the provisions of this chapter.

Section 24-109. Recording and Transfer of Cemetery Deeds.

- (a) At the time the city conveys a burial lot, in addition to collecting the full purchase price thereof, shall collect from the purchaser an amount sufficient to have such conveyance recorded in the Clerk's Office of the Jackson County Superior Court, and shall have such conveyance recorded before delivery thereof to the purchaser;

- (b) The city shall keep full and complete records of the ownership of all easements in the municipal cemeteries, and of the burial capacity of each lot, its location, name and age of the person buried in each grave space that have been or shall hereafter be used;
- (c) No sale or transfer of any such burial lot or any right therein, nor any subdividing of any burial lot by any purchaser or those claiming under them, shall be valid unless approved in writing by the city or until the deed of transfer and such written approval are recorded in the Clerk's Office of the Jackson County Superior Court;
- (d) Upon approval in writing by the city of any sale or transfer of deed, along with specific information so as to delineate the lot, and a seventy-five dollar (\$75.00) transfer of ownership, shall be collected to record the changes;
- (e) No lot shall, after being sold by the city, shall be resold at any time by any person or business but may be transferred and re-conveyed back to the city for an amount equal to the purchase price, less a seventy-five dollar (\$75.00) re-transfer fee.

Section 24-110. Rules for Interment.

- (a) Absolutely no deceased person shall be interred in any municipal cemetery until the city clerk or city designee has found:
 - 1) Satisfactory proof of the right to interment;
 - 2) That the proper city form for any open and close at any municipal cemetery has been fully completed;
 - 3) That the lot and all related fees in which burial is to be made has been fully paid;
 - 4) That the lot in which burial is to be made shall be marked by the city;
 - 5) That the lot is not used beyond its capacity;
 - 6) The proper record is made of the name and age of the deceased person, and the exact location of the grave;
 - 7) Not less than forty-eight (48) hour notice shall be given in advance of any time of any funeral to allow for the opening of any burial space;
 - 8) An outer receptacle, crypt, vault or other permanent type of grave liner is required for all casket and urns buried below the ground;
 - 9) All graves shall be in an orderly and neat appearing manner within the confines of the burial space involved.
- (b) Only one (1) human remains are permitted per grave space except for a mother and infant, or two (2) infants in one (1) casket:
 - 1) All graves shall be dug to a depth sufficient in size to accommodate the casket and outer burial vault/container, and shall have at least twenty-four (24) inches of ground

cover;

- 2) All burials must be placed in a vault, and made of such materials of such thickness as to render the grave site impervious to eventual cave-ins;
- 3) A temporary marker must be placed above the vault to indicate the place of burial, and the name of the deceased individual.

(c) Only one (1) urn is permitted per grave space:

- 1) Urns must be dug to a depth sufficient in size to accommodate the urn and outer burial vault/container, and shall have at least twenty-four (24) inches of ground cover;
- 2) Urns burials must be placed in a vault, and made of such materials of such thickness as to render the grave site impervious to eventual cave-ins;
- 3) A temporary marker must be placed above vault to indicate the place of burial, and the name of the deceased individual.

(d) *Human burials only.* No pets or animals of any kind are permitted to be buried in any city cemetery. The remains of only human beings shall be permitted.

(e) *Material disposal.* All excess soil/material from any opening and closing graves must be removed and disposed of by the person authorized to perform such work. Excess soil/material shall not be deposited on any adjoining cemetery lot, road, drive, walkway or any other location within the cemetery;

(f) *Soil compaction and settling.* Any grave site opened shall have soil returned to the site fully compacted to prevent settling of such soil after the completion of the burial. The costs for any settling at the grave site that takes place within one (1) year of the burial which requires city personnel to correct shall be charged to the party responsible for the original grave space opening.

Section 24-111. Devolution of Rights Upon Death of Lot Owner.

(a) In case of death of the deeded owner of any portion or lot of a municipal cemetery, the owner's spouse shall be recognized as the owner thereof if they were married at the time of the owner's death. If the owner has no surviving spouse, the heirs-at-law of the purchaser shall be so recognized.

(b) An affidavit is required to be completed, on behalf of the lot owner if the cemetery deed for said cemetery lot is not located, by any competent person setting forth the fact of the death of the lot owner and establishing the identity of the survivor named in a legal will of testament, certificate of ownership or of the like.

Section 24-112. Grave Openings – Permit Required.

(a) *Permit required.* It shall be unlawful for any person to bury or cause to be buried any persons in a municipal cemetery without first obtaining from the city a permit for such burial, following the marking of the site made by appropriate city personnel or their

designee. Only approved persons or businesses with a valid license as required by Georgia State Law, upon receipt of a permit from the city, may dig graves in any municipal cemetery:

- 1) A permit shall be obtained not less than twenty-four (24) hours in advance of any site opening. The city reserves the right to reject any and all requests with less than a twenty-four (24) hour notice;
- 2) The city may charge a reasonable fee for the issuance of a permit to open a grave, and if such fee is required, must be fully paid prior to the opening of any grave;
- 3) Such permit information required, to contain the company performing the grave opening, the deceased person's information, the name of the owner of the lot, the location of such lot, the scheduled grave service date and the funeral home handling the arrangements.

Section 24-113. Headstones and Markers – Permit Required.

- (a) *Permit required.* It shall be unlawful for any person to set any headstone or marker in a municipal cemetery without first obtaining from the city a permit for such, following the marking of the site made by appropriate city personnel or their designee. Only approved persons or businesses with a valid license as required by Georgia State Law, upon receipt of a permit from the city, may set monuments or markers in any municipal cemetery:
 - 1) A permit shall be obtained not less than twenty-four (24) hours in advance of the setting of any headstone or marker. The city reserves the right to reject any and all requests with less than a twenty-four (24) hour notice;
 - 2) The city may charge a reasonable fee for the issuance of a permit for the setting of any headstone or marker, and if required, must be fully paid prior to any setting of any headstone or marker;
 - 3) Such permit information required, to contain the company performing the grave opening, the deceased person's information, the name of the owner of the lot, the location of such lot and the funeral home handling the arrangements;
 - 4) Only one (1) headstone or marker shall be permitted per burial space.
- (b) *Headstone base.* The base on which a headstone is to be located shall consist of concrete, granite or marble, be able to support said headstone and should match the material of the headstone. The size of the base shall not exceed five-and-a-half (5 ½) feet in length;
- (c) *Headstone material and size.* Headstones shall not exceed thirty-six (36) inches in height including the base, and six (6) inches in depth, and shall be made of granite or marble. Headstones or markers made of wood, paper, glass, plastic, metal or other non-conforming materials are not permitted;
- (d) *Offensive headstone or marker.* The cemetery is not a public forum or a limited public forum, and the city reserves the right to reject any headstone, marker or structure, or any inscription to be placed in the cemetery. If any headstone, marker or structure, or any

inscription be placed in or upon any lot which shall be determined to be offensive, improper or injurious to the surrounding lots or grounds to the public, the city reserves the right to enter upon such lot and remove or cause the same to be removed;

- (e) *Inspection.* The city reserves the right to inspect completed work as outlined, and make the determination if work was performed in accordance with cemetery guidelines. If the plot owner, headstone or marker installer or funeral home director places a headstone or marker in the wrong location, it will be the sole financial responsibility of the plot owner to pay for any adjustment, realignment, re-installation, damage or replacement fee as required by the city;
- (f) *Permanent headstone or marker.* Within ninety (90) days, a permanent headstone or marker shall be required to be installed by the lot owner, and shall be etched, sandblasted or stamped into said headstone or marker identifying the name and date of death of the individual;
- (g) *Veterans markers.* Flat granite markers are permitted for United States Veterans, and must be a government-issued marker. Government-issued markers should not exceed twenty-four (24) inches long, twelve (12) inches wide, and four (4) inches thick.

Section 24-114. Restrictions on Use.

The following restrictions, rules and regulations pertaining to all municipal cemeteries shall be enforced, and in full effect:

- (a) No privacy fencing, sidewalks, walkways, coping, benches, flag poles, fixtures, lights, enclosures, statues, monuments, shelters, trees, shrubs or other plants are permitted in any lot or plot in rows L through AA, or any row or section thereafter;
- (b) Floral arrangements and other materials:
 - 1) Flowers and floral arrangements are limited to one (1) arrangement per headstone or marker unless said headstone or marker has provisions for additional vase or vases;
 - 2) Graves with no headstone or marker may use one (1) arrangement, but not anchored to the ground. Pots or containers that stand alone are required;
 - 3) No arrangement of any kind is permitted over forty-eight (48) inches in height;
 - 4) Potted plants and other special arrangements will be permitted at Christmas, Easter, Memorial Day, Veterans Day and other special occasions. If arrangements are not called for within ten (10) days after the occasion, the city has the option to eliminate such items;
 - 5) The placing of vases, glass, shells, toys, metal designs, ornaments, chairs, wood or iron cases and other similar articles and materials are hazardous to lawn mowers and shall not be permitted, and the city reserves the right to remove such items;

- 6) Absolutely no holes are to be dug into the ground;
- 7) *Removal of any item.* The city reserves the right to remove any arrangement, container or material that is considered unsightly including items that are seasonal, faded, torn, deteriorated or destroyed;
- 8) All flowers, wreaths or floral arrangements following an interment, funeral procession or memorial service shall be called for within ten (10) days of said service;
- 9) The city is not responsible for loss, theft or damage to any arrangement, container or material of any kind.

Section 24-115. Disinterment.

No person shall exhume or remove any corpse from any municipal cemetery without at least seven (7) day written notice to the city prior to any disinterment; a court order authorizing exhumation and/or notice from the county coroner shall be required. Such disinterment requires a permit issued by the city and the county health department.

Section 24-116. Paupers.

The city prohibits any area or lot of a municipal cemetery to be used for the interment of a pauper.

Section 24-117. Special Events.

No special event shall be conducted within a municipal cemetery without prior approval by city council. This approval will only be given during a regularly scheduled city council meeting after staff review of proposed special event. An event application must be completed at least thirty (30) days in advance of proposed special event, and a fee may be assessed to cover the costs of city services provided for said special event. Absolutely no special event will be authorized that may negatively affect the decorum or sanctity of any municipal cemetery, those buried or the families of those buried in any municipal cemetery. A burial service, funeral procession or memorial service is not considered a special event under this section.

Section 24-118. Signs, Notices or Advertisements.

No signs, notices or advertisements are permitted in a municipal cemetery unless placed by the city.

Section 24-119. Penalties.

Any person, firm or corporation who violates any of the provisions within this ordinance may be charged with a municipal civil infraction and shall be subject to a fine of up to five-hundred dollars (\$500), and/or any person, firm or corporation who violates Section 24-104 of this ordinance shall be punishable by a fine for each offense or violation not to exceed one-thousand dollars (\$1,000) for each offense or violation.

Section 24-120. Reserved.

Section 24-121. Reserved.

Section 24-122. Reserved.

ORDINANCE

AN ORDINANCE TO AMEND THE CODE OF ORDINANCES OF THE CITY OF HOSCHTON; TO CREATE A NEW CHAPTER 25 ENTITLED “SPECIAL ASSESSMENTS;” TO CREATE AND ADOPT THE TEXT OF ARTICLE I OF CHAPTER 25 ENTITLED “ENABLING ORDINANCE;” TO PROVIDE FOR AUTHORIZATION; TO PROVIDE FOR INITIATION OF SPECIAL ASSESSMENT; TO PROVIDE FOR NOTICE AND HEARING; TO PROVIDE FOR PROPERTY OWNER OBJECTIONS; TO PROVIDE FOR A PUBLIC HEARING; TO PROVIDE FOR THE REQUIREMENTS FOR A RESOLUTION; TO PROVIDE FOR THE IMPLEMENTATION OF PROJECTS; TO PROVIDE FOR BIDS; TO PROVIDE FOR PAYMENT METHODOLOGIES; TO PROVIDE COLLECTION PROCESSES; TO ADDRESS ABANDONED PROJECTS; TO PROVIDE FOR THE CORRECTION OF INVALID OR IRREGULAR ASSESSMENTS; AND TO PROVIDE FOR AN EFFECTIVE DATE AND FOR OTHER PURPOSES.

Chapter 25, “Reserved” is hereby repealed, and a new Chapter 25, “Special Assessments,” is adopted January 7, 2019 to read as follows:

CHAPTER 25 SPECIAL ASSESSMENTS

Article I. Enabling Ordinance.

- Section 25-101. Applicability.
- Section 25-102. Authorization.
- Section 25-103. Initiation by Mayor and Council.
- Section 25-104. Notice for Hearing on Preliminary Assessment Roll.
- Section 25-105. Objection.
- Section 25-106. Reserved.
- Section 25-107. Reserved.
- Section 25-108. Reserved.
- Section 25-109. Combined Public Hearings.
- Section 25-110. Resolution – Preparation.
- Section 25-111. Same – Publication.
- Section 25-112. Same – Adoption.
- Section 25-113. Implementation of Services or Improvement.
- Section 25-114. Solicitation of Bids and Preparation of Assessment Roll.
- Section 25-115. Preliminary Assessment Roll and Award of Bid.
- Section 25-116. Payment of Assessment.
- Section 25-117. Lien on Properties Assessed.
- Section 25-118. Properties Subject to Assessment.
- Section 25-119. Correction of Errors or Adjustments in Final Assessment Roll.
- Section 25-120. Acquisition of Right-of-Way Required.
- Section 25-121. Alternative Methods.
- Section 25-122. Abandonment of Approved Projects.
- Section 25-123. Invalid Assessments.
- Section 25-124. Procedural Irregularities.

(Adopted 01-07-2019)

Article I. Enabling Ordinance.

Section 25-101. Applicability.

This article shall apply to special assessments and to all projects commenced under this article.

Section 25-102. Authorization.

(a) The Mayor and Council of the City of Hoschton is granted the authority to adopt this article pursuant to Sections 1.13(t), (gg), (jj) and 6.16 of the Charter of the City of Hoschton. The Mayor and Council is authorized to establish services and improvements and fund such services and improvements through special assessments pursuant to the Charter. Such services and improvements (“projects”) may include constructing, reconstructing, widening, improving including resurfacing or maintenance of:

- (1) Streets and roads.
- (2) Traffic calming devices and measures.
- (3) Curb and gutter.
- (4) Drainage.
- (5) Sidewalks.
- (6) Such other transportation services or facilities as may be deemed essential.

The Mayor and Council is authorized to provide for the payment of the whole or part of the cost of said improvements by levying and collecting special assessments upon property deemed to benefit specially by such projects. Special assessments must be reasonably apportioned among properties deemed improved. The Mayor and Council may adopt by resolution or otherwise any methodology it deems appropriate for reasonably apportioning the special assessments among the property owners deemed to specially benefit from such improvement.

Section 25-103. - Initiation by Mayor and Council.

The Mayor and Council may initiate services, make improvements, or both (“project”), in its discretion, and without the necessity of a petition. The Mayor and Council shall define the area to be included in such a special benefit area and shall have prepared a cost estimate of the project to be undertaken, and the Mayor and Council must make a finding that:

- (1) The projects designated have an ascertainable special benefit to the properties to be assessed; and
- (2) The special assessment is reasonably apportioned among the properties that are deemed to benefit specially from the improvements.

Section 25-104. Notice for Hearing on Preliminary Assessment Roll.

(a) Upon completion of the preparation of the preliminary assessment roll, the Mayor and Council shall cause to be published once, in a newspaper of general circulation, a resolution stating that a preliminary assessment roll has been completed; that the assessment roll is on file in

the office of the City Clerk or other designee; that the assessment roll is open to public inspection; that at a regular meeting of the Mayor and Council, on a certain day and hour to be specified in the resolution, and not earlier than 15 calendar days from such publication, the Mayor and Council will hear all interested persons regarding the proposed assessments contained in the preliminary assessment roll; and which shall state, in brief and general terms, a description of the project, together with the location thereof.

- (b) At least 15 calendar days prior to the date of such hearing, notice by certified, first class mail shall be sent to each person whose name and address is either known, or may be reasonably ascertained, identified as the owner of record of any lot or parcel of land proposed for assessment or in whose name any such lot or parcel may otherwise be listed on the tax roll of the county tax appraiser, advising said person of:
 - (1) The nature of the proposed improvements;
 - (2) The estimated cost thereof;
 - (3) The specific amount of assessment to be made against each lot or parcel of land; and
 - (4) The place, date and time of the public hearing on the assessment.

Failure of the owner to receive such notice due to mistake or inadvertence shall not affect the validity of the preliminary assessment roll adopted by the Mayor and Council, nor release or discharge any obligation for payment of a special assessment imposed by the Mayor and Council pursuant to this article.

Section 25-105. Objection.

- (a) Upon receipt of the notice and resolution required by Section 25-104, Owners of at least 10% of the property in the area defined pursuant to Section 25-103, or four (4) persons owning property in the area may file an Objection with the City Clerk and request a hearing before a Hearing Officer with regard to the proposed assessment. For purposes of this section, Owner shall not include persons who hold an interest merely by a lease or deed to secure debt. If more than one Objection is filed all Objections shall be consolidated for purposes of this Section. Any Objection must be made within 15 days from the date of the notice. In order to be a valid Objection requiring the appointment of a Hearing Officer, the Objection must contain a detailed factual basis for the Objection.
- (b) Within 15 days of receipt of a valid Objection, the City shall appoint a Hearing Officer with experience conducting hearings, and who shall not have been employed by or held elected or appointed office with the City, to conduct a hearing regarding the City's proposed assessment and the Owners' Objection. The cost of the Hearing Officer shall be borne 75% by the City and 25% by the Owner or Owners filing the Objection. The hearing must be held within thirty (30) days of appointment of the Hearing Officer. Unless the parties agree otherwise, the hearing shall be limited to six (6) hours and the City and the Owner or Owners still each have three (3) hours to present evidence to the Hearing Officer.
- (c) The Hearing Officer may consider the extent and nature of any special benefit, the reasonableness of the estimated costs, the reasonableness of the assessment and payment method, and any other issue raised by the City or Owner or Owners. The Hearing Officer shall not have authority or jurisdiction to consider any challenge to this ordinance or any part thereof. The Hearing Officer's jurisdiction shall be limited to consideration of the City's proposed assessment and resolution and the Objection by the Owner or Owners.
- (d) The Hearing Officer shall issue findings and conclusions within twenty-one (21) days of the hearing. If this City proceeds after issuance of the Hearing Officer's findings and conclusions,

the Mayor and Council shall give great weight to the conclusions. The final resolution, if any, must specifically address any conclusions made by the Hearing Officer adverse to the assessment. A certified copy of the Hearing Officer's findings and conclusions shall be attached to any initial pleading filed in Jackson County Superior Court challenging any assessment.

- (e) If all the property in the area designated is owned by fewer than five (5) owners, failure of any of them to file an objection shall constitute a waiver of the right of any owner of property in the area to challenge the fact of a special benefit, the need for or reasonableness of the assessment.

Section 25-106. Reserved.

Section 25-107. Reserved.

Section 25-108. Reserved.

Section 25-109. Combined Public Hearings.

- (a) In those instances in which estimated quantities and unit cost required to complete the proposed special assessment project have been previously estimated by the City Engineer or his designee, the public hearings required for the adoption of the initial resolution declaring a special assessment and the resolution adopting the preliminary assessment roll may occur simultaneously at a single hearing and may be combined into a single resolution.
- (b) All procedures respecting the issuance of notice for a hearing on a preliminary assessment roll under section 25-104 shall be followed.
- (c) With respect to quantities, unit costs and award of bids:
 - (1) Quantities shall be deemed known by the City Engineer or his designee only in those instances where appropriate departments have performed any required site inspection and field measurements to determine the quantities necessary to complete the project.
 - (2) Unit costs shall be deemed to be known by the City Engineer or his designee only in those instances in which the City has established unit costs for the performance of the specified work or in which there exists a competitively bid annual contract which provides for specific unit costs or for the performance of the specified works, or both.
 - (3) Bids shall be awarded as provided by law.

Section 25-110. Resolution—Preparation.

When the Mayor and Council decides to make an improvement or provide a service ("project"), then it shall so declare by resolution, stating the nature of the proposed improvements, the total estimated cost, the method of payment of assessments, the number of annual installments, how collected and the legal description of area specially benefited. The estimated cost of any project or projects, shall include, to the extent practicable:

- (1) An estimate of the cost of preliminary and other surveys;
- (2) Acquisition of any real property;
- (3) Engineering services associated with project;

- (4) Inspection and superintendence of work;
- (5) Preparation of the plans, specifications and estimate;
- (6) Printing and publishing of notices and proceedings;
- (7) Preparation and recording of a preliminary assessment roll;
- (8) Actual costs of providing the services; and
- (9) Any other expenses attributable to the service or improvement.

Section 25-111. Same—Publication.

The resolution to be adopted shall be published in a newspaper of general circulation in the county once at least 15 calendar days prior to its adoption at any regular or special meeting of the Mayor and Council.

Section 25-112. Same—Adoption.

At the time and place designated in the notice, the Mayor and Council shall conduct a public hearing on the proposed resolution and may adopt, modify, or reject the same. Any objections or comments to the resolution shall be made in writing and submitted to with the Mayor or designee prior to adoption of the resolution or else may be deemed waived.

Section 25-113. Implementation of Services or Improvements.

Upon passage of the resolution, the proposed project shall be specially designated for implementation. Funding shall be allocated for the project at the time the resolution is adopted based upon cost estimates prepared by the City Engineer or designee. If the project is a future project the City shall establish a separate account to segregate the funds collected from the assessment and shall not use such funds for any purpose other than the designated project.

Section 25-114. Solicitation of Bids and Preparation of Assessment Roll.

The resolution approving the project may authorize the solicitation of bids for the construction of the improvement as permitted by law. Prior to award of contract or commencement of construction, the Mayor and Council shall cause to be prepared a preliminary assessment roll containing property descriptions and proposed assessments of cost against each lot or parcel of land benefiting from such improvement, based upon the estimated benefit received, as established in the original resolution.

Section 25-115. Preliminary Assessment Roll and Award of Bid.

- (a) At the public hearing, the Mayor and Council shall annul, adopt or modify, in whole or in part, the assessments indicated on the preliminary assessment roll, either by confirming the assessment against any or all lots or parcels described therein, or by canceling, increasing or reducing the same, according to the special benefits which the Mayor and Council determines each lot or parcel will receive by virtue of the improvement, but shall not confirm

any assessment in excess of the special benefit to the property or in excess of the flat rate approved and adopted for such projects. The Mayor and Council may elect to contribute up to 25 percent of the cost of any project for which special assessments may be imposed or up to 50 percent of the costs for a local street or road that serves as a link or cut through street for traffic from residential development(s) to collector and/or arterial roads included as part of an assessment project.

- (b) Immediately after the determination by the Mayor and Council as to the special assessments to be imposed, the preliminary assessment roll as sustained or modified shall be approved, Any necessary budget adjustments resulting from an increase or decrease in contract price when awarded with respect to the estimated price of the project may be made upon approval of the preliminary roll and award of bid.
- (c) Upon completion of the project or projects for which the special assessments have been imposed, the Mayor and Council shall adopt a final assessment roll based on the actual cost of the improvements. Whenever the Mayor and Council determines that the actual cost of the project or projects differs by less than 2.5% from the estimated cost it originally approved, the special assessment billed the preliminary assessment roll shall become final; however, whenever the actual cost is differs by more than 2.5% from the estimated cost originally approved by the Mayor and Council, a new resolution and revised assessment roll will be prepared for approval as a final assessment roll by the Mayor and Council.

Section 25-116. Payment of Assessment.

- (a) Assessments made hereunder shall become due and payable to the Mayor and Council 33 calendar days after the date of the initial billing following the adoption the special assessment project as set forth in this paragraph (a), unless an alternative collection method is adopted by the Mayor and Council. All assessments due under this section not paid within such period shall thereupon become due and payable in equal monthly installments payable for no more than fifteen (15) years with interest on amounts not paid when due, such interest not to exceed that authorized by law, from the expiration of such 33 days; but any assessment becoming so payable may be paid in full at any time, together with interest accrued thereon to the date of the payment. At a minimum of at least once a year, the Mayor and Council shall have the discretion to adopt by resolution an interest rate applicable to special assessment projects.
- (b) The Mayor and Council is authorized by resolution, in its discretion, to reduce interest rates or waive interest otherwise payable on special assessments pursuant to paragraph (a) of this section, or otherwise to extend, up to a maximum of 20 years, the time for payment of special assessments in installments, with respect to owners of assessed property whose income meets or falls below the low-income or very low-income thresholds established by the United States Department of Housing and Urban Development (HUD) in effect at the time the final assessment roll is adopted. At a minimum of at least once a year, the Mayor and Council, by resolution may adjust rates of interest to a rate not to exceed that which would otherwise have been imposed under paragraph (a) of this section at the time of adoption of the final roll, may impose or re-impose interest, or may alter the time for payment to a period not to exceed that which would have otherwise been imposed under paragraph (a) of this section, in the event the Mayor and Council determines the income of the owner has increased above the applicable threshold, or if the ownership of the property has changed.
- (c) The method for payment shall be established in the resolution. The Mayor and Council may change the method for payment after the roll is established.

Section 25-117. Lien on Properties Assessed.

- (a) The final assessment roll shall constitute a lien on each property assessed for any project or projects under the provisions of this ordinance. Any delinquent or unpaid assessment for any project or projects under the provisions of this ordinance shall remain a lien until paid in full and shall be equal in rank and dignity with the liens of county ad valorem taxes and all other liens resulting from special assessments by the county, and superior in rank and dignity to all other liens, prior recorded mortgages, encumbrances, titles and claims in, to or against the improved real property involved. Payments on any special assessment shall first be applied to interest, then to unpaid principal.
- (b) The City may enforce any lien imposed under this ordinance in any manner as is provided for by law, and the City shall thereby be entitled to collect the special assessment as well as interest, costs, penalties, and reasonable attorneys' fees. Upon the failure of a property owner to pay any installment of principal or interest on any assessment lien within 33 calendar days of its due date, the City may thereafter elect either to seek recovery of any outstanding and unpaid installments, or to accelerate the due date of all outstanding installments of principal remaining unpaid and pursue immediate recovery thereof, together with interest due thereon from date of default, as well as any applicable costs, penalties, and attorneys' fees.

Section 25-118. Properties Subject to Assessment.

No property that has been deemed by the Mayor and Council to enjoy a special benefit from a project for which a special assessment is imposed under this article shall be exempted from payment of the principal amount of that special assessment.

Section 25-119. Correction of Errors or Adjustments in Final Assessment Roll.

In case of any omission, error or mistake in generating the final assessment roll, or in imposing liens on properties against which special assessments have been levied, Mayor and Council may, at any time, correct such omission, error or mistake by resolution upon the request of a property owner adversely affected thereby, upon the recommendation of staff, or upon its own motion without notice to the affected parties.

Section 25-120. Acquisition of Right-of-Way Required.

No such project under this ordinance shall be undertaken until all rights-of-way required for the project have been acquired.

Section 25-121. Alternative Methods.

This article shall be deemed to authorize any additional and alternative method for the imposition of assessments for improvements to properties specially benefited thereby as may be authorized and directed by the Mayor and Council.

Section 25-122. Abandonment of Approved Projects.

In the event a service or improvement is abandoned prior to completion because of issues relating to the cost of the project, or for other good cause as determined by the Mayor and Council, all costs incurred to the point of abandonment may be assessed against the properties in the project area.

Factors that may be utilized in determining whether the costs of an abandoned project should be assessed in full, reduced or eliminated include:

- (1) Whether the City's consultants have recommended the discontinuance of the project for lack of revenue, or manpower, or both, to complete the project;
- (2) Whether the discontinuation of the project would be of convenience to the City;
- (3) Whether actual or potential engineering, legal or fiscal problems developed, thereby making the continuance of the project unfeasible, impracticable, or undesirable due to no fault of the property owners;
- (4) Whether collecting the assessments for the discontinued project would result in undue hardship to the subject property owners due to the high cost of the project;
- (5) Whether there exist other circumstances, unique to the individual project, which would render an assessment unduly burdensome and oppressive to property owners.

If any of the above factors are found to exist, the Mayor and Council may, but shall not be required to, forgive the cost incurred to the date of abandonment.

Section 25-123. Invalid Assessments.

If any special assessment made under the provisions of this chapter to defray the whole or any part of the expense of any such project shall, either in whole or in part, be annulled, vacated, or set aside by the judgment of any court, or if the Mayor and Council shall be satisfied that any such assessment is so irregular or defective that the same cannot be enforced or collected, or if the Mayor and Council shall have omitted to make such an assessment when it might have done so, the Mayor and Council may take all necessary steps to correct the invalidity, including, but not limited to, causing a new assessment to be made for the whole, or for any part of, any improvement, or against any property benefited, in whole or in part, by any improvement, following as nearly as possible the provisions of this article.

Section 25-124. Procedural Irregularities.

Any informality or irregularity in the proceedings in connection with the levy of special assessments under the provisions of this article shall not affect the validity of the same after the approval thereof, and any special assessment as finally approved shall be competent and sufficient evidence that such special assessment was duly levied, that the special assessment was duly made and adopted, and that all other proceedings adequate to such special assessment were duly had, taken, and performed as required by this article. No variance from the direction hereunder shall be held material unless it is clearly shown to the satisfaction of the Mayor and Council that the party objecting was materially injured thereby. Notwithstanding the provisions of this section, any party objecting to a special assessment imposed pursuant to this article must file a written objection with the Mayor and Council within 30 calendar days from the date of the adoption of the resolution under this article, or forever waive objection thereto.

CHAPTER 26
RESERVED

CHAPTER 27
RESERVED

CHAPTER 28
RESERVED

CHAPTER 29
RESERVED

**ARTICLE 30
ANIMAL CONTROL**

ARTICLE I. IN GENERAL

Section 30-101	Definitions
Section 30-102	Dangerous Animals
Section 30-103	Cruelty
Section 30-104	Burial of Dead Animals
Section 30-105	Control of Rabies
Section 30-106	Livestock Running at Large
Section 30-107	Removal of Animal Wastes
Section 30-108	Housing of Animals
Section 30-109	Dangerous and Vicious Animals
Section 30-110	Odorous Animals
Section 30-111	Vehicles Containing Livestock

ARTICLE II. DOMESTIC ANIMALS

Section 30-201	Domestic Animals Running at Large
Section 30-202	Control of Domestic Animals
Section 30-203	Cruelty to Domestic Animals
Section 30-204	Dangerous Dog Control Law
Section 30-205	Rabies
Section 30-206	Dog Bites
Section 30-207	Muzzling
Section 30-208	Diseased Animals
Section 30-209	Enforcement
Section 30-210	Reclaim

ARTICLE III. PENALTY

ARTICLE I. IN GENERAL

Section 30-101. Definitions

For the purposes of this Chapter the following words shall have the meanings indicated; unless the context clearly indicates a contrary meaning:

1. Animal, Dangerous. Any wild mammal, reptile, or fowl which is not naturally tame or gentle but is of a wild nature or disposition and which, because of its size, vicious nature or other characteristics, would constitute a danger to human life or property if not kept or maintained in a safe manner or in secure quarters; and any domestic mammal, reptile, or fowl which, because of its size, vicious propensity, or other characteristic, would constitute a danger to human life or property, if not kept or maintained in a safe manner or in secure quarters.

2. At Large. Off the premises of the owner and not under the control of the owner, a member of his immediate family, or some other person, either by leash, cord, chain, or other holding device.
3. Confined. Contained within an enclosure or secured by a leash which, in the case of a dog, shall have a length not less than three times the length of the dog and which shall be free from obstructions.
4. Domestic Animal. Any dog or cat not defined as wildlife or livestock.
5. Enclosure. In a building, pen or fenced area or other structure built to prevent intrusion or escape by any dog or cat.
6. Livestock. Cattle, swine, equines, poultry, sheep, goats, ratites, nontraditional livestock, and ruminants. 'Nontraditional livestock' means the species of Artiodactyla (even-toed ungulates) listed as bison, water buffalo, farmed deer, llamas, and alpacas that are held and possessed legally and in a manner which is not in conflict with the provisions of Chapter 5 of Title 27 dealing with wild animals.
7. Owner. Any person who owns, keeps, harbors, possesses or otherwise keeps any domestic animal for a period of fourteen (14) days, or any person who knowingly permits any domestic animal to be kept, harbored, possessed, or otherwise kept upon his premises for period of fourteen (14) days, or who has any animal under his or her care or responsibility, either temporarily or permanently, at any time, within Hoschton.
8. Under Control. Any animal that is controlled by a leash when off the property of the owner, or is within the passenger area of a vehicle driven or parked on the streets, or is within the property limits of its owner and is confined by an enclosure or attended by its owner, or confined within the property limits of another with the permission of the person in control of the property.

Section 30-102. Dangerous Animals

1. It shall be unlawful for any person to permit any dangerous or vicious animal of any kind to run at large in the City. If the animal causes injury to another person who does not provoke the injury, then the owner shall be liable in damages to the person so injured.
2. The police officers of the City shall be authorized to use such force as is necessary to prevent any such dangerous or vicious animal from causing harm to any person or property.

3. Exhibitions or parades of animals which are *ferae naturae* in the eyes of the law may be conducted only upon securing a permit from the Mayor.
4. Upon written complaint of any person that another is in violation of this Section or after a determination by City officials that a violation likely exists, the Mayor shall deliver written notice to the person about whom the complaint has been made that a hearing will be held before the Mayor and City Council no sooner than forty-eight (48) hours thereafter. Said written notice shall state that the person so notified shall have the right to appear and to present evidence. The complainant shall appear at the hearing and testify regarding the complaint. The Mayor and City Council may then order compliance with this Section or dismiss the complaint. Any person may appeal an adverse decision to the City of Hoschton Municipal Court. If within forty-eight (48) hours of a final decision the person against whom a valid complaint was issued is not in compliance with this Section as determined by the Mayor or his delegate, the animal shall be seized by any City official and impounded as provided in this Chapter.
5. If the person complained of wilfully fails to comply with an order of the Mayor and City Council or the Municipal Court, he may be fined for contempt as provided in this Code, as well as punished for a violation of this Chapter.
6. Nothing in this Section shall prevent City officials from using such force as is necessary to prevent such dangerous or vicious animals from causing harm to any person.

Section 30-103. Cruelty

It shall be unlawful for anyone to violate the Animal Protection Act as adopted or as amended.

Section 30-104. Burial of Dead Animals

1. It shall be unlawful for the owner of any domestic animal or fowl, which may die within the limits of the City, to fail or refuse to bury the carcass deep enough to prevent stench therefrom or remove the same from within the limits of said City, within three (3) hours of the death of the same, or if the death is unknown to the owner, with three (3) hours after notice of the death and location of the carcass, or if owner or person in control of decaying vegetable or animal matter, situated in said City, fail or refuse to bury the same so deep as to prevent any stench therefrom, within three (3) hours after notice that it has become offensive to the smell, or dangerous to health, he shall be held guilty of violating this Chapter.
2. Should the City be required to remove such dead animals or offensive matter from a person's property such person shall pay for all costs incurred by the City for such removal and burial or disposition.

Section 30-105. Control of Rabies

The governing authority of each municipality is authorized and required, in the control of rabies, to require regulation and/or licensing of animals. No dog or cat shall be kept, harbored or maintained within the City, unless such animal has been inoculated against rabies by the administration of anti-rabies vaccine, approved by the state Department of Human Resources, and administered by a licensed veterinarian and shall have attached by collar a numbered tag showing such inoculation, in accordance with the regulations of the state Department of Human Resources and in accordance with Title 31, Chapter 19 of the O.C.G.A.

Section 30-106. Livestock Running at Large

It shall be unlawful for the owner or keeper of any hog, cattle, mule, sheep, goat, fowl or any other livestock or non-traditional livestock animal to permit it to run at large in Hoschton or to stray from the property of the owner or keeper or to go upon the premises of any other person.

Section 30-107. Removal of Animal Wastes

It shall be unlawful for the owner or keeper of any animal to refuse or fail to immediately remove any feces deposited by such animal upon public sidewalks, public streets, public parks, or other public property in Hoschton.

Section 30-108. Housing of Animals

No person shall cause or allow any stable or place where any animal is kept to become unclean or unwholesome. It shall be unlawful to keep any swine, hogs or pigs within three hundred feet (300') or to keep or have goats, cattle or chickens within one hundred fifty feet (150') of any residence, other than the residence of the person so keeping or having such animals.

Section 30-109. Dangerous and Vicious Animals

It shall be unlawful for any person to possess or maintain within Hoschton any animal that is vicious unless such animal is confined in a suitable fenced enclosure. It shall be unlawful to permit the animal to leave such enclosure unless the animal is muzzled so as to make it impossible for the animal to bite.

Law enforcement officers and authorized City officials shall kill any dangerous animals of any kind within the City when it is necessary for the protection of persons or property.

Section 30-110. Odorous Animals

No swine or other such odorous animals shall be placed within one hundred fifty (150) yards of the next nearest residence other than that of the owner of such animals unless

approved by all adjoining property owners or residents. Any such animals would by law be removed by order of the Mayor and City Council. This Section is to apply only in the corporate limits of Hoschton, Georgia, and is to guarantee the protection to each property owner from such undesirable conditions which would make his residence less favorable. A horse or cattle is permissible provided premises are kept clean to reduce insects and offensive odors. Violators would be subject to fifty dollars (\$50.00) fines.

Section 30-111. Vehicles Containing Livestock

It shall be unlawful to stand or park any vehicle containing livestock any place in the City for a period longer than thirty (30) minutes, except for loading and unloading.

ARTICLE II. DOMESTIC ANIMALS

Section 30-201. Domestic Animals Running at Large

No domestic animal shall be permitted to run at large within the City. Running at large means off the premises of the owner and not under the immediate control of the owner, or a member of his immediate family, either by leash, cord, chain or otherwise. Any domestic animal found abandoned or running at large and violating this provision shall be taken into custody and impounded in accordance with this Ordinance.

Section 30-202. Control of Domestic Animals

It shall be unlawful for any owner not to have his domestic animal under control at any time in Hoschton.

Section 30-203. Cruelty to Domestic Animals

No person shall perform a cruel act on any domestic animal; nor shall any person harm, maim or kill any domestic animal, or attempt to do so except to defend his person or property, or the person or property of another from injury or damage being caused by a domestic animal.

Section 30-204. Dangerous Dog Control Law

Each municipality shall comply with the "Dangerous Dog Control Law" pursuant to O.C.G.A. §§ 4-8-20 through 4-8-30.

Section 30-205. Rabies

1. If a dog is believed to have rabies or has been bitten by a dog suspected of having rabies, such dog shall be confined by a leash or chain on the owner's premises and shall be placed under the observation of a veterinarian at the expense of the owner for a period of two (2) weeks. The owner shall notify the health department of the fact that his dog has been exposed to rabies, and at his

discretion the City official is empowered to have such dog removed from the owner's premises to a veterinary hospital and there placed under observation for a period of two (2) weeks at the expense of the owner.

2. It shall be unlawful for any person knowing or suspecting a dog to have rabies to allow such dog to be taken off his premises or beyond the limits of the City without the written permission of the health department.
3. Whenever a dog is ascertained to be rabid, notification of same shall be made to the health department, who shall cause such dog to be removed to the City pound or summarily destroyed.

Section 30-206. Dog Bites

Whenever any dog bites a person, the owner of such dog shall immediately notify the pound keeper who shall order the dog held on the owner's premises or shall have it impounded at the owner's expense for a period of two (2) weeks. The dog shall be examined immediately after it has bitten anyone and again at the end of the two (2) week period. If at the end of two (2) weeks a veterinarian is convinced that the dog is then free from rabies, the dog shall be released from quarantine or from the pound as the case may be. If the dog should die in the interim, its body shall be sent to Jackson County Health Department for examination for rabies.

Section 30-207. Muzzling

Whenever it becomes necessary to safeguard the public from the dangers of hydrophobia, the Mayor, if he deems it necessary, may issue a proclamation ordering every person owning or keeping a dog to confine it securely on his premises unless such dog shall have a muzzle of sufficient strength to prevent its biting any person. Any unmuzzled dog running at large during the time of the proclamation shall be seized and impounded in the manner provided in Section 30-209, unless such dog shall be noticeably infected with rabies, in which case it shall be summarily disposed of.

Section 30-208. Diseased Animals

Any domestic animal afflicted with a contagious or infectious disease shall be confined to its premises by its owner and shall not be permitted to run at large or be exposed in any public place where the health of persons or animals may be affected. No animal with such disease shall be moved from its premises by anyone without the supervision of a licensed veterinarian or other qualified person.

Section 30-209. Enforcement

1. The first call concerning an "at-large" animal shall consist of a response from a police officer who shall complete the report and evaluate the situation. If both the at-large animal and owner are located, the owner shall receive a written warning

(on a citation) in addition to a requirement to immediately place the animal in a secure location.

2. The second call concerning an “at-large” animal shall consist of a response from a police officer who shall complete in the report and evaluate the situation. If both the at-large animal and owner are located, the owner shall receive a written citation for violation of the Hoschton Animal Control Ordinance and will be ordered to appear in the Hoschton Municipal Court in addition to a requirement to immediately place the animal in a secure location.
3. All at-large animals, if not otherwise secured by its owner, shall be impounded by the appropriate City employee. Capture will be accomplished by noose and tackle or, tranquilizer, if other noose and tackle fail. Upon capture, the animal will be transported by the Hoschton Utility Worker to. Transports on Monday through Friday between 8:00 a.m. and 5:00 p.m. will be directly to the Commerce Animal Hospital. If transport is required after hours or on weekends, the Hoschton Utility Worker will transport the animal to City Hall where it will be kept overnight until intake at the Commerce Animal Hospital is available. Animals transported to the Animal Hospital will be held for five (5) days for owner reclaim or adoption. The animal shall be held for forty-eight (48) hours for owner reclaim. At the end of the forty-eight (48) hour period, the animal will be available for adoption. At the end of the five (5) days, the animal will be euthanized if not reclaimed or adopted.

Section 30-210. Reclaim

In order to reclaim an animal, the owner must:

1. Provide proof to the Commerce Animal Hospital of current vaccinations including rabies (dogs and cats) and parvoviruses (dogs only);
2. Pay a reclaim fee to the Commerce Animal Hospital of twenty-five dollars (\$25.00) per day for a dog or cat more than twelve (12) weeks of age and twelve dollars and fifty cents (\$12.50) per day for a dog or cat less than twelve (12) weeks of age.
3. Transport the animal from the Commerce Animal Hospital.

Prior to releasing an animal to its owner, the Commerce Animal Hospital shall contact the Hoschton Police Department upon which the Police Department will issue a citation to the owner requiring said owner to appear in Municipal Court for violation of the Animal Control Ordinance.

ARTICLE III. PENALTY

Any Hoschton Police Officer is authorized to issue and serve citations for appearance before the Municipal Court for violations of any provisions of the animal control sections

of the City and/or the "Georgia Animal Protection Act" located in Chapter 11, Title 4 of the Official Code of Georgia Annotated. The penalty for violating any provision of the Animal Control Ordinance shall be up to one thousand dollars (\$1,000.00). Each day the violation continues shall be a separate violation.

CHAPTER 31 GENERAL OFFENSES

Section 31-101	Disorderly Conduct
Section 31-102	Discharging Firearms, Air Guns, Etc.
Section 31-103	Report of Treatment of Wounds
Section 31-104	Throwing of Missiles
Section 31-105	Drinking in Public
Section 31-106	Accumulation of Junk and/or Junk Vehicles
Section 31-107	Abandonment of Motor Vehicles
Section 31-108	Motorized Vehicles or Horses on Sidewalks
Section 31-109	Reserved
Section 31-110	Curfew
Section 31-111	Unlawful Assembly
Section 31-112	Loitering
Section 31-113	Panhandling
Section 31-114	Parking
Section 31-115	Operating a Motor Vehicle Without Insurance
Section 31-116	Possession of Marijuana
Section 31-117	Possession of Alcoholic Beverage by Minor
Section 31-118	Halting or Impeding the Flow of Traffic
Section 31-119	Possession of Open Container of Alcoholic Beverage While Operating Vehicle
Section 31-120	False E-911 Calls
Section 31-121	Resisting or Interfering with an Officer
Section 31-122	Burning Grass, Leaves and the Like
Section 31-123	Destroying Street Signs
Section 31-124	Objects in Streets, Alleys and Sidewalks
Section 31-125	Defacing Sidewalks
Section 31-126	Disfiguring Public Property
Section 31-127	Temporary Traffic Regulations
Section 31-128	Vehicle Cover Required
Section 31-129	Permitting Another to Drive a Vehicle Under the Influence of Intoxicants or Drugs
Section 31-130	Driving an Unsafe or Improperly Equipped Vehicle
Section 31-131	Light, Flag, or Strobe Lamp on Projected Load
Section 31-132	U-Turns Prohibited

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.

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. 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 31-106. Accumulation of Junk and/or Junk Vehicles

1. Accumulation of Junk. It shall be unlawful for any owner or occupant of any property in the City of Hoschton to permit to accumulate on such property any junk as the term is defined herein.
 - A. Definition of Junk. Junk means any worn out, castoff or discarded article or material which is ready for destruction or has been collected or stored for salvage or conversion to some other use. Any article or material which, unaltered or unchanged and without furthering reconditioning, can be used for its original purpose as readily as when new, shall not be considered junk.
 - B. Notice to Remove. It shall be the duty of the Code of Enforcement Officer to notify, in writing, the owner or occupant of any premises upon which junk is permitted to accumulate in violation of this Section that such material must be removed within ten (10) days from the date of such notice, and informing them of the penalties connected with said nuisance and the noncompliance with this Section. Notice shall be by registered mail, addressed to said owner or occupant, at his last known address.

Any person violating any of the provisions of this Section shall be deemed guilty of misdemeanor and upon conviction thereof shall be fined in an amount not exceeding one hundred dollars (\$100.00).

2. Junk Vehicles. Junk vehicles shall not be kept, permitted, parked, stored or maintained on any premises or public street right-of-way.

Exceptions:

- A. Junk vehicles, limited to a maximum of two (2), which are kept within a fully enclosed building on property in residential zoning districts, provided the owner or occupant of the property in residential zoning districts, provided the owner or occupant is in the process of reconditioning the junk vehicles for personal use;
- B. Junk vehicles which are kept on property in zoning districts authorized by the Zoning Ordinance for repairing, reconditions or remodeling junk vehicles and provided that such are not stored for the purpose of salvage of parts but are in the continual process of repair, reconditioning or remodeling.
- C. Junk vehicles which are kept on residentially zoned property five (5) acres or greater in size.

(Amended 11/4/2002)

Section 31-107. Abandonment of Motor Vehicles

It shall be unlawful for any person to abandon or to leave unattended for a period in excess of three (3) days any motor vehicle on any street, road, alley, or other public way in the municipality.

(Amended 11/4/2002)

Section 31-108. Motorized Vehicles or Horses on Sidewalks

It shall be unlawful for the owner or possessor of any motorized vehicle or horse to allow such vehicle or horse on any sidewalk within the City of Hoschton.

Section 31-109. Reserved *(Amended 11/4/2002)*

Section 31-110. Curfew

1. Children on Streets at Night. It shall be unlawful for any person under sixteen (16) years of age to be or remain upon any street or alley or other public place in the City after 10:00 p.m. on nights when public school in Jackson County, Georgia is in session and 11:00 p.m. on nights when school will not be in session the following day unless such person is accompanied by a parent or guardian, or other person having custody of such minor or unless in the performance of duty directed by such parent or guardian or other person having custody or unless such person is in lawful employment, or on a lawful errand, making it necessary

to be in such places after the prohibited time. Provided, that a child may be on the public sidewalk in front of the child's home, with the permission of the child's parent or guardian.

2. **Permitting Children to Violate Curfew.** It shall be unlawful for anyone having the legal care and custody of any person, as described above to allow or permit such person to go or be upon any public street, alley or other public place in the City in the nighttime as restricted in the preceding paragraph of this section, except in case of necessity. Any parent or guardian of any person described above violating this Section shall be guilty of a misdemeanor and shall be punished by a fine not to exceed one thousand dollars (\$1,000.00).
3. **Detaining Child.** Every member of the police force while on duty is hereby authorized to detain any such minor willfully violating the provisions of the first paragraph of this section until the parent or guardian of the child shall take him or her into custody; but such officer shall immediately upon taking custody of the child communicate with the parent or guardian.
4. **Delinquent or Mendicant Children.** If it shall appear that any child taken into custody for a violation of this Section is growing up in mendicancy or vagrancy, or is incorrigible, for lack of a proper parental care or has no home, proper proceedings shall be taken to have such child placed in the care of a state institution as provided by statute. (See McQuillin Mun. Corp. (3rd Ed) §§ 19.30, 24.111).

Section 31-111. Unlawful Assembly

1. It shall be unlawful for any person to assemble in a group of two or more for the purpose of the sale, purchase, manufacturing, or distributing of any drug or drug paraphernalia in compliance with O.C.G.A. Title 16, Chapter 13.
2. Any Law Enforcement Officer has the right to enforce this Section upon probable cause that he or she believes this violation is taking place and/or receives a compliant weather being known or anonymous.
3. A person committing the offense of unlawful assembly shall be guilty of a misdemeanor.

Section 31-112. Loitering

- A. **Definitions.** For the purposes of this section, the following words and phrases shall be construed as follows:
 1. *Emergency.* An unforeseen combination of circumstances that calls for immediate action. The term includes, but is not limited to, a fire, a natural

disaster, an automobile accident, or any situation requiring immediate action to prevent serious bodily injury or loss of life.

2. *Loiter.* To stand idly about or linger aimlessly.
 3. *Minor.* Any person under the age of eighteen (18) and is synonymous with the terms "juvenile" or "youth" for the purposes of this section.
 4. *Public place.* Any place to which the public or a substantial group of the public has access and includes, but is not limited to, streets, sidewalks, driveways, highways, and the common areas of schools, apartments, shopping centers, parking lots, office buildings, playgrounds, vacant lots and transportation facilities.
2. Loitering. A person may not loiter, loaf, wander, stand or remain idle either alone or in consort with others in a public place in a manner so as to:
 - A. Obstruct any public street, public highway, public sidewalk or any other public place or building by hindering or impeding or tending to hinder or impede the free and uninterrupted passage of vehicles, traffic or pedestrians;
 - B. Commit in or upon any public street, public highway, public sidewalk or any other public place or building any act or thing which is an obstruction or interference to the free and uninterrupted use of property or with any business lawfully conducted by anyone in or upon or facing or fronting on any public street, public highway, public sidewalk or any other public place or building, all of which prevents free and uninterrupted ingress, egress and regress.
 3. Obstruction. No person shall congregate with another or others in or on any public way so as to halt or impede the flow of vehicular or pedestrian traffic after having been directed to clear such public way or place by the Hoschton Police Department and/or any other authorized law enforcement official.
 4. Public places. A person shall not sit, lie, or sleep in or upon any public highway, alley, sidewalk or crosswalk or other place open for pedestrian travel, except when necessitated by temporary physical disability of such person.
 5. Minors. It is unlawful for a minor, as defined herein, to loiter in any public place within the City between the hours of 11:00 p.m. and 5:00 a.m. of the following day, subject to the definitions and exceptions contained in this section.
 6. Exceptions for minors. This section shall not apply to minors under the following circumstances:
 - A. Individuals emancipated pursuant to the provisions of O.C.G.A. § 19-7-1 et. seq. or similar statutes of another state;

- B. Individuals accompanied by a parent, guardian or other adult having legal care or custody of said minor;
 - C. Upon a specific, legitimate errand at the direction of a parent or guardian having the care or custody of a minor, while such minor is actually and directly carrying out such errand;
 - D. Going directly to or coming directly from a place of public amusement, school function, or place of employment, with the knowledge and consent of the minor's parent or guardian;
 - E. Individuals present in a public place because of an emergency, as defined herein, while actually dealing with or responding to such emergency.
7. Process for handling juveniles. In recognition that certain procedures are typically followed with regard to arresting and charging juveniles, any person under the age of eighteen (18) years charged with a violation of this section shall be processed and handled in accordance with such established procedures.
8. Penalties.
- A. Upon the first violation of any of the provisions of this section, a warning citation shall be issued.
 - B. Upon the second violation of any of the provisions of this Loitering Ordinance, a citation shall be issued and the individual will go before the Hoschton City Court.
 - C. Upon conviction, punishment shall be as set forth by the City Court. Such punishment may include the imposition of a fine not to exceed \$1,000.00, imprisonment for a period of time not to exceed 60 days, or by both such fine and imprisonment, or up to the limits of any penalty provided by state law for the ordinance and as such state law may be amended from time to time.
 - D. For sentencing purposes, the first citation before the City Court shall be deemed the "first offense"; however, consideration may be given by the Court to the previous warning citation.
 - E. Nothing in this section shall restrict the City from pursuing other means of enforcement as it deems necessary, including instituting appropriate action or proceedings at law or equity with a court of competent jurisdiction. Any court of competent jurisdiction may have the right to issue restraining orders, temporary or permanent injunctions, and other appropriate forms of remedy or relief.

- F. Every violation and each day of noncompliance is considered a separate offense, and shall be punishable as such.

(Amended 6/2/2008; Effective 6/12/2008)

Section 31-113. Panhandling

1. Applicability. This section regulates the time, place, and manner of solicitations and shall not apply to any persons properly exercising their clearly established constitutional right to picket, protest or engage in other constitutionally protected activity. This section does not apply to solicitations by permitted charitable organizations as provided for in Section 32-208 of the Hoschton City Code of Ordinances.
2. Definitions, as used in this section:
 - A. *Solicit or Panhandle.* To request an immediate donation of money or other thing of value from another person, regardless of the solicitor's purpose or intended use of the money or other thing of value, including employment, business or contributions or to request the sale of goods or services. The solicitation may be, without limitation, by the spoken, written, or printed word, or by other means of communication.
 - B. *Public area.* An area to which the public or a substantial group of persons has access, including but not limited to alleys, bridges, buildings, driveways, parking lots, parks, play grounds, plazas, sidewalks, and streets that are open to the general public.
3. Prohibitions. It shall be unlawful for any person, firm, organization or corporation to aggressively panhandle or solicit funds for the sole benefit of the solicitor within any public area in the City of Hoschton or:
 - A. In any public transportation vehicle or public transportation station or stop;
 - B. Within 15 feet of any entrance or exit of any bank or check cashing business or within 15 feet of any automated teller machine during the hours of operation of such bank, automated teller machine or check cashing business without the consent of the owner or other person legally in possession of such facilities. Provided, however, that when an automated teller machine is located within an automated teller machine facility, such distance shall be measured from the entrance or exit of the automated teller machine facility;
 - C. On private property if the owner, tenant, or lawful occupant has asked the person not to solicit on the property, or has posted a sign clearly indicating that solicitations are not welcome on the property; or

D. From any operator of a motor vehicle that is in traffic on a public street, whether in exchange for services or for blocking, occupying or reserving a public parking space; provided, however, that this paragraph shall not apply to services rendered in connection with emergency repairs requested by the operator or passengers of such vehicle.

4. Aggressive Panhandling shall mean and include:

A. Intentionally or recklessly making any physical contact with or touching another person or his vehicle in the course of the solicitation without the person's consent;

B. Following the person being solicited, if that conduct is intended to or is likely to cause a reasonable person to fear imminent bodily harm or the commission of a criminal act upon property in the person's possession, or is intended to, or is reasonably likely to intimidate the person being solicited into responding affirmatively to the solicitation;

C. Continuing to solicit within five (5) feet of the person being solicited after the person has made a negative response, if continuing the solicitation is intended to or is likely to cause a reasonable person to fear imminent bodily harm or the commission of a criminal act upon property in the person's possession, or is intended to, or is reasonably likely to intimidate the person being solicited into responding affirmatively to the solicitation;

D. Intentionally or recklessly blocking the safe or free passage of the person being solicited or requiring the person, or the driver of a vehicle, to take evasive action to avoid physical contact with the person making the solicitation. Acts authorized as an exercise of one's constitutional right to picket or legally protest, and acts authorized by a permit issued pursuant to City Ordinance shall not constitute obstruction of pedestrian or vehicular traffic;

E. Intentionally or recklessly using obscene or abusive language or gestures intended to or likely to cause a reasonable person to fear imminent bodily harm or the commission of a criminal act upon property in the person's possession, or words intended to, or reasonably likely to intimidate the person being solicited into responding affirmatively to the solicitation;

F. Approaching the person being solicited in a manner that is intended to or is likely to cause a reasonable person to fear imminent bodily harm or the commission of a criminal act upon property in the person's possession, or is intended to, or is reasonably likely to intimidate the person being solicited into responding affirmatively to the solicitation.

5. Penalties. Unauthorized solicitation shall constitute a misdemeanor punished by a fine not to exceed \$1,000.00 or imprisonment up to 6 months or both. Aggressive panhandling shall constitute an aggravated misdemeanor punished by a fine not to exceed \$1,000.00 or imprisonment up to 6 months or both.
 - A. Upon the first violation of any of the provisions of this section, a warning citation shall be issued.
 - B. Upon the second violation of any of the provisions of this section, a citation shall be issued and the individual will go before the Hoschton City Court.
 - C. Upon conviction, punishment shall be as set forth by the City Court. Such punishment may include the imposition of a fine not to exceed \$1,000.00 imprisonment for a period of time not to exceed 60 days, or by both such fine and imprisonment, or up to the limits of any penalty provided by state law for the ordinance and as such state law may be amended from time to time.
 - D. For sentencing purposes, the first citation before the City Court shall be deemed the first offense; however, consideration may be given by the Court to the previous warning citation.
 - E. Nothing in this section shall restrict the City from pursuing other means of enforcement as it deems necessary, including instituting appropriate action or proceedings at law or equity with a court of competent jurisdiction. Any court of competent jurisdiction may have the right to issue restraining orders, temporary or permanent injunctions, and other appropriate forms of remedy or relief.
 - F. Every violation and each day of noncompliance is considered a separate offense, and shall be punishable as such.
6. Applicability. This section regulates the time, place and manner of solicitations, and shall not apply to any persons properly exercising their clearly established constitutional right to picket, protect or engage in other constitutionally protected activity. This section does not apply to solicitations by permitted charitable organizations.

(Adopted 6/2/2008; Effective 6/12/2008)

Section 31-114. Parking

1. Stopping, standing, or parking prohibited in specified places; stopping or standing for collecting municipal solid waste or recovered materials. Except when necessary to avoid conflict with other or in compliance with law or the directions of a police or official traffic-control device, no person shall:

A. Stop, Stand or Park a Vehicle.

- (1) On the roadway side of any vehicle stopped or parked at edge of a curb of a street;
- (2) On a sidewalk;
- (3) Within an intersection; or any area that restricts the view pulling out from an intersection;
- (4) On a crosswalk;
- (5) Between a safety zone and the adjacent curb or within thirty feet (30') of points on the curb immediately opposite the ends of a safety zone, unless a different length is indicated by signs or markings;
- (6) Alongside or opposite any street excavation or obstruction when stopping, standing, or parking would obstruct traffic;
- (7) Upon any bridge or other elevated structure upon a highway or within a highway tunnel;
- (8) On any railroad tracks;
- (9) On any controlled-access highway;
- (10) In the area between roadways of a divided highway, including crossovers; or
- (11) In the areas not marked as a parking area for the type of vehicle being parked there. This would entail no parking for trucks with trailers, dump trucks, or any other commercial vehicle that by its very size alone would not fit into the designated marked parking space;
- (12) At any place where official signs or yellow painted curb prohibit parking.

B. Stand or Park a Vehicle, Whether Occupied or Not, Except Momentarily to Pick up or Discharge a Passenger or Passengers.

- (1) In front of a public or private driveway;
- (2) Within fifteen feet (15') of a fire hydrant;
- (3) Within twenty feet (20') of a crosswalk at an intersection;

- (4) Within thirty feet (30') upon the approach to any flashing signal stop sign, yield sign, or traffic-control signal located at the side of a roadway;
 - (5) Within twenty feet (20') of the driveway entrance to any fire station or on the side of a street opposite the entrance to any fire station within seventy-five feet (75') of such entrance (when properly posted); or
 - (6) At any place where official signs prohibit standing; or
- C. Park a Vehicle, Whether Occupied or Not, Except Temporarily for the Purpose of and While Actually Engaged in Loading or Unloading Property or Passengers.
- (1) Within fifty feet (50') of the nearest rail of a railroad crossing;
 - (2) At any place where official signs prohibit parking;
 - (3) No person shall move a vehicle not lawfully under his control into any prohibited area or to such a distance away from the curb as is unlawful; or
 - (4) Notwithstanding any other provision of law, any vehicle used solely for the purpose of collecting municipal solid waste or recovered materials may stop or stand on the road, street, or highway for the sole purpose of collecting such waste or materials; provided, however, that such vehicle shall maintain flashing hazard lights at all times that it is engaged in stopping or standing for the purpose of waste or materials collection.
- D. Any person violating this Section shall be guilty of a misdemeanor and fined no less the twenty-five dollars (\$25.00).

NOTE: See Code Section O.C.G.A. 40-6-203

(Adopted 8/2/2004; Effective 8/12/2004)

Section 31-115. Operating a Motor Vehicle Without Insurance

O.C.G.A. 40-6-10 is hereby adopted by reference as an ordinance of this municipality with the same effect as if set out in full.

Section 31-116. Possession of Marijuana

It shall be unlawful for a person to possess marijuana within the incorporated city limits of Hoschton. Pursuant to Article 6, Section 4, Paragraph 1 of the Constitution of the state of Georgia 1983, the Municipal Court of the City of Hoschton shall have jurisdiction to try and dispose of cases where a person is charged with the possession of one

ounce or less of marijuana. Violation of this code section shall constitute a misdemeanor.

Section 31-117. Possession of Alcoholic Beverage by Minor

It shall be unlawful for any person under the age of 21 to possess alcoholic beverage within the corporate limits of the City of Hoschton. The Municipal Court of the City of Hoschton shall have jurisdiction to try and dispose of cases where a person is charged with the possession of alcoholic beverage while a minor. Violation of this code section shall constitute a misdemeanor.

Section 31-118. Halting or Impeding the Flow of Traffic

No person shall congregate with another or others in or on any public roadway or place so as to halt or impede the flow of vehicle or pedestrian traffic after having been directed to clear such public way or place when ordered to do so by the police.

Section 31-118(a). Criminal Trespass by Motor Vehicle

Pursuant to O.C.G.A. 40-6-252(a), incorporating the adopting provision of O.C.G.A. 40-6-252(c), no person shall park, stand or drive a motor vehicle through or within a parking area located on privately owned property that is properly marked with a metal sign at each entrance to the parking area declaring such parking area as restricted. This metal sign shall reference "The City of Hoschton Ordinance Number 31-118" while stating the limitations placed upon this parking area. Said limitations can include restriction upon commercial vehicles, vehicles over 10,000 pounds, vehicles with more than six (6) wheels, time of day limitations, day of week limitations, or any combination of the above listed as the owner of the property deems necessary to protect his parking area. Before the City of Hoschton police department can enforce this ordinance on properly signed parking area, the designated parking area must be approved as one entitled to enforcement by the Mayor of the City of Hoschton. A list of such designated enforcement areas will be kept permanently by the police department at their headquarters.

Any person violating this ordinance shall be subject to a monetary fine: not to exceed \$50.00 for the first violation; not to exceed \$100.00 for the second violation; and not to exceed \$150.00 for the third or subsequent such violations.

Section 31-119. Possession of Open Container of Alcoholic Beverage While Operating Vehicle

1. As used in this ordinance "open container" means any container which is immediately capable of being consumed from or of which the seal has been broken.

2. The City of Hoschton expressly adopt O.C.G.A. 40-6-253 in its entirety. For the purposes of this Section, an open container shall be considered to be in possession of the operator of a vehicle if the container is not in the possession of the passenger and is not located in a locked glove compartment, locked trunk, or other locked no passenger area of the vehicle.
3. No person, while a passenger in a motor vehicle, shall consume any alcoholic beverage, or possess an open container of alcoholic beverage in the passenger area of any motor vehicle which is on a public roadway or on the shoulder of a public roadway.
4. The provision of this section shall not apply to passengers in a vehicle for hire or the living quarters of a motor home.
5. Any person who violates provisions of this section shall be subject to a fine not to exceed \$250.00.

Section 31-120. False E-911 Calls

It shall be unlawful for any person to intentionally make a false emergency telephone call to the County's E-911 communications division, knowing at the time that there is no reasonable ground for believing that such emergency exists.

1. An emergency call includes, but is not limited to, a call that the caller terminates without first speaking or relaying an emergency message.
2. To the extent that this section is preempted by the state law, only the state law shall apply.
3. Every person concerned in the violation of this section is a party thereto and may be issued a citation for and convicted of violating this section. A person is concerned in the violation of this section if the person:
 - A. Directly violates this section:
 - B. Causes some other person to violate this section under circumstances that the other person is not guilty of any crime either in fact or because of legal incapacity;
 - C. Aids or abets the violation of this ordinance; or
 - D. Advises, encourages, hires, counsels, or procures another to violate this section.

Section 31-121. Resisting or Interfering with an Officer

It shall be unlawful for any person to make resistance to or in any manner interfere with a police officer or any other officer or city employee in the lawful discharge of his/her official duty.

Section 31-122. Burning Grass, Leaves and the Like

It shall be unlawful for any person to set fire or burn, on any street, park, embankment, or property belonging to the City of Hoschton and grass, leaves, or other trash for any purpose.

Section 31-123. Destroying Street Signs

It shall be unlawful for any person to deface or destroy the boards, signs or markers upon which names of any streets are printed or posted.

Section 31-124. Objects in Streets, Alleys and Sidewalks

It shall be unlawful for any person to place or throw or leave or abandon on any street, sidewalk or alley in the city any glass or crockery of any kind, nails, tacks, brick bats, or any article or object liable to injure the bare feet of children walking on the streets, sidewalks or alleys, or to injure or puncture the tires of automobiles, motorcycles, bicycles or the rubber tires of other vehicles.

Section 31-125. Defacing Sidewalks

It shall be unlawful for any person to paint, or in any manner to deface or to paste advertising matter of any kind on the sidewalks within the city.

Section 31-126. Disfiguring Public Property

It shall be unlawful for any person to in any way molest, injure, or damage any property in or any other thing belonging to the city, or to cut, carve, injure, or damage property of any religious or charitable society or association or any improvement made by any person for the ornament of the streets or other places.

Section 31-127. Temporary Traffic Regulations

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

Section 31-128. Vehicle Cover Required

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

Section 31-129. Permitting Another to Drive a Vehicle Under the Influence of Intoxicants or Drugs

It shall be unlawful for any person who is the owner of any vehicle or who is in possession of any vehicle, whether lawfully or not, to permit or procure any other person to drive or operate any such vehicle within the city limits while the other person is under the influence of alcoholic beverage or while under the influence of illegal drugs.

Section 31-130. Driving an Unsafe or Improperly Equipped Vehicle

1. No person shall drive or move on any highway within the city limits of Hoschton, Georgia any motor vehicle, trailer, semi-trailer or pole trailer, or any combination thereof, unless the equipment upon any and every such vehicle is in good working order and adjustment as required by O.C.G.A. Title 40.
2. Any vehicle suspected of being operated in violation of O.C.G.A. Title 40 may be the subject of an inspection conducted by any law enforcement officer from the City of Hoschton who has reason to believe such violation is occurring, without the necessity of obtaining a warrant to permit such inspection, as provided for in O.C.G.A. 40-8-7. It shall be unlawful to operate upon the roadways of the City of Hoschton any vehicle:
 - A. It is not equipped with a speedometer which is in good working order as required by O.C.G.A. 40-8-8;
 - B. Is not equipped with working headlights as required by O.C.G.A. 40-8-22.
 - C. Is not equipped with working tail light as required by O.C.G.A. 40-8-23.
 - D. Is not equipped with working brake lights and turn signals as required by O.C.G.A. 40-8-25 or;
 - E. No vehicle shall be operated with a windshield or rear window having a starburst or spider webbing effect greater than three (3) inches by three (3) inches.

Section 31-131. Light, Flag, or Strobe Lamp on Projected Load

1. Except as provided in subsection (2) of this code section, whenever the load upon any vehicle extends to the rear four (4) feet or more beyond the bed or body of the vehicle, there shall be displayed at the extreme rear end of the load a

flag that shall be of a bright red or orange color not less than twelve (12) inches square which is clearly visible and shall be displayed in such a manner that the entire area of the flag is visible from the rear of the vehicle.

2. Any motor vehicle or trailer transporting a load of logs, log pulpwood, poles, or post which extends more than four (4) feet beyond the rear of the body or bed of such vehicle shall have securely affixed as close as practical to the end of and such projection one amber strobe type lamp equipped with a multidirectional type lens so mounted as to be visible from the rear and both sides of the projecting load.

Section 31-132. U-Turns Prohibited

No vehicle shall be turned so as to proceed in the opposite direction upon any curve, upon the crest of a grade where such vehicle cannot be seen by the driver of another vehicle approaching from either direction, where such turn cannot be made in safety without interfering with other traffic or where a U-Turn is prohibited by a traffic sign.

(Adopted 2/05/2007; Effective 2/15/2007)

CHAPTER 32
LICENSING AND BUSINESS REGULATION

ARTICLE I. GENERAL REGULATIONS

Section 32-101	Applications
Section 32-102	Procedures for Issuance
Section 32-103	Display of License
Section 32-104	Inspections
Section 32-105	Termination and Renewal of Licenses
Section 32-106	Revocation, Suspension, Etc.
Section 32-107	Change of Location
Section 32-108	Transfer of Licenses
Section 32-109	Duplicate Licenses
Section 32-110	Branch Offices
Section 32-111	Joint License
Section 32-112	Penalties
Section 32-113	Delinquent Fees
Section 32-114	Verification of Status Required

ARTICLE II. BUSINESSES REGULATED

Section 32-201	Reserved
Section 32-202	Reserved
Section 32-203	Reserved
Section 32-204	Insurance Businesses
Section 32-205	Construction Contractors
Section 32-206	Solid Waste Collectors
Section 32-207	Peddlers and Itinerant Merchants
Section 32-208	Charitable Solicitors
Section 32-209	Door to Door Solicitation
Section 32-210	Reserved
Section 32-211	Reserved
Section 32-212	Reserved
Section 32-213	Auctions and Auctioneers
Section 32-214	Circuses, Carnivals, and Public Exhibitions
Section 32-215	Parades
Section 32-216	Billiard and Pool Rooms, Video, Game, or Music Machines
Section 32-217	Possession, Renting, Selling, and Placing of Gambling Devices
Section 32-218	Reserved
Section 32-219	Reserved
Section 32-220	Reserved

ARTICLE III. ADULT ENTERTAINMENT

Section 32-301	Findings: Public Purpose
Section 32-302	Definitions
Section 32-303	License Required
Section 32-304	On-premises Operator Required
Section 32-305	Application Process and Qualifications
Section 32-306	Regulation of Adult Entertainment Establishments
Section 32-307	Appeal; Procedure
Section 32-308	Appeal; Council Determines Procedure
Section 32-309	City Council Hearing
Section 32-310	Powers of Hearing Officer
Section 32-311	Rules of Evidence Inapplicable
Section 32-312	Hearing Officer; Report
Section 32-313	Hearing; Action by Council
Section 32-314	Conduct or Activities Prohibited
Section 32-315	Penalty for Violation
Section 32-316	Unlawful Operation Declared Nuisance
Section 32-317	Conditions of Adult Entertainment Establishment
Section 32-318	Denial, Suspension or Revocation of License; Hearing
Section 32-319	Miscellaneous
Section 32-320	Severability
Section 32-321	Automatic License Forfeiture for Nonuse
Section 32-322	Repeal of Conflicting Provisions
Section 32-323	Physical Layout of Establishment
Section 32-324	Applicability of this Ordinance

ARTICLE IV. TATTOO AND BODY ART STUDIOS

Section 32-401	Interpretation of Certain Terms
Section 32-402	Permit Required
Section 32-403	Terms of Permit; Renewal of Permit; Fees
Section 32-404	Inspection Schedule
Section 32-405	Tattooing of Minors
Section 32-406	Records Required
Section 32-407	Removal of Tattoo
Section 32-408	Separate Operating Room
Section 32-409	Personal Cleanliness of Tattoo Artist; Required Equipment
Section 32-410	Storage of Tattooing Equipment or Materials
Section 32-411	Floors, Walls and Ceilings
Section 32-412	Disposition of Waste Material
Section 32-413	Preparation of Area to be Tattooed
Section 32-414	Stencil for Transferring Design
Section 32-415	Tattooing Process
Section 32-416	Instruction to Patrons or Customers as to Care of Skin after Tattooing

Section 32-416.5	Other Business Activities and Hours of Operation
Section 32-417	Penalty for Non-compliance
Section 32-418	Authority
Section 32-419	Reference to Other Regulations

ARTICLE V. MASSAGE AND SPA ESTABLISHMENTS

Section 32-501	Definitions
Section 32-502	Exemptions
Section 32-503	Scope of Regulations
Section 32-504	License Required
Section 32-505	Application for Massage Establishment
Section 32-506	Application for Spa Establishment
Section 32-507	Qualifications for Issuance
Section 32-508	Issuance of License
Section 32-509	Expiration and Renewal
Section 32-510	General Operating Provisions
Section 32-511	Grounds for Revocation and Suspension of License

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 Hoschton 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 Hoschton must provide the City with evidence of licensure by the state. No business license may be issued by the City of Hoschton without such proof.

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

Accountants
Acupuncture
Architects
Athletic Trainer

Athlete Agents
Auctioneers
Barbers
Charitable Solicitors
Check Cashier
Chiropractors
Coin Operated Amusement Machine Owners and Operators
Contractors, Air Conditioned
Contractors, Asbestos Removal
Contractors, Explosives
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, Embalmers
Geologists
Hearing Aid Dealers and Dispensers
Hotel, Inns and Roadhouse Operators
Junk Dealers
Landscape Architects
Land Surveyors
Lawyers
Librarians
Manufactured Home Dealer
Manufactured Home Installer
Manufactured Home Manufacturer
Merchant, Transient
Motor Vehicle Dealers
Nurses
Nursing Home Administrators
Occupational Therapists
Opticians, Dispensing
Optometrists
Osteopaths Licensed Under Chapter 34 of Title 43
Pest Control, Structural
Pharmacist

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
Taxidermist
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. 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.

(Amended 6/22/2010; Effective 7/02/2010)

- 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.

Section 32-102 Procedures for Issuance

1. **Review by City Officers.** If any provision on 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 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 within seven (7) days after receiving a copy of the application.
2. **Issuance of License.** The City Clerk shall issue a business license to the applicant 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. The City Clerk is authorized to approve all business licenses, except as provided in the following section. In the event that the City Clerk is unable to approve and issue the business license, the City Clerk may designate an officer of the City to do so.
3. **Council Consideration.** The City Clerk shall submit to the City Council for approval any business licenses wherein granting the license requires rezoning, issuance of a conditional or special use permit, grant of a waiver or variance, or which in the opinion of the City Clerk, this business is out of character with the area of the proposed business due to the number of employees, traffic, anticipated use of public facilities (roads, water, sewer). The City Clerk may request additional information to fully evaluate the application, and the failure to provide such information shall be sufficient reason for the City Clerk to deny the license.
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. No license shall be issued to any applicant if operation of the business shall violate the codes or ordinances of the City, or any other local, state or federal law.
5. **License is a Privilege.** 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.
6. **Certificate of Occupancy.** A business license can be approved, but not issued, if a Certificate of Occupancy has not been issued for the place of business. Once the applicant presents the Certificate of Occupancy to the City Clerk, the business license can and will be issued in a timely manner.
7. **Issuance, Denial, Appeal.** If an applicant is denied a license by the City Clerk, the applicant may file a written appeal from the denial to the Mayor and City Council. An appeal must be filed with the City Clerk within thirty (30) days from the denial. The City Clerk shall schedule a hearing before the Mayor and City Council and

notify the appellant of the time and place of the hearing. The Mayor and City Council shall have the authority to affirm the action of the City Clerk or issue an order directing the City Clerk to issue the business license upon payment of the appropriate taxes and fees.

(Adopted 8/1/2005)

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 December 31 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 December 1, which application shall contain substantially the same information as the initial application. The Clerk may request additional information in order to determine whether the application should be approved and the license issued.
3. The City Clerk shall approve applications for business license renewals. If the application indicates that there is a substantial change in the business the City Clerk shall submit the application for renewal to the Mayor and Council for approval or other appropriate action. If the renewal application is for a nonconforming use pursuant to the Hoschton Zoning Code and there has been no substantial change in the business, the City Clerk shall approve the business license renewal.
4. An applicant for renewal of a license shall be entitled to a refund of fees tendered if the application is withdrawn prior to action by the City Clerk.

(Amended 3/2/2009; Effective 3/12/2009)

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 section 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.

The City may suspend or revoke a business license upon determining that:

1. A license has been mistakenly or improperly issued or issued contrary to law;
or
2. A Licensee has breached any condition upon which the license was issued or has failed to comply with the provisions of this Chapter or these Ordinances or any other City rule, regulation or ordinance; or
3. A Licensee has obtained a license through a fraud, misrepresentation, a false or misleading statement, evasion or suppression of a material fact in the license application; or
4. A Licensee has been convicted of an offense under a law or ordinance regulating business, a crime involving dishonest conduct or moral turpitude, or an unlawful sale of merchandise or prohibited goods; or
5. A Licensee has engaged in an unlawful activity or nuisance related to the business; or
6. A Licensee is delinquent in the payment to the City of any tax, fee, charge or other monies.

7. A Licensee fails to provide for water service by connection to a public water system or connection to an approved well on the property.
8. A Licensee fails to provide for sanitary sewer service by connection to the City of Hoschton waste water treatment system.

(Amended & Adopted 1/7/2019)

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.

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 conducts a business or occupation without having obtained a license therefor as required by this Chapter or who violates any other provision of this Chapter will be punished upon conviction therefor as for a misdemeanor. Such violation is grounds for immediate revocation of the license.

Section 32-113 Delinquent Fees

For license renewal, each licensee must tender the applicable fee during normal business hours on or before December 31. If December 31 is a weekend day or holiday, the fees must be paid on the preceding business day. Any licensee that fails to tender such fees in a timely manner shall be delinquent and shall be subject to the following:

1. After January 15 of each year, a business license/occupation tax increases by the amount of \$50.00;
2. After January 15 of each year, a home occupation license increases by the amount of \$25.00;
3. Upon citation to the municipal court a civil fine not to exceed \$500 that may be enforced by the contempt power of the court;
4. There will be no prorated business license fees for any application during the calendar year.

The City Clerk is authorized pursuant to state law to issue executions against the delinquent taxpayers for the amount of delinquent taxes or fees, any interest due and owing and any penalty due and owing.

(Amended 3/2/2009; Effective 3/12/2009) (Amended & Adopted 1/7/2019)

Section 32-114 Verification of Status Required

1. Any applicant for a public benefit listed in subsection (2) of this Section shall execute an Affidavit Verifying Status for City Public Benefit Application provided by the City Clerk.
2. Public benefits for which the affidavit required in subsection (1) of this Section must be provided include the following:
 - A. Employment benefits;
 - B. Business or occupational licenses, which shall include any license or certification issued by the City of Hoschton;

C. Contracts;

D. Any other circumstances whereby a person receives city funds.

3. The Mayor is authorized to enter into a Memorandum of Agreement with the Systematic Alien Verification for Entitlements (SAVE) Program or any successor program or agency to allow the City to comply with the requirements of local, state and federal laws or regulations regarding persons' lawful presence in the United States, as such laws or regulations now exist or may exist in the future.

(Added via amendment 12/7/2009; Effective 12/17/2009)

ARTICLE II. BUSINESSES REGULATED

Section 32-201 Reserved *(deleted in its entirety 9/14/09; adopted 9/24/09)*

Section 32-202 Reserved

Section 32-203 Reserved

Section 32-204 Insurance Businesses

1. **License Fee.** There is hereby levied for the year 1973 and for each year thereafter an annual license fee upon each insurance company insuring risks within the City of Hoschton in the amount of twenty dollars (\$20.00), plus an additional license fee of twenty dollars (\$20.00) for each separate business location in excess of one (1) operated and maintained by such company within the City of Hoschton; provided, however, that said license fee shall entitle a company to write only one class of insurance, and any company writing more than one (1) class of insurance shall be liable for additional such license fees for each class of insurance written within the City of Hoschton. For the purposes of this Section the insurance business is classified according to the five (5) classes enumerated in O.C.G.A. § 56-305.
2. **Insurance Companies Selling Life, Accident and Sickness Insurance.** For each separate business location, not otherwise subject to a license fee hereunder, operated and maintained by a business organization which is engaged in the business of lending money or transacting sales involving term financing and in connection with such offers, solicits or takes application for insurance through a licensed agent of a life insurance company, said life company shall pay an additional license fee of fifteen dollars (\$15.00) per location.
3. **Administrative Provisions.**
 - A. Every insurance company doing business within the City of Hoschton and subject to the fees and taxes herein imposed shall file forms and information with the City Clerk/Treasurer as required by Section 4-104-4.

- B. The person responsible for each such insurance business location subject to license fee under Section 32-202 hereof shall file with the City Clerk/ Treasurer a report showing the address of the business location; the class or classes of insurance written; the names of the persons writing insurance at such location; the names of the companies represented; and such other reasonable information as may be required. Such report shall be made by affidavit of the person in charge of such business location. It is hereby declared to be a violation of this Section for any person, firm, corporation or their agents to knowingly give false or incomplete information on any such report. Said report shall be filed at the time of paying the license fee.
- C. All reports required to be filed under this Section shall be confidential and the information contained therein shall be solely for the use of the officers of the City responsible for administering this Section.
- D. The fees required by this Section may be enforced by execution in the same manner as other levies due the City of Hoschton. A violation of this Section shall be grounds for refusing or revoking a license, and the person responsible may be punished as for violations of other ordinances of the City of Hoschton.

Section 32-205 Construction Contractors

1. **Plumbers.** No master, contracting, or journeyman plumber, as such terms are defined in Chapter 14, Title 43 of the O.C.G.A., shall be permitted to engage in any plumbing business in this municipality, unless such person shall hold a valid license issued to him by the Georgia State Division of Master Plumbers and Journeyman Plumbers. Any person desiring a license to engage in such profession shall be required to pass an examination pursuant to O.C.G.A. § 43-14-8. Municipalities are not prohibited from fixing, charging, assessing, or collecting any license fee, registration fee, tax, or gross receipt tax on any such profession. "Plumbers" shall mean as defined in O.C.G.A. § 43-14-2.
2. **Electrical Contractors.** No electrical contractor, as such term is defined in Chapter 14, Title 43 of the O.C.G.A., shall be permitted to engage in any electrical contracting business in this municipality unless such person shall hold a valid license issued to him by the Georgia State Division of Electrical Contractors and passed an examination pursuant to O.C.G.A. § 43-14-8. No partnership, limited liability company, or corporation shall have the right to engage in the business of electrical contracting unless there is regularly connected with such partnership, limited liability company, or corporation a person or persons actually engaged in the performance of such business on a full-time basis who have valid licenses issued to them as provided for in this Chapter; provided, however, that partners, officers, and employees of the individual who fulfilled the licensing requirements shall continue to be authorized to engage in the business of conditioned air

contracting under a license which was valid at the time of the licensee's death for a period of ninety (90) days following the date of such death.

- 3. Conditioned Air Contractors.** No conditioned air contractor, as such term is defined in Chapter 14, Title 43 of the O.C.G.A., shall be permitted to engage in any conditioned air contracting business in this municipality unless such person shall hold a valid license issued to him by the Georgia State Division of Conditioned Air Contractors and passed an examination pursuant to O.C.G.A. § 43-14-8.
- 4. Low Voltage Contractor.** No low-voltage contractor, as such term is defined in Chapter 14, Title 43 of the O.C.G.A., shall be permitted to engage in any low-voltage contracting in this municipality unless such person shall hold a valid license issued to him by the Georgia State Division of Low Voltage Contractors and passed an examination pursuant to O.C.G.A. § 43-14-8.
- 5. General Contractors.** All general contractors who contract with this municipality for any public work exceeding one thousand dollars (\$1,000.00) in amount shall be required to obtain a performance and payment bond in the amount and manner specified by state law.

Section 32-206 Solid Waste Collectors

- 1. License Required.** Each person engaged in the business of solid waste collection and disposal in this municipality shall be required to obtain a license from the City Clerk/Treasurer in the manner specified in this Chapter.
- 2. Application.** Application for a license to engage in the business of solid waste collection and disposal shall be made as provided in Section 32-206-1, except that such application shall contain the following additional information:
 - A. Number, type, and size of waste collection vehicles to be used;
 - B. The number of employees to be assigned to each waste collection vehicle;
 - C. Name and location of commercial and industrial establishments and/or the number of residences to be served;
 - D. The types of waste to be collected; and
 - E. The state permit number of each disposal site to be used.
- 3. Fee Established.** The annual business license fee for solid waste collectors doing business within this municipality shall be twenty dollars (\$20.00).
- 4. Review of Application.** No action on any application for a license to engage in the business of solid waste collection and disposal shall be taken by the City

Council until the [Director of Public Works] has reviewed such application and forwarded his recommendation thereon to the City Clerk/Treasurer, in the manner specified in this Chapter.

- 5. Limitation on Issuance.** No license shall be issued to any person whose solid waste collection vehicles do not meet the standards established for such vehicles in the solid waste management section of this City.
- 6. Duty of Licensees.** It shall be the duty of all persons issued a license under this Section to conform to the requirements of the Solid Waste Management Ordinance of this City and the "Georgia Comprehensive Solid Waste Management Act" located in Article 2, Chapter 8, Title 12 of the O.C.G.A. Failure to so conform shall be grounds for revocation of said license.

Section 32-207 Peddlers and Itinerant Merchants

- 1. License Required.** Each peddler and itinerant merchant as such terms are defined herein, who does business within this municipality shall be required to obtain a license from the City Clerk/Treasurer in the manner specified in this Chapter.
- 2. Definitions.** For the purposes of this Section, the following words shall have the meanings specified:
 - A. The word "peddler" shall include any person, whether a resident of this municipality or not, traveling by foot, wagon, automotive vehicle, or any other type of conveyance from place to place, from house to house, or from street to street, carrying, conveying, or transporting goods, wares, merchandise, meats, fish, vegetables, fruits, garden produce, farm products or provisions who offers and exposes the same for sale, or who, without traveling from place to place, sells or offers the same for sale from a wagon, automotive vehicle, railroad car or other vehicle or conveyance.
 - B. An "itinerant merchant" is defined as any person, firm or corporation, whether as owner, agent, consignee, or employee, whether a resident of this City or not, who engaged in a temporary business of selling and delivering goods, wares, and merchandise within the City, and who in furtherance of such purpose hires, leases, uses or occupies any building, structure, motor vehicle, tent, railroad boxcar, boat or public room in any hotel, lodging house, apartment, or shop within the City for the exhibition and sale of such goods, wares and merchandise, either privately or at public auction.
- 3. Exemptions.** This Section shall not be applicable to traveling salesmen or non-resident merchants as provided in Chapter 46, Title 43 of the O.C.G.A., nor to newsboys, nor to bona fide merchants who merely deliver goods in the regular

course of business, nor to bona fide charitable, religious or philanthropic organizations.

4. Application. Application for a license under this Section shall be made as provided in Section 32-207-1, except that such application shall contain the following additional information:

- A. The fingerprints of the person or persons having the management or supervision of the applicant's business, or in lieu thereof at least three (3) letters of recommendation from reliable property owners in the county in which the business is to be conducted, certifying as to the applicant's good character and business responsibility, or other evidence which establishes the good character and business responsibility of such person or persons to the satisfaction of the Mayor and City Council;
- B. The place or places in the City where it is proposed to carry on applicant's business, and the length of time during which it is proposed that said business shall be conducted;
- C. The place or places, other than the permanent place of business of the applicant, where applicant within the six (6) months next preceding the date of said application conducted a transient business, stating the nature thereof and giving the post office and street address of any building or office in which such business was conducted;
- D. A statement of the nature, character, and quality of the goods, wares, or merchandise to be sold or offered for sale by the applicant in the City; the invoice value and quality of such goods, wares, and merchandise; where the goods or property to be sold are manufactured or produced; and where such goods or products are located at the time said application is filed;
- E. A brief statement of the nature and character of the advertising done or proposed to be done in order to attract customers, and, if required by the City Clerk/Treasurer, copies of all said advertising whether by handbills, circulars, newspaper advertising, or otherwise, shall be attached to said application as exhibits thereto; and
- F. Whether or not the person or persons having the management or supervision of the applicant's business have been convicted of a crime, misdemeanor, or the violation of any municipal ordinance, the nature of such offense, and the punishment assessed therefor.

5. Reserved.

6. Service of Process. Before any license is issued to an applicant under this Section, the applicant must file with the City Clerk/Treasurer either the name and

permanent address of the applicant's agent for service of process or an instrument nominating and appointing the City Clerk/Treasurer in the absence of another agent, as the applicants true and lawful agent with full power and authority to acknowledge service of notice of process for and on behalf of the applicant in respect to any matters connected with or arising out of the business transacted under the license. The applicant must consent and agree that service of any notice or process may be made upon said agent or clerk, and when so made will be taken and held to be as valid as if personally served upon the applicant according to the law of this or any other state, and must waive all claim or right of error by reason of such acknowledgment of service or manner of service. Immediately upon service of process upon the City Clerk/Treasurer, the City Clerk/Treasurer must send to the licensee at his or her last known address by registered mail a copy of the process.

7. **Business License Fee.** The business license fee for each peddler or itinerant merchant shall be determined by the Mayor and City Council.
8. **Duty to Exhibit.** All persons obtaining a license under the provisions of this Section shall be required to exhibit such license at the request of any citizen.
9. **Loud Noises and Speaking Devices.** No licensee under this Section, nor anyone in his behalf, shall shout, make any outcry, blow a horn, ring a bell, or use any other sound device including any loud-speaking radio or amplifying system upon any of the streets, alleys, parks, or other public places of the City or upon any private premises in the City where sound of sufficient volume is emitted or produced therefrom capable of being plainly heard upon the streets, avenues, alleys, parks, or other public places for the purpose of attracting attention to any goods, wares, or merchandise which such licensee proposes to sell.

Section 32-208 Charitable Solicitors

1. **Permit Required.** Any person soliciting funds on the roads and highways within the City of Hoschton shall have a permit issued by the city.
2. **Eligibility.** Permits shall only be issued to those persons or organizations which are "charitable organizations" registered in accordance with O.C.G.A. 43-17-5 or "charitable organizations" exempt from such registration in accordance with O.C.G.A. 43-17-9.
3. **Application.** Applicants for charitable solicitation permits shall make application at City Hall with the City Clerk, and shall provide the following information at the time of their application:
 - A. Safety plans detailing safety measures to be utilized during solicitation; and

- B. The site of any proposed solicitation and traffic plans which indicate that their proposed solicitation will not hinder the free and orderly flow of traffic on the streets, roads and highways in the City; and
 - C. List of names, dates of birth, next of kin, emergency contact numbers, and address of each individual who will participate in the proposed solicitations; and
 - D. Insurance information on the individuals and the organization which will participate in the solicitation; and
 - E. A statement under oath that the organization is a “charitable organization” and that all proceeds raised will be used for the benefit of citizens to include those of the City; and
 - F. The dates and times proposed for the solicitation.
4. **Issuance.** Permits shall only be issued by the City Clerk if she finds that the applicant is qualified and that the proposed solicitation shall not:
- A. Pose a risk to the health and safety of the citizens of the City of Hoschton; and
 - B. Pose a risk to the health and safety of the people participating in the solicitation; and
 - C. Hinder the free flow of traffic on the roads, streets and highways of the City of Hoschton.
5. No one under the age of 18 without adult supervision shall solicit funds in any way from the right-of-way or driving surface of any street, road, or highway in the City of Hoschton.
6. Solicitation permits must be available for inspection at the site of the solicitation upon the request of any law enforcement officer.
7. All persons participating in the solicitation of funds shall wear orange safety vests at all times while located in the streets, roads and rights of way of the City of Hoschton.
8. Permits are valid for seven (7) calendar days.
9. Variances to time limits for charitable solicitation permits shall only be granted by a majority vote of the Mayor and Council after a showing by the applicant of the necessity of a variance.

(Amended 5/5/2008; Effective 5/15/2008)

Section 32-209 Door to Door Solicitation

1. **Findings and intent.** The intent of the Mayor and Council in enacting this section is to regulate the sale of goods and services by soliciting at residences in the city, to the end that criminal activity in the city and abusive techniques utilized by any such solicitors which adversely affect the public health, safety and welfare in the city will be curtailed. This section is not intended as a de facto prohibition of door-to-door solicitation, nor is it an attempt to adversely affect interstate commerce. Instead, this section is intended to balance competing interest, reduce criminal activity and protect city residents from abusive sales techniques versus the conduct of proper commercial sales activity.
2. **Definition.** For the purpose of this section, the term "solicitor" shall include any person who solicits orders door-to-door or house-to-house on behalf of a business, individual, vocation or occupation.
3. **Exempt activities and organizations.**
 - A. Persons, businesses and organizations exempted from local regulation by operation of state or federal law or by the Constitution of the United States, or of the state, are exempt from the requirements of this section.
 - B. Bona fide charitable organizations tax exempt under Section 501(c)(3) of the Internal Revenue Code.
 - C. Bona fide charitable or nonprofit organizations whose field sales representatives are under the age of 18 are not required to obtain a solicitor's license.
 - D. Charitable organizations as provided in Section 32-208 of the Hoschton City Code of Ordinances.
4. **License required.** All persons, firms, companies, corporations or other entities engaging or offering to engage in business as a solicitor involving going from door-to-door or house-to-house, without an appointment or invitation, in residential areas or businesses in the city, for the purpose of soliciting orders, sales, subscriptions or conducting business of any kind, shall file an application in the required form, and obtain a solicitor's license for such activity from city clerk.
5. **Application for license.** An application for license under this section shall include but shall not be limited to the following information:
 - A. Name, address and telephone number;
 - B. Date of birth;

- C. Social Security number;
- D. Physical description;
- E. Name, address and telephone number of the applicant's employer;
- F. Name, address and telephone number of the applicant's supervisor;
- G. Brief description of products or services to be sold;
- H. Description of motor vehicles to be used by the applicant in conducting the solicitation; and,
- I. Criminal history.

6. Investigation.

- A. A review of criminal history records is required prior to the issuance of a solicitor's license. In addition to a review of criminal history, the applicant must provide two forms of positive identification (only official United States Government issued pictured identification accepted; e.g., a valid driver's license, military ID card or valid state ID card). Fingerprints may be required on occasion for positive identification.
- B. The city shall make an investigation, including but not limited to an investigation of the police record and moral character of the applicant. The city clerk shall furnish the application to the police chief. The police chief shall furnish a report to the city clerk of the criminal history record, if any, of the applicant.
- C. The criminal history record shall be used for investigative purposes only, and shall give rise to no presumption or inference of guilt. Due to the inclusion of criminal history records, these applications shall be regarded as confidential and shall not be produced for public inspection without a court order.

7. Disqualification.

- A. No solicitor's license shall be issued to any applicant who provides any false or misleading information in connection with the application for the license required by this section.
- B. No solicitor's license shall be granted to any person under the age of 18 or who has been convicted, pled guilty or entered a plea of nolo contendere under any federal, state or local law of any crime involving moral turpitude, illegal gambling, any felony, criminal trespass, public indecency, misdemeanor involving any type of sexual related crime, any theft or violence against person or property, any crime of possession or sale, or distribution of illegal drugs,

distribution of material depicting nudity or sexual conduct as defined under state law, criminal solicitation to commit any of these listed offenses, or attempts to commit any of these listed offenses, for a period often (10) years prior to the date of application for such license and has been released from parole or probation.

8. Denial.

- A. If, as a result of the investigation authorized by this section, the applicant's character or business responsibility is found to be unsatisfactory, the police chief shall endorse on such application his disapproval and the reasons for such disapproval, and return the application to the city clerk who will notify the applicant that the application is disapproved and that no license will be issued.
- B. No application for a solicitor's license shall be received or acted upon if the applicant has submitted the same or similar application for a solicitor's license within the preceding twelve (12) months which was denied.

9. Approval; Issuance. If, as a result of the investigation authorized by this section, the applicant's character and business responsibility are found to be satisfactory, the police chief shall endorse on such application his approval and reasons for such approval, and return the application to the city clerk, who shall, upon payment of regulatory fees as established by resolution of the city council, issue a solicitor's license. A solicitor's license shall contain the name, address, physical description and organizational affiliation of the licensee; a description of the solicitation activity to be engaged in; an expiration date; and the signature and seal of the city clerk. The city clerk shall keep a record of all solicitors' licenses issued.

10. Duration; Renewal. A solicitor's license shall be valid for three (3) months from the date it is issued. However, the license may be renewed by filing a renewal application with the city clerk upon forms prescribed by her, and paying a renewal fee as established by resolution of the city council.

11. Suspension or Revocation.

- A. The license issued to any solicitor charged with any felony, criminal trespass, public indecency, misdemeanor involving any type of sex crime, theft or violence against person or property, criminal solicitation to commit any of these offenses, or violation of this or any other Hoschton ordinance shall be deemed suspended and subject to seizure from the time of lawful arrest by the Hoschton Police Department. Such suspension shall remain in effect until the solicitor is convicted or acquitted, or until the charge is dismissed, "dead-docketed," "nolle prossed," or "no-billed." It shall be the responsibility of the solicitor to present the city clerk with proof that the arrest which lead to the suspension was dismissed, "dead-docketed/" "nolle prossed" or "no-billed." Upon representation

of proof of such dispositions, the solicitor's license will be reinstated and will be valid until the date of the original expiration.

- B. The license of any solicitor who is convicted, has entered a plea of guilty, or has received a nolo contendere to a felony, criminal trespass, public indecency, misdemeanor involving any type of sex crime, theft or violence against person or property, or criminal solicitation to commit any of these offenses, shall be deemed revoked and subject to seizure by the chief of police or his designee from the time of such conviction, guilty or nolo contendere sentencing.
- C. The license of any solicitor who is convicted, has entered a plea of guilty or received a nolo contendere sentencing for any violation of this ordinance shall be deemed revoked and subject to seizure by the chief of police or his designee from the time of such conviction, guilty or nolo contendere sentencing.

12. Unlawful or Prohibited Activities. The following are prohibited practices for solicitors and any violation shall constitute grounds for suspension, revocation or denial of renewal of license, and/or arrest:

- A. Solicit on Sunday, or between the hours 8:00 p.m. and 9:00 a.m. Monday through Saturday.
- B. Solicit at any location where a sign is posted at or near the main entrance or driveway to the residence or business prohibiting such activity.
- C. Using any entrance, or part of the building, other than the main entrance to the residence or business.
- D. Entering a residence except at the express invitation of the occupant.
- E. Failure of the solicitor to inform the occupant in plain terms of the solicitor's identity and the purpose of the call.
- F. Making more than one solicitation call at the same location within any consecutive fourteen (14) day period, unless invited back by the occupant.
- G. The solicitor to represent that they are participating in any contest, game or other competitive endeavor, or that they are offering the occupant an opportunity to participate in any such contest, game or endeavor.
- H. The solicitor to use vulgar, insulting or threatening language in the course of any solicitation.
- I. The solicitor to remain upon the property of the residence or business after the occupant has verbally indicated that they do not wish to make a purchase. For

the purpose of this section, a solicitation shall be deemed to continue until the solicitor has left the property of the residence or business.

- J. Soliciting anyone under the age of 18.
- K. Failure of solicitor to have a valid license prominently displayed on their person (upper front portion of the body commonly referred to as the top of the shoulders down to the waist) or refuse any person's request to examine same.
- L. For more than two solicitors to engage in solicitation upon any residence or business at the same time for the same goods or services.
- M. Solicitor to violate any of the provisions of this ordinance, or to violate any other city ordinance while engaging in any solicitation activity.
- N. Solicitor to lend, rent or sell their license to another, or to solicit using the license of another.
- O. Solicitor to alter or deface their license or the license of another.

13. Penalties for violation. Any person violating any provision of this ordinance shall be guilty of a misdemeanor, punishable by a fine not to exceed \$1,000.00 or imprisonment for six (6) months or both. Each day in violation of this ordinance shall constitute a separate offense.

(Added via amendment 5/5/2008; Effective 5/15/2008)

Section 32-210 Reserved

Section 32-211 Reserved

Section 32-212 Reserved

Section 32-213 Auctions and Auctioneers

- 1. License Required.** Each person who desires to conduct an auction within this municipality shall be required to obtain a license therefor from the City Clerk/Treasurer in the manner specified in this Chapter.
- 2. Fee Established.** The business license fee for each auction licensed under this Section shall be four dollars (\$4.00) per day.
- 3. Application.** Application for a license under this Section shall be made as provided in Section 32-213-1, except that such application shall contain the following additional information:

- A. A statement setting forth when, where, and for how long the auction sale will be conducted;
- B. A certified copy of the state auctioneer's license of the person who is to conduct the auction; and
- C. A full and true inventory of all the articles to be sold at the auction sale, together with an affidavit that all information contained in the application is true and that the inventory contains a true listing of all the articles to be sold at said auction.

No auction sale shall be held except as set forth in the application and affidavit and no other articles shall be sold except those included in the sworn inventory unless a new affidavit shall be filed listing additional goods to be sold. No other person shall be allowed to conduct the auction sale except such person listed in the affidavit unless a new affidavit is filed setting forth such other person who may be employed to conduct such auction and cry off such goods.

- 4. Bond.** Every applicant for a license under this Section shall file with the City Clerk/Treasurer a surety bond running to the City in the amount as determined by the Mayor and Council with surety acceptable to and approved by the City Clerk/Treasurer, conditioned that the said applicant, if issued a license hereunder, will comply fully with all of the provisions of the ordinances of this City and the statutes of this state regulating and concerning auctions and auctioneers, will render true and strict accounts of all his sales to any person or persons employing him to make the same, will not practice any fraud or deceit upon bidders or purchasers of property from him at any auction sale or suffer or permit any person in his employ to practice any such fraud or deceit, and will pay all damages which may be sustained by any person by reason of any fraud, deceit, negligence, or other wrongful act on the part of the licensee, his agent, or employees in the conduct of any auction or in the exercise of the calling of auctioneer. A liability insurance policy issued by an insurance company authorized to do business in this state which conforms to the above requirements may be permitted by the City Clerk/Treasurer in his discretion in lieu of a bond.
- 5. Cappers, Boosters, or By-bidders.** It shall be unlawful for any person to act or to employ another in any auction sale as a by-bidder or what is sometimes known as a "capper" or "booster," or to make or to accept any false or misleading bid, or to pretend to buy or sell any article sold or offered for sale at such auction.
- 6. Exemptions.** Nothing in this Section shall be held to apply to auction sales conducted by trustees or referees in bankruptcy, executors, administrators, receivers, or other public officers acting under judicial process, nor to the sale of real property at auction.

Section 32-214 Circuses, Carnivals, and Public Exhibitions

1. **License Required.** No person, firm, or corporation shall conduct or operate a circus, carnival, or public exhibition, as such terms are defined herein, without having first obtained a license from the City Clerk/Treasurer in the manner specified in this Chapter.
2. **Definitions.**
 - A. The term "carnival" as used in this Section shall mean and include amusement activities, rides, merry-go-rounds, booths for the conduct of games of skill, food dispensing facilities, and sideshows.
 - B. The term "public exhibition" as used in this Section shall mean and include circuses, menageries, sideshows, and other similar itinerant amusement enterprises which are open to the public and for admission to which a fee is charged.
3. **Fees Established.** The business license fee imposed on each circus, carnival, or public exhibition operating within the City limits shall be as follows:

Circuses	\$2.00 per day
Carnivals	\$2.00 per day
Sideshows and concessions	\$2.00 per day
Rides	\$2.00 per day
Other public exhibitions	\$2.00 per day

4. **Conditions of Issuance.** No license under this Section shall be issued until the following conditions have been met:
 - A. The operator and sponsor of the circus, carnival, or public exhibition have each assumed full responsibility for maintaining order and for keeping the site clean and free of trash, papers, and other debris, and have placed trash containers in adequate number and in convenient locations for the use of the public;
 - B. All rides have been inspected for mechanical, structural, electrical, and other hazards by the appropriate officers and employees of the City, and adequate safeguards have been placed to protect both operators and the general public from inadvertently coming into contact with moving parts, belts, motor gears, electrical switches, and other possible or potential hazards; and
 - C. The applicant has placed on file with the City Clerk/Treasurer a certificate or certificates of insurance indicating that there is in effect public liability insurance covering any damages arising out of the use and operation of any and all devices and facilities operated in connection with such carnival or exhibition. Such insurance shall be in the minimum amount of one hundred thousand

dollars (\$100,000.00) for each person, and three hundred thousand dollars (\$300,000.00) for each accident.

5. **Inspections.** It shall be the duty of the Police Chief and the Fire Chief to see that proper inspections and patrols are made of the premises used for the activities licensed herein. (See also O.C.G.A. §§ 43-1-15, 48-13-9 and 48-13-10)

Section 32-215 Parades

1. **Registration and Permit.** Any person who wishes to organize, form, or conduct a parade as defined herein shall be required to obtain a parade permit from the Mayor and Council at least forty-eight (48) hours in advance of the event and to obtain a permit therefor.
2. **Definition.** For the purposes of this Section, "parade" shall mean any march, ceremony, demonstration, exhibition, or procession of any kind upon any public street of the City.
3. **Application.** Application for a permit to conduct a parade shall be made to the City Clerk in writing, shall be signed by the person responsible for the conduct of the parade, and shall contain the following information:
 - A. The time proposed for the parade;
 - B. The route of the proposed parade;
 - C. The number of vehicles (if any) and number of persons whose participation is anticipated in the proposed parade;
 - D. The name and address of the person or organization sponsoring or promoting the proposed parade; and
 - E. The name and address of the person making the application for a parade permit.
4. **Review of Application.** The City Clerk shall forward the application to the Mayor and Council, who shall review the information set forth in the application and ascertain the following: The extent of vehicular and pedestrian traffic to be anticipated at the time and place of and on the route of the proposed parade; the availability of police forces to escort the proposed parade and to direct traffic in conjunction with the proposed parade; and whether or not, in the light of all the circumstances, the proposed parade will unreasonably burden or interfere with the normal use of the streets or sidewalks of the City by the general public.
5. **Disposition.** In the event the Mayor and Council determines in view of all the circumstances that the proposed parade will unreasonably burden and interfere

with the normal use of the streets or sidewalks of the City by the general public, he shall deny the request for a parade permit; and if he determines on the contrary that the proposed parade will not unreasonably burden or interfere with the normal use of the streets or sidewalks of the City by the general public, he shall grant the parade permit. In either case, the Mayor shall indicate the Council's disposition on the application and shall notify the applicant of the action taken.

- 6. Exemption.** The provisions of this Section shall be inapplicable to any parade which is conducted under the supervision of a practicing mortician in conjunction with any funeral.

Section 32-216 Billiard and Pool Rooms, Video, Game or Music Machines

- 1. License Required.** Each person keeping, operating, or maintaining a billiard table, pool table, video, games or music machines, or any other table of like character within the corporate limits of the City for use by the public must obtain a license from the City Clerk/Treasurer in the manner specified in this Chapter.
- 2. Sale or Use of Intoxicating Liquors.** No alcoholic beverages shall be sold, served, or allowed to be used in or on the premises of billiard rooms or any place operated in connection therewith, except if such premises or establishment is an establishment which is authorized to sell alcoholic beverages and derives at least fifty percent (50%) of its total annual gross revenues from the sale of products or services other than alcoholic beverages; provided however, that if alcoholic beverages are sold by the drink for consumption on the premises of a billiard room, the governing authority of a local government may prohibit the sale, serving, or use of alcoholic beverages therein unless the establishment derives at least seventy-five percent (75%) of its revenue from the sale of products or services other than alcoholic beverages; and no local government may prohibit billiard rooms or the playing of billiards in any business which neither sells alcoholic beverages for consumption on the premises nor engages in package sales of such beverages nor allows alcoholic beverages to be consumed on the premises.
- 3. Fee Established.** The annual occupation tax and regulation fee for each operator of a billiard or pool room, video, game, or music machine, video, game, or music machine in the City of Hoschton shall be established by Section 4-115 of this Code. In addition, each licensee must pay twenty-five dollars (\$25.00) per table, payable to the City Clerk/Treasurer. A sticker showing the number of machines for which an operating fee has been paid shall be visible and available for inspection by the governing body and/or police department at the operator's place of business during business hours.
- 4. Hours of Operation.** It shall be unlawful for the owner, operator, or manager of any billiard or pool room, video, game, or music machine in the City to permit such establishment to be open for business between the hours of 12:00 midnight and

6:00 a.m. or between the hours of 12:00 midnight on Saturday and 6:00 a.m. on Monday. (See O.C.G.A. § 43-8-2(b)(2))

5. **Minors.** It shall be unlawful for any person having charge of or control of any pool room or billiard room open to the public to admit into such room any minor, whether for the purpose of playing billiards or pool or not.
6. **Clear View of Premises Required.** The owner, operator, or manager of any billiard or pool room, video, game, or music machine in the City shall not permit to be used on such premises any screens, shades, partitions, or other devices of like character which shall have the effect of obstructing the view through the windows or doors of the place where the billiard or pool tables are kept.
7. **Doors.** The doors of all billiard or pool room, video, game, or music machines licensed under this Section shall be kept unlocked whenever the tables are in use, or when any person other than the proprietor or his agent is present in such place.
8. **Gambling.** It shall be unlawful for the owner, operator, or manager of any billiard or pool room, video, game, or music machine open for public use to allow gambling of any kind to occur upon such premises.
9. **Exemption.** The provisions of this Section shall not apply to billiard tables or rooms operated by private industrial concerns, Young Men's Christian Associations, religious orders, charitable institutions, state, county, or City institutions, fraternal orders, or bona fide clubs using such tables for members or employees only.
10. **Penalty.** Every person, firm, or corporation operating a billiard room within a municipality without having applied for a license pursuant to O.C.G.A. §§ 43-8-3 through 43-8-5, shall be guilty of a misdemeanor and, upon conviction thereof, shall be fined in any sum not less than twenty-five dollars (\$25.00) nor more than fifty dollars (\$50.00). Each day that the billiard room is operated without a license shall be a separate offense.

Section 32-217 Possession, Renting, Selling and Placing of Gambling Devices

Under this Ordinance, it shall be unlawful for any person to be found in possession of, or in business to sell, rent, place or cause to be placed within the limits of this City any device as defined below. Each device possessed, sold, rented, placed or caused to be placed shall be considered as a separate violation.

1. As used in this section, the term "Gambling Device" is defined as follows.
 - A. Any contrivance which for consideration affords the player an opportunity to obtain money or any other thing of value, the award of which is determined by chance even though accompanied by skill, whether or not the prize is

automatically paid by contrivance; by ticket/printout of any type and redeemed by the business/employee of the business.

- B. Any slot machine or any simulation or variation thereof;
- C. Any match up or lineup game machine or device operated for any consideration, in which two (2) or more numerals, symbols, letters, or icons align in a winning combination on one (1) or more lines vertically, horizontally, diagonally or otherwise with or without the assistance of the player(s).
- D. Any video machine or device, operated for any consideration, for the play of poker, blackjack, or any other card game, or keno or simulation or variation of the forgoing, including, but not limited to, any game in which numerals, numbers, pictures, representations, or symbols are used as an equivalent or substitute for cards in the conduct of such game.

Any item described in the above definitions shall be considered a prohibited gambling device and declared to be contraband by the City of Hoschton. Such device are therefore subject to seizure.

All property, other than gambling devices used to facilitate a violation of this Ordinance is subject to seizure. This Ordinance adopts the definition of property, and guidelines established for seizure and disposition of such property set out in O.C.G.A. §16-12-32.

- 2. Penalties for violation(s) of this ordinance are as follows.
 - A. **1st Offense.** Five hundred dollars (\$500.00) fine per violation and all City of Hoschton Business License(s) to be placed in probationary status.
 - B. **2nd Offense.** Seven hundred fifty dollars (\$750.00) fine per violation and thirty (30) day suspension of all City of Hoschton Business License(s).
 - C. **3rd Offense.** One thousand dollar (\$1,000.00) fine per violation and revocation of all City of Hoschton Business License(s) indefinitely.

(Adopted 6/17/2004; Effective 6/17/2004)

Section 32-218 Reserved

Section 32-219 Reserved

Section 32-220 Reserved

ARTICLE III. ADULT ENTERTAINMENT

Section 32-301 Findings: Public Purpose

Based on the experiences of other counties and municipalities, including, but not limited to Houston, Texas; Tucson, Arizona; Chattanooga, Tennessee; Minneapolis, Minnesota; Dayton, Ohio; and Gwinnett County, Georgia, which experiences are found to be relevant to the problems faced by the City of Hoschton, and based on documentary evidence and oral presentation during the meeting of the Mayor and Council on October 4, 2004, including the record of testimony by Chief of Police David Hill, the Mayor and Council of the City of Hoschton take note of the well-known and self-evident conditions and secondary effects attendant to the commercial exploitation of human sexuality, which do not vary greatly among the various communities within our country.

It is the finding of the Mayor and Council of the City of Hoschton that public nudity (either partial or total) under certain circumstances, particularly circumstances related to the sale and consumption of alcoholic beverages in establishments offering live nude entertainment or "adult entertainment," (whether such alcoholic beverages are sold on the premises or not) begets criminal behavior and tends to create undesirable community conditions. In the same manner, establishments offering cinematographic or videographic adult entertainment have the same deleterious effects on the community.

Among the acts of criminal behavior found to be associated with the commercial combination of live nudity and alcohol, live commercial nudity in general, and cinematographic or videographic adult entertainment are disorderly conduct, prostitution, public solicitation, public indecency, drug use and drug trafficking. Among the undesirable community conditions identified in other communities with the commercial combination of live nudity and alcohol, commercial nudity in general, and cinematographic or videographic adult entertainment, are depression of property values and acceleration of community blight in the surrounding neighborhood, increased allocation of and expenditure for law enforcement personnel to preserve law and order, and increased burden on the judicial system as a consequence of the criminal behavior herein above described. The Mayor and Council of the City of Hoschton find it is reasonable to believe that some or all of these undesirable community conditions will result in the City of Hoschton, as well.

Furthermore, it is the finding of the Mayor and Council of the City of Hoschton that other forms of adult entertainment including, but not limited to, adult book stores, adult novelty shops, adult video stores, peep shows, adult theaters, and massage parlors have an adverse effect upon the quality of life in surrounding communities.

The Mayor and Council of the City of Hoschton find that the negative secondary effects of adult entertainment establishments upon the City of Hoschton are similar whether the adult entertainment establishment features live nude dancing or sells video tapes depicting sexual activities. In addition, Gwinnett County's experience with the adult bookstore located within that county has shown that a substantial amount of activity at

the bookstore involves booths which an individual may enter, view videos depicting sexual activity, and sexually interact with a bookstore patron in an adjoining booth through a hole strategically placed in the wall of adjoining booths.

The City of Hoschton, Georgia, therefore finds that it is in the best interests of the health, welfare, safety and morals of the community and the preservation of its businesses, neighborhoods, and of churches, schools, residential areas, public parks and children's daycare facilities to prevent or reduce the adverse impacts of adult entertainment establishments. Therefore, the Mayor and Council of the City of Hoschton find that licensing and regulations are necessary for any adult entertainment establishment. The Mayor and Council of the City of Hoschton find that these regulations promote the public welfare by furthering legitimate public and governmental interests, including but not limited to, reducing criminal activity and protecting against or eliminating undesirable community conditions and further find that such will not infringe upon the protected Constitutional rights of freedom of speech or expression, which rights are expressly acknowledged herein. To that end, this Ordinance is hereby adopted.

Section 32-302 Definitions

Except as specifically defined herein, all words used in this Ordinance shall be as defined in the most recent edition of the New Illustrated Book of Development Definitions (Rutgers). Words not defined herein or in the above book shall be construed to have the meaning given by common and ordinary use, and shall be interpreted within the context of the sentence and section in which they occur.

1. **Adult Bookstore.** Any commercial establishment in which more than ten square feet (10 sq. ft.) of floor space is used for the display or offer for sale of any book or publication, film, or other medium which depicts sexually explicit nudity or sexual conduct by its emphasis on matter depicting, describing or relating to "specified sexual activities" or "specified anatomical areas."
2. **Adult Entertainer.** Any person employed by an adult entertainment establishment who exposes his or her "specified anatomical areas," as defined herein. For purposes of this Section, adult entertainers include employees as well as independent contractors.
3. **Adult Entertainment.** Entertainment that is characterized by an emphasis on the depiction, display or the featuring of "specified anatomical areas."
4. **Adult Entertainment Establishment.** Shall be defined to include the following types of business:
 - A. Any commercial establishment that employs or uses any person live, in any capacity in the sale or service of beverages or food while such person is unclothed or in such attire, costume or clothing, so as to expose any portion of his or her "specified anatomical areas," as defined herein;

- B. Any commercial establishment which provides live entertainment where any person appears unclothed or in such attire, costume or clothing so as to expose any portion of his or her "specified anatomical areas" as defined herein or where such performances are distinguished or characterized by an emphasis on "specified sexual activities," as defined herein;
 - C. Any commercial establishment which holds, promotes, sponsors or allows any contest, promotion, special night, event or any other activity where live patrons of the establishment are encouraged or allowed to engage in any of the conduct described in Section 32-302-4 (A) and (B) herein;
 - D. Any commercial establishment having a substantial or significant portion of its stock in trade, books, magazines or other periodicals, videotapes or movies or other reproductions, whether for sale or rent, which are distinguished or characterized by their emphasis on matter depicting, describing or relating to "specified sexual activities" as defined herein or "specified anatomical areas" as defined herein or having a segment or section comprising more than ten square feet (10 sq. ft.) of its total floor space, devoted to the sale or display of such material or which derives more than five percent (5%) of its net sales from the sale or rental of such material;
 - E. Any commercial establishment utilizing an enclosed building with a capacity of fifty (50) or more persons used for cinematographic or videographic presentation of material distinguished by or characterized by an emphasis on matter depicting, describing, or relating to "specified sexual activities" or "specified anatomical areas," as defined herein, for observation by patrons therein;
 - F. Any adult motion picture theater, adult motion picture arcade, adult mini-motion picture theater, adult bookstore, adult video store, adult hotel, or adult motel, as defined herein;
 - G. The definition of "adult entertainment establishment" shall not include traditional or live theater (mainstream theater) which means a theater, concert hall, museum, educational institution or similar establishment which regularly features live performances which are not distinguished or characterized by an emphasis on the depiction, display, or description or the featuring of "specified anatomical areas" or "specified sexual activities" in that the depiction, display, description or featuring is incidental to the primary purpose of any performance.
5. **Adult Hotel or Motel.** A hotel or motel wherein material is presented which is distinguished or characterized by an emphasis on matter depicting, describing or relating to "specified sexual activities" or "specified anatomical areas."

6. **Adult Mini-motion Picture Theater.** An enclosed building with a capacity for less than fifty (50) persons used for presenting material distinguished or characterized by an emphasis on matter depicting or relating to "specified sexual activities" or "specified anatomical areas" for observation by patrons therein.
7. **Adult Motion Picture Arcade.** Any place to which the public is permitted to be invited wherein paper currency, coin or slug-operated' or electronically, electrically or mechanically controlled still or motion picture machines, projectors or other image-producing devices are maintained to show images to five or fewer persons per machine at any one time and where the images so displayed are distinguished or characterized by an emphasis on depicting or describing "specified sexual activities" or "specified anatomical areas."
8. **Adult Motion Picture Theater.** An enclosed building with a capacity of fifty (50) or more persons, used for presenting material distinguished or characterized by an emphasis on matter depicting, describing or relating to "specified sexual activities" or "specified anatomical areas" for observation by patrons therein.
9. **Adult Video Store.** Any establishment having a substantial or significant portion of its stock in trade, video tapes or movies or other reproductions, whether for sale or rent, which are distinguished or characterized by an emphasis on matter depicting, describing or relating to "specified sexual activities" or "specified anatomical areas," or an establishment with a segment or section, comprising five percent (5%) of its total floor space, devoted to the sale or display of such material or which derives more than five percent (5%) of its net sales from videos which are characterized or distinguished or relating to "specified sexual activities" or "specified anatomical areas."
10. **Operator.** The manager or other person principally in charge of an adult entertainment establishment.
11. **Owner.** Any individual or entity holding more than a twenty percent (20%) interest in an adult entertainment establishment.
12. **Premises.** The defined, closed or partitioned establishment, whether room, shop or building wherein adult entertainment is performed.
13. **Specified Sexual Activities.** Shall be defined to mean and include any of the following:
 - A. Actual or simulated sexual intercourse, oral copulation, anal intercourse, oral anal copulation, bestiality, direct physical stimulation of unclothed genitals, flagellation or torture in the context of a sexual relationship, or the use of excretory functions in the context of a sexual relationship and any of the following sexually oriented acts or conduct, anilingus, buggery, coprophagy,

coprophilia, cunnilingus, fellatio, necrophilia, pederasty, pedophilia, piquerism, sapphism, zooerasty; or;

- B. Use of human or animal ejaculation, sodomy, oral copulation, coitus or masturbation; or;
- C. Fondling or other erotic touching of nude human genitals, pubic region, buttocks or female breast; or;
- D. Masochism, erotic or sexually oriented torture, beating or the infliction of pain; or;
- E. Erotic or lewd touching, fondling or other sexual contact with an animal by a human being.

14. Specified Anatomical Areas. Shall include the following

- A. Less than completely and opaquely covered human genitals or pubic region, cleft of the buttocks, or; female breast below a point immediately above the top of the areola; or;
- B. Human male genitalia in a discernibly turgid state, even if completely and opaquely covered.

15. Children's Day Care Facility. Shall be defined as a structure or portion of a structure wherein is provided care and supervision of children away from their place of residence for less than twenty-four (24) hours per day on a regular basis for compensation. For the purpose of this Ordinance the term "children's day care facility" shall include but not be limited to the terms "nursery school," "early learning center," "pre-kindergarten," "private kindergarten," "play school," or "pre-school."

Section 32-303 License Required

It shall be unlawful for any person, association, partnership, or corporation to operate, engage in, conduct, or carry on, in or upon any premises within the City of Hoschton an adult entertainment establishment as defined in this Ordinance without first procuring an annual license to do so except as provided in Section 32-318-2 when the City Clerk fails to approve or deny an application for an adult entertainment license within thirty (30) days as required by this Ordinance. The issuance of such an annual license shall not be deemed to authorize, condone or make legal any activity thereunder if the same is deemed illegal or unlawful under the laws of the State of Georgia or the United States. No annual license for an adult entertainment establishment shall be issued by the City if the premises to be used also holds a license to sell alcoholic beverages or malt beverages and wine for consumption on the premises. Any premises licensed as an adult entertainment establishment shall not be eligible to apply at any time for a license to sell alcoholic beverages or malt beverages and wine for consumption on the premises. There

shall be an annual regulatory fee for each adult entertainment establishment licensed within the City of Hoschton in the amount of seven hundred fifty dollars (\$750.00). The annual regulatory fee must be paid to the City Clerk within ten (10) days after the City Clerk approves the initial application for an adult entertainment establishment license or a renewal thereof. In any event, no adult entertainment establishment license or renewal thereof shall be issued until the most recent annual regulatory fee has been paid. All licenses granted hereunder shall expire on December 31st of each year. Licensees who desire to renew their license shall file an application with the City Clerk on the form provided for renewal of the license for the ensuing year. Applications for renewal must be filed before November 30 of each year. Any renewal application received after November 30 shall pay, in addition to said annual regulatory fee, a late charge of twenty percent (20%). If a license renewal application is received after January 1, such application shall be treated as an initial application and the applicant shall be required to comply with all rules and regulations for the granting of licenses as if no previous license had been held. If a license application is received after January 1, investigative and administrative costs as hereinafter set forth in this Ordinance will be assessed. All licenses granted hereunder shall be for the calendar year and the full annual regulatory fee must be paid for a license renewal application filed prior to July 1 of the license year. One-half (½) of a full annual regulatory fee shall be paid for a license renewal application filed after July 1st of the license year. Any person renewing any license issued hereunder who shall pay the annual regulatory fee, or any portion thereof, after January 1st, shall, in addition to said annual regulatory fee and late charges, pay simple interest on the delinquent balance at the annual rate then charged by the Internal Revenue Service of the United States on unpaid federal income taxes.

Section 32-304 On-premises Operator Required

An adult entertainment establishment shall have a designated person(s) to serve as an on-premises operator. The operator(s) shall be principally in charge of the establishment and shall be located on the premises during all operating hours.

Section 32-305 Application Process and Qualifications

- 1. Process.** Any person, association, partnership or corporation desiring to obtain a license to operate, engage in, conduct, or carry on any adult entertainment establishment in the City of Hoschton shall make application to the City Clerk of the City of Hoschton. Such application shall be made on forms furnished by the City of Hoschton, shall be made in the name of the adult entertainment establishment by an applicant who is a natural person and an agent of the adult entertainment establishment and shall include the name(s) of the operator(s) as defined herein and of the owner(s) as defined herein. If the adult entertainment establishment is a corporation, then the agent for purposes of making application for a license hereunder shall be an officer of the corporation. If the adult entertainment establishment is a partnership, the agent for such purposes shall be a general partner.

At the time of submitting such application, a nonrefundable fee payable in cash or by certified check in the amount of three hundred dollars (\$300.00) shall be paid to the City of Hoschton to defray, in part, the cost of investigation and report required by this Ordinance. The City Clerk shall issue a receipt showing that such application fee has been paid.

The application for license does not authorize the operation of, engaging in, conducting or carrying on of any adult entertainment establishment.

2. **Contents.** Each application for an adult entertainment establishment license shall contain the following information:
 - A. The full true name and any other names used by the applicant, the operator(s) and owner(s);
 - B. The present address and telephone number of the applicant, the operator(s) and owner(s);
 - C. The previous addresses of the applicant, the operator(s) and the owner(s), if any, for a period five (5) years immediately prior to the date of the application and the dates of residence at each;
 - D. Acceptable written proof that the applicant, the operator(s) and the owner(s) are at least eighteen (18) years of age;
 - E. The operator(s)' height, weight, color of eyes and hair and date and place of birth;
 - F. Two (2) photographs of the operator(s) at least two inches by two inches (2"x 2") taken within the last six (6) months;
 - G. The business, occupation or employment history of the applicant, the operator(s) and owner(s) for the five (5) years immediately preceding the date of application;
 - H. The business license history of the adult entertainment establishment seeking a license and whether such establishment, in previous operations in this or any other location under license, has had such license or permit for an adult entertainment business or similar type of business revoked or suspended, the reason therefor, and the business activity or occupation subsequent to such action of revocation or suspension;
 - I. If the application is made on behalf of a corporation, the name of the corporation, exactly as shown in its Articles of Incorporation or Charter, together with the place and date of incorporation. If the application is on behalf of a limited partnership, a copy of the Certificate of Limited Partnership filed

with the City Clerk shall be provided. If one or more of the partners is a corporation, the provisions of this subsection pertaining to corporations shall apply;

- J. The names and addresses of the owner and lessor of the real property upon which the adult entertainment establishment is to be operated, engaged in, conducted or carried on and a copy of the lease or rental agreement;
- K. With respect to the applicant, the operator(s) and the owner(s), all convictions, (excluding misdemeanor traffic violations unrelated to driving under the influence of drugs or alcohol) within the past five (5) years, including a complete description of the crime or violation, the date of the crime or violation, date of conviction (including plea of guilty or Nolo Contendere), jurisdiction and any disposition, including any fine or sentence imposed and whether the terms of disposition have been fully completed. Each person required to disclose convictions hereunder shall also provide a signed and notarized consent, on forms prescribed by the Georgia Crime Information Center, authorizing the release of his or her criminal records to the Hoschton Police Department.
- L. A complete set of fingerprints of the applicant and the operator(s);
- M. If the application is made on behalf of a person or business entity doing business under a trade name, a copy of the trade name as properly recorded. If the application is made on behalf of a corporation, a copy of its authority to do business in Georgia, including Articles of Incorporation, trade name affidavit, if any, and last annual report, if any;
- N. At least three (3) character references for the applicant, the operator(s) and owner(s) from individuals who are in no way related to the applicant or any operators or owner(s) and who are not or will not benefit financially in any way from the application if the license is granted. The City of Hoschton shall prepare forms consistent with the provisions of this subsection for the applicant, the operator(s) and owner(s), who shall submit all character references on such forms;
- O. The address of the premises where the adult entertainment establishment will be operated, engaged in, conducted, or carried on;
- P. A plat by a registered engineer or a registered land surveyor, licensed by the State of Georgia, showing the location of the proposed premises where the adult entertainment establishment will be operated, engaged in, conducted or carried on in relation to the neighborhood, the surrounding zoning, its proximity to any residential area, church, school, public park or children's daycare facility, establishment selling alcoholic beverages or malt beverages and wine or other adult entertainment establishment;

Q. Each application for an adult entertainment establishment license shall be verified and acknowledged under oath to be true and correct by:

- (1) If application is made on behalf of an individual, the individual;
- (2) If application is made on behalf of a partnership, by a general partner;
- (3) If application is made on behalf of a corporation, by the president of the corporation;
- (4) If application is made on behalf of any other organization or association, by the chief administrative official.

3. Appearance by Applicant. The applicant shall personally appear before the City Clerk and produce proof that a nonrefundable application fee, in an amount established by resolution of the Mayor and Council of the City of Hoschton, has been paid and shall present the application containing the aforementioned and described information.

4. Investigation; Standards for Granting of License. The City shall have thirty (30) days from the date of actual receipt of the application to investigate the facts provided in the application and the background of the applicant, the operators and owner(s). The City Clerk of the City of Hoschton shall stamp the date of actual receipt of each application on the first page thereof and notify the applicant of the actual receipt of the application within five (5) business days of actual receipt of such application. The City Clerk shall approve or deny any application for an adult entertainment establishment license within thirty (30) days of actual receipt of such application. The application for an adult entertainment establishment license shall be granted if the City Clerk finds:

- A. The required three hundred dollars (\$300.00) investigative fee has been paid;
- B. The applicant has not made a material misrepresentation in the application;
- C. Neither the applicant nor any of the operator(s) or owner(s) has been convicted or pled guilty or entered a plea of Nolo Contendere to any crime involving keeping a place of prostitution, pandering, pimping, public indecency, prostitution, solicitation of sodomy masturbation for hire, sexual battery, rape, child molestation, enticing a child for indecent purposes, or any offense included in the definition of a "criminal offense against a victim who is a minor" as defined in Official Code of Georgia Annotated Section 42-1-12 within a period of five (5) years. For purposes of this Ordinance, a conviction or plea of guilty or Nolo Contendere shall be ignored as to any offense for which the applicant was allowed to avail himself of the Georgia First Offender Act unless the applicant is later adjudicated guilty of having violated the terms of his First Offender Treatment;

- D. Neither the applicant nor any of the operator(s) or owner(s) has had an adult entertainment establishment license or other similar license or permit denied or revoked for cause by this City or any other county or municipality located in or out of this State prior to the date of application within the preceding five (5) years;
- E. The building, structure, equipment and location of the premises of the adult entertainment establishment as proposed by the applicant would comply with all applicable laws, including but not limited to health, zoning, distance, fire and safety requirements and standards;
- F. The applicant is at least eighteen (18) years of age;
- G. On the date the business for which a license is required herein commences, and thereafter, there will be an operators) as defined herein on the premises at all times during which the business is open;
- H. The proposed premises will be located at least the minimum distances set forth in this Ordinance from any residential area, church, school, public park or children's daycare facility or establishment licensed to sell alcoholic beverages or malt beverages and wine for consumption on the premises, or another adult entertainment establishment; and
- I. The grant of such license will not cause a violation of and will not be in conflict with this Ordinance or any other law, ordinance or regulation, of the City of Hoschton, Jackson County, the State of Georgia or the United States.

The City Clerk shall deny the application for an adult entertainment establishment license if the application fails to meet any requirement contained in the City of Hoschton's Ordinance regulating adult entertainment establishments.

Section 32-306 Regulation of Adult Entertainment Establishments

- 1. **Location.** No adult entertainment establishment shall be located:
 - A. Within one thousand feet (1,000') of any parcel of land which is in a residential zoning district ("residential area");
 - B. Within one thousand feet (1,000') of any parcel of land on which a church, school, college campus, public park or children's daycare facility is located;
 - C. Within five hundred feet (500') of any parcel of land upon which any establishment authorized to sell alcoholic beverages or malt beverages and wine for consumption on the premises is located;
 - D. In any zoning district other than a M-I light industrial; or

- E. Within one thousand feet (1,000') of any parcel of land upon which another adult entertainment establishment regulated or defined hereunder is located.

For purposes of this Section, distance shall be by airline measurement from property line, using the closest points on the property lines of the parcels of land involved. The term "parcel of land" means any quantity of land capable of being described by location and boundary, designated and used or to be used as a unit.

2. Adult Entertainment Establishment Employees.

A. Qualifications. Employees of an adult entertainment establishment shall be not less than eighteen (18) years of age. No employee employed as an adult entertainer shall have been convicted of an offense described in Section 32-305-4 (C) within the five (5) years immediately preceding the proposed employment at or by an adult entertainment establishment. Any adult entertainer who is convicted of any such crimes while employed as an adult entertainer shall not thereafter work on any licensed premises for a period of five (5) years from the date of such conviction, unless a longer time is ordered by a court of competent jurisdiction. The term "licensed premises" shall mean the premises where an adult entertainment establishment for which a license is obtained pursuant to this Ordinance operates, conducts or carries on its business. The term "convicted" shall include an adjudication of guilt or a plea of guilty or Nolo Contendere or the forfeiture of a bond when charged with a crime.

B. Permit for Employment. Before any person may work as an adult entertainer on a licensed premises, as defined in Section 32-306-2 (A) he or she shall file a notice with the Hoschton Police Department of his or her intended employment on forms supplied by the Hoschton Police Department and shall receive a permit for such employment from the Hoschton Police Department. The prospective employee shall supply a signed and notarized consent, on forms prescribed by the Georgia Crime Information Center, authorizing the release of his or her criminal records to the Hoschton Police Department. The prospective employee shall also provide a list of all of his or her convictions of offenses described in Section 32-305-4 (C) of this Ordinance (including pleas of Nolo Contendere) within the past five (5) years. The Hoschton Police Department Permits Unit shall approve or deny the permit within fifteen (15) days of the application. If the prospective employee is found to meet the requirements of this Section 32-306-2, then upon payment of the permit fee, the Hoschton Police Department shall issue a permit approving such employment within forty-eight (48) hours. If such permit is not issued within forty-eight (48) hours of such finding, the employee seeking the permit may commence work at the adult entertainment establishment which is the subject of the permit application without such a permit. Upon receipt of a permit, the employee may begin working on the licensed premises.

C. Independent Contractors. For the purpose of this Ordinance, independent contractors working as adult entertainers shall be considered as employees and shall be required to satisfy the provisions of this Ordinance relating to employees of adult entertainment establishments, regardless of the business relationship with the owner or licensee of any adult entertainment establishment.

- 3. Hours of Operation.** An adult entertainment establishment may be open only between the hours of 8:00 a.m. and 2:00 a.m.
- 4. Display of Licenses.** An adult entertainment establishment licensee shall conspicuously display the license required by this Ordinance.
- 5. Performance Area.** All dancing by adult entertainers at adult entertainment establishments shall occur on a platform intended for that purpose which is raised at least eighteen inches (18") from the level of the floor.
- 6. Lighting.** All areas of an adult entertainment establishment licensed hereunder shall be fully lighted at all times patrons are present. Full lighting shall mean illumination equal to three and five tenths foot candles per square foot (3.5 ft. candles/sq. ft.).
- 7. Enclosure.** All adult entertainment which is licensed and permitted by this Ordinance shall be carried on inside a closed building with all windows and doors covered so that the activities carried on inside cannot be viewed from the immediate areas surrounding the outside of the building.

Section 32-307 Appeal; Procedure

1. The individual permittee shall, within ten (10) days after he has been notified of an adverse determination with regard to his or her qualifications, submit a notice of appeal to the City Clerk.
2. The notice of appeal shall be addressed to the Council and shall specify the subject matter of the appeal, the date of any original and amended application or requests, the date of the adverse decision (or receipt thereof), the basis of the appeal, the action requested of the Council and the name and address of the applicant.
3. The Clerk shall place the appeal on the agenda of the next regular Council meeting occurring not less than five (5) nor more than thirty (30) days after receipt of the application for Council action.

Section 32-308 Appeal; Council Determines Procedure

When an appeal is placed on the Council agenda, the Council may take either of the following actions:

1. Set a hearing date and instruct the City Clerk to give such notice of hearing as may be required by law;
2. Appoint a Hearing Officer and fix the time and place for hearing. The Hearing Officer may or may not be a City employee and may be appointed for an extended period of time.
3. The Clerk shall assume responsibility for such publication of notice of the hearing as may be required by law.

If a Hearing Officer is appointed, the hearing shall be conducted in accordance with the procedures set out in this Chapter.

Section 32-309 City Council Hearing

Whenever the City Clerk has scheduled an appeal before the City Council, at the time and date set therefor, the Council shall receive all relevant testimony and evidence from the permittee, from interested parties and from City staff. The City Council may sustain, overrule or modify the action complained of. The action of the City Council shall be final.

Section 32-310 Powers of Hearing Officer

The Hearing Officer appointed pursuant to the procedure set out in this Chapter may receive and rule on admissibility of evidence, hear testimony under oath and call witnesses as he may deem advisable with respect to the conduct of the hearing.

Section 32-311 Rules of Evidence Inapplicable

The City Council and the Hearing Officer shall not be bound by the traditional rules of evidence in hearings conducted under this Chapter. Rules of evidence as applied in any administrative hearing shall apply.

Section 32-312 Hearing Officer; Report

The Hearing Officer shall, within a reasonable time not to exceed thirty (30) days from the date such hearing is terminated, submit a written report to the Council. Such report shall contain a brief summary of the evidence considered and state findings, conclusions and recommendations. All such reports shall be filed with the City Clerk and shall be considered public records. A copy of such report shall be forwarded by certified mail to the permittee/appellant the same day it is filed with the City Clerk.

The City Clerk shall place the Hearing Officer's report on the agenda of the next regular Council meeting occurring not less than ten (10) days after the report is filed and shall notify the permittee/appellant of the date of such meeting at least ten (10) days prior to the meeting unless the permittee/appellant stipulates to a shorter notice period.

Section 32-313 Hearing; Action by Council

The Council may adopt or reject the Hearing Officer's decision in its entirety or may modify the proposed recommendation. If the Council does not adopt the Hearing Officer's recommendation, it may:

1. Refer the matter to the same or another Hearing Officer for a completely new hearing or for the taking of additional evidence on specific points; in either of such cases, the Hearing Officer shall proceed as provided in this Chapter.
2. Decide the case upon a review of the entire record before the Hearing Officer with or without taking additional evidence.

Section 32-314 Conduct or Activities Prohibited

1. **Advertising Without License.** No person, partnership, corporation or other entity shall advertise or cause to be advertised an adult entertainment establishment without a valid adult entertainment establishment license issued pursuant to this Ordinance.
2. **Employment of Minors or Unpermitted Persons.** No adult entertainment establishment licensee shall employ or contract with a person under the age of eighteen (18) years or an adult entertainer who has not obtained a permit pursuant to this Ordinance.
3. **Sale, Consumption of Alcohol.** No adult entertainment establishment licensee shall serve, sell, distribute or suffer the consumption or possession of any alcoholic beverages, malt beverages or wine or controlled substance upon the premises of the licensee.
4. **Contact Between Patrons, Employees.** No dancing or other performance by an adult entertainer at an adult entertainment establishment shall occur closer than four feet (4') to any patron. No patron, customer or guest shall be permitted to touch, caress or fondle any specified anatomical area of or any part of the body or clothing of any adult entertainer. No patron shall directly pay or give any gratuity to any adult entertainer. No adult entertainer shall solicit any pay or gratuity from any patron.
5. **Engaging in Specified Sexual Activities Prohibited.** No adult entertainer, other employee, patron or other person at an adult entertainment establishment shall be allowed to engage in any specified sexual activity as defined herein on the premises of any adult entertainment establishment.
6. **Public Indecency Prohibited.** No adult entertainer, other employee, patron or other person at an adult entertainment establishment shall, while on the premises

of an adult entertainment establishment, commit the offense of public indecency as defined in Official Code of Georgia Annotated § 16-6-8.

Section 32-315 Penalty for Violation

Any person violating any of the provisions of Section 32-314 of this Ordinance shall be punished for a violation of a City Ordinance by a fine not to exceed one thousand dollars (\$1,000.00) per violation or by imprisonment for a period not to exceed ninety (90) days, or both. Each day of operation in violation of this Ordinance shall be deemed a separate offense.

Section 32-316 Unlawful Operation Declared Nuisance

Any adult entertainment establishment operated, conducted or maintained contrary to the provisions of this Ordinance shall be and the same is hereby declared to be unlawful and a public nuisance. The City may, in addition to or in lieu of prosecuting a criminal action hereunder, commence an action or actions, proceeding or proceedings for abatement, removal or enjoinder thereof in the manner provided by law. It may take such other steps and shall apply to such court or courts as may have jurisdiction to grant such relief as will abate or remove such adult entertainment establishment and restrain and enjoin any person from operating, engaging in, conducting or carrying on an adult entertainment establishment contrary to the provisions of this Ordinance.

Section 32-317 Conditions of Adult Entertainment Establishment

- 1. Cleaning of Licensed Premises.** All adult entertainment establishments shall be kept in a clean, sanitary condition, and shall be in full compliance with all applicable ordinances and regulations of the City, county and the state.
- 2. Inspection of Licensed Premises.** The Jackson County Fire Marshall shall have the authority to regularly inspect adult entertainment establishments, to determine compliance with and enforce all applicable fire, health and other codes of the county.
- 3. Inspection for Unsanitary or Unsafe Conditions.** The Hoschton Police Department shall have the authority to periodically inspect adult entertainment establishments to determine compliance with and enforce all provisions of this ordinance and other applicable ordinances, regulations and laws.

Section 32-318 Denial, Suspension or Revocation of License; Hearing

1. Grounds.

- A. A license may be denied to persons or entities that have submitted an incomplete application or that have failed to satisfy any of the requirements of this Ordinance.

- B. Any of the following shall be grounds for suspension or revocation of a license:
- (1) The making of any statement on an application for a license issued hereunder which is material and is later found to be false;
 - (2) Violation of any of the regulations or prohibitions of this Ordinance;
 - (3) With respect to the applicant, operator(s) and owner(s), conviction of or a plea of guilty or Nolo Contendere to any of the crimes which would make such person or adult entertainment establishment ineligible to hold a license under Section 32-308-5 (D) above.

2. **Denial; Procedure.** Within thirty (30) days of actual receipt of an application for an adult entertainment establishment license, the City Clerk shall either approve or deny the application. In no event shall the City Clerk's decision whether to approve or deny the adult entertainment establishment license application be withheld for more than thirty (30) days after actual receipt of the application. In the event that such an application is held without decision for a period of more than thirty (30) days, however, the license application shall be deemed approved, and expressive conduct may begin immediately notwithstanding the fact that no license has been issued. The City Clerk shall issue an adult entertainment establishment license to an applicant who informs the City Clerk of the fact that an application has been submitted, but no decision has been made thereon for a period of more than thirty (30) days following actual receipt of the application. Notwithstanding the fact that the license provided by this sentence shall not be a prerequisite to the commencement of business operations contemplated by the application, the City Clerk shall issue an adult entertainment establishment license under such circumstances within three (3) business days of actual receipt of written notice by the applicant of such circumstances. In the event that the City Clerk denies an application for an adult entertainment establishment license, notice of such denial shall be delivered to the applicant in person or by certified mail within five (5) business days of such denial. Any person aggrieved by any decision of the City of Hoschton, its officials, employees or agents, pursuant to this Ordinance, may seek review of such decision by filing an appropriate pleading in the Superior Court of Jackson County or any other court of competent jurisdiction including, but not limited to, a Petition for Writ of Mandamus pursuant to O.C.G.A. §§ 9-6-20 through 9-6-28.
3. **Suspension or Revocation; Procedure.** Whenever the City Clerk and the Chief of Police find reasonable grounds exist to suspend or revoke a license issued hereunder, the Mayor and Council shall schedule a hearing to consider such suspension or revocation and shall, at least twenty (20) days prior to the hearing, notify the licensee of the time and date of the hearing and the proposed action and the grounds therefor. The licensee shall be entitled to present evidence and cross-examine any witnesses at the hearing, with or without legal counsel. The Mayor and Council shall make its decision within ten (10) days of the hearing and shall

notify the licensee in writing within five (5) business days of the decision. Any person aggrieved by any decision of the City of Hoschton, its officials, employees or agents, pursuant to this Ordinance, may seek review of such decision by filing an appropriate pleading in the Superior Court of Jackson County or any other court of competent jurisdiction including, but not limited to, a Petition for Writ of Mandamus pursuant to O.C.G.A. §§ 9-6-20 through 9-6-28.

Section 32-319 Miscellaneous

Nothing contained in this Ordinance shall be deemed to permit or condone any activity whatsoever which is otherwise found to be obscene, lewd or illegal under applicable code, regulation or statute which provides any prohibition upon nudity or sexual activity. Further the activities and uses which are regulated and permitted by this Ordinance shall only be allowed if they are not obscene or lewd and not in violation of any other such prohibitions on nudity or sexual activity.

Section 32-320 Severability

If any portion or subsection of this Ordinance or its application to any person or circumstance is held invalid by a court of competent jurisdiction, the remainder or application to other persons or circumstances shall not be affected.

Section 32-321 Automatic License Forfeiture for Nonuse

Any holder of any license hereunder who shall for a period of three (3) consecutive months after the license has been issued cease to operate the business and sale of the product or products authorized shall after the said three (3) month period automatically forfeit the license without the necessity of any further action.

Section 32-322 Repeal of Conflicting Provisions

All resolutions or ordinances, or parts thereof, in conflict with this Ordinance are hereby repealed to the extent of any such conflict.

Section 32-323 Physical Layout of Establishment

Any adult entertainment establishment having available for customers, patrons or members any booth, room, or cubicle for the private viewing of any adult entertainment must comply with the following requirements:

1. **Access.** Each booth, room or cubicle shall be totally accessible to and from aisles and public areas of the establishment, and shall be unobstructed by any curtain, door, lock, or other control-type or view-obstructing devices or materials.
2. **Construction.** Every booth, room or cubicle shall meet the following construction requirements:

- A. Each booth, room or cubicle shall be separated from adjacent booths, rooms and cubicles and any nonpublic areas by a wall.
 - B. Have at least one (1) side totally open to a public lighted area or aisle so that there is an unobstructed view of anyone occupying the booth from the area in which the cash register for the adult entertainment establishment is located.
 - C. All walls shall be solid and without openings, extended from the floor to a height of not less than six feet (6') and be light colored, nonabsorbent, smooth-textured and easily cleanable.
 - D. The floor must be light colored, nonabsorbent, smooth-textured and easily cleaned.
 - E. The lighting level of each booth, room or cubicle when not in use shall be a minimum of ten (10) candles at all times, as measured from the floor.
3. **Occupants.** Only one (1) individual shall occupy a booth, room or cubicle at any time. No occupant of same shall engage in any type of sexual activity, cause any bodily discharge or litter while in the booth, room or cubicle. No individual shall damage or deface any portion of the booth, room or cubicle.

Section 32-324 Applicability of this Ordinance

This Ordinance shall be effective upon the legislative adoption of the appropriate ordinance making adult entertainment a permitted use in any zoning classification in the City of Hoschton, or upon a finding by a court of competent jurisdiction that adult entertainment establishments are a permitted use in the City of Hoschton.

(Adopted 2/7/2005)

ARTICLE IV. TATTOO AND BODY ART STUDIOS

Section 32-401 Interpretation of Certain Terms

For the purpose of this article, the following words and phrases when used herein shall be construed as follows:

- 1. *Tattoo* - Shall mean to mark or color the skin by pricking in coloring matter so as to form indelible marks or figures or by the production of scars.
- 2. *Tattoo Establishment* - Shall mean any room or space where tattooing is practiced or where the business of tattooing is conducted or any part thereof.

3. *Tattoo Operator* – Shall mean any person who controls, operates, conducts, or manages any tattoo establishment, whether actually performing the work of tattooing or not.
4. *Tattoo Artist* - Shall mean any person who actually performs the work of tattooing.

Section 32-402 Permit Required

1. No person shall operate a tattoo establishment, or engage in the practice or business of tattooing as a tattoo operator or as a tattoo artist unless such person shall first obtain a permit from the City Clerk or the Clerk's duly authorized agent. Applications for such permits shall be made in writing on a form prescribed by the City of Hoschton, wherein the applicant shall agree to conform to all rules and regulations governing such places now in effect or as subsequently enacted, and to authorize and permit such examination and inspection as may be deemed necessary by the City Clerk. Said permit shall be in addition to and not in lieu of a duly issued permit by the County Health Board or appropriate agency.
2. No person shall be granted a permit to operate a tattoo establishment or engage in the practice or business of tattooing in the City of Hoschton without site plan approval from the City Council.
3. No person shall operate a mobile tattoo establishment.
4. No person shall be granted a permit unless proper information establishes to the satisfaction of the Mayor and City Council or its designee that such person has not been convicted or pled guilty or entered a plea of nolo contendere, and has been released from parole or probation, to any felony or crime involving moral turpitude, illegal gambling or illegal possession or sale of controlled substances or the illegal possession or sale of alcoholic beverages to minors in a manner contrary to law, keeping a place of prostitution, pandering, pimping, public indecency, prostitution, solicitation of sodomy, or any sexually related crime within a period of two (2) years immediately prior to the filing of such application. At the time an application is submitted for a permit by an owner, the applicant shall, by a duly sworn affidavit, certify that neither the applicant, nor any of the other owners of the establishment, has been so convicted in the two (2) years preceding the filing of the application. If any applicant, or permittee, after a permit has been granted, shall be convicted or plead guilty or nolo contendere to a felony or crime involving moral turpitude, illegal gambling or illegal possession or sale of controlled substances or the illegal possession or sale of alcoholic beverages, including the same or transfer of alcoholic beverages to minors in a manner contrary to law, keeping a place of prostitution, pandering, pimping, public indecency, prostitution, solicitation of sodomy, or any sexual related crime, then the permit shall be immediately revoked and canceled.

Section 32-403 Terms of Permit; Renewal of Permit; Fees

- 1. Permit and fee.** All permits issued pursuant to this Chapter shall, unless revoked as set forth here after, expire on December 31st following their date of issue. The requirements for the renewal thereof shall be the same as for new permits. A fee of \$500.00 per year shall be charged for the issuance of permits to operate a tattoo establishment.
- 2. Form and Transfer of Permits.** All permits shall be issued in the name of the individual person applying therefore, shall give the location of the tattoo establishment where said applicant will operate and shall not be transferable.
- 3. Public Display of Permit.** It shall be the duty of the operator or owner of a tattoo establishment to display the current permit in a conspicuous place where it may be readily observed by the public.

Section 32-404 Inspection Schedule

It shall be the duty of the City Clerk or authorized designee to cause inspections to be made on a recurring basis at least twice per year of all tattoo establishments and the equipment thereof. If said place of business is not maintained, conducted or operated in conformity with the requirements of this ordinance as now enacted or as subsequently amended, then the City Clerk or authorized designee may suspend or revoke the permit of the operator or artist until the said tattoo establishment and the operation thereof is made to conform to the requirements of this Chapter.

Section 32-405 Tattooing of Minors

Pursuant to O.C.G.A. §16-5-7, the tattooing of any person under the age of eighteen (18) is prohibited.

Section 32-406 Records Required

1. Records for each patron or customer shall be kept and maintained by the operator of each tattoo establishment, which record shall contain the name, address and signature of each patron or customer. All records shall be available for inspection upon request of the City Clerk or authorized designee. Records shall be maintained a minimum of two years.
2. The operator shall inquire if the patron has at any time experienced a jaundiced condition or been infected with hepatitis. Those indicating a history of jaundice or hepatitis shall not be tattooed.

Section 32-407 Removal of Tattoo

1. No tattoo operator or artist shall remove or attempt to remove any tattoo.

2. No tattoo operator or artist shall tattoo over any previous scar tissue.

Section 32-408 Separate Operating Room

1. Each tattoo establishment shall have an operating room which shall be separate and apart from a waiting room, a public room or rooms that may be used for other than tattooing purposes. Patrons or customers shall be tattooed only in the said operating room.
2. The operating room shall be equipped with hot and cold running, potable water, together with such sinks and basins as may be necessary.
3. Furniture and furnishings used within the operating room shall be constructed of such material as to permit proper cleansing with hot or cold disinfecting solutions.
4. There shall be no overhead or otherwise exposed sewerage lines so as to create a potential hazard to the sanitary environment of the establishment.
5. All operating tables shall be constructed of easily cleanable material, with a smooth washable finish and at least six feet from any observer or waiting customers and/or separated by a panel at least four (4) feet high.
6. The operating room shall have proper and sufficient lighting as needed to perform the tattooing process.

Section 32-409 Personal Cleanliness of Tattoo Artist; Required Equipment

1. There shall be available within said tattoo establishment adequate hot and cold, potable running water, soap, germicidal solution, individual hand scrub brushes and fingernail files or orange sticks for each tattoo artist.
2. Each tattoo artist shall scrub his hands and forearms with soap and hot water using individual hand brush, clean his fingernails with an individual file or orange stick and thoroughly rinse his hands in a germicidal solution before working on each patron or customer. An individual disposable towel or napkin shall be used for drying the tattoo artist's hands and arms after rinsing.
3. Each tattoo artist shall wear clean clothes or a lab coat. Surgical gloves shall be worn during the tattooing process.

Section 32-410 Storage of Tattooing Equipment or Materials

1. A steam sterilizer approved by the Health Officer shall be on site at each establishment. Tattoo instruments and accessories, dyes, stencils and other materials used in tattooing that come in contact with the patron or customer shall be stored in closed cabinets which shall be maintained in a sanitary condition.

2. Instruments used in tattooing such as needle bars, grips and tubes, shall be sterilized before using on each customer either by boiling for at least 30 minutes or by autoclaving under 15 pounds of pressure for 15 minutes. The temperature in autoclaving shall not be less than 121 C or 250 F.
3. If autoclaving is the method of sterilization, all tubes, grips and needle bars shall be left in the wrappers used during the autoclaving process.
4. If boiling is the method of sterilization, the hands shall be washed in accordance with this article prior to removing the tubes, grips and needle bars from the basket. The tubes, grips and needle bars shall then be stored in a closed glass case and be maintained in a sanitary manner at all times.

Section 32-411 Floors, Walls and Ceilings

The floor of the operating room of the tattoo establishment shall be of impervious material and shall be, at all times, maintained in a clean condition. The walls and ceiling of the operating room shall be a light color, shall be maintained in good repair without flaking or chipping and shall be of such material as to permit cleansing.

Section 32-412 Disposition of Waste Material

The tattoo establishment shall have proper facilities for the disposition of biomedical waste materials as now defined by State and Federal regulations and as subsequently defined. A contract with an approved, licensed bio-medical waste company is required.

Section 32-413 Preparation of Area to be Tattooed

1. When it is necessary to shave the area to be tattooed, a new blade for each patron shall be used. When a safety razor is employed, and the permanent parts of the said razor shall be treated as hereinafter set forth for the care of a straight razor.
2. If a straight razor is used, it shall be cleaned with soap and water, rinsed in clean water, and then sterilized by being immersed for fifteen minutes in a germicidal solution approved by the local health department or by boiling for at least five minutes before the razor is used again on another patron.
3. After shaving the area to be tattooed, or if the area does not need to be shaved, the site of the tattoo shall be cleaned with soap and hot water, rinsed with clean water and germicidal solution applied in a sanitary manner before the design is placed on the skin. Only sterile, individual towels and gauze shall be used in preparing the site to be tattooed and properly disposed of after use on each patron.
4. If Vaseline is applied, it shall be done with a sterile swab or sterile syringe.

Section 32-414 Stencil for Transferring Design

The stencil for transferring the design to the skin shall be thoroughly cleaned and rinsed in a germicidal solution approved by the local health department following each use and shall be maintained in a clean, sanitary condition.

Section 32-415 Tattooing Process

1. A sterile set of needles shall be used for each patron or customer. Needles used in tattooing shall be sterilized by a sterilization method approved by the local health department after each use and, if not immediately used, stored in sterile containers. The open end of the needle tube of the tattooing machine shall be cleaned and sterilized in a similar method after each use. The use of disinfectants does not constitute an approved sterilization method.
2. Excess dye applied to the skin shall be removed with individual sterile gauze pads or sterile cotton only. The area tattooed shall then be allowed to dry and the entire site covered with a piece of sterile gauze only which may then be covered with a piece of tissue and fastened with adhesive. Only approved surgical dressings and tapes shall be used on patrons. The use of paper napkins, other materials and mastic tape for dressing is prohibited.
3. Single service or individual containers of dye or ink shall be used for each patron and any remaining ink or dye in the container following procedure shall be discarded.
4. Single use containers shall be disinfected prior to use.
5. Tattooing including the changing or repairing of previous tattoos shall not be performed on the hands below the wrist line, on the feet below the ankle, the head or face above the collar line or on the genitalia. Nor shall such tattooing be undertaken at the site of an obviously recent hypodermic injection.

Section 32-416 Instruction to Patrons or Customers as to Care of Skin after Tattooing

1. Written instructions shall be given to each patron or customer on the care of the tattooed site to prevent infection after each tattooing. A copy of these instructions shall also be posted in a conspicuous place in the tattoo establishment, clearly visible to the person being tattooed.
2. All infections resulting from the practice of tattooing which become known to the operator shall be reported to the County Health Department by the owner of the tattoo establishment.

Section 32-416.5 Other Business Activities and Hours of Operation

1. Tattoo establishments shall not sell tobacco products, pipes of any type, or rolling papers.
2. Tattoo establishments shall not sell or make available adult videos, magazines, or novelties.
3. Tattoo establishments shall close no later than 10:00 p.m. Sunday through Thursday and no later than 12:00 midnight on Friday and Saturday.

(Adopted November 8, 2010; Effective November 18, 2010)

Section 32-417 Penalty for Non-compliance

Anyone operating an unlicensed tattoo establishment, or an establishment that has had its license revoked or an establishment in an unapproved site shall face court action and fines up to \$1,000.00 per offense and/or six (6) months in jail.

Section 32-418 Authority

This article is adopted pursuant to the powers of the City of Hoschton granted in its city charter. In addition, the city is authorized by the state under O.C.G.A. § 31-40-9 to adopt the regulations contained in this Article.

Section 32-419 Reference to Other Regulations

1. The requirements of this Article are in addition to the applicable requirements of state law as specified in Chapter 40 of Title 31 of O.C.G.A.
2. The permit required by this Article by the City of Hoschton shall be in addition to any permit required by O.C.G.A. § 31-40-2 to be issued by the county board of health or its duly authorized representative.
3. The rules and regulations of this Article shall be in addition to any rules and regulations adopted by the Georgia Department of Public Health or the county board of health as are or as may be adopted pursuant to O.C.G.A. § 31-40-5.

ARTICLE V. MASSAGE AND SPA ESTABLISHMENTS

Section 32-501 Definitions

For the purpose of this article, the following terms are defined:

1. *Applicant*: Any person, firm, corporation, or other entity applying for an occupational license to practice massage, or operate a massage establishment as defined herein.

2. *Employee*: Any person over eighteen (18) years of age; including a massage therapist, who renders any service in connection with the operation of a massage business and receives compensation from the operator of the business or patrons.
3. *Massage apparatus*: shall mean any manual, mechanical, hydraulic, hydrokinetic, electric, or electronic device or instrument or any device or instrument operated by manual, mechanical, hydraulic, hydrokinetic or electric power, which is utilized by a “massage therapist” for the purpose of administering a “massage.”
4. *Massage establishment* shall mean any business established for profit which employs or contracts with one or more “massage therapists” or operates or maintains for profit one or more “massage apparatus”, and which for good or valuable consideration, offers to the public facilities and personnel for the administration of “massages” or “massage therapy.” This term shall not include hospitals or other professional health care establishments separately licensed as such by the State of Georgia.
5. *Massage and massage therapy* shall mean the application of a system of structured touch, pressure, movement, and holding to the soft issue of the body in which the primary intent is to enhance or restore health and well-being. The term includes complementary methods, including without limitation the external application of water, superficial heat, superficial cold, lubricants, salt scrubs, or other topical preparations and the use of commercially available electromechanical devices, which do not require the use of transcutaneous electrodes and which mimic or enhance the actions possible by the hands; the term also includes determining whether massage therapy is appropriate or contraindicated, or whether referral to another health care provider is appropriate. Massage therapy shall not include the use of ultrasound, fluidotherapy, laser, and other methods of deep thermal modalities.
6. *Massage therapist/practitioner/masseur/masseuse* shall mean any person who administers “massage” or “massage therapy” for consideration.
7. *Patron*: Any person over eighteen (18) years who receives a massage under such circumstances that it is reasonably expected that he will pay money or give any other consideration therefore.
8. *Physical therapist*: A person licensed by the State of Georgia to practice physical therapy as defined by the O.C.G.A. § 43-33-3.
9. *Accredited school of massage*: An educational program or course of study of not less than five hundred (500) hours in duration which is accredited by the Commission on Massage Training Accreditation/Approval (COMTAA) or recognized by a state licensing agency such as the Nonpublic Post-Secondary Education Commission of the State of Georgia. The curriculum of such program or

course of study shall include, but not be limited to, massage theory and technique, anatomy and physiology.

10. *Spa establishment* shall mean any business established for profit that provides personal services such as body wraps, hydro mineral wraps, body polish, body wash, baths and hydro tub soak.

Section 32-502 Exemptions

This article shall not apply to the following individuals while engaged in the personal performance of the duties of their respective profession:

1. Physicians, surgeons, chiropractors, osteopaths and physical therapists who are duly licensed to practice their respective profession in the state.
2. Nurses who are registered under the laws of the state.
3. Barbers and beauticians who are duly licensed under laws of this state, except that this exemption shall apply solely to the massaging of the neck, face, scalp, and hair of the customer or client for cosmetic or beautifying purposes.
4. Physical therapists licensed under the laws of the State of Georgia.

Section 32-503 Scope of Regulations

1. All licenses issued under this article shall constitute a mere privilege to conduct the business so authorized during the term of the certificate or permit only and subject to all terms and conditions imposed by the city and state law.
2. Nothing in this article shall be construed to regulate, prevent, or restrict in any manner:
 - A. Any physician, chiropractor, physical therapist, or similar professional licensed and regulated by or through the state while engaged in the practice of said profession.
 - B. Any hospital or other professional health care establishment separately licensed as such by the state.
 - C. Any other individual or entity expressly exempted from local legislation by the laws of the state.

Section 32-504 License Required

1. All persons, firms or corporations desiring to engage in the business, trade or profession of a massage establishment shall, before engaging in such trade,

business, profession, make application for a license in the form and manner prescribed in this article.

2. All persons, firms or corporations desiring to engage in the business, trade or profession of a spa establishment shall, before engaging in such trade, business, profession, make application for a license in the form and manner prescribed in this article.

Section 32-505 Application for Massage Establishment

An application for massage establishment shall include the information required on all license returns, along with the following additional information:

1. If the applicant is a corporation, such corporation shall, in the foregoing information, submit a complete list of the stockholders of said corporation, including names, current addresses and current occupations, and provide the name and address for an agent who resides in Jackson County authorized to receive legal process and notices under this article on behalf of the applicant.
2. If the applicant is a partnership or other legal entity not a corporation, such must submit information as is reasonably required to disclose the names, current addresses and occupations of the principals of the organization, as well as the name and address for an agent who resides in Jackson County authorized to receive legal process and notice under this article on behalf of the applicant.
3. If the applicant is a corporation, such corporation must be chartered under the laws of the state of Georgia or authorized by the Secretary of State to do business in Georgia.
4. If the applicant is an individual, the applicant must submit a copy of a valid driver license or a valid I.D. card as reliable proof thereof. No license for a massage establishment shall be granted to any person who is not a citizen of the United States or an alien lawfully admitted for permanent residence. Additionally, if the applicant does not reside in Jackson County, the applicant must provide the name and address for an agent who resides in Jackson County authorized to receive legal process and notices under this article on behalf of the applicant.
5. The applicant must hold and furnish a certified copy of a diploma or certificate of graduation from a state certified school and accredited school of massage therapy. The diploma must be representative of the fact that applicant attended a course of study of not less than 500 credit hours, consisting of a curriculum of anatomy, physical culture, physiology, basic massage theory, technique and clinical practice, approach to massage, allied modalities and disease awareness and other such subjects.

6. The applicant must furnish a certified statement from the national certification board of therapeutic massage and body work, or other organization recognized by the State of Georgia, evidencing passage by the applicant thereof of the exam for massage therapists administered by said board.
7. A certified copy of the State of Georgia license of any individual who is to perform "massage therapy" on the licensed premises.

Section 32-506 Application for Spa Establishment

An application for a spa establishment shall include the information required on all license returns, along with the following additional information:

1. If the applicant is a corporation, such corporation shall submit a complete list of the stockholders of said corporation, including names, current addresses and current occupations, and provide the name and address for an agent who resides in Jackson County authorized to receive legal process and notices under this article on behalf of the applicant.
2. If the applicant is a partnership or other legal entity not a corporation, such must submit information as is reasonably required to disclose the names, current addresses and occupations of the principals of the organization, as well as the name and address for an agent who resides in Jackson County authorized to receive legal process and notice under this article on behalf of the applicant.
3. If the applicant is a corporation, such corporation must be chartered under the laws of the state of Georgia or authorized by the Secretary of State to do business in Georgia.
4. If the applicant is an individual, the applicant must submit a copy of a valid driver license or a valid I.D. card as reliable proof thereof. No license for a spa establishment shall be granted to any person who is not a citizen of the United States or an alien lawfully admitted for permanent residence. Additionally, if the applicant does not reside in Jackson County, the applicant must provide the name and address for an agent who resides in Jackson County authorized to receive legal process and notices under this article on behalf of the applicant.

Section 32-507 Qualifications for Issuance

No person, firm or corporation or its officers shall be granted a license for a massage or spa establishment unless it shall appear to the satisfaction of the city clerk or her designee that such person, partners in the firm, officers and directors of the corporation have not been convicted or plead guilty or entered a plea of nolo contendere under any federal, state or local law of any crime involving illegal gambling, any felony, criminal trespass, public indecency, disorderly conduct, misdemeanor involving any type of sexually related crime, any theft or violence against person or property, any crime of possession, sale or

distribution of illegal drugs for a period of the ten years prior to the date of application for such license. No person, partner or officer under the age of 18 shall be granted a license for massage establishment or spa.

Section 32-508 Issuance of License

1. When a license application is submitted in proper form, including all information and exhibits required herein, the applications shall be accepted and a review of the application and an inspection and investigation shall be conducted by the city clerk or her designee. The city clerk or her designee shall transmit a copy of the completed application to the Jackson County Sheriff's Department. Upon the payment by the applicant of the required fees, the Sheriff's Department, or its designee, shall cause to be conducted a background investigation of the criminal history, and shall transmit a summary of the investigation results to the city clerk or her designee.
2. Upon receipt of the background investigation, and completion of review of the application in accordance with the terms of this article, the city clerk or her designee shall, within 60 days of the initial application, act on the application. The city clerk or her designee shall deny any application that fails to meet each of the application requirements specified herein, or contains false information in the application or attached documents.

Section 32-509 Expiration and Renewal

All licenses granted hereunder shall expire each year. Licensees who desire to renew their license shall file application, with the requisite fee heretofor provided, with the city clerk on the form provided for renewal of the license for the ensuing year. Applications for renewal must be filed before April 1 of each year. Any renewal applications received after April 1 shall pay in addition to said annual fee a late charge.

Section 32-510 General Operating Provisions

1. It shall be the duty of all persons holding a license under this article to annually file, along with the renewal application for the license, the name of all employees, their home address, home telephone number and place of employment. The holder of a license issued under the provisions of this article must additionally report changes in the list of employees with the names and require supplemental information for new employees to be filed with the city clerk or his designee within ten days from the date of such change. To the extent any employee performs massage therapy on the licensed premises; such information shall include a certified copy of the state-issued massage therapy license for such individual.
2. The establishment shall have an owner, manager, or supervisor on premise at all hours the establishment offers massage therapy. If during an inspection there is no owner, manager, or supervisor on premise the establishment must cease

operations and close to the public until an owner, manager or supervisor is on premise.

3. The establishment shall be subject to inspections at any time during business hours by the city clerk or her designee and by the Jackson County Sheriff's Office to ensure compliance with this article.
4. All employees massage therapist and other persons on the premises, with the exception of the customers, shall be completely clothed at all times when administering a massage. For the purposes of the article "completely clothed" shall mean having on the upper portion of the body appropriate undergarments and either blouse or shirt which shall cover all the upper body save the arms and neck and shall mean having on the lower body appropriate undergarments plus either pants or skirt, and said pants or skirt must cover from the waist down to a point at least two inches above the knee. All clothes worn in compliance with this article shall be entirely non-transparent.
5. No business of a massage therapist shall be engaged in and no place of business shall be open for business except within and between the hours of 7:00 a.m. and 7:30 p.m.
6. A readable sign shall be posted at the main entrance identifying the establishment. Signs shall comply with the sign requirements of this Code.
7. Minimum lighting shall be provided in accordance with any applicable building code, and additionally at least one artificial light of not less than 40 watts shall be provided in each enclosed room or booth.
8. Ordinary beds or mattresses shall not be permitted in any establishment.
9. The establishment, prior to the issuance of the license, must be in compliance with all applicable building and life safety codes, and the building to be occupied must have a valid, current certificate of occupancy.
10. It shall be unlawful for any person under the age of 18 to patronize any massage establishment unless such person carries with him/her at the time of such patronage, a written order directing the treatment to be given by a regularly licensed physician or written permission of the underage person's parent or guardian. It shall be the duty of the holder of a license to determine the age of the person attempting to patronize a massage establishment and to prohibit such patronage by an underage person.
11. No massage practitioner, or any employees, shall manipulate, fondle or handle the sexual organs or anus of any person.

Section 32-511 Grounds for Revocation and Suspension of License

The license of a massage establishment or spa may be revoked or suspended upon one or more of the following grounds:

1. Failure of the holder to maintain initial requirements for obtaining the license.
2. Any of the holder's employees, independent contractors or agents has been convicted, pled guilty, or entered a plea of nolo contendere to any felony, or has violated any laws relating to sodomy, aggravated sodomy, solicitation of sodomy, public indecency, prostitution, pimping, pandering, pandering by compulsion, masturbation for hire, or disorderly conduct in connection with the operation of the massage or spa establishment or on or about the premises of the massage or spa establishment.
3. Failure of the holder to maintain correct and accurate records as required by this Article.
4. The holder, his/her employees, agents or independent contractors associated with the establishment have allowed occurring or have engaged in a violation of any part of this Article.

(Adopted 2/7/2011; Effective 2/17/2011)

CHAPTER 33 NUISANCES

ARTICLE I. GENERALLY

Section 33-101	Definitions
Section 33-102	Enumeration
Section 33-103	Prohibition; Notice
Section 33-104	Complaint
Section 33-105	Issuance of Summons for Abatement
Section 33-106	Order for Abatement
Section 33-107	Special Provisions for Old, Unused, Stripped, Junked Automobiles
Section 33-108	Nuisances Constituting Imminent Danger
Section 33-109	Other Powers Preserved

ARTICLE II. VEGETATION

Section 33-201	Certain Weeds, Grasses and Plants Declared a Nuisance; Exemptions
Section 33-202	Height Permitted
Section 33-203	Notice to Abate
Section 33-204	Abatement by City; Notice of Abatement
Section 33-205	Remedies
Section 33-206	Award of Contracts for Clearing of Lots by City

ARTICLE III. MOSQUITO CONTROL

Section 33-301	Violation Declared Nuisance
Section 33-302	Keeping Water in Which Mosquitoes May Breed
Section 33-303	Treatment of Collections of Water
Section 33-304	Mosquito Larvae as Evidence of Breeding
Section 33-305	Failure to Remedy Conditions after Notice
Section 33-306	Right of Entry of Officer

ARTICLE IV. ABANDONED MOTOR VEHICLES

Section 33-401	Definitions
Section 33-402	Prohibited
Section 33-403	Removal Required
Section 33-404	Same - Notice to Owner and State

ARTICLE V. UNFIT STRUCTURES

Section 33-501	Findings
Section 33-502	Abatement
Section 33-503	Severability

ARTICLE I. GENERALLY

Section 33-101. Definitions

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

Nuisance means anything within the City that causes hurt, inconvenience or damage to another, and the fact that the act done may otherwise be lawful shall not keep it from being a nuisance. The inconvenience complained of shall not be fanciful or such as would affect only one of fastidious taste, but it shall be such as would affect an ordinary, reasonable person. Any such nuisance may be abated as provided in this Article.

Section 33-102. Enumeration

1. The various nuisances described and enumerated in this Section shall not be deemed to be exclusive but shall be in addition to all other nuisances described and prohibited in this Code.
2. The following are declared to be nuisances:
 - A. *Things Interfering with Peace or Comfort.* Sounds, animals or things that interfere with the peace or comfort or disturb the quiet of the community.
 - B. *Obnoxious, Offensive Odors.* The emission of obnoxious and offensive odors, the tainting of the air rendering it offensive or unwholesome so as to affect the health or comfort of reasonable persons residing in the neighborhood thereof.
 - C. *Discharging of Offensive Matter.* The placing, throwing or discharging from any house or premises and flow from or out of any house or premises, of any filthy, foul or offensive matter or liquid of any kind, into any street, alley or public place or upon any adjacent lot or ground.
 - D. *Water Pollution.* The obstruction or pollution of any watercourse or source of water supply in the City.
 - E. *Emission of Dense Smoke.* Any emission of dense smoke from any fire, chimney, engine, oil burner or other agency in the City so as to cause disturbance or discomfort to the public. For the purpose of testing and grading the density of smoke, the Ringelmann Smoke Chart as published and used by the United States Geological Survey shall be the standard for such grading, and smoke shall be defined and declared to be dense when it is of a degree of density of number three (3) on the chart, or greater, for more than six (6) minutes in any one (1) hour, whether such period of time is consecutive or not.

- F. *Vacant Lots.* Any vacant lot whereon debris is permitted to accumulate and remain in such a manner as to create a fire hazard or other hazard to the public health, safety and welfare.
- G. *Nonconforming Structures, Machines, Etc.* Any building, business, thing, machine or machinery erected, repaired, conducted, maintained, operated or used contrary to or in violation of any of the fire and safety regulations of this Code, state law or City ordinance.
- H. *Animal Enclosures.* Any enclosure in which any animals are kept, dog kennels or runs and other animal or fowl pens wherein manure, dung, filth or litter is allowed to accumulate.
- I. *Dead Animals.* The carcass of any dead animal of any kind on any premises within the City.
- J. *Depositing Trash, Garbage, Refuse, Etc., on Private or Public Property.* The depositing and leaving on private or public property of trash, garbage, refuse, scrap building materials, paper, cardboard containers, brick, cement, rubbish, tree residue, cans, containers or any other rubbish or trash that is a menace to public health and safety in the City or which unreasonably annoys others.
- K. *Unoccupied Buildings.* Unoccupied buildings that are not properly whitewashed or cleansed; abandoned, deteriorating, decayed, dilapidated or defaced buildings, fences, walls, or building materials.
- L. *Unsafe Vehicles, Machinery, Etc.* Except as allowed in Section 31-106, unsheltered storage of old, unused, stripped, junked and other automobiles not in good and safe operating condition, and of any other vehicles, machinery, implements and/or equipment and personal property of any kind that is no longer safely usable for the purposes for which it was manufactured, for a period of thirty (30) days or more. The absence of a license plate for the current year and/or the absence of a current motor vehicle registration shall be prima facie evidence that such vehicle is junked.
- M. *Gutters or Spouts.* Any gutter or spout that conveys filth into any street, lane or alley of the City.
- N. *Hazardous Trees, Tree Stumps.* Dead, dying, damaged or diseased trees shall not be allowed to exist or to be maintained on any premises which are hazardous to persons on adjacent property or to adjacent property. A finding by a registered forester or certified arborist shall constitute prima facie evidence that a tree is in danger of falling upon adjacent lots or public streets due to the death or impending death of the tree, or due to damage by weather

conditions or due to disease infestation. Tree stumps greater than twelve inches (12") in height above ground level shall not be permitted or maintained on any premises for more than thirty (30) days after the tree has been cut. Exceptions: property covered by a valid land disturbing permit; property one (1) acre or greater in size; and property zoned A (Agriculture).

- O. *Obstruction of Public Ways.* Obstruction of a public street, highway or sidewalk without a permit.
- P. *Plants Obstructing Vision.* Any trees, shrubbery or other plants or parts thereof which obstruct clear, safe vision on roadways and intersections of the City.
- Q. Any other condition constituting a nuisance under state law.
- R. Any condition found by the judge of the municipal court, after an evidentiary hearing, to be determined to or endanger the health, welfare or good order of the City and declared by him therefore to be a nuisance.

Section 33-103. Prohibition; Notice

It shall be unlawful for any person to maintain or permit the existence of any nuisance on any property within the City.

Section 33-104. Complaint

Any City official or City employee or at least five (5) inhabitants of the City may file a verified complaint of nuisance with the Hoschton Police Department. The Police Department shall investigate and if warranted provide notice to the owners of and any parties in interest in such building, structure or property to abate such nuisance within ten (10) days.

Section 33-105. Issuance of Summons for Abatement

Whenever an officer determines after investigation that a nuisance exists within the City, or any condition shall exist on any property within the City that is required or subject to be demolished, removed or abated under any of the ordinances of the City, and the owner or other person responsible for such nuisance refuses or fails after the notice provided pursuant to Section 33-104 to demolish, remove or abate such nuisance, the Chief of Police, or the officer having responsibility for the enforcement of abating such nuisance, may issue a summons and cause the summons to be served upon such owner or other person responsible for such condition, describing the condition complained of and specifying the ordinances or parts thereof claimed to be violated, and requiring such person to appear before the municipal judge at a time, date and place specified in the summons, to show cause why such condition should not be demolished, removed or abated.

Section 33-106. Order for Abatement

1. If the municipal judge at the hearing required by Section 33-105 shall determine that a condition does exist as alleged that constitutes a nuisance or a condition which under this Code or the ordinances of the City is required or subject to be demolished, removed or abated, the judge shall issue his order and judgment so finding and shall order the property owner or other person responsible for such nuisance to demolish, remove or abate the condition within a period of time to be fixed by the judge. The order shall provide how the condition is to be abated, including, but not limited to, rehabilitation or demolition of any buildings or structures located on the property in question. The order shall further provide that if the property owner or other person responsible for such nuisance shall fail to comply with the order within the time specified, the City shall be authorized to proceed without further notice to demolish, remove or abate such condition and to take whatever action is deemed necessary to demolish, remove or abate such condition, and the expense thereof shall be charged against the owner of the property in question and shall be a lien against the property upon which the condition existed, ranking equally with the lien for City taxes.
2. Execution shall issue for such costs as in the case of City taxes, and the procedure for the enforcement of the execution shall be the same as in the case of City taxes.

Section 33-107. Special Provisions for Old, Unused, Stripped, Junked Automobiles

1. Unsheltered storage of old, unused, stripped, junked and other automobiles not in good and safe operating condition, and of any other vehicles, machinery, implements and/or equipment and personal property of any kind that is no longer safely usable for the purposes for which it was manufactured, for a period of (thirty) 30 days or more, except as provided by Section 31-106, within the corporate limits of the City is a nuisance.
2. The owner, tenant, lessee and/or occupant of any lot within the corporate limits of the City upon which the storage of property is made, and also the owner and/or lessee of the property involved in such storage shall jointly and severally abate the nuisance by the prompt removal of the property into completely enclosed buildings authorized to be used for such storage purposes, if within the corporate limits of the City, or otherwise by removing it to a location without the corporate limits.

Section 33-108. Nuisances Constituting Imminent Danger

Whenever any condition shall exist which constitutes an immediate and grave hazard to public health and safety requiring immediate action, the condition may be abated or

otherwise remedied summarily and without following the procedures set forth in Sections 33-104, 33-105 and 33-106.

Section 33-109. Other Powers Preserved

Nothing in this Article shall in any way affect the power and authority of the municipal judge to punish for any violations which the conditions may constitute, nor shall it affect the power and authority of the judge to punish by contempt the failure to comply with his order.

ARTICLE II. VEGETATION

Section 33-201. Certain Weeds, Grasses and Plants Declared a Nuisance; Exemptions

1. Any weeds such as jimson, burdock., ragweed, thistle, cocklebur or other weeds of a like kind found growing on any lot or tract of land in the City, and any weeds, grasses or plants other than trees, bushes, flowers or other ornamental plants, growing to a height exceeding twelve inches (12") anywhere in the City are declared to be a nuisance, subject to abatement as provided in this Article.
2. Garden flowers, vegetables, cultivated agricultural crops, ornamental shrubbery and trees shall not be considered weeds, grass or vegetation within the meaning of this Article.
3. The provisions of this Article shall apply only to property located within subdivisions of record in the office of the Clerk of the Superior Court of the county and to the original City lots. They shall not apply to undeveloped areas of un-subdivided land within the City.

Section 33-202. Height Permitted

It shall be unlawful for the owner, lessee, tenant or other person having the possession and control of real property, or responsible for its management, maintenance or upkeep, to permit the growth and accumulation of weeds, grass or other vegetation to a height in excess of twelve inches (12") above the ground.

Section 33-203. Notice to Abate

1. For a violation of this Article, the owner of the property shall be given notice to remove such excess growth within seven (7) days from the receipt of the notice. Such notice may be served personally, by registered or certified mail or by attaching a copy of the notice to the principal entrance of the dwelling, and shall contain a description of the location of the property upon which such condition exists.

2. Where notice is given by registered or certified mail, the depositing of such notice in the U.S. mail by registered or certified mail, return receipt requested, addressed to the owner of the property at the address shown on the latest ad valorem tax return of such owner for such property shall constitute sufficient service of such notice, where the return receipt shall be duly returned signed by the addressee or someone residing on the premises, or where the return receipt or other notification from the federal postal service indicates that the notice was refused, or that there was a refusal to sign the return receipt or that delivery of the notice at such address could not be made.

Section 33-204. Abatement by City; Notice of Abatement

1. Upon the failure to comply within the required time by the owner of the property when properly notified pursuant to the provisions of Section 33-203, the City is authorized to have the contractor enter upon the property, and the contractor is authorized to enter such property, and cut and remove the weeds, grass and vegetation. The City shall issue a lot cleaning order to the contractor who shall promptly perform the work and submit his bill to the City. The City shall inspect the work, and if satisfactory, shall approve the bill for payment and forward it to the City Treasurer for payment.

(amended 7/7/08; adopted 7/17/08)

2. The City Treasurer shall promptly send to the owner of the property a statement of account demanding payment thereof on or before a date named in such demand, which shall not be earlier than fifteen (15) days nor later than forty-five (45) days after payment to the contractor.
3. If payment under subsection (2) of this Section shall not have been made on or before the date named, the City Treasurer shall issue a notice directed to the owner of the property and signed by the municipal judge, notifying such owner to show cause before the judge at a time, place and on a date named in such notice, why execution should not issue against the property for its approved amount.
4. If it shall appear at such hearing that the property was in violation of this Article, the notice required in Section 34-113 was given, the work was performed and the cost thereof paid by the City and the City has not been reimbursed, execution shall issue for such amount, signed by the City Treasurer and shall be executed by the Chief of Police in the same manner as tax executions are executed.
5. If the owner of the property is unknown, or cannot be located, the provisions of subsections (2) and (3) of this Section shall not apply, but in lieu thereof a notice shall be published once a week for four (4) weeks in a newspaper of general circulation in the City, which notice shall be addressed "To Whom It May Concern," shall describe with reasonable particularity the property involved, a

statement of the amount due for the removal of the weeds, grass or other vegetation and shall notify all persons interested to show cause before the municipal judge at a time and place and on a date named in the notice why execution should not issue *in rem* against the property for such amount. In such event, subsection (1) of this Section will apply, but the execution shall issue against the property *in rem*.

Section 33-205. Remedies

The remedies provided in this Article are cumulative of all other remedies the City has for the accomplishment of the objectives set forth in this Article. Nothing in this Article shall be construed as relieving any person from the obligation to comply with this Code, all ordinances, laws or regulations of the City or to permit the maintenance by any person of a nuisance, and any nuisance shall be subject to be abated in the manner provided by law.

Section 33-206. Award of Contracts for Clearing of Lots by City

Upon adoption of this Ordinance, and thereafter prior to the commencement of each fiscal year, the City may obtain bids from contractors or other qualified persons for clearing lots of weeds, grass and other vegetation not in excess of two inches (2") in diameter, and for clearing lots of weeds, grass and other vegetation in excess of two inches (2") but not in excess of four inches (4") in diameter, and the Mayor and City Council shall award a contract to the lowest and best bidder and such contract shall remain in effect during the ensuing fiscal year.

ARTICLE III. MOSQUITO CONTROL

Section 33-301. Violation Declared Nuisance

A violation of any provision of this Article is a nuisance.

Section 33-302. Keeping Water in Which Mosquitoes May Breed

1. It shall be unlawful to have, keep, maintain, cause or permit within the City any collection of standing or flowing water in which mosquitoes breed or are likely to breed, unless such collection of water is so treated as to effectively prevent such breeding.
2. The collection of water prohibited by subsection (1) of this Section shall be those contained in ditches, pools, ponds, excavations, holes, depressions, open cesspools, privy vaults, fountains, cisterns, tanks, shallow wells, barrels, troughs (except horse troughs in frequent use), urns, cans, boxes, bottles, tubs, buckets, defective house roof gutters, tanks of flush closets or other similar water containers.

Section 33-303. Treatment of Collections of Water

The method of treatment of any collections of water that are specified in Section 33-302 directed toward the prevention of breeding of mosquitoes, shall be approved by the health officer and may be one or more of the following:

1. Screening with wire netting of at least sixteen (16) meshes to the inch each way, or with any other material that will effectively prevent the ingress or egress of mosquitoes.
2. Complete emptying every seven (7) days of unscreened containers followed by thorough drying and cleaning of such containers.
3. Using a larvicide approved and applied under the direction of the health officer.
4. Covering completely the surface of the water with kerosene, petroleum or paraffin oil once every seven (7) days.
5. Cleaning and keeping sufficiently free of vegetable growth and other obstructions and stocking with mosquito-destroying fish.
6. Filling and draining to the satisfaction of the officer authorized to enforce this Ordinance, his agent or accredited representative.
7. Proper disposal by removal or destruction of tin cans, tin boxes, broken or empty bottles and similar articles likely to hold water.

Section 33-304. Mosquito Larvae as Evidence of Breeding

The natural presence of mosquito larvae in standing or running water shall be evidence that mosquitoes are breeding there, and failure to prevent such breeding within three (3) days after notice by the officer authorized to enforce this Ordinance, his authorized agent or representative, shall be deemed a violation of this Article.

Section 33-305. Failure to Remedy Conditions after Notice

Should the person responsible for conditions giving rise to the breeding of mosquitoes fail or refuse to take necessary measures to prevent such breeding, within three days after due notice has been given to him, the officer authorized to enforce this Ordinance, or his authorized agent may do so, and all necessary costs incurred by him for this purpose shall be a charge against the property owner or other offending person, as the case may be.

Section 33-306. Right of Entry of Officer

For the purpose of enforcing the provisions of this Article, the officer authorized to enforce this Ordinance or his duly accredited agent under his authority, may at all reasonable times lawfully enter in and upon any premises within his jurisdiction.

ARTICLE IV. ABANDONED MOTOR VEHICLES

State law references: Authority to provide by ordinance for removal and disposal of junked vehicles, O.C.G.A. § 36-60-4; abandoned motor vehicles, O.C.G.A. § 40-11-1 et seq.

Section 33-401. Definitions

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

1. *Abandoned Motor Vehicle.* A motor vehicle or trailer which:
 - A. Has been left by the owner or some person acting for the owner with an automobile dealer, repairman or wrecker service for repair or for some other reason and has not been called for by such owner or other person within a period of thirty (30) days after the time agreed upon; or within thirty (30) days after such vehicle is turned over to such dealer, repairman or wrecker service when no time is agreed upon; or within thirty (30) days after the completion of necessary repairs;
 - B. Is left unattended on a public street, road, highway or other public property for a period of at least five (5) days and it reasonably appears to a law enforcement officer that the individual who left such motor vehicle unattended does not intend to return and remove such motor vehicle;
 - C. Has been lawfully towed onto the property of another at the request of a law enforcement officer and left there for a period of not less than thirty (30) days without anyone having made claim thereto;
 - D. Has been lawfully towed onto the property of another at the request of whose property the vehicle was abandoned and left there for a period of not less than thirty (30) days without the owner having made claim thereto; or
 - E. Has been left unattended on private property for a period of not less than thirty (30) days without anyone having made claim thereto.
2. *Motor Vehicle or Vehicle.* A motor vehicle or trailer.
3. *Owner.* The owner, lessor, lessee, security interest holders and all lienholders as shown on the records of the state Department of Revenue.

Section 33-402. Prohibited

It shall be unlawful for any person either as owner, occupant, lessee, agent, tenant or otherwise, to store or deposit, or cause or permit to be stored or deposited, any abandoned motor vehicle upon any public or private property within the corporate limits of the City.

Section 33-403. Removal Required

Any abandoned, junked or discarded motor vehicle shall be removed upon ten (10) days' written notice to the owner or occupant of any premises upon which the motor vehicle is stored or deposited, or to the owner thereof if the identity of such owner of the motor vehicle can be ascertained through license plates or otherwise. If such motor vehicle is not removed after ten (10) days' written notice, the City Police Department shall remove such motor vehicle or cause the removal and sale of such motor vehicle at the cost of the owner or occupant of the premises or the owner of such motor vehicle if such owner can be ascertained. Sale shall be made to the highest of two (2) bids obtained from dealers in such property.

Section 33-404. Same - Notice to Owner and State

1. Any person who removes a motor vehicle from public or private property at the request of someone other than the owner, or who stores any motor vehicle which has been left unattended, shall seek the identity of the owner of the vehicle and shall, within fifteen (15) days of the day the vehicle became an abandoned motor vehicle, give notice in writing to the state Department of Revenue and the state Bureau of Investigation, stating the manufacturer's vehicle identification number, the license number, the fact that such vehicle is an abandoned motor vehicle and the present location of the vehicle, and requesting the name and address of all owners, lessors, lessees, security interest holders and lienholders of such vehicle. If a person removing or storing the vehicle has knowledge of facts which reasonably indicate that the vehicle is registered or titled in a certain state other than this state, he shall check the motor vehicle records of the other state in an attempt to ascertain the identity of the owner of the vehicle.
2. Upon ascertaining the owner of the motor vehicle, the person removing or storing the vehicle shall, within three (3) days, by certified or registered mail, notify the owner, lessors, lessees, security interest holders and lienholders of the location of the vehicle and of the fact that such vehicle is deemed abandoned and shall be disposed of if not redeemed.
3. If the identity of the owner of the motor vehicle cannot be ascertained, the person removing or storing the vehicle shall place an advertisement in a newspaper of general circulation in the county where the vehicle was obtained or, if there is no newspaper in the county, shall post such advertisement at the county courthouse in such place where other public notices are posted. The advertisement shall run

in the newspaper once a week for two (2) consecutive weeks or shall remain posted at the courthouse for two (2) consecutive weeks. The advertisement shall contain a complete description of the motor vehicle, its license and manufacturer's vehicle identification numbers, the location where the vehicle was initially left unattended by the owner, the present location of the vehicle and the fact that the vehicle is deemed abandoned and shall be disposed of if not redeemed.

(Adopted 2/7/2005)

ARTICLE V. Unfit Structures

Section 33-501. Findings

1. It is found and declared that in the City of Hoschton there is or may be the existence or occupancy of dwellings or other buildings or structures which are unfit for human habitation, or for commercial, industrial or business occupancy or use and not in compliance with the applicable state minimum standard codes as adopted by ordinance or operation of law; or any optional building, fire, life safety or other codes relative to the safe use of real property and real property improvements adopted by ordinance in the City of Hoschton or operation of law; or general nuisance law, and which constitutes a hazard to the health, safety and welfare of the people of the City of Hoschton; and that a public necessity exists for the repair, closing or demolition of such dwellings, buildings or structures.
2. It is found and declared that in the City of Hoschton there is or may be in existence a condition or use of real estate which renders adjacent real estate unsafe or inimical to safe human habitation; such use is dangerous and injurious to the health, safety and welfare of the people of the City of Hoschton, and public necessity exists for the repair of such condition, or the cessation of such use which renders the adjacent real estate unsafe or inimical to safe human habitation.

(approved 5/5/08; adopted 5/15/08)

Section 33-502. Abatement

1. Where it is determined by the City Planner that there exists in the City of Hoschton a dwelling or other building or structure which is unfit for human habitation or for commercial, industrial or business use due to dilapidation and not in compliance with applicable codes; which have defects increasing the hazards of fire, accident or other calamities; which lack adequate ventilation, light or sanitary facilities; or where other conditions exist rendering such dwellings, building or structures unsafe or unsanitary, dangerous or detrimental to the health, safety or welfare or otherwise inimical to the welfare of the residents of the City of Hoschton, or vacant, dilapidated dwellings, buildings or structures in

which drug crimes are being committed, the City Planner or his/her designee may exercise the power to repair, close or demolish the aforesaid dwellings, buildings or structures in the manner provided by O.C.G.A. § 41-2-8 through 41-2-17, which are incorporated by reference as if fully set forth herein.

2. All the provisions of this ordinance, including method and procedure, may also be applied to private property where there exists an endangerment to the public health or safety as a result of unsanitary or unsafe conditions to those persons residing or working in the vicinity. 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 ordinance.

(approved 5/5/08; adopted 5/15/08)

Section 33-503. Severability

Should any section or provision of this ordinance be declared invalid or unconstitutional by any court of competent jurisdiction, such declaration shall not affect the validity of this ordinance as a whole or any part thereof which is not specifically declared to be invalid or unconstitutional.

(approved 5/5/08; adopted 5/15/08)

CHAPTER 34: ANNEXATIONS TO CORPORATE LIMITS

Section 34-101. Property Annexed

1. The following described property is hereby annexed into the City of Hoschton upon the application of Ralph Freeman and said property is described more fully as follows:

ALL THAT TRACT or parcel of land lying and being in the 1407th District G.M., Jackson County Georgia, and being described as that part of the land deeded to Ralph Freeman Jr. by Mrs. Ralph Freeman, Sr. on the 14th day of October, 1950 and recorded in the Jackson County Clerk's office on October 18th, 1950, Book 3-M, Folio 186-187 and deeded to Ralph Freeman Jr. by Sam H. Freeman on the 15th day of January, 1963 and recorded in the Jackson County Superior Court Clerks Office on January 22, 1963 in Book 4-0, Page 45, that is not already included in the original City limits of Hoschton, Georgia.

2. The following described property is hereby annexed into the City of Hoschton upon the application of the sole owner John C. Buchanan and said property is described more fully as follows:

All that certain tract or parcel of land lying and being in the 1407th G.M. District of Jackson County, Georgia containing One Hundred Seventy-Five (175) acres more or less as shown on a certain plat of survey made by W.T. Dunahoo & Associates, Winder, Georgia Registered Surveyor No. 1577, and recorded in the office of the Clerk of Superior Court for Jackson County, Georgia on the 30th day of December 1986, in Plat Book 22, Page 232.

3. The following described property is hereby annexed into the City of Hoschton the application of Aaron Thal, President, Jopenea, Inc., and said property is described more fully as follows:

ALL THAT TRACT OR PARCEL of land lying and being in the 1407th District, G.M., Jackson County, Georgia and being described as part of Tract 1 and all of Tract 2 as shown on that certain Plat for Discolex N.V. prepared by W.T. Dunahoo & Associates, Georgia Registered Land Surveyor, dated October 7, 1980, and recorded at Plat Book 12, Page 207, Jackson County records.

4. The following described property hereby annexed into the City of Hoschton upon the application of the sole owner James Isiaiah Mann, and said property is described more fully as follows:

ALL THAT TRACT OR PARCEL of land lying and being in GMD No. 1407, Jackson County, Georgia, and being a portion of Tract No. 16 as shown on plat of survey prepared for Discolex, N.V. by W.T. Dunahoo & Associates, Georgia Registered Land Surveyors, dated October 7, 1980, and recorded at Plat Book 12, page 207, Jackson County, Georgia records and being more particularly described as follows:

Beginning at a point marked by the intersection of the centerline of the Mulberry River and the centerline of Hog Mountain Road (having an eighty foot wide right-of-way at said point), thence running along the centerline of the Mulberry River North 36 degrees 45 minutes West a

distance of two hundred thirty feet to a point at the intersection of said river and a branch; thence running along the centerline of said branch North 29 degrees 27 minutes East a distance of 166.1 feet to a point marked by a birch tree; thence running North 81 degrees 14 minutes East a distance of 554.5 feet to a point on the centerline of Hog Mountain Road (a 30 foot easement at said point); thence running along the centerline of Hog Mountain Road in a generally southwesterly direction a distance of 660 feet, more or less, to the point of beginning; said tract containing 2.2 acres, more or less, as estimated by W.T. Dunahoo.

LESS AND EXCEPT, such portions of the above-described property located within the right-of-way of any road including such portions as may be located within the 80 foot right-of-way obtained by Jackson County to build the bridge over the Mulberry river adjacent to the above described property.

5. The following described property is hereby annexed into the City of Hoschton upon the application of the sole owner John C. Buchanan, and said property is described more fully as follows:

All that tract or parcel of land lying and being in the 1407th District, G.M., Jackson County, Georgia, comprised of one hundred twenty-seven and 29/100 acres and being the property of John C. Buchanan, as shown on a plat entitled "Survey for John C. Buchanan," dated April 25, 1984 and prepared and certified by Owen Patton, Georgia Registered Surveyor No. 1324, recorded at Plat Book 29, pages 73 and 164, Office of the Clerk, Superior Court, Jackson County, Georgia.

6. The following described property is hereby annexed into the City of Hoschton upon the application of the owner, Hoyt Bell Family Limited Partnership, and said property is described more fully as follows:

Beginning at a stake located 210 feet from the Hoschton Road and Northeast of said road along the right-of-way of paved road, running thence North 28 W 468 to stake corner, thence South 58 W 468 to a stake corner, thence S 28 E 468 to a stake corner located along the right-of-way of paved county road, thence along the right-of-way of said paved county road N 58 E 468 feet to the beginning corner, being bounded as follows: South by paved county road, North, East and West by other lands of grantor, and containing thereon one residence known as the Blaylock Home Place, a barn and well. Life estate was granted to Florine Bell on September 6, 1957, by Hoyt Bell in Deed Book 4-A, page 73. The remainder conveying herein shall follow the above life estate.

(Adopted 7/6/1992)

7. The following described property be and is hereby annexed into the City of Hoschton upon the application of the sole owner, John Buchanan, and said property is described more fully as follows:

Property has 746.11 feet frontage along Hog Mountain Road; acreage depth is 1368 fee; rear property line is 850 feet, A copy of said plat is attached hereto and made a part hereof.

(Adopted 7/6/1992)

8. The following described property be and is hereby annexed into the City of Hoschton upon the application of the sole owner, Damon C. Boyd, and said property is described more fully as follows:

All that portion of a tract or parcel of land lying and being in the 1407th District, G.M., Jackson County, Georgia just outside of the incorporated limits of the City of Hoschton made up of two tracts, Tract No. 1 containing 12.45 acres, more or less; Tract No. 2 containing 25.70 acres, more or less, for a total of 38.15 acres, more or less, as shown by plat and survey of W.T. Dunahoo and Associates, Surveyors, dated December 28, 1971, said plat being recorded in the office of the Clerk of the Superior Court of Jackson County, Georgia, in Plat Book 7, page 164. Total acreage of land to be annexed into the incorporated limits of the City of Hoschton will be 7.5 acres.

A copy of said plat is attached hereto and made a part hereof.

(Adopted 12/7/1998)

9. ALL THAT TRACT OR PARCEL OF LAND lying and being in GMD 1407, of Jackson County, Georgia, and being more particularly described as follows:

BEGINNING at an iron pin found on the northwesterly side of the 50 foot right-of-way of Hog Mountain Road, 32510.22 feet northeasterly, as measured along the-northwesterly side of the 50 foot right-of-way of Hog Mountain Road from the center line of Mulberry River, said Iron pin found being within a Georgia Power Company easement and be at the southeast corner of property conveyed by grantor herein to J. C. Buchanan by Warranty Deed dated May 8, 1984 as recorded in the deed records of Jackson County, Georgia; thence North 05 degrees 04 minutes West along the easterly line of said Buchanan property, 277 feet to an iron pin found; thence North 01 degrees 11 minutes 15 seconds West, and continuing along the easterly line of said Buchanan property, 287.62 feet to an iron pin found; thence North 04 degrees 23 minutes 39 seconds West, and continuing along the easterly line said Buchanan property, 741.47 feet to an iron pin found; thence North 04 degrees 45 minutes 35 seconds West, and continuing along the easterly line of said Buchanan property, 302.34 feet to an iron pin found; thence North 00 degrees 43 minutes 24 seconds West and continuing along the easterly line of said Buchanan property, 755.70 feet to an iron pin found at a rock; thence South 82 degrees 25 minutes 17, seconds East, 289.25 feet to an iron pin at a creek; thence South 37 degrees 50 minutes 23 seconds West, 153.23 feet to an iron pin found; thence South 77 degrees 17 minutes 06 seconds East along the southwesterly line of property now or formerly belonging to the L. C. Alien estate, 304.05 feet to an iron pin at the northwest corner of-property conveyed by grantor herein to S. R. Vaughn and Terry Vaughn by Warranty Dee dated June 8, 1984 as recorded at Deed Book 8Q, Page 469, Jackson County, Georgia records; thence South 14 degrees 11 minutes 40 seconds East, along the southwesterly line of said Vaughn property, 1,286.04 feet to an iron pin on the northerly line of property now or formerly belonging to Hoyt Bell; thence South 58 degrees 29 minutes 48 seconds West along the northwesterly line of said Hoyt Bell property, 237.00 feet to an iron pin; thence South 27 degrees 12 minutes 14 seconds East along the southwesterly line of said Hoyt Bell property, 474.00 feet to an iron pin on the northwesterly side of the 50 foot right-of-way of Hog Mountain Road; thence in a southwesterly direction along the northwesterly side of the 50 foot right-of-way of Hog Mountain the following courses and distances: South 52 degrees 12 minutes 39 seconds West, 17.89 feet; South 50 degrees 15 minutes 17 seconds West, 98.96 feet; South 48 degrees 11

minutes 48 seconds West, 99.00 feet; South 49 degrees 27 minutes 22 seconds West, 65.77 feet; South 58 degrees 23 minutes 06 seconds West, 51.10 feet; South 65 degrees 47 minutes 54 seconds West, 43.03 feet; South 72 degrees 15 minutes 56 seconds West, 65.16 feet; South 74 degrees 53 minutes 53 seconds West, 167.18 feet; South 73 degrees 47 minutes 16 seconds West, 118.95 feet and South 74 degrees 03 minutes 37 seconds West, 65.52 feet to the pin found at the point of beginning, being 30.50 acres as shown on plat for Dr. Q. R. Pirkle, by Owen Patton, Registered Land Surveyor, dated 6/15/84.

(Adopted 5/3/04)

10. The following described property be and is hereby annexed into the City of Hoschton upon the application of the sole owner, Gary & Olsson Properties, and said property is described more fully as follows:

ALL THAT TRACT OR PARCEL OF LAND lying and being GMD 1407, of Jackson County, Georgia; and being more particularly described as follows:

Beginning at an iron pin found on the northwesterly side of the 50 foot right-of-way of Hog Mountain Road, 3250.22 feet northeasterly, as measured along the northwesterly side of the 50 foot right-of-way of Hog Mountain Road from the center line of Mulberry River, said iron pin found being within a Georgia Power Company easement and being at the southeast corner of property conveyed by grantor herein to J.C. Buchanan by Warranty Deed dated May 8, 1884 as recorded in the deed records of Jackson County, Georgia; thence North 05 degrees 04 minutes West along the easterly line of said Buchanan property, 277.66 feet to an iron pin found; thence North 01 degrees 11 minutes 15 seconds West, and continuing along the easterly line of said Buchanan property, 287.62 feet to an iron pin found; thence North 04 degrees 23 minutes 39 seconds West, and continuing along the easterly line of said Buchanan property, 741.47 feet to an iron pin found; thence North 04 degrees 45 minutes 35 seconds West, and continuing along the easterly line of said Buchanan property, 302.34 feet to an iron pin found; thence North 00 degrees 43 minutes 24 seconds West and continuing along the easterly line of said Buchanan property, 755.70 feet to an iron pin found at a rock; thence South 82 degrees 25 minutes 17 seconds East, 289.25 feet to an iron pin at a creek; thence South 37 degrees 50 minutes 23 seconds West, 153.23 feet to an iron pin found; thence South 77 degrees 17 minutes 06 seconds East along the southwesterly line of property now or formerly belonging to the L.C. Alien estate, 304.05 feet to an iron pin at the northwest corner of property conveyed by grantor herein to S.R. Vaughn and Terry Vaughn by Warranty Deed dated June 8, 1984 as recorded at Deed Book 8Q, Page 469, Jackson County, Georgia records; thence South 14 degrees 11 minutes 40 seconds East, along the southwesterly line of said Vaughn property, 1,286.04 feet to an iron pin on the northerly line of property now or formerly belonging to Hoyt Bell; thence South 58 degrees 29 minutes 48 seconds West along the northwesterly line of said Hoyt Bell property, 237.00 feet to an iron pin; thence South 27 degrees 12 minutes 14 seconds East along the southwesterly line of said Hoyt Bell property, 474.00 feet to an iron pin on the northwesterly side of the 50 foot right-of-way of Hog Mountain Road; thence in a southwesterly direction along the northwesterly side of the 50 foot right-of-way of Hog Mountain Road, the following courses and distances; South 52 degrees 12 minutes 39 seconds West, 17.89 feet; South 50 degrees 15 minutes 17 seconds West 98.96 feet; South 48 degrees 11 minutes 48 seconds West, 99.00 feet; South 49 degrees 27 minutes 22 seconds West, 65.77 feet; South 58 degrees 23 minutes 06 seconds West, 51.10 feet; South 65 degrees 47 minutes 54 seconds West, 43.03 feet; South 72 degrees 15 minutes 56

seconds West, 65.16 feet; South 74 degrees 53 minutes 53 seconds West, 167.18 feet; South 73 degrees 47 minutes 16 seconds West, 118.95 feet; and South 74 degrees 03 minutes 37 seconds West, 65.52 feet to the iron pin found at the point beginning, being 30.50 acres as shown on plat for Dr. Q.R. Pirkle, by Owen Patton, Registered Land Surveyor, dated June 15, 1984.

(Adopted 8/1/05)

11. The following described property be and is hereby annexed into the City of Hoschton upon the application of the sole owner, Balata Development Corporation, and said property is described more fully as follows:

ALL THAT TRACT OR PARCEL OF LAND lying and being in G.M.D. 1407 of Jackson County, Georgia and being more particularly described as follows:

Commencing at a railroad spike found at the intersection formed by the centerline of Maddox Road (aka Cr. 171 E - 60' R/W) and the centerline of E.G. Barnett Road (aka CR #172 - 30' Easement); thence South 05 degrees 54 minutes 28 seconds West a distance of 37.90 feet to a point on the southerly right-of-way line of Maddox Road, said point being the POINT OF BEGINNING; thence following said southerly right-of-way line of Maddox Road North 57 degrees 27 minutes 56 seconds East a distance of 17.00 feet to a point in the centerline of E.G. Barnett Road; thence following the centerline of E.G. Barnett Road the following courses and distances:

South 09 degrees 55 minutes 38 seconds West a distance of 87.77 feet to a point South 08 degrees 32 minutes 51 seconds West a distance of 42.45 feet to a point; South 00 degrees 13 minutes 53 seconds East a distance of 82.15 feet to a point; thence leaving said centerline and running South 73 degrees 50 minutes 52 seconds East a distance of 12.65 feet to a 1/2" open top pipe found; thence North 61 degrees 05 minutes 16 seconds East a distance of 338.66 feet to a 1/2" open top pipe found; thence North 78 degrees 51 minutes 32 seconds East a distance of 247.02 feet to a 1/2" open pipe found; thence North 02 degrees 12 minutes 15 seconds East a distance of 302.89 feet to a 1/2" open top pipe found on the southerly right-of-way line of Maddox Road; thence following said southerly right-of-way line of Maddox Road the following courses and distances:

North 70 degrees 30 minutes 34 seconds East a distance of 59.56 feet to a point; North 80 degrees 59 minutes 05 seconds East a distance of 47.63 feet to a point; North 88 degrees 51 minutes 58 seconds East a distance of 34.83 feet to a point; South 83 degrees 06 minutes 02 seconds East a distance of 37.22 feet to a point; South 75 degrees 28 minutes 56 seconds East a distance of 56.83 feet to a point; South 71 degrees 58 minutes 55 seconds East a distance of 67.82 feet to a point; South 77 degrees 27 minutes 32 seconds East a distance of 50.79 feet to a point; South 85 degrees 25 minutes 52 seconds East a distance of 40.96 feet to a point; North 87 degrees 04 minutes 55 seconds East a distance of 33.95 feet to a point; North 79 degrees 13 minutes 07 seconds East a distance of 40.19 feet to a point; North 74 degrees 07 minutes 20 seconds East a distance of 36.07 feet to a point; North 71 degrees 19 minutes 13 seconds East a distance of 117.80 feet to a point; North 73 degrees 44 minutes 04 seconds East a distance of 50.27 feet to a point; North 77 degrees 42 minutes 32 seconds East a distance of 54.55 feet to a point; North 80 degrees 18 minutes 56 seconds East a distance of 60.79 feet to a point; North 82 degrees 14 minutes 45 seconds East a distance of

88.53 feet to a point; North 83 degrees 00 minutes 48 seconds East a distance of 363.52 feet to a point; North 83 degrees 22 minutes 25 seconds East a distance of 178.74 feet to a point; North 86 degrees 55 minutes 52 seconds East a distance of 50.08 feet to a point; South 87 degrees 59 minutes 43 seconds East a distance of 16.46 feet to an iron pin set; thence leaving said right-of-way line and running South 22 degrees 52 minutes 54 seconds West a distance of 468.90 feet to a 1/2" open top pipe found; thence South 71 degrees 01 minutes 37 seconds East a distance of 1,089.00 feet to a 1/2" open top pipe found; thence South 18 degrees 09 minutes 53 seconds West a distance of 693.00 feet to a 1/2" open top pipe found; thence south 17 degrees 50 minutes 00 seconds West a distance of 370.50 feet to an oak stump; thence North 74 degrees 31 minutes 50 seconds West a distance of 658.16 feet to an oak stump; thence North 72 degrees 35 minutes 58 seconds West a distance of 1,347.39 feet to a point in the centerline of EG. Barnett Road; thence North 72 degrees 35 minutes 58 seconds West a distance of 607.78 feet to a rock found; thence North 10 degrees 11 minutes 21 seconds West a distance of 395.85 feet to a 1/2" open top pipe found; thence North 11 degrees 03 minutes 18 seconds East a distance of 196.15 feet to the POINT OF BEGINNING.

Said tract containing 69.338 acres of land.

(Adopted 10/02/06)

12. ALL THAT TRACT OR PARCEL OF LAND lying and being in G.M.D. 1407 & 1765 of Jackson County, Georgia and being more particularly described as follows:

BEGINNING at a point on the southerly right-of-way line of Georgia Highway 124, said point being 2067 feet, more or less, in an easterly direction along said southerly right-of-way line of Georgia Highway from the intersection of said southerly right-of-way line of Georgia Highway 124 with the centerline of Keys Drive (if extended); thence following said southerly right-of-way line of Georgia Highway 124 North 86 degrees 23 minutes 42 seconds East a distance of 3.82 feet to a point; thence continuing along said right-of-way line along a curve to the left an arc distance of 197.91 feet, said arc having a radius of 1,565.14 feet and a chord which bears North 82 degrees 46 minutes 21 seconds East a distance of 197.78 feet to a point; thence leaving said right-of-way line and running South 11 degrees 28 minutes 41 seconds West a distance of 210.47 feet to a point; thence South 69 degrees 47 minutes 28 seconds East a distance of 197.54 feet to a point in the centerline of a ditch; thence following said ditch centerline the following courses and distances:

South 54 degrees 37 minutes 31 seconds East a distance of 30.69 feet to a point;
 South 49 degrees 09 minutes 43 seconds East a distance of 20.13 feet to a point;
 South 45 degrees 08 minutes 28 seconds East a distance of 73.74 feet to a point;
 South 60 degrees 47 minutes 19 seconds East a distance of 45.59 feet to a point;
 South 14 degrees 59 minutes 03 seconds West a distance of 13.57 feet to a point;
 South 58 degrees 07 minutes 47 seconds East a distance of 68.47 feet to a point;
 South 52 degrees 37 minutes 19 seconds East a distance of 53.26 feet to a point;
 South 34 degrees 38 minutes 09 seconds East a distance of 34.55 feet to a point;
 South 57 degrees 33 minutes 23 seconds East a distance of 60.13 feet to a point;
 South 58 degrees 36 minutes 08 seconds East a distance of 37.70 feet to a point;
 South 46 degrees 51 minutes 02 seconds East a distance of 100.37 feet to a point;
 South 42 degrees 31 minutes 40 seconds East a distance of 66.56 feet to a point;
 North 59 degrees 57 minutes 01 second East a distance of 14.25 feet to a point;

South 42 degrees 05 minutes 36 seconds East a distance of 28.09 feet to a point;
South 42 degrees 06 minutes 09 seconds East a distance of 56.11 feet to a point;
South 31 degrees 39 minutes 39 seconds East a distance of 41.36 feet to a point;
South 48 degrees 06 minutes 46 seconds East a distance of 48.91 feet to a point;
South 50 degrees 51 minutes 27 seconds East a distance of 39.81 feet to a point;
South 41 degrees 42 minutes 26 seconds East a distance of 43.48 feet to a point;

South 49 degrees 55 minutes 04 seconds East a distance of 32.06 feet to a point in the centerline of a creek; thence leaving said ditch centerline and following the centerline of said creek the following courses and distances:

South 07 degrees 43 minutes 53 seconds East a distance of 50.87 feet to a point;
South 05 degrees 28 minutes 51 seconds East a distance of 56.58 feet to a point;
South 01 degree 43 minutes 04 seconds East a distance of 61.30 feet to a point;
South 12 degrees 33 minutes 24 seconds East a distance of 63.48 feet to a point;
South 23 degrees 17 minutes 03 seconds East a distance of 46.81 feet to a point;
South 16 degrees 30 minutes 04 seconds East a distance of 59.34 feet to a point;
South 18 degrees 29 minutes 23 seconds East a distance of 52.26 feet to a point;
South 26 degrees 55 minutes 03 seconds East a distance of 52.30 feet to a point;
South 21 degrees 37 minutes 06 seconds East a distance of 75.69 feet to a point;
South 24 degrees 00 minutes 04 seconds East a distance of 67.27 feet to a point;
South 20 degrees 12 minutes 12 seconds East a distance of 48.94 feet to a point;
South 22 degrees 48 minutes 04 seconds East a distance of 47.65 feet to a point;
South 24 degrees 18 minutes 25 seconds East a distance of 49.77 feet to a point;
South 15 degrees 22 minutes 14 seconds East a distance of 50.90 feet to a point;

South 25 degrees 07 minutes 18 seconds East a distance of 36.54 feet to a point in the centerline of Indian Creek; thence following said centerline of Indian Creek the following courses and distances:

North 73 degrees 52 minutes 01 second West a distance of 56.84 feet to a point;
North 59 degrees 02 minutes 58 seconds West a distance of 45.20 feet to a point;
North 70 degrees 35 minutes 39 seconds West a distance of 76.31 feet to a point;
North 64 degrees 23 minutes 03 seconds West a distance of 53.17 feet to a point;
North 71 degrees 21 minutes 48 seconds West a distance of 47.39 feet to a point;
North 60 degrees 49 minutes 23 seconds West a distance of 62.30 feet to a point;

North 64 degrees 01 minute 17 seconds West a distance of 14.36 feet to a point; thence leaving said creek centerline and running South 23 degrees 00 minutes 12 seconds West a distance of 1,051.74 feet to a point; thence South 22 degrees 52 minutes 54 seconds West a distance of 934.89 feet to a point on the northerly right-of-way line of Maddox Road (60' R/W); thence following said northerly right-of-way line of Maddox Road the following courses and distances:

North 87 degrees 59 minutes 43 seconds West a distance of 42.00 feet to a point;
South 86 degrees 55 minutes 52 seconds West a distance of 54.60 feet to a point;
South 83 degrees 22 minutes 25 seconds West a distance of 180.79 feet to a point;

South 83 degrees 00 minutes 48 seconds West a distance of 157.38 feet to a point; thence

leaving said right-of-way line and running North 03 degrees 08 minutes 02 seconds West a distance of 368.33 feet to a point; thence North 81 degrees 22 minutes 16 seconds East a distance of 96.55 feet to a point; thence North 30 degrees 44 minutes 27 seconds West a distance of 692.87 feet to a point; thence South 81 degrees 19 minutes 47 seconds West a distance of 708.56 feet to a point; thence South 31 degrees 28 minutes 50 seconds East a distance of 696.03 feet to a point; thence North 81 degrees 22 minutes 16 seconds East a distance of 552.40 feet to a point; thence South 03 degrees 08 minutes 02 seconds East a distance of 366.89 feet to a point on the northerly right-of-way line of Maddox Road (60' R/W); thence following said northerly right-of-way line of Maddox Road the following courses and distances:

South 83 degrees 00 minutes 48 seconds West a distance of 156.73 feet to a point;
 South 82 degrees 14 minutes 45 seconds West a distance of 89.94 feet to a point;
 South 80 degrees 18 minutes 56 seconds West a distance of 63.17 feet to a point;
 South 77 degrees 42 minutes 32 seconds West a distance of 58.00 feet to a point;
 South 73 degrees 44 minutes 04 seconds West a distance of 53.62 feet to a point;
 South 71 degrees 19 minutes 13 seconds West a distance of 117.60 feet to a point;
 South 74 degrees 07 minutes 20 seconds West a distance of 31.93 feet to a point;
 South 79 degrees 13 minutes 07 seconds West a distance of 33.40 feet to a point;
 South 87 degrees 04 minutes 55 seconds West a distance of 25.90 feet to a point;
 North 85 degrees 25 minutes 52 seconds West a distance of 32.85 feet to a point;
 North 77 degrees 27 minutes 32 seconds West a distance of 43.74 feet to a point;
 North 71 degrees 58 minutes 55 seconds West a distance of 66.78 feet to a point;
 North 75 degrees 28 minutes 56 seconds West a distance of 62.66 feet to a point;
 North 83 degrees 06 minutes 02 seconds West a distance of 45.43 feet to a point;
 South 88 degrees 51 minutes 58 seconds West a distance of 43.18 feet to a point;
 South 80 degrees 59 minutes 05 seconds West a distance of 57.26 feet to a point;
 South 70 degrees 30 minutes 34 seconds West a distance of 67.62 feet to a point;
 South 65 degrees 37 minutes 57 seconds West a distance of 43.24 feet to a point;
 South 61 degrees 54 minutes 11 seconds West a distance of 54.96 feet to a point;
 South 59 degrees 44 minutes 54 seconds West a distance of 79.92 feet to a point;
 South 60 degrees 26 minutes 02 seconds West a distance of 106.39 feet to a point;
 South 61 degrees 34 minutes 33 seconds West a distance of 111.24 feet to a point;
 South 62 degrees 14 minutes 33 seconds West a distance of 99.23 feet to a point;
 South 58 degrees 21 minutes 10 seconds West a distance of 86.19 feet to a point;

South 60 degrees 38 minutes 23 seconds West a distance of 10.98 feet to a point; thence leaving said right-of-way line and running North 11 degrees 04 minutes 16 seconds East a distance of 521.89 feet to a point; thence North 74 degrees 35 minutes 51 seconds West a distance of 167.00 feet to a point; thence North 08 degrees 41 minutes 01 second West a distance of 134.25 feet to a point; thence North 07 degrees 26 minutes 43 seconds West a distance of 512.42 feet to a point; thence North 81 degrees 28 minutes 24 seconds East a distance of 200.50 feet to a point; thence North 12 degrees 25 minutes 09 seconds West a distance of 311.35 feet to a point; thence North 57 degrees 09 minutes 02 seconds East a distance of 710.03 feet to a point; thence North 57 degrees 32 minutes 15 seconds East a distance of 1,333.77 feet to a point; thence North 13 degrees 03 minutes 50 seconds East a distance of 897.98 feet to a point; thence North 76 degrees 40 minutes 37 seconds East a distance of 214.02 feet to a point; thence North 85 degrees 11 minutes 04 seconds East a distance of 198.77 feet to a point; thence North 11 degrees 33 minutes 04 seconds West a

distance of 166.97 feet to the POINT OF BEGINNING.

Said Tract containing 124.5 acres of land, more or less.

13. The following area contiguous to the City of Hoschton, Georgia is hereby annexed into and is made part of said city:

Beginning at a point located at the intersection of the northeasterly right of way of GA Highway 53 with the northerly right of way of Jackson Trail Road, thence proceeding a distance of 1973.06 feet on a heading of N 14d 23m 18s E to an iron pin and the true point of beginning; thence going a distance of 538.67 feet on a heading of S 50d 56m 51s W to an iron pin, then going a distance of 743.01 feet on a heading of N 47d 03m 17s W to an iron pin, then going a distance of 105.00 feet on a heading of S 71d 26m 44s W to an iron pin, then going a distance of 507.21 feet on a heading of N 18d 33m 15s W to an iron pin, then going a distance of 12.00 feet on a heading of N 18d 33m 15s W to the centerline of a creek, then going a distance of 85.41 feet on a heading of S 77d 42m 18s E to a point in the center of the creek, then going a distance of 180.96 feet on a heading of N 67d 07m 45s E to a point in the center of the creek, then going a distance of 92.54 feet on a heading of N 88d 55m 20s E to a point in the center of the creek, then going a distance of 114.84 feet on a heading of N 81d 30m 56s E to a point in the center of the creek, then going a distance of 105.60 feet on a heading of N 88d 19m 59s E to a point in the center of the creek, then going a distance of 102.94 feet on a heading of S 89d 24m 16s E to a point in the center of the creek, then going a distance of 86.82 feet on a heading of S 65d 56m 19s E to a point in the center of the creek, then going a distance of 37.12 feet on a heading of S 22d 14m 57s E to a point in the center of the creek, then going a distance of 57.28 feet on a heading of S 63d 19m 06s E to a point in the center of the creek, then going a distance of 30.41 feet on a heading of S 08d 09m 02's E to a point in the center of the creek, then going a distance of 50.25 feet on a heading of S 23d 19m 21s E to a point in the center of the creek, then going a distance of 228.25 feet on a heading of S 46d 25m 20s E to a point in the center of the creek, then going a distance of 87.10 feet on a heading of S 30d 12m 42s E to a point in the center of the creek, then going a distance of 61.85 feet on a heading of N 86d 25m 31s E to a point in the center of the creek, then going a distance of 65.00 feet on a heading of S 17d 36m 45s E to a point in the center of the creek, then going a distance of 23.85 feet on a heading of N 71d 32m 48s E to a point now or formerly marked by a poplar stump, then going a distance of 184.48 feet on a heading of S 18d 06m 50s E to an iron pin and the true point of beginning, as shown on a survey signed by Edwin R. Cowherd and dated September 19, 1980 and entitled "Boundary Survey For City of Hoschton, Georgia Wastewater Treatment Site and encompassing 14.95 acres.

(Adopted 3/5/07)

(Code 1991, § 34-101; Ord. of 7-6-1992; Ord. of 12-7-1998; Ord. of 5-3-2004; Ord. of 8-1-2005; Ord. of 10-2-2006; Ord. of 3-5-2007)

14. The following described property be and is hereby annexed into the City of Hoschton upon the application of the sole owner, Braselton Townships Development, and said property is described more fully as follows:

ALL THAT TRACT OR PARCEL OF LAND lying and being in G.M.D. 1407 of Jackson County, Georgia and being more particularly described as follows:

All that tract or parcel of land lying and being in the City of Hoschton Georgia Militia District 1407, Jackson County, Georgia, and being more particularly described as follows. Commence at the intersection of the centerline of Maddox Road (60' right of way) and the center line of E.G. Barnett Road. Proceed thence, South 23 degrees 06 minutes 08 seconds West at a distance of 53.23 feet to a point on the southerly right of way of said Maddox Road; thence, along the right of way of said Maddox Road, along the arc of a curve having a radius of 1309.77 feet a distance of 163.43, said arc being subtended by a chord having a bearing of South 52 degrees 26 minutes 16 seconds West and a distance of 163.32 feet; thence, South 48 degrees 50 minutes 56 seconds West at a distance of 64.27 feet; thence, along the arc of a curve having a radius of 538.31 feet a distance of 13.92 feet, said arc being subtended by a chord having a bearing of South 46 degrees 47 minutes 43 seconds West and a distance of 13.2 feet to a point, said point being the Point of Beginning. Proceed thence, leaving the southerly right of way of said Maddox Road, South 29 degrees 49 minutes 06 seconds East a distance of 494.30 feet; thence, North 51 degrees 18 minutes 23 seconds West a distance of 192.34 feet; thence, North 50 degrees 37 minutes 03 seconds West a distance of 328.11 feet to a point on the southerly right of way of said Maddox Road; thence, along the southerly right of way of said Maddox Road, along the arc of a curve having a radius of 538.31 feet a distance of 188.12 feet, said arc being subtended by a chord having a bearing of North 57 degrees 32 minutes 50 seconds East and a distance of 187.16 feet to a point, said point being the Point of Beginning. Said tract or parcel of land contains 1.046 acres and is further described as Tract 1 on a plat of survey prepared by Carlan Land Surveyors for Braselton Townships Development, dated July 28, 2016.

All that tract or parcel of land lying and being in the City of Hoschton Georgia Militia District 1407, Jackson County, Georgia, and being more particularly described as follows. Commence at the intersection of the centerline of Maddox Road (60' right of way) and the center line of E.G. Barnett Road. Proceed thence, South 23 degrees 06 minutes 08 seconds West at a distance of 53.23 feet to a point on the southerly right of way of said Maddox Road, said point being the Point of Beginning. Proceed thence, leaving the southerly right of way of said Maddox Road, South 08 degrees 33 minutes 51 seconds West a distance of 196.15 feet; thence, South 12 degrees 41 minutes 35 seconds East a distance of 395.96 feet; thence, North 29 degrees 49 minutes 06 seconds West a distance of 494.30 feet to a point on the southerly right of way of said Maddox Road; thence, along the southerly right of way of said Maddox Road, along the arc of a curve having a radius of 538.31 feet a distance of 13.92 feet, said arc being subtended by a chord having a bearing of North 46 degrees 47 minutes 43 seconds East and a distance of 13.92 feet; thence North 48 degrees 50 minutes 56 seconds East a distance of 64.27 feet; thence, along the arc of a curve having a radius of 1309.77 feet a distance of 163.43 feet, said arc being subtended by a chord having a bearing of North 52 degrees 26 minutes 16 seconds East and a distance of 163.32 feet to a point, said point being the Point of Beginning. Said tract or parcel of land contains 1.046 acres and is further described as Tract 2 on a plat of survey prepared by Carlan Land Surveyors for Braselton Townships Development, dated July 28, 2016.

(Ord. Z-16-02)

15. The following described property be and is hereby annexed into the City of Hoschton upon the application of the sole owner, Trustee for Alice M. Nunley, and said property is described more fully as follows:

That part or portion of a tract or parcel of land lying and being in Jackson County Georgia, constituting approximately 3.6 acres, and fronting on the north side of Peachtree Road, a portion of which is already in the city limits of Hoschton; 300 Peachtree Road, Tax Map and Parcel Number 120 010. Said tract or parcel of land contains 3.6 acres.

(Ord. Z-17-03, adopted October 2, 2016)

16. The following described property be and is hereby annexed into the City of Hoschton upon the application of the sole owner, LSH Development, LLC, and said property is described more fully as follows:

All that tract or parcel of land lying and being in City of Braselton, Georgia Militia District 1765, Jackson County, Georgia and being more particularly described as follows:

To find The Point of Beginning commence at a Point at the intersection of the Westerly Right-of-Way of Piedmont Avenue (40'R/W) and the Southerly Right-of-Way of Henry Street (40' R/W), said Point being The True Point of Beginning. Thence travel along aforesaid Southerly Right-of-Way of Henry Street the following two (2) courses, North 76 degrees 50 minutes 35 seconds East for a distance of 243.76 feet to a Point; thence North 66 degrees 11 minutes 14 seconds East for a distance of 340.84 feet to a Point; thence leaving said Southerly Right-of-Way of Henry Street, South 24 degrees 49 minutes 08 seconds East for a distance of 175.93 feet to a 1/2" Rebar Set on the Northerly line of aforesaid Georgia Militia District 1407, thence along said Northerly line of said Georgia Militia District 1407, South 69 degrees 18 minutes 13 seconds West for a distance of 634.20 feet to a 1/2" Rebar Set; thence North 08 degrees 52 minutes 10 seconds West for a distance of 193.02 feet to a Point, said point being The True Point of Beginning. Said property contains 2.369 Acres (103202.86 Square Feet).

(Ord. Z-18-01, adopted March 22, 2018)

CITY OF HOSCHTON
COUNTY OF JACKSON
STATE OF GEORGIA

ORDINANCE

ORDINANCE TO AMEND CHAPTER 35 OF THE CODE OF ORDINANCE OF THE CITY OF HOSCHTON; TO AMEND THE SOIL EROSION, SEDIMENTATION AND POLLUTION CONTROL ORDINANCE; TO PROVIDE DEFINITIONS; TO PROVIDE FOR EXEMPTIONS; TO PROVIDE MINIMUM REQUIREMENTS FOR EROSION, SEDIMENTATION AND POLLUTION CONTROL USING BEST MANAGEMENT PRACTICES; TO PROVIDE FOR AN APPLICATION/PERMIT PROCESS, INSPECTION AND ENFORCEMENT; TO PROVIDE FOR PENALTIES AND INCENTIVES; TO PROVIDE FOR EDUCATION AND CERTIFICATION; TO PROVIDE FOR ADMINISTRATIVE APPEAL AND JUDICIAL REVIEW; TO ESTABLISH TERMS OF EFFECTIVITY, VALIDITY AND LIABILITY; TO REPEAL CONFLICTING ORDINANCES; TO PROVIDE FOR AN EFFECTIVE DATE AND FOR OTHER PURPOSES.

Chapter 35, "Soil Erosion, Sedimentation and Pollution Control" is hereby repealed, and a new Chapter 35, "Soil Erosion, Sedimentation and Pollution Control" is adopted to read as follows:

CHAPTER 35 SOIL EROSION, SEDIMENTATION AND POLLUTION CONTROL

- Section 35-101. Title.
- Section 35-102. Definitions.
- Section 35-103. Exemptions.
- Section 35-104. Minimum Requirements for Erosion, Sedimentation and Pollution Control Using Best Management Practices.
- Section 35-105. Application/Permit Process.
- Section 35-106. Inspection and Enforcement.
- Section 35-107. Penalties and Incentives.
- Section 35-108. Education and Certification.
- Section 35-109. Administrative Appeal Judicial Review.
- Section 35-110. Effectivity, Validity and Liability.

Section 35-101. Title.

This ordinance will be known as the "Hoschton Soil Erosion, Sedimentation and Pollution Control Ordinance."

Section 35-102. Definitions

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

- (a) *Best Management Practices (BMPs)*. These include sound conservation and engineering practices to prevent and minimize erosion and resultant sedimentation, which are consistent with, and no less stringent than, those practices contained in the 'Manual for Erosion and Sediment Control in Georgia' published by the Commission as of January 1 of the year in which the land-disturbing activity was permitted.
- (b) *Board*. The Board of Natural Resources.
- (c) *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.
- (d) *Certified Personnel*. A person who has successfully completed the appropriate certification course approved by the Georgia Soil and Water Conservation Commission.
- (e) *Coastal Marshlands*. Shall have the same meaning as in O.C.G.A. 12-5-282.
- (f) *Commission*. The Georgia Soil and Water Conservation Commission (GSWCC).
- (g) *CPESC*. Certified Professional in Erosion and Sediment Control with current certification by EnviroCert, Inc., which is also referred to as CPESC or CPESC, Inc.
- (h) *Cut*. A portion of land surface or area from which earth has been removed or will be removed by excavation; the depth below original ground surface to the excavated surface. Also known as excavation.
- (i) *Department*. The Georgia Department of Natural Resources (DNR).
- (j) *Design Professional*. A professional licensed by the State of Georgia in the field of: engineering, architecture, landscape architecture, forestry, geology, or land surveying; or a person that is a Certified Professional in Erosion and Sediment Control (CPESC) with a current certification by EnviroCert, Inc., Design Professionals shall practice in a manner that complies with applicable Georgia law governing professional licensure.
- (k) *Director*. The Director of the Environmental Protection Division or an authorized representative.
- (l) *District*. The Oconee River Soil and Water Conservation District.
- (m) *Division*. The Environmental Protection Division (EPD) of the Department of Natural Resources.
- (n) *Drainage Structure*. A device composed of a virtually nonerodible material such as concrete, steel, plastic or other such material that conveys water from one place to another by intercepting the flow and carrying it to a release point for storm water management, drainage control or flood control purposes.
- (o) *Erosion*. The process by which land surface is worn away by the action of wind, water, ice or gravity.
- (p) *Erosion, Sedimentation and Pollution Control Plan*. A plan required by the Erosion and Sedimentation Act, O.C.G.A. Chapter 12-7, that includes, as a minimum protections at

least as stringent as the State General Permit, best management practices, and requirements in Section 35-104(3) of this ordinance.

- (q) *Fill*. A portion of land surface to which soil or other solid material has been added; the depth above the original ground surface or an excavation.
- (r) *Final Stabilization*. All soil disturbing activities at the site have been completed, and that for unpaved areas and areas not covered by permanent structures and areas located outside the waste disposal limits of a landfill cell that has been certified by EPD for waste disposal, one hundred percent (100%) of the soil surface is uniformly covered in permanent vegetation with a density of seventy percent (70%) or greater, or landscaped according to the Plan (uniformly covered with landscaping materials in planned landscape areas), or equivalent permanent stabilization measures as defined in the Manual (excluding a crop of annual vegetation and seeding of target crop perennials appropriate for the region). Final stabilization applies to each phase of construction.
- (s) *Finished Grade*. The final elevation and contour of the ground after cutting or filling and conforming to the proposed design.
- (t) *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.
- (u) *Ground Elevation*. The original elevation of the ground surface prior to cutting or filling.
- (v) *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.
- (w) *Larger Common Plan of Development or Sale*. A contiguous area where multiple separate and distinct construction activities are occurring under one plan of development or sale. For the purposes of this paragraph, "plan" means an announcement; piece of documentation such as a sign, public notice or hearing, sales pitch, advertisement, drawing, permit application, zoning request, or computer design; or physical demarcation such as boundary signs, lot stakes, or surveyor markings, indicating that construction activities may occur on a specific plot.
- (x) *Local Issuing Authority*. The governing authority of any county or municipality which is certified pursuant to subsection (a) O.C.G.A. 12-7-8.
- (y) *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.
- (z) *Natural Ground Surface*. The ground surface in its original state before any grading, excavating or filling.
- (aa) *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 or suspended particles are present.

- (bb) *NOI*. A Notice of Intent form provided by EPD for coverage under the State General Permit.
- (cc) *NOT*. A Notice of Termination form provided by EPD to terminate coverage under the State General Permit.
- (dd) *Operator*. The party or parties that have:
 - A. Operational control of construction project plans and specifications, including the ability to make modifications to those plans and specifications; or
 - B. Day-to-day operational control of those activities that are necessary to ensure compliance with an erosion, sedimentation and pollution control plan for the site or other permit conditions, such as a person authorized to direct workers at a site to carry out activities required by the erosion, sedimentation and pollution control plan or to comply with other permit conditions.
- (ee) *Outfall*. The location where storm water in a discernible, confined and discrete conveyance, leaves a facility or site or, if there is a receiving water on site, becomes a point source discharging into that receiving water.
- (ff) *Permit*. The authorization necessary to conduct a land-disturbing activity under the provisions of this ordinance.
- (gg) *Person*. Any individual, partnership, firm, association, joint venture, public or private corporation, trust, estate, commission, board, public or private institution, utility, cooperative, state agency, municipality or other political subdivision of the State of Georgia, any interstate body or any other legal entity.
- (hh) *Phase or Phased*. Sub-parts or segments of construction projects where the sub-part or segment is constructed and stabilized prior to completing construction activities on the entire construction site.
- (ii) *Project*. The entire proposed development project regardless of the size of the area of land to be disturbed.
- (jj) *Properly Designed*. Designed in accordance with the design requirements and specifications contained in the "Manual for Erosion and Sediment Control in Georgia" (Manual) published by the Georgia Soil and Water Conservation Commission as of January 1 of the year in which the land-disturbing activity was permitted and amendments to the Manual as approved by the Commission up until the date of NOI submittal.
- (kk) *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 roadway consisting of one or more defined lanes, with or without shoulder areas, and carrying water to a release point on the other side.

- (ll) *Sediment*. Solid material, both organic and inorganic, that is in suspension, is being transported, or has been moved from its site of origin by wind, water, ice, or gravity as a product of erosion.
- (mm) *Sedimentation*. The process by which eroded material is transported and deposited by the action of water, wind, ice or gravity.
- (nn) *Soil and Water Conservation District Approved Plan*. An erosion, sedimentation and pollution control plan approved in writing by the Oconee River Soil and Water Conservation District.
- (oo) *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.
- (pp) *State General Permit*. The National Pollution Discharge Elimination System (NPDES) general permit or permits for storm water runoff from construction activities as is now in effect or as may be amended or reissued in the future pursuant to the state's authority to implement the same through federal delegation under the Federal Water Pollution Control Act, as amended, 33 U.S.C. Section 1251, et seq., and subsection (f) of Code Section 12-5-30.
- (qq) *State waters*. Any and all rivers, streams, creeks, branches, lakes, reservoirs, ponds, drainage systems, springs, wells, and other bodies of surface or subsurface water, natural or artificial, lying within or forming a part of the boundaries of Georgia which are not entirely confined and retained completely upon the property of a single individual, partnership, or corporation.
- (rr) *Structural Erosion, Sedimentation and Pollution Control Practices*. Practices for the stabilization of erodible or sediment-producing areas by utilizing the mechanical properties of matter for the purpose of either changing the surface of the land or storing, regulating or disposing of runoff to prevent excessive sediment loss. Examples of structural erosion and sediment control practices are riprap, sediment basins, dikes, level spreaders, waterways or outlets, diversions, grade stabilization structures and sediment traps, etc. Such practices can be found in the publication Manual for Erosion and Sediment Control in Georgia.
- (ss) *Trout Streams*. All streams or portions of streams within the watershed as designated by the Wildlife Resources Division of the Georgia Department of Natural Resources under the provision of the Georgia Water Quality Control Act, O.C. G. A. § 12-5-20, in the rules and regulations for Water Quality Control, Chapter 391-3-6 at www.epd.georgia.gov. 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.
- (tt) *Vegetative Erosion and Sedimentation Control Measures*. Measures for the stabilization of erodible or sediment-producing areas by covering the soil with:

- A. Permanent seeding, sprigging or planting, producing long-term vegetative cover;
 - 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.
- (uu) *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.
- (vv) *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. Surface mining, as the same is defined in O.C.G.A. § 12-4-72, "The Georgia Surface Mining Act of 1968;"
2. Granite quarrying and land clearing for such quarrying;
3. Such minor land-disturbing activities as home gardens and individual home landscaping, repairs, maintenance work, fences, and other related activities which result in minor soil erosion;
4. The construction of single-family residences, when such construction disturbs less than one (1) acre and is not a part of a larger common plan of development or sale with a planned disturbance of equal to or greater than one (1) acre and not otherwise exempted under this paragraph; provided, however, that construction of any such residence shall conform to the minimum requirements as set forth in O.C.G.A. § 12-7-6 and this paragraph. For single-family residence construction covered by the provisions of this paragraph, there shall be a buffer zone between the residence and any state waters classified as trout streams 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 subsection (b) of O.C.G.A. § 12-7-6 and the buffer zones provided by this paragraph shall be enforced by

the Local Issuing Authority;

5. Agricultural operations as defined in O.C.G.A. § 1-3-3, "definitions", to include raising, harvesting or storing of products of the field or orchard; feeding, breeding or managing livestock or poultry; producing or storing feed for use in the production of livestock, including but not limited to cattle, calves, swine, hogs, goats, sheep, and rabbits or for use in the production of poultry, including but not limited to chickens, hens and turkeys; producing plants, trees, fowl, or animals; the production of aqua culture, horticultural, dairy, livestock, poultry, eggs and apiarian products; farm buildings and farm ponds;
6. Forestry land management practices, including harvesting; provided, however, that when such exempt forestry practices cause or result in land-disturbing or other activities otherwise prohibited in a buffer, as established in paragraphs (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;
7. Any project carried out under the technical supervision of the Natural Resources Conservation Service (NRCS) of the United States Department of Agriculture;
8. Any project involving less than one (1) acre of disturbed area; provided, however, that this exemption shall not apply to any land-disturbing activity within a larger common plan of development or sale with a planned disturbance of equal to or greater than one (1) acre or within two hundred (200) feet of the bank of any state waters, and for purposes of this paragraph, "State Waters" excludes channels and drainage ways which have water in them only during and immediately after rainfall events and intermittent streams which do not have water in them year-round; provided, however, that any person responsible for a project which involves less than one (1) acre, which involves land-disturbing activity, and which is within two hundred (200) feet of any such excluded channel or drainage way, must prevent sediment from moving beyond the boundaries of the property on which such project is located and provided, further, that nothing contained herein shall prevent the Local Issuing Authority from regulating any such project which is not specifically exempted by paragraphs 1, 2, 3, 4, 5, 6, 7, 9, or 10 of this section;
9. Construction or maintenance projects, or both, undertaken or financed in whole or in part, or both, by the Department of Transportation, the Georgia Highway Authority or the State Road and Tollway Authority; or any road construction or maintenance project, or both, undertaken by any county or municipality; provided, however, that construction or maintenance projects of the Department of Transportation or the State Road and Tollway Authority which disturb one or more contiguous acres of land shall be subject to provisions of O.C.G.A. § 12-7-7.1; except where the Department of Transportation, the Georgia Highway Authority, or the State Road and Tollway Authority is a secondary permittee for a project located within a larger common plan of development or sale under the state general permit, in which case a copy of a notice of intent under the state general permit shall be submitted to the Local Issuing Authority, the Local Issuing Authority shall enforce compliance with the minimum requirements set forth in O.C.G.A. § 12-7-6 as if a permit had been issued, and violations shall be subject to the same penalties as violations by permit holders;

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

Section 35-104. Minimum Requirements for Erosion, Sedimentation and Pollution Control Using Best Management Practices

1. General Provision. Excessive soil erosion and resulting sedimentation can take place during land-disturbing activities if requirements of the ordinance and the NPDES General Permit are not met. Therefore, plans for those land-disturbing activities which are not exempted by this ordinance shall contain provisions for application of soil erosion, sedimentation and pollution control measures and practices. The provisions shall be incorporated into the erosion, sedimentation and pollution control plans. Soil erosion, sedimentation and pollution 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, sedimentation and pollution during all stages of any land-disturbing activity in accordance with requirements of this ordinance and the NPDES General Permit.
2. Minimum Requirements/BMPs.
 - 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 B 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, the "Georgia Water Quality Control Act". As used in this subsection the terms "proper design" and "properly designed" mean designed in accordance with the hydraulic design specifications contained in the "Manual for Erosion and Sediment Control in Georgia" specified in O.C.G.A. § 12-7-6 subsection (b).
 - 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 of any state general permit 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. This paragraph shall not apply to any land disturbance associated with the construction of single family homes which are not part of a larger common plan of development or sale unless the planned disturbance for such construction is equal to or greater than five (5) acres.

- 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 of any state general permit issued by the Division pursuant to subsection (f) of Code Section 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.
 - E. The Local Issuing Authority may set more stringent buffer requirements than stated in Section 35-104.3.O, P, and Q, in light of O.C.G.A. § 12-7-6 (c).
3. The rules and regulations, ordinances or resolutions adopted pursuant to O.C.G.A. § 12-7-1 et seq. for the purpose of governing land-disturbing activities shall require, as a minimum, protections at least as stringent as the state general permit; and best management practices, including sound conservation and engineering practices to prevent and minimize erosion and resultant sedimentation, which are consistent with, and no less stringent than, those practices contained in the Manual for Erosion and Sediment Control in Georgia published by the Georgia Soil and Water Conservation Commission as of January 1 of the year in which the land-disturbing activity was permitted, as well as the following:
- 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, sedimentation and pollution 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 and Q 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, where a drainage structure or a roadway drainage structure must be constructed, provided that adequate erosion control measures are incorporated in the project plans and specifications, and are implemented; or where bulkheads and sea walls are installed to prevent shoreline erosion on Lake Oconee and Lake Sinclair; or along any ephemeral stream. As used in this provision, the term 'ephemeral stream' means a stream: that under normal circumstances has water flowing only during and for a short duration after precipitation events; that has the channel located above the ground-water table year round; for which ground water is not a source of water; and for which runoff from precipitation is the primary source of water flow, Unless exempted as along an ephemeral stream, the buffers of at least 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:
 - 1) 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
 - 2) The buffer shall not apply to the following land-disturbing activities, provided that they occur at an angle, as measured from the point of crossing, within twenty-five (25) degrees of perpendicular to the stream; cause a width of disturbance of not more than fifty (50) feet within the buffer; and adequate erosion control measures are incorporated into the project plans and specifications and are implemented: (i) Stream

crossings for water lines; or (ii) Stream crossings for sewer lines; and

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:

- 1) 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
- 2) The buffer shall not apply to the following land-disturbing activities, provided that they occur at an angle, as measured from the point of crossing, within twenty-five (25) degrees of perpendicular to the stream; cause a width of disturbance of not more than fifty (50) feet within the buffer; and adequate erosion control measures are incorporated into the project plans and specifications and are implemented: (i) Stream crossings for water lines; or (ii) Stream crossings for sewer lines; and

Q. There is established a 25-foot buffer along coastal marshlands, as measured horizontally from the coastal marshland-upland interface, as determined in accordance with Chapter 5 of Title 12 of this title, the "Coastal Marshlands Protection Act of 1970." And the rules and regulations promulgated thereunder, 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 Code Section 12-2-8, where an alteration within the buffer area has been authorized pursuant to Code Section 12-5-286, for maintenance of any currently serviceable structure, landscaping, or hardscaping, including bridges, roads, parking lots, golf courses, golf cart paths, retaining walls, bulkheads, and patios; provided, however, that if such maintenance requires any land-disturbing activity, adequate erosion control measures are

incorporated into the project plans and specifications and such measures are fully implemented, where a drainage structure or roadway drainage structure is constructed or maintained; provided, however, that if such maintenance requires any land-disturbing activity, adequate erosion control measures are incorporated into the project plans and specifications and such measures are fully implemented, on the landward side of any currently serviceable shoreline stabilization structure, or for the maintenance of any manmade storm-water detention basin, golf course pond, or impoundment that is located entirely within the property of a single individual, partnership, or corporation; provided, however, that adequate erosion control measures are incorporated into the project plans and specifications and such measures are fully implemented. For the purposes of this paragraph, maintenance shall be defined as actions necessary or appropriate for retaining or restoring a currently serviceable improvement to the specified operable condition to achieve its maximum useful life. Maintenance includes emergency reconstruction of recently damaged parts of a currently serviceable structure so long as it occurs within a reasonable period of time after damage occurs. Maintenance does not include any modification that changes the character, scope or size of the original design, and serviceable shall be defined as usable in its current state or with minor maintenance but not so degraded as to essentially require reconstruction.

- 1) 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; 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
- 2) The buffer shall not apply to crossings for utility lines that cause a width of disturbance of not more than 50 feet within the buffer, provided, however, that adequate erosion control measures are incorporated into the project plans and specifications and such measures are fully implemented.
- 3) The buffer shall not apply to any land-disturbing activity conducted pursuant to and in compliance with a valid and effective land-disturbing permit issued subsequent to April 22, 2014 and prior to December 31, 2015; provided, however, that adequate erosion control measures are incorporated into the project plans and specifications and such measures are fully implemented or any lot for which the preliminary plat has been approved prior to December 31, 2015 if roadways, bridges, or water and sewer lines have been extended to such lot prior to the effective date of this Act and if the requirement to maintain a 25 foot buffer would consume at least 18 percent of the high ground of the platted lot otherwise available for development; provided, however, that adequate erosion control measures are incorporated into the project plans and specifications and such measures are fully implemented.
- 4) Activities where the area within the buffer is not more than 500 square feet or that have a "Minor Buffer Impact" as defined in 391-3-7-.01(r),

provided that the total area of buffer impacts is less than 5,000 square feet are deemed to have an approved buffer variance by rule. Bank stabilization structures are not eligible for coverage under the variance by rule and notification shall be made to the Division at least 14 days prior to the commencement of land disturbing activities.

- R. Construction site operators shall control waste such as discarded building materials, concrete truck washout, chemicals, litter and sanitary waste to prevent it from entering or causing adverse impacts to the City Separate Storm Sewer System or state waters.
- 4. Nothing contained in O.C.G.A. § 12-7-1 et seq. shall prevent any Local Issuing Authority from adopting rules and regulations, ordinances or resolutions which contain stream buffer requirements that exceed the minimum requirements in Section 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 design and review before submittal the general development plans. The Local Issuing Authority shall review the tract to be developed and the area surrounding it. They shall consult the zoning ordinance, storm water management ordinance, subdivision ordinance, flood damage prevention ordinance, this ordinance, and any other ordinances, rules, regulations or permits which regulate the development of land within the jurisdictional boundaries of the Local Issuing Authority. However, the owner and/or operator are the only parties who may obtain a permit.
- 2. Application Requirements.
 - A. No person shall conduct any land-disturbing activity within the jurisdictional boundaries of the City of Hoschton without first obtaining a permit from the Environmental Protection Division (EPD) to perform such activity and providing a copy of Notice of Intent submitted to EPD if applicable.
 - B. The application for a permit shall be submitted to the EPD and must include the applicant's erosion, sedimentation and pollution 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. Erosion, sedimentation and pollution control plans, together with supporting data, must demonstrate affirmatively that the land disturbing activity proposed will be carried out in such a manner that the provisions of Section 35-104.2 and 3 of this ordinance will be met. Applications for a permit will not be accepted unless accompanied by a sufficient number of copies of the applicant's erosion, sedimentation and pollution control plans. All applications shall contain a certification stating that the plan preparer or the designee thereof visited the site prior to creation of the plan in accordance with EPD Rule 391-3-7.10.
 - C. In addition to the local permitting fees, fees will also be assessed pursuant to paragraph (5) subsection (a) of O.C.G.A. § 12-5-23, provided that such fees shall not exceed eighty dollars (\$80.00) per acres of land-disturbing activity, and these

fees shall be calculated and paid by the primary permittee as defined in the state general permit for each acre of land-disturbing activity included in the planned development or each phase of development. All applicable fees shall be paid prior to issuance of the land disturbance permit. In a jurisdiction that is certified pursuant to subsection (a) of O.C.G.A. 12-7-8 half of such fees levied shall be submitted to the division; except that any and all fees due from an entity which is required to give notice pursuant to paragraph (9) or (10) of O.C.G.A. § 12-7-17 shall be submitted in full to the Division, regardless of the existence of a local issuing authority in the jurisdiction.

- D. Immediately upon receipt of an application and plan for a permit, the Local Issuing Authority shall refer the application and plan to the District for its review and approval or disapproval concerning the adequacy of the erosion, sedimentation and pollution control plan. The District shall approve or disapprove a plan within thirty-five (35) days of receipt. Failure of the District to act within thirty-five (35) days shall be considered an approval of the pending plan. The results of the District review shall be forwarded to the Local Issuing Authority. No permit will be issued unless the plan has been approved by the District, and any variances required by Section 35-104.3.O, P and Q has been obtained, all fees have been paid and bonding, if required as per Section 35-105.2.F, have been obtained. Such review will not be required if the Local Issuing Authority and the District have entered into an agreement which allows the Local Issuing Authority to conduct such review and approval of the plan without referring the application and plan to the District. The Local Issuing Authority with plan review authority shall approve or disapprove a revised Plan submittal within thirty-five (35) days of receipt. Failure of the Local Issuing Authority with plan review authority to act within thirty-five (35) days shall be considered an approval of the revised Plan submittal.
 - E. If a permit applicant has had two or more violations of previous permits, this ordinance section, or the Erosion and Sedimentation Act, as amended, within three years prior to the date of filing the application under consideration, the Local Issuing Authority may deny the permit application.
 - F. The Local Issuing Authority may require the permit applicant to post a bond in the form of government security, cash, irrevocable letter of credit, or any combination thereof up to, but not exceeding, 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 section or with the conditions of the permit after issuance, the Local Issuing Authority may call the bond or any part thereof to be forfeited and may use the proceeds to hire a contractor to stabilize the site of the land-disturbing activity and bring it into compliance. These provisions shall not apply unless there is in effect an ordinance or statute specifically providing for hearing and judicial review of any determination or order of the Local Issuing Authority with respect to alleged permit violations.
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, or through the use of more stringent, alternate design criteria which conform to sound conservation and engineering practices. The Manual for Erosion and Sediment Control in Georgia is hereby incorporated by reference into this ordinance. The plan for the land-disturbing activity shall consider the interrelationship of the soil types, geological and hydrological characteristics, topography, watershed, vegetation, proposed

permanent structures including roadways, constructed waterways, sediment control and stormwater management facilities, local ordinances and state laws. Maps, drawings and supportive computations shall bear the signature and seal of the certified design professional. Persons involved in land development design, review, permitting, construction, monitoring, or inspections or any land disturbing activity shall meet the education and training certification requirements, dependent on his or her level of involvement with the process, as developed by the Commission and in consultation with the Division and the Stakeholder Advisory Board created pursuant to O.C.G.A. § 12-7-20.

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

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 Local Issuing Authority of a completed application, providing variances and bonding are obtained, where necessary and all applicable fees have been paid prior to permit issuance. The Permit shall include conditions under which the activity may be undertaken.
- B. No permit shall be issued by the Local Issuing Authority unless the erosion, sedimentation and pollution control plan has been approved by the District and the Local Issuing Authority has affirmatively determined that the plan is in compliance with this ordinance, any variances required by Section 35-104.3.O, P and Q are obtained, bonding requirements, if necessary, as per Section 35-105.2.F are met, and all ordinances and rules and regulations in effect within the jurisdictional boundaries of the Local Issuing Authority are met. If the permit is denied, the reason for denial shall be furnished to the applicant.
- C. Any land-disturbing activities by a local issuing authority shall be subject to the same requirements of this ordinance, and any other ordinances relating to land development, as are applied to private persons and the Division shall enforce such requirements upon the Local Issuing Authority.
- D. If the tract is to be developed in phases, then a separate permit shall be required for each phase.
- E. The permit may be suspended, revoked, or modified by the Local Issuing Authority, as to all or any portion of the land affected by the plan, upon finding that the holder or his successor in the title is not in compliance with the approved erosion and sedimentation control plan or that the holder or his successor in title is in violation of this ordinance. A holder of a permit shall notify any successor in title to him as to all or any portion of the land affected by the approved plan of the conditions contained in the permit.
- F. The Local Issuing Authority may reject a permit application if the applicant has had two or more violations of previous permits or the Erosion and Sedimentation Act permit requirements within three years prior to the date of the application, in light of O.C.G.A. § 12-7-7 (f) (1).

Section 35-106. Inspection and Enforcement.

- 1. The District will periodically inspect the sites of land-disturbing activities for which permits have been issued to determine if the activities are being conducted in accordance with the plan and if the measures required in the plan are effective in

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

2. The Local Issuing Authority must amend its ordinances to the extent appropriate within twelve (12) months of any amendments to the Erosion and Sedimentation Act of 1975.
3. The Environmental Protection Division 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.
4. No person shall refuse entry or access to any authorized representative or agent of the Local Issuing Authority, the Commission, the District or Division who requests entry for the purposes of inspection, and who presents appropriate credentials, nor shall any person obstruct, hamper or interfere with any such representative while in the process of carrying out his official duties.
5. The District or the Commission or both shall semi-annually review the actions of counties and municipalities which have been certified as Local Issuing Authorities pursuant to O.C.G.A. § 12-7-8 (a). The District or the Commission or both may provide technical assistance to any county or municipality for the purpose of improving the effectiveness of the county's or municipality's erosion, sedimentation and pollution control program. The District or the Commission shall notify the Division and request investigation by the Division if any deficient or ineffective local program is found.
6. The Division may periodically review the actions of counties and municipalities which have been certified as Local 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 (e), the Division shall notify the governing authority of the County or municipality in writing. The governing authority of any county or municipality so notified shall have ninety (90) days within which to take the necessary corrective action to retain certification as a Local Issuing Authority. If the county or municipality does not take

necessary corrective action within ninety (90) days after notification by the Division, the Division shall revoke the certification of the county or municipality as a Local 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 Local Issuing Authority.
2. Stop Work Orders.
 - A. For the first and second violations of the provisions of this ordinance, the Director or the Local Issuing Authority shall issue a written warning to the violator. The violator shall have five days to correct the violation. If the violation is not corrected within five days, the Director or the Local Issuing Authority shall issue a stop-work order requiring that land-disturbing activities be stopped until necessary corrective action or mitigation has occurred; provided, however, that, if the violation presents an imminent threat to public health or waters of the state or if the land-disturbing activities are conducted without obtaining the necessary permit, the Director or the Local Issuing Authority shall issue an immediate stop-work order in lieu of a warning;
 - B. For a third and each subsequent violation, the Director or the Local 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.
 - D. When a violation in the form of taking action without a permit, failure to maintain a stream buffer, or significant amounts of sediment, as determined by the Local Issuing Authority or by the Director or his or her Designee, have been or are being discharged into state waters and where best management practices have not been properly designed, installed, and maintained, a stop work order shall be issued by the Local Issuing Authority or by the Director or his or her Designee. All such stop work orders shall be effective immediately upon issuance and shall be in effect until the necessary corrective action or mitigation has occurred. Such stop work orders shall apply to all land-disturbing activity on the site with the exception of the installation and maintenance of temporary or permanent erosion and sediment controls.
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 35-105.2.F. The Local Issuing Authority may call the bond or any part thereof to be forfeited and may use the proceeds to hire a contractor to stabilize the site of the land-disturbing activity and bring

it into compliance.

4. Monetary Penalties.

- A. Any person who violates any provisions of this ordinance, 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 local ordinances, any magistrate court or any other court of competent jurisdiction trying cases brought as violations of this ordinance under local 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.

Section 35-108. Education and Certification.

1. Persons involved in land development design, review, permitting, construction, monitoring, or inspection or any land-disturbing activity shall meet the education and training certification requirements, dependent on their level of involvement with the process, as developed by the commission in consultation with the division and the stakeholder advisory board created pursuant to O.C.G.A. § 12-7-20.
2. For each site on which land-disturbing activity occurs, each entity or person acting as either a primary, secondary, or tertiary permittee, as defined in the state general permit, shall have as a minimum one person who is in responsible charge of erosion and sedimentation control activities on behalf of said entity or person and meets the applicable education or training certification requirements developed by the Commission present on site whenever land-disturbing activities are conducted on that site. A project site shall herein be defined as any land-disturbance site or multiple sites within a larger common plan of development or sale permitted by an owner or operator for compliance with the state general permit.
3. Persons or entities involved in projects not requiring a state general permit but otherwise requiring certified personnel on site may contract with certified persons to meet the requirements of this ordinance.
4. If a state general permittee who has operational control of land-disturbing activities for a site has met the certification requirements of paragraph (1) of subsection (b) of O.C.G.A. § 12-7-19, then any person or entity involved in land-disturbing activity at that site and operating in a subcontractor capacity for such permittee shall meet those educational requirements specified in paragraph (4) of subsection (b) of O.C.G.A. § 12-7-19 and shall not be required to meet any education requirements that exceed those specified in said paragraph.

Section 35-109. Administrative Appeal Judicial Review.

1. Administrative Remedies. The suspension, revocation, modification or grant with condition of a permit by the Local Issuing Authority upon finding that the holder is not in compliance with the approved erosion, sediment and pollution control plan; or that the holder is in violation of permit conditions; or that the holder is in violation of any ordinance; shall entitle the person submitting the plan or holding the permit to a hearing before the Mayor and City Council within fifteen (15) days after receipt by the Local Issuing Authority of written notice of appeal.
2. Judicial Review. Any person, aggrieved by a decision or order of the Local Issuing Authority, after exhausting his administrative remedies, shall have the right to appeal denovo to the Superior Court of Jackson County.

Section 35-110. Effectivity, Validity and Liability.

1. Validity. If any section, paragraph, clause, phrase, or provision of this ordinance shall be adjudged invalid or held unconstitutional, such decisions shall not effect the remaining portions of this ordinance.
2. Liability.
 - A. Neither the approval of a plan under the provisions of this ordinance, nor the compliance with provisions of this ordinance shall relieve any person from the responsibility for damage to any person or property otherwise imposed by law nor impose any liability upon the Local Issuing Authority or District for damage to any person or property.
 - B. The fact that a land-disturbing activity for which a permit has been issued results in injury to the property of another shall neither constitute proof of nor create a presumption of a violation of the standards provided for in this ordinance or the terms of the permit.
 - C. No provision of this ordinance shall permit any persons to violate the Georgia Erosion and Sedimentation Act of 1975, the Georgia Water Quality Control Act or the rules and regulations promulgated and approved thereunder or pollute any Waters of the State as defined thereby.

**CHAPTER 36
BUILDING REGULATIONS**

ARTICLE I. ADOPTION OF STATE LAW

Section 36-101 State Minimum Standards Adopted

ARTICLE II. ADMINISTRATIVE PROCEDURES FOR ENFORCEMENT OF ADOPTED CODES

Section 36-201 Purpose
Section 36-202 Code Remedial
Section 36-203 Scope
Section 36-204 Existing Buildings
Section 36-205 Reserved
Section 36-206 Building Official
Section 36-207 Permits
Section 36-208 Tests
Section 36-209 Reserved
Section 36-210 Severability
Section 36-211 Violations and Penalties

ARTICLE III. MISCELLANEOUS PROVISIONS

Section 36-301 Maintenance of Proper Sanitary Conditions on Premises
Required; Procedures; Enforcement
Section 36-302 Fire Limits

ARTICLE I. ADOPTION OF STATE LAW

(approved 11-2-15; adopted 11-12-15)

Section 36-101. State Minimum Standards Adopted

(A) It is hereby declared to be the intention of the City Council to enforce the latest edition of the following Georgia State Minimum Standard Codes, as adopted and amended by the Georgia Department of Community Affairs:

- (i) International Building Code
- (ii) International Fuel Gas Code
- (iii) International Mechanical Code
- (iv) International Plumbing Code
- (v) National Electrical Code
- (vi) International Fire Code
- (vii) International Energy Conservation Code
- (viii) International Residential Code
- (ix) International Swimming Pool and Spa Code

- (B) The following codes, the latest editions as adopted and amended by the Georgia Department of Community Affairs, are hereby adopted by reference as though they were copied herein fully:
 - (i) International Existing Building Code
 - (ii) International Property Maintenance Code
- (C) The City also adopts the State Minimum Standards Codes as defined by O.C.G.A. § 8-2-20(9).

ARTICLE II. ADMINISTRATIVE PROCEDURES FOR ENFORCEMENT OF ADOPTED CODES (*approved 11-2-15; adopted 11-12-15*)

Section 36-201. Purpose

The purpose of this section is to provide for the administration and enforcement of the Georgia State Minimum Standard Codes for Construction as adopted and amended by the Georgia Department of Community Affairs. Hereinafter, the state minimum standard codes for construction shall be referred to as “the construction codes.”

Section 36-202. Code Remedial

- (A) *General.* These construction codes are hereby declared to be remedial, and shall be construed to secure the beneficial interests and purposes thereof - which are public safety, health, and general welfare - through structural strength, stability, sanitation, adequate light and ventilation, and safety to life and property from fire and other hazards attributed to the built environment including alteration, repair, removal, demolition, use, and occupancy of buildings, structures, or premises, and by regulating the installation and maintenance of all electrical, gas, mechanical, and plumbing systems, which may be referred to as service systems.
- (B) *Quality Control.* Quality control of materials and workmanship is not within the purview of the construction codes except as it relates to the purposes stated therein.
- (C) *Permitting and Inspection.* The inspection or permitting of any building, system, or plan, under the requirements of construction codes shall not be construed in any court as a warranty of the physical condition of such building, system or plan or their adequacy. The City of Hoschton, nor any employee thereof, shall be liable in tort for damages for any defect or hazardous or illegal condition or inadequacy in such building, system or plan, nor for any failure of any component of such, which may occur subsequent to such inspection or permitting.

Section 36-203. Scope

(A) Applicability.

- 1) *General.* Where, in any specific case, different sections of these construction codes specify different materials, methods of construction, or other requirements, the most restrictive shall govern. Where there is a conflict between a general requirement and a specific requirement, the specific requirement shall be applicable.
- (2) *Building.* The provisions of the International Building Code, as adopted and amended by the Georgia Department of Community Affairs, shall apply to the construction, alteration, repair, equipment, use and occupancy, location, maintenance, removal, and demolition, of every building or structure or any appurtenances connected or attached to such buildings or structures, except in one- and two-family dwellings.
- (3) *Electrical.* The provisions of the National Electrical Code, as adopted and amended by the Georgia Department of Community Affairs, shall apply to the installation of electrical systems, including alterations, repairs, replacement, equipment, appliances, fixtures, fittings, and appurtenances thereto.
- (4) *Gas.* The provisions of the International Fuel Gas Code, as adopted and amended by the Georgia Department of Community Affairs, shall apply to the installation of consumer's gas piping, gas appliances, and related accessories as covered in this Code. These requirements apply to gas piping systems extending from the point of delivery to the inlet connections of appliances and the installation and operation of residential and commercial gas appliances and related accessories, except in one- and two-family dwellings.
- (5) *Mechanical.* The provisions of the International Mechanical Code, as adopted and amended by the Georgia Department of Community Affairs, shall apply to the installation of mechanical systems, including alterations, repairs, replacement, equipment, appliances, fixtures, fittings and/or appurtenances, including ventilating, heating, cooling, air conditioning and refrigeration systems, incinerators, and other energy related systems, except in one- and two-family dwellings.
- (6) *Plumbing.* The provisions of the International Plumbing Code, as adopted and amended by the Georgia Department of Community Affairs, shall apply to every plumbing installation, including alterations, repairs, replacement, equipment, appliances, fixtures, fittings, and appurtenances, and when connected to a water or sewerage system.

- (7) *One and Two- Family Dwellings.* In addition to those codes referenced herein, the provisions of the International Residential Code, as adopted and amended by the Georgia Department of Community Affairs, shall apply to the building, mechanical, and gas systems in new one-and two-family dwellings, including additions, alterations, renovations and general repairs of existing one- and two-family dwellings.
- (8) *Energy.* The provisions of the International Energy Conservation Code, as adopted and amended by the Georgia Department of Community Affairs, shall regulate the design of building envelopes for adequate thermal resistance and low air leakage and the design and selection of mechanical, electrical, service water heating, and illumination systems and equipment that will enable the effective use of energy in new building construction.
- (B) *Federal and State Authority.* The provisions of the construction codes shall not be held to deprive any federal or state agency, or any applicable governing authority having jurisdiction, of any power or authority which it had on the effective date of the adoption of the construction codes or of any remedy then existing for the enforcement of its orders, nor shall it deprive any individual or corporation of its legal rights as provided by law.
- (C) *Appendices.* Any appendices to codes referenced in Article 1 of this Chapter shall be considered an integral part of the construction codes.
- (D) *Referenced Standards.* Standards referenced in the text of the construction codes shall be considered an integral part of the construction codes. If specific portions of a standard are denoted by code text, only those portions of the standard shall be enforced. Where construction code provisions conflict with a standard, the construction code provisions shall be enforced. Permissive and advisory provisions in a standard shall not be construed as mandatory.
- (E) *Maintenance.* All buildings, structures, electrical, gas, mechanical, and plumbing systems, both existing and new, and all parts thereof, shall be maintained in a safe and sanitary condition. All devices or safeguards, which are required by the construction codes when constructed, altered, or repaired, shall be maintained in good working order. The owner, or his/her designated agent, shall be responsible for the maintenance of buildings, structures, electrical, gas, mechanical, and plumbing systems.

Section 36-204. Existing Buildings

- (A) *General.* Alterations, repairs, or rehabilitation work may be made to any existing structure, building, electrical, gas, mechanical, or plumbing system without requiring the building, structure, plumbing, electrical, mechanical, or gas system to comply with all the requirements of the construction codes provided that the alteration, repair, or rehabilitation work conforms to the requirements of the construction codes for new construction. The Building Official shall determine the extent to which the existing system shall be made to conform to the requirements of the construction codes for new construction.
- (B) *Change of Occupancy.* If the occupancy classification of any existing building or structure is changed, the building, electrical, gas, mechanical, and plumbing systems shall be made to conform to the intent of the construction codes as required by the Building Official.
- (C) *Special Historic Buildings.* The provisions of the construction codes relating to the construction, alteration, repair, enlargement, restoration, relocation, or moving of buildings or structures shall not be mandatory for existing buildings or structures identified and classified by the state or local jurisdiction as historic buildings when such buildings or structures are judged by the Building Official to be safe and in the public interest of health, safety, and welfare regarding any proposed construction, alteration, repair, enlargement, restoration, relocation, or moving of buildings within the fire districts.

Section 36-205. Reserved.

Section 36-206. Building Official

- (A) *General.* The City may either appoint an employee or contract with a third party to provide the duties of the Building Official. In whatever manner the City designates the Building Official, the Building Official is hereby authorized and directed to enforce the provisions of the construction codes. The Building Official is further authorized to render interpretations of the construction codes, which are consistent with its intent and purpose.
- (B) *Right of Entry.*
 - (1) Whenever necessary to make an inspection to enforce any of the provisions of the construction codes, or whenever the Building Official has reasonable cause to believe that there exists in any building or upon any premises any condition or code violation which makes such building, structure, premises, electrical, gas, mechanical, or plumbing systems unsafe, dangerous, or hazardous, the Building Official may

enter such building, structure, or premises at all reasonable times to inspect the same or to perform any duty imposed upon the Building Official by these construction codes, provided that if such building or premises is occupied, he shall first present proper credentials and request entry. If such building, structure, or premises is unoccupied, he shall first make a reasonable effort to locate the owner or other persons having charge or control of such and request entry. If entry is refused, the Building Official shall have recourse to every remedy provided by law to secure entry.

- (2) When the Building Official shall have first obtained a proper inspection warrant or other remedy provided by law to secure entry, no owner or occupant or any other persons having charge, care or control of any building, structure, or premises shall fail or neglect, after proper request is made as herein provided, to promptly permit entry therein by the Building Official for the purpose of inspection and examination pursuant to the construction codes.
- (C) *Stop-work orders.* Upon notice from the Building Official, work on any building, structure, electrical, gas, mechanical, or plumbing system that is being done contrary to the provisions of the construction codes or in a dangerous or unsafe manner, shall immediately cease. Such notice shall be in writing and shall be given to the owner of the property, or to his agent, or to the person doing the work, and shall state the conditions under which work may be resumed. Where an emergency exists, the Building Official shall not be required to give a written notice prior to stopping the work.
- (D) *Revocation of Permits.*
- (1) *Misrepresentation of Application.* The Building Official may revoke a permit or approval, issued under the provisions of the construction codes, in case there has been any false statement or misrepresentation as to the material fact in the application or plans on which the permit or approval was based.
 - (2) *Violation of Code Provisions.* The Building Official may revoke a permit upon determination by the Building Official that the construction erection, alteration, repair, moving, demolition, installation or replacement of the building, structure, electrical, gas, mechanical, or plumbing systems for which the permit was issued is in violation of, or not in conformity with, the provisions of the construction codes.
- (E) *Unsafe Buildings or Systems.* All buildings, structures, electrical, gas, mechanical, or plumbing systems which are unsafe, unsanitary, or do not provide adequate egress, or which constitute a fire hazard, or are otherwise dangerous to human life, or which in relation to existing use, constitute a

hazard to safety or health, are considered unsafe buildings or service systems.

- (F) *Requirements Not Covered by Code.* Any requirements necessary for the strength, stability, or proper operation of an existing or proposed building, structure, electrical, gas, mechanical, or plumbing system, or for the public safety, health, and general welfare, not specifically covered by or the construction codes, shall be determined by the Building Official.
- (G) *Alternate Materials and Methods.* The provisions of the construction codes are not intended to prevent the use of any material or method of construction not specifically prescribed by them, provided any such alternate has been reviewed by the Building Official. The Building Official shall approve any such alternate, provided the Building Official finds that the alternate for the purpose intended is at least the equivalent of that prescribed in the construction codes, in quality, strength, effectiveness, fire resistance, durability, and safety. The Building Official shall require that sufficient evidence or proof be submitted to substantiate any claim made regarding the alternate.

Section 36-207. Permits

- (A) Permit Application.
 - (1) When required. Any owner, authorized agent, or contractor who desires to construct, enlarge, alter, repair, move, demolish, or change the occupancy of a building or structure, or to erect, install, enlarge, alter, repair, remove, convert, or replace any electrical, gas, mechanical, or plumbing system, the installation of which is regulated by the construction codes, or to cause any such work to be done, shall first make application to the Building Official and obtain the required permit for the work. A permit shall not be issued to an owner, who is neither a licensed contractor nor the occupant of a residential structure being altered.
 - (2) Work Authorized. A building, electrical, gas, mechanical, or plumbing permit shall carry with it the right to construct or install the work, provided the same are shown on the drawings and set forth in the specifications filed with the application for the permit. Where these are not shown on the drawings and covered by the specifications submitted with the application, separate permits shall be required.
 - (3) Minor Repairs. Ordinary minor repairs, with a value of less than \$2,500, may be made with the approval of the Building Official without a permit, provided that such repairs shall not violate any of the provisions of the construction codes.

- (4) **Information Required.** Each application for a permit, with the required fee, shall be filed with the Building Official on a form furnished for that purpose, and shall contain a general description of the proposed work and its location. The application shall be signed by the owner, or his/her authorized agent. The building permit application shall indicate the proposed occupancy of all parts of the building and of that portion of the site or lot, if any, not covered by the building or structure, and shall contain such other information as may be required by the Building Official.
 - (5) **Time Limitations.** An application for a permit for any proposed work shall be deemed to have been abandoned 6 months after the date of filing for the permit, unless before then a permit has been issued. One or more extensions of time for periods of not more than 90 days each may be allowed by the Building Official for the application, provided the extension is requested in writing and justifiable cause is demonstrated.
- (B) **Drawings and Specifications.**
- (1) *Requirements.* When required by the Building Official, two or more copies of specifications and of drawings drawn to scale with sufficient clarity and detail to indicate the nature and character of the work, shall accompany the application for a permit. Such drawings and specifications shall contain information, in the form of notes or otherwise, as to the quality of materials, where quality is essential to conformity with the construction codes. Such information shall be specific, and the construction codes shall not be cited as a whole or in part, nor shall the term "legal" or its equivalent be used, as a substitute for specific information. All information, drawings, specifications and accompanying data shall bear the name and signature of the person responsible for the design.
 - (2) *Additional Data.* The Building Official may require details, computations, stress diagrams, and other data necessary to describe the construction or installation and the basis of calculations. All drawings, specifications, and accompanying data required by the Building Official to be prepared by an architect or engineer shall be affixed with their official seal.
 - (3) *Design Professional.* The design professional shall be an architect or engineer legally registered under the laws of this state regulating the practice of architecture or engineering and shall affix his official seal to said drawings, specifications, and accompanying data, for the following:
 - (a) All Group A, E, and I occupancies.

- (b) Buildings and structures three stories or more high.
- (c) Buildings and structures 5,000 square feet (465 m²) or more in area.

For all other buildings and structures, the submittal shall bear the certification of the applicant that some specific state law exception permits its preparation by a person not so registered.

EXCEPTION: Single-family dwellings, regardless of size, shall require neither a registered architect nor engineer, nor a certification that an architect or engineer is not required.

- (4) *Structural and Fire Resistance Integrity.* Plans for all buildings shall indicate how required structural and fire resistance integrity will be maintained where a penetration of a required fire resistance wall, floor, or partition will be made for electrical, gas, mechanical, plumbing, signal and communication conduits, pipes, and systems and also indicate in sufficient detail how the fire integrity will be maintained where required fire resistance floors intersect the exterior walls.
- (5) *Site Drawings.* Drawings shall show the location of the proposed building or structure and of every existing building or structure on the site or lot. The Building Official may require a boundary line survey prepared by a qualified surveyor.
- (6) *Hazardous Occupancies.* The Building Official may require the following:
 - (a) *General Site Plan.* A general site plan drawn at a legible scale which shall include, but not be limited to, the location of all buildings, exterior storage facilities, permanent access ways, evacuation routes, parking lots, internal roads, chemical loading areas, equipment cleaning areas, storm and sanitary sewer accesses, emergency equipment, and adjacent property uses. The exterior storage areas shall be identified with the hazard classes and the maximum quantities per hazard class of hazardous materials stored.
 - (b) *Building Floor Plan.* A building floor plan drawn to a legible scale, which shall include, but not be limited to, all hazardous materials storage facilities within the building and shall indicate rooms, doorways, corridors, exits, fire rated assemblies with their hourly rating, location of liquid tight rooms, and evacuation routes. Each hazardous materials storage facility shall be identified on the plan with the hazard classes and quantity range per hazard class or the hazardous materials stored.

(A) Examination of Documents.

- (1) *Plan Review.* The Building Official shall examine or cause to be examined each application for a permit and the accompanying documents, consisting of drawings, specifications, computations, and additional data, and shall ascertain by such examinations whether the construction indicated and described is in accordance with the requirements of the construction codes and all other pertinent laws or ordinances.

(D) Issuing Permits.

- (1) *Action on Permits.* The Building Official shall act upon an application for a permit without unreasonable or unnecessary delay. If the Building Official is satisfied that the work described in an application for a permit and the contract documents filed therewith conform to the requirements of the construction codes and other pertinent laws and ordinances, he shall issue a permit to the applicant.
- (2) *Refusal to Issue Permit.* If the application for a permit and the accompanying contract documents describing the work do not conform to the requirements of the construction codes or other pertinent laws or ordinances, the Building Official shall not issue a permit, but shall return the contract documents to the applicant with his refusal to issue such permit. Such refusal shall, when requested, be in writing and shall contain the reason for refusal.
- (3) *Special Foundation Permit.* When application for permit to erect or enlarge a building has been filed and pending issuance of such permit, the Building Official may, at his discretion, issue a special permit for the foundation only. The holder of such a special permit is proceeding at his own risk and without assurance that a permit for the remainder of the work will be granted nor that corrections will not be required in order to meet provisions of the construction codes.
- (4) *Public Right-of-Way.* A permit shall not be given by the Building Official for the construction of any building, or for the alteration of any building where said building is to be changed and such change will affect the exterior walls, bays, balconies, or other appendages or projections fronting on any street, alley, or public lane, or for the placing on any lot or premises of any building or structure removed from another lot or premises, unless the applicant has made application at the office of the City Clerk for the lines of the public street on which he/she proposes to build, erect, or locate said building; and it shall be the duty of the Building Official to see that the street lines are not encroached upon.

- (E) **Contractor Responsibilities.** It shall be the duty of every contractor who shall make contracts for the installation or repairs of buildings, structures, electrical, gas, mechanical, sprinkler, or plumbing systems, for which a permit is required, to comply with state or local rules and regulations concerning licensing which the applicable governing authority may have adopted. In such case that the state requires a contractor to have obtained a state license before they are permitted to perform work, the contractor shall supply the local government with their license number before receiving a permit for work to be performed.
- (F) **Conditions of the Permit.**
- (1) *Permit Intent.* A permit issued shall be construed to be a license to proceed with the work and not as authority to violate, cancel, alter, or set aside any of the provisions of the construction codes, nor shall issuance of a permit prevent the Building Official from thereafter requiring a correction of errors in plans, construction, or violations of the construction codes. Every permit issued shall become invalid unless the work authorized by such permit is commenced within 6 months after its issuance, or if the work authorized by such permit is suspended or abandoned for a period of 6 months after the time the work is commenced. One or more extensions of time, for periods not more than 90 days each, may be allowed for the permit. The extension shall be requested in writing and justifiable cause demonstrated. Extensions shall be in writing by the Building Official.
- (2) *Permit Issued on Basis of an Affidavit.* Whenever a permit is issued in reliance upon an affidavit or whenever the work to be covered by a permit involves installation under conditions which, in the opinion of the Building Official, are hazardous or complex, the Building Official shall require that the architect or engineer who signed the affidavit or prepared the drawings or computations shall supervise such work. In addition, they shall be responsible for conformity with the permit, provide copies of inspection reports as inspections are performed, and upon completion make and file with the Building Official written affidavit that the work has been done in conformity with the reviewed plans and with the structural provisions of the construction codes. In the event such architect or engineer is not available, the owner shall employ in his place, a competent person or agency whose qualifications are reviewed by the Building Official.
- (3) *Plans.* When the Building Official issues a permit, he/she shall enforce, in writing or by stamp, both sets of plans “reviewed for code compliance.” One set of drawings so reviewed shall be retained by the Building Official and the other set shall be returned to the applicant.

The permitted drawings shall be kept at the site of work and shall be open to inspection by the Building Official or his/her authorized representative.

(G) Fees.

- (1) *Prescribed Fees.* A permit shall not be issued until the fees prescribed by the governing body have been paid. Nor shall an amendment to a permit be released until the additional fee, if any, due to an increase in the estimated cost of the building, structure, electrical, plumbing, mechanical, or gas systems, etc. has been paid.
- (2) *Work Commencing Before Permit Issuance.* Any person who commences any work on a building, structure, electrical, gas, mechanical, or plumbing, etc. system before obtaining the necessary permits, shall be subject to a penalty of 100 percent of the usual permit fee in addition to the required permit fees.
- (3) *Accounting.* The Building Official shall keep a permanent and accurate accounting of all permit fees and other money collected, the names of all persons upon whose account the same was paid, along with the date and amount thereof.
- (4) *Schedule of Permit Fees.* On all buildings, structures, electrical, plumbing, mechanical, and gas systems or alterations requiring a permit, a fee for each permit shall be paid as required at the time of filing application, in accordance with the fee schedules as set by the governing body.
- (5) *Building Permit Valuations.* If, in the opinion of the Building Official, the valuation of building, alteration, structure, electrical, gas, mechanical, or plumbing systems appears to be underestimated on the application, the permit shall be denied, unless the applicant can show detailed estimates to meet the approval of the Building Official. Permit valuations shall include total cost, such as electrical, gas, mechanical, plumbing equipment, and other systems, including materials and labor.

(H) Inspections.

- (1) *Existing Building Inspections.* Before issuing a permit the Building Official may examine or cause to be examined any building, electrical, gas, mechanical, or plumbing systems for which an application has been received for a permit to enlarge, alter, repair, move, demolish, install, or change the occupancy. He shall inspect all buildings, structures, electrical, gas, mechanical, and plumbing systems, from time to time, during and upon completion of the work for which a permit

was issued. He shall make a record of every such examination and inspection and of all violations of the construction codes.

- (2) *Manufacturers and Fabricators.* When deemed necessary by the Building Official he shall make, or cause to be made, an inspection of materials or assemblies at the point of manufacture or fabrication. A record shall be made of every such examination and inspection and of all violations of the construction codes.
- (3) *Inspection Service.* The Building Official may make, or cause to be made, the inspections required by subsection (vi), herein below. He/she may accept reports of inspectors of recognized inspection services provided that after investigation he/she is satisfied as to their qualifications and reliability. A certificate called for by any provision of the construction codes shall not be based on such reports unless the same are in writing and certified by a responsible officer of such service.
- (4) *Inspections Prior to Issuance of Certificate of Occupancy or Completion.* The Building Official shall inspect or cause to be inspected at various intervals all construction or work for which a permit is required, and a final inspection shall be made of every building, structure, electrical, gas, mechanical, or plumbing system upon completion, prior to the issuance of the certificate of occupancy or completion.
- (5) *Posting of Permit.* Work requiring a permit shall not commence until the permit holder or his/her agent posts the permit card in a conspicuous place on the premises. The permit shall be protected from the weather and located in such position as to permit the Building Official or representative to conveniently make the required entries thereon. This permit card shall be maintained in such position by the permit holder until the certificate of occupancy or completion is issued by the Building Official.
- (6) *Required Inspections.* The Building Official upon notification from the permit holder or his agent shall make the following inspections and such other inspections as necessary, and shall either release that portion of the construction or shall notify the permit holder or his agent of any violations which must be corrected in order to comply with the technical code:
 - (a) Building.
 - (1) *Foundation and foundation wall Inspection:* To be made after trenches are excavated, the reinforcement is in

place, and the forms erected, prior to the placing of concrete.

- (2) *Slab Inspection:* To be made prior to the placing of concrete.
- (3) *Frame Inspection:* To be made after the roof, all framing, fireblocking, bracing and fasteners are in place, all concealed wiring, all pipes, chimneys, ducts, and vents are complete.
- (4) *Moisture Barrier Inspection:* To be made prior to the installation of the exterior finishing materials.
- (5) *Final Inspection:* To be made after the building is completed and ready for immediate occupancy.

(b) Electrical.

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

(c) Plumbing.

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

- (4) Note: See Section 312 of the International Plumbing Code for required tests.
- (d) Mechanical.
- (1) *Underground Inspection:* To be made after trenches or ditches are excavated, underground duct and fuel piping installed, and before any backfill is put in place.
 - (2) *Rough-In Inspection:* To be made after the roof, framing, fireblocking, and bracing are in place and all ducting, and other concealed components are complete, and prior to the installation of wall or ceiling membranes.
 - (3) *Final Inspection:* To be made after the building is complete, the mechanical system is in place and properly connected, and the structure is ready for occupancy.
- (e) Gas.
- (1) *Rough Piping Inspection:* To be made after all new piping authorized by the permit has been installed, and before any such piping has been covered or concealed or any fixtures or gas appliances have been connected.
 - (2) *Final Piping Inspection:* To be made after all piping authorized by the permit has been installed and after all portions which are to be concealed by plastering or otherwise have been so concealed, and before any fixtures or gas appliances have been connected. This inspection shall include a pressure test.
 - (3) *Final Inspection:* To be made on all new gas work authorized by the permit and such portions of existing systems as may be affected by new work or any changes in order to insure compliance with all the requirements of the construction codes and to assure that the installation and construction of the gas system is in accordance with reviewed plans.
- (f) Energy.
- (1) *Foundation Inspection:* To be made before slab concrete is poured in place. To verify that perimeter insulation has

been installed correctly on any slab on grade foundations, if required.

- (2) *Frame Inspection:* To be made before exterior wall insulation is concealed by wall board to check installation of exterior walls insulation and to inspect that all holes and cracks through the structure envelope have been sealed in an appropriate manner as to restrict air passage.
 - (3) *Final Inspection:* To be made after the building is completed and ready for occupancy. To verify installation and R-value of ceiling and floor insulation. To verify correct SEER ratings on appliances.
- (7) *Written Release.* Work shall not be done on any part of a building, structure, electrical, gas, mechanical, or plumbing system beyond the point indicated in each successive inspection without first obtaining a written release from the Building Official. Such written release shall be given only after an inspection has been made of each successive step in the construction or installation as indicated by each of the foregoing three inspections.
- (8) *Reinforcing Steel, Structural Frames, Insulation, Plumbing, Mechanical, or Electrical Systems.* Reinforcing steel, structural frame, insulation, plumbing, work of any part of any building or structure shall not be covered or concealed without first obtaining a release from the Building Official.
- (9) *Plaster Fire Protection.* In all buildings where plaster is used for fire protection purposes, the permit holder or his agent shall notify the Building Official after all lathing and backing is in place. Plaster shall not be applied until the release from the Building Official has been received.
- (I) Certificates.
- (1) Certificate of Occupancy.
 - (a) *Building Occupancy.* A new building shall not be occupied or a change made in the occupancy, nature, or use of a building or part of a building until after the Building Official has issued a certificate of occupancy. Said certificate shall not be issued until all required electrical, gas, mechanical, plumbing, and fire protection systems have been inspected for compliance with the

construction codes and other applicable laws and ordinances and released by the Building Official.

- (b) *Issuing Certificate of Occupancy.* Upon satisfactory completion of construction of a building or structure and installation of electrical, gas, mechanical, and plumbing systems in accordance with the construction codes, reviewed plans and specifications, and after the final inspection, the Building Official shall issue a certificate of occupancy stating the nature of the occupancy permitted, the number of persons for each floor when limited by law, and the allowable load per square foot for each floor in accordance with the provisions of the construction codes.
 - (c) *Temporary/Partial Occupancy.* A temporary/partial certificate of occupancy may be issued for a portion of a commercial building, which in the opinion of the Building Official, may safely be occupied prior to final completion of the building. The temporary/partial certificate of occupancy shall be forfeited if the certificate of occupancy is not issued within ninety (90) days.
 - (d) *Existing Building Certificate of Occupancy.* A certificate of occupancy for any existing building may be obtained by applying to the Building Official and supplying the information and data necessary to determine compliance with the construction codes for the occupancy intended. Where necessary, in the opinion of the Building Official, two sets of detailed drawings, or a general inspection, or both, may be required. When, upon examination and inspection, it is found that the building conforms to the provisions of the construction codes and other applicable laws and ordinances for such occupancy, a certificate of occupancy shall be issued.
- (2) Certificate of Completion. Upon satisfactory completion of a building, structure, electrical, gas, mechanical, or plumbing system, a certificate of completion may be issued. This certificate is proof that a structure or system is complete and for certain types of permits is released for use and may be connected to a utility system. This certificate does not grant authority to occupy or connect a building, such as a shell building, prior to the issuance of a certificate of occupancy.
- (3) Service Utilities.
- (a) *Connection of Service Utilities.* No person shall make connections from a utility, source of energy, fuel, or power to any building or system which is regulated by the construction

codes for which a permit is required, until released by the Building Official and a certificate of occupancy or completion is issued.

- (a) *Temporary Connection.* The Building Official may authorize the temporary connection of the building or system to the utility source of energy, fuel, or power for the purpose of testing building service systems or for use under a temporary certificate of occupancy.
- (c) *Authority to Disconnect Service Utilities.* The Building Official shall have the power to authorize disconnection of utility service to the building, structure, or system regulated by the construction codes, in case of emergency where necessary to eliminate an immediate hazard to life or property. The Building Official shall notify the serving utility, and whenever possible the owner and occupant of the building, structure, or service system of the decision to disconnect prior to taking such action. If not notified prior to disconnecting, the owner or occupant of the building, structure, or service system shall be notified in writing, as soon as practical thereafter.

(J) Posting Floor Loads.

- (1) *Occupancy.* An existing or new building shall not be occupied for any purpose, which will cause the floors thereof to be loaded beyond their safe capacity. The Building Official may permit occupancy of a building for mercantile, commercial, or industrial purposes, by a specific business, when he is satisfied that such capacity will not thereby be exceeded.
- (2) *Storage and Factory-Industrial Occupancies.* It shall be the responsibility of the owner, agent, proprietor, or occupant of Group S and Group F occupancies, or any occupancy where excessive floor loading is likely to occur, to employ a competent architect or engineer in computing the safe load capacity. All such computations shall be accompanied by an affidavit from the architect or engineer stating the safe allowable floor load on each floor in pounds per square foot uniformly distributed. The computations and affidavit shall be filed as a permanent record of the City.
- (3) *Signs Required.* In every building or part of a building used for storage, industrial, or hazardous purposes, the safe floor loads, as reviewed by the Building Official on the plan, shall be marked on plates or approved design which shall be supplied and securely affixed by the owner of the building in a conspicuous place in each story to which they relate.

Such plates shall not be removed or defaced, and if lost, removed or defaced, shall be replaced by the owner of the building.

Section 36-208. Tests

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

Section 36-209. Reserved

Section 36-210. Severability

If any section, subsection, sentence, clause, or phrase of the construction codes is for any reason held to be unconstitutional, such decision shall not affect the validity of the remaining portions of the construction codes.

Section 36-211. Violations and Penalties

Any person, firm, corporation, or agent who shall violate a provision of the construction codes, or fail to comply therewith, or with any of the requirements thereof, or who shall erect, construct, alter, install, demolish, or move any structure, electrical, gas, mechanical, or plumbing system, or has erected, constructed, altered, repaired, moved or demolished a building, electrical, gas, mechanical, or plumbing system, in violation of a detailed statement or drawing submitted and permitted thereunder, shall be guilty of an ordinance violation. Each such person shall be considered guilty of a separate offense for each and every day or portion thereof during which any violation of any of the provisions of the construction codes is committed or continued, and upon conviction of any such violation such person shall be punished within the limits and as provided by general law.

ARTICLE 3. MISCELLANEOUS PROVISIONS

(approved 11-2-15; adopted 11-12-15)

Section 36-301. Maintenance of Proper Sanitary Conditions on Premises Required; Procedures; Enforcement.

- (A) Every person, whether owner, tenant, agent, or employee owning, holding, or occupying property in the City shall, at all times, maintain the property, whether a vacant lot or otherwise, in a clean and sanitary condition, keeping all weeds cut, wastepaper, trash and other rubbish of every sort cleaned off of the property. Said duty to maintain property in a clean and sanitary condition shall include the duty to cut and remove undergrowth, such as kudzu, briars, weeds in excess of 24 inches in height, honeysuckle, other vines and seedlings, whenever such undergrowth becomes a nuisance to persons residing in the area or operating businesses in the area. If such undergrowth

exists upon an unimproved lot, the City Clerk may reduce the extent to which the property must be maintained in such condition, provided there are no imminent threats to public health and safety.

- (B) It shall be the duty of the City Clerk or a designee thereof to give 5 days written notice, by certified mail, return receipt requested, and take reasonable steps to deliver in person to any owner of property or other person violating this section to appear before the City Council to show cause why these provisions have not been complied with. In addition, the City Clerk or a designee shall immediately post a notification upon the property in violation of this section in order to provide visual notification to property owners for a period of 5 consecutive days.
 - (1) In lieu of inability to contact owners in other manners prescribed above, posted notice shall serve as the official notice for the City Council hearing on this matter.
 - (2) After a hearing, if it is deemed by the Council that this section has not been complied with, such owner or other person shall be given 5 days to comply and if he/she fails or refuses to do so, the City Clerk shall thereupon cause the work to be done.
 - (3) For purposes of giving the notice to the owner of the property, as provided for herein, the person shown as the owner of said property on the ad valorem tax records of the City shall be sent such notice at the address shown thereon, unless the City receives actual notice that another person owns said property that owner shall be responsible for said violation.
 - (4) The City Council may, by majority vote, refer any and all cases described in this section to the Municipal Court, and all hearings heretofore described as being before the City Council may be before the Municipal Court if the City Council decides.
- (C) When the City Clerk has caused weeds to be cut from any premises, or wastepaper, trash, or other rubbish removed, a notice shall be prepared assessing the cost of the cutting of those weeds, cleaning and rendering sanitary such vacant lot or other property against the owner, tenant, agent, or employee owning, occupying, or controlling the property. The cost of such action shall be a debtor lien upon the property so cleaned and rendered sanitary and a debt against the owner, tenant, agent, or other party in charge of the property. The debtor lien shall date from the completion of the work on the property as declared under City Council ordinance.
- (C) A written statement shall be furnished by the City Clerk to the owner, agent, or other party in charge of the property subject to the assessment provided for

herein showing the amount of the assessment. It shall be the duty of the owner, agent, or other party in charge of the property subject to the assessment to pay the City within 30 days after the receipt of the statement the entire amount of the assessment against the property and the owner, tenant, agent, or other party in charge of the property.

- (E) Any owner, tenant, agent, or other party in control of property subject to assessment as provided herein who fails or refuses to pay to the City the amount of such assessment at the expiration of 30 days after the service of the notice of statement provided above, the City Clerk shall issue an execution bearing date of its issuance in the name of the Mayor of the City and specifying the purpose for which it is issued against the owner, tenant, agent, or other party in control of the property subject to the assessment and also against the property of the owner, tenant, agent, or other party in control of the property upon which the work in question is performed. The execution shall assert and be a lien against the property from the day of the completion of the performance of the work hereinbefore described and shall bear interest at the rate of 1 percent per month from the date on which it is issued. For the purposes of this section, any period of less than 1 month shall be considered to be 1 month.
- (F) The execution issued under these provisions shall be delivered to the Chief of Police or a designee thereof who shall execute the same by levying upon and selling the property described therein or so much thereof as may be necessary for the amount due the City from the doing of such work, together with all costs that may accrue thereon. The law applicable to the sales under other executions issued by this City shall apply to the levy, notice, advertisement and sale made under the execution, and the levying officer shall have authority to execute a deed to the purchaser when the property is sold and shall deliver the possession thereof to the purchaser within the time required by law as under tax executions.

Section 36-302. Fire Limits

The fire limits of the City for purposes of the building code shall be the same as is provided in this Code.

CHAPTER 37: FRANCHISE ORDINANCE

Section 37-101 Cable Television Ordinance.

In consideration of the transfer and the extension of the cable franchise for an additional five (5) years, Genesis LLC and the City of Hoschton agree that the original franchise agreement assumed by Genesis LLC is modified to provide that, the City of Hoschton may upon thirty (30) days written notice increase the franchise fee to be paid by Genesis LLC by two percent (2%) to a total of five percent (5%) as allowed by federal law.

The City of Hoschton (the "Franchising Authority") consents to the extension of the cable franchise for an additional five (5) years.
(Code 1991, § 37-101; Ord. of 7-7-1997)

Section 37-102 Cable Franchise Document

An Ordinance granting to ACC Cable Communications, FL-VA, LLC L/K/A Adelphia Communications, Permission to construct, operate and maintain a cable system upon, along, across, over, and under the streets and public rights of way of the City of Hoschton, Georgia.

1. Definitions.

A. Basic Service. Those audio and visual signals carried on the service tier of the cable system which includes local off-air television signals. Basic service shall not include any other tier of service or any premium or pay-per-view channels or services.

B. Cable Act. The Cable Communications Policy Act of 1984, P.L. 98-549, 47 U.S.C. §521 Supp., as it may be amended or superseded.

C. Cable Service. Shall mean:

(1) The one-way transmission to subscribers of (A) video programming, or (B) other programming service(s), and

(2) Subscriber interaction, if any, which is required for the selection or use of such video programming or other programming service(s).

D. Cable System or System. A system of antennas, cables, wires, lines, towers or any other conductors, converters, equipment or facilities designed, constructed, or operated for the purpose of producing, receiving, amplifying, modifying and distributing audio, video, and other forms of communication or electronic signals for the purpose of providing cable services to and from subscribers within the jurisdictional limits of Grantor.

E. Council. The governing body of Grantor.

F. Franchise. The authorization granted hereunder of a franchise, privilege, permit, license or otherwise to construct, operate and maintain a cable system within the

jurisdictional limits of Grantor.

G. Grantee. ACC Cable Communications, FL-VA, LLC and its permitted successors and assigns.

H. Grantor. The City of Hoschton, Georgia.

I. Gross Revenues. Any revenue as determined in accordance with generally accepted accounting principals, received by Grantee from the operation of the cable system to provide cable services within the jurisdictional boundaries of Grantor, provided, however, that such phrase shall not include any taxes, fee or assessment of general applicability collected by Grantee from subscribers for pass-through to a government agency, including the FCC user fee or deposits, refunds or credits paid to subscribers or unrecovered bad debt.

J. Streets. The public streets, roads, avenues, highways, freeways, boulevards, concourses, sidewalks, driveways, bridges, tunnels, parks, parkways, waterways, alleys, courts and all other rights-of-way and easements, and the public grounds, places or water within the jurisdictional boundaries of Grantor.

K. Subscriber. A purchaser of any cable service delivered over the cable system.

2. Granting of Franchise. Grantor hereby grants to Grantee a non-exclusive franchise for the use of the streets for the construction, operation and maintenance of the cable system, upon the terms and conditions set forth herein.

3. Term. The franchise shall be for a term of fifteen (15) years, commencing on the effective date, as set forth in Section 37-102-15 of this Section. Subsequent renewals shall be pursuant to the renewal provisions of the Cable Act, as it shall provide.

4. Use of the Streets and Dedicated Easements.

A. Grantee shall have the right to use the streets for the construction, operation and maintenance of the cable system.

B. Grantee, at its own cost, shall have the right pursuant to the provisions of this Ordinance to construct, erect, suspend, install, renew, maintain and otherwise own and operate throughout the streets of Grantor, as now laid out or dedicated and all extensions thereof and additions thereto in Grantor, the cable system, either separately or in conjunction with any public utility operating within Grantor. The franchise shall further include the right, privilege, easement and authority to construct, erect, suspend, install, lay, renew, repair, maintain and operate such poles, wires, cable, underground conduits, manholes, ducts, trenches, fixtures, appliances and appurtenances for the purpose of distribution to inhabitants within the jurisdictional limits of Grantor. Without limiting the generality of the foregoing, the franchise shall and does hereby include the right to repair, replace and enlarge and extend the cable system, provided that Grantee shall utilize the facilities of utilities whenever practicable.

C. Grantee shall have the right to remove, trim, cut and keep clear of the cable system, the trees in and along the streets of Grantor.

D. Grantee, in the exercise of any right granted to it by the franchise, shall, at no cost to Grantor, promptly repair or replace any facility or service of Grantor which Grantee damages, including but not limited to any street or sewer, electric facility, water main, fire alarm, police communication or traffic control.

5. Maintenance of the System.

A. Grantee shall at all times employ ordinary care in the maintenance and operation of the cable system so as not to endanger the life, health or property of any citizen of Grantor or the property of Grantor. The cable system shall at all times be kept in good repair and in a safe and acceptable condition.

B. Grantee shall install and maintain the cable system so as not to interfere with the equipment of any utility of Grantor or any other entity lawfully and rightfully using the streets of Grantor.

C. All conductors, cables, towers, poles and other components of the cable system shall be located and constructed by Grantee so as to reasonably minimize interference with access by adjoining property owners to the streets.

6. Service. Grantee shall provide to its subscribers broad categories of video programming services.

7. Insurance/Indemnity.

A. Grantee will maintain in full force and effect throughout the term, at Grantee's expense, a commercial liability insurance policy with Grantor as an additional insured, written by a company authorized to do business in the State of Georgia, or will provide self-insurance reasonably satisfactory to Grantor protecting Grantor against liability for loss, personal injury and property damage occasioned by the operation of Grantee's cable system by Grantee. Such insurance will be maintained in an amount not less than one million dollars (\$1,000,000.00). Grantee will also maintain Workers' Compensation coverage throughout the term as required by the laws of the State of Georgia. Evidence in the form of a certificate of insurance or of such self-insurance will be provided to Grantor upon written request.

B. Grantee hereby agrees to indemnify and hold Grantor, including its agents and employees, harmless from any claims or damages resulting from the actions of Grantee in constructing, operating or maintaining the cable system. Grantor agrees to give Grantee written notice of its obligation to indemnify Grantor within ten (10) days of receipt of a claim or action pursuant to this Section. Notwithstanding the foregoing, Grantee shall not be obligated to indemnify Grantor for any damages, liability or claims resulting from the willful misconduct or negligence of Grantor or for Grantor's use of the Cable System, if any.

8. Pledge; Assignment of Assets. Grantee may not assign the franchise without first obtaining the written consent of the Council, which consent shall not be unreasonably withheld, provided, however, that Grantee may mortgage or pledge the franchise for financing purposes or may assign the franchise to an affiliated entity upon thirty (30)

days' written notice to Grantor.

9. Cancellation and Expiration.

A. Unless earlier terminated in accordance with this Ordinance, the franchise shall expire fifteen (15) years after the effective date of this Ordinance.

B. Prior to revocation or termination of the franchise, Grantor shall give written notice to Grantee of its intent to revoke the franchise on the basis of a pattern of noncompliance by Grantee, including one or more instances of substantial noncompliance with a material provision of the franchise. The notice shall set forth the exact nature of the noncompliance. Grantee shall have sixty (60) days from such notice to either object in writing and to state its reasons for such objection and provide any explanation or to cure the alleged noncompliance or, in the event that, by the nature of default, such default cannot be cured within the sixty (60) days period, initiate reasonable steps to remedy such default and notify Grantor of the steps being taken and the projected date that they will be completed.

C. If Grantee has not cured the default within such sixty (60) day time period or, if the default cannot be cured within such sixty (60) day time period and Grantee has not notified Grantor of its plan to cure the default or has not initiated steps to cure the default or if Grantor has not otherwise received a satisfactory response from Grantee, Grantor may then seek to revoke the franchise at a public hearing. Grantee shall be given at least thirty (30) days prior written notice of such public hearing, specifying the time and place of such hearing and stating its intent to revoke the franchise.

D. At the hearing, Grantor shall give Grantee an opportunity to state its position on the matter, present evidence and question witnesses, after which it shall determine whether or not the franchise shall be revoked. The public hearing shall be on the record and a written transcript shall be made available to Grantee within ten (10) business days following such hearing. Grantee may appeal such determination to an appropriate court, which shall have the power to review the decision of Grantor *de novo*.

E. Upon termination of the franchise, Grantee agrees to remove the cable system from the streets, unless Grantor and Grantee agree that the cable system can be abandoned in place.

10. Enforcement of Terms and Conditions. Either Grantor or Grantee may institute proceedings in a court of competent jurisdiction to enforce the terms and conditions of this Ordinance.

11. Equal Protection. Grantor shall not allow any person, other than Grantee or its successors or assigns, to construct, install or maintain within the streets, or within any other public property of Grantor, any equipment or facilities for distributing any cable service through a cable system, unless a franchise authorizing such use of the streets or such other public property has first been obtained in accordance with federal and state law and in accordance with the remainder of Section 37-102-11. Grantor shall not authorize or permit any person providing video programming services and/or cable services to enter into any part of the streets on terms or conditions more favorable or less burdensome to such person than those applied to Grantee pursuant to this franchise, in order that one (1)

operator not be granted an unfair competitive advantage over another, and to provide all parties equal protection under the law.

12. Notices, Miscellaneous.

A. Every notice required to be served or provided to Grantor under this Ordinance shall be in writing and delivered or sent by certified mail, return receipt requested, to:

City of Hoschton
Cindy R. Edge, City Clerk
P.O. Box 61
Hoschton, GA 30548

and every notice required to be served or provided to Grantee under this Ordinance shall be in writing and delivered or sent by certified mail, return receipt requested, to:

Adelphia Communications
Southeast Region Legal Department
1100 Northpoint Parkway, Ste. 100
West Palm Beach, FL 33407
Attention: Legal Department

With a copy to:

Adelphia Communications
697 Marietta Highway
Canton, GA 30114
Attention: General Manager

B. All provisions of this Ordinance shall apply to the respective parties, their successors and assigns.

C. If any particular section of this Ordinance shall be held invalid, the remaining provisions and their application shall not be affected thereby.

13. Franchise Fee.

A. Grantee shall pay to Grantor annually an amount equal to five percent (5%) of the gross revenues for such calendar year.

B. Each year during which the franchise is in force, Grantee shall pay Grantor no later than ninety (90) days after the end of each calendar year the franchise fees required by this Section, together with a financial statement showing total gross revenues derived from the cable system during such year. Grantor shall have the right to review the previous year's books of Grantee to ensure proper payment of the fees payable hereunder.

14. Force Majeure. With respect to any provision of this franchise, the violation or noncompliance with which could result in the imposition of a financial penalty, forfeiture or any other sanction or enforcement procedure upon Grantee, such violation or noncompliance will be excused if such violation or noncompliance is the result of an act of God, severe weather or other catastrophic act of nature, war, terrorism, civil disturbance, strike or other labor unrest, governmental, administrative or judicial order or regulation or

any event that is reasonably beyond Grantee's ability to anticipate or control.

15. Acceptance. Grantor, by virtue of this Ordinance and Grantee by virtue of the signatures set forth below (signed in the original contract), agrees to be legally bound by all provisions and conditions set forth in this Ordinance, together forming a mutually binding contractual agreement which cannot be amended without a writing executed by both parties.

(Passed 8/1/2005)

(Code 1991, § 37-102; Ord. of 8-1-2005)

Section 37-103 Alltel Franchise Agreement.

This Franchise Agreement (This "Agreement") is made and entered into as of January 1, 1994, by and between the City of Hoschton, a municipal corporation of the State of Georgia, (the "City"), and Alltel Inc., a Georgia corporation ("Alltel").

1. The City hereby grants to Alltel, its successors and assigns, subject to the provisions hereof, permission to construct, operate, replace, remove and maintain communications lines, conduits and cables under, in, on, along, through and above public rights-of-way for use by Alltel. All such construction, operation, replacement, removal and maintenance shall be performed solely in conjunction with, and utilizing the same conduits, trenches, excavations, poles and similar facilities as, the construction, operation, replacement, removal and maintenance of lines and cables by Georgia Power Company or Jackson Electric Membership Corporation, which has the right to install such conduits and cables under, in, along, through, or above said public rights-of-way pursuant to another agreement with the City so as to minimize any additional burden imposed upon such public rights-of-way by Alltel's activities. In the event of an extension of the City limits, this Agreement, in the absence of a subsequent agreement between the City and Alltel, shall take the place of and supersede all rights to use public rights-of-way claimed by Alltel in such area as extended.

2. Once an application in writing has been made to the Commissioner of Public Works or other City Employee designated by the Mayor and Council (the "Commissioner") with the plans and specifications attached thereto, and once the Commissioner has issued the necessary permit all in accordance with the Hoschton City Code, Alltel shall have the right to proceed with the work requested and granted in accordance with the permit issued for the locations authorized thereby.

3. All work performed by or on behalf of Alltel in accordance with the terms of the permit shall be done under the direction and to the satisfaction of the Commissioner or designated City employees, as provided in the Hoschton City Code; however, it is not the intent of the parties that the Commissioner act as construction manager under this Agreement. Alltel shall properly replace and relay and repair any part of any sidewalk or street that may be displaced by reason of the work it is doing, and upon failure to do so, after ten (10) days' notice in writing has been given by the City to Alltel, the City may repair such portion of the sidewalk or street as has been disturbed by Alltel and collect the actual costs so incurred from Alltel. Upon notice in writing from the City that a municipal improvement is to be constructed or repaired in such a manner as will necessitate relocation of conduits, cables or other appurtenances of Alltel, Alltel shall relocate the

same within sixty (60) days at no expense to the City so as to permit the construction of such improvements when ordered and, should Alltel fail to comply with such notice, the conduits, cables and other appurtenances may be relocated by the City and the actual costs recovered from Alltel.

4. Alltel shall at all times be subject to City Ordinances now in existence or which may be passed hereafter relative to the use of the public streets, alleys and highways by telephone and telegraph companies, and shall comply promptly when notified that it is in non-compliance with said ordinances, said action to comply being initiated no more than thirty (30) days after receipt of notice of non-compliance from the Commissioner, subject to the provisions of Section 37-103-10 hereof. Alltel does not, by this Agreement, forfeit any legal rights that it may have to challenge any ordinance or the interpretation thereof.

5. All wires, cables and other appurtenances of any kind utilized by Alltel pursuant to this Agreement shall be placed in, through or upon the conduits, trenches, poles or other locations authorized for use and used by Georgia Power Company or Jackson Electric Membership Corporation. Except as provided in the preceding sentence, no wires, cables or appurtenances of any kind of any other person, corporation or company shall be placed in, through or upon the conduits, trenches, poles or other locations authorized for use by Alltel without the prior written consent of Alltel, the City and Georgia Power Company or Jackson Electric Membership Corporation.

6. Alltel shall indemnify and save harmless and defend the City against all claims for damages, whether to persons or property, by reason of the construction, equipping or maintaining of any cables, conduits and appurtenances authorized by the permit issued by the Commissioner and by this Agreement, or by reason of any wrongful, illegal or negligent act on the part of Alltel or its employees or its failure to comply with any ordinance relative to the use of the streets of the City. Alltel further agrees to indemnify, hold harmless and defend the City for its approval of the plans and specifications submitted by Alltel pursuant to this Agreement and for the City's requiring or not requiring modifications of said plans and specifications, even though the City may be found to have been negligent as a matter of law because of its acts or failure to act in regard to the approval of said plans and specifications. This provision is not intended, however, to release the City from any liabilities it may incur which arise out of any damages to Alltel's cable which may be caused by, attributable to, or result from any acts or omissions or negligence on the part of the City, its employees, agents, contractors or subcontractors. The City shall give Alltel prompt notice of any claims or actions against the City for which Alltel may be required to indemnify the City under this Agreement. The City shall cooperate fully with Alltel's defense of any claim or action. The foregoing provisions of this Section are intended solely to apportion any liability for damages between the City and Alltel and shall not be construed as a waiver by either party of any defense provided by law to any claim asserted by any person not a party to this Agreement.

7. Alltel shall pay to the City three percent (3%) of the gross revenues received by Alltel from the use of its lines and cables placed under, in, on, along, through or above public rights-of-way during 1993 and during previous years for which no franchise fee was paid to the City. Alltel shall pay to the City four percent (4%) of the gross revenues received from use of said lines and cables during 1994 and following years. Said payment shall be made on or before January 15th of each year.

8. This Agreement shall remain in effect from and after its execution by the Mayor or January 1, 1994, whichever is later, and expire at midnight on December 31, 2004, unless terminated earlier as provided hereinafter. It is understood by both parties that renegotiation of this Agreement will be undertaken in good faith by both parties during the twelve months prior to December 31, 2004. Notwithstanding the foregoing, Alltel may terminate this Agreement at any time by written notice to the City in the event that it ceases to do business within the City limits, whereupon Alltel may convey any or all of its facilities located within public rights-of-way within the City to one or more other persons or entities having agreements with the City authorizing them to maintain such facilities in public rights-of-way within the City and shall at its own expense remove from public rights-of-way within the City any such facilities not so conveyed.

9. Alltel shall have the right, with the City's consent (which shall not be unreasonably withheld), to assign the rights granted to it under this Agreement. Alltel shall have the right, without further consent of the City, to assign its rights hereunder to its lending institutions as security or further security for any indebtedness.

10. Alltel shall not be deemed in default under the terms of this Agreement or in any breach thereof unless and until the City has given Alltel written notice of such default or breach and Alltel has failed to cure the same within thirty (30) days after receipt of such notice; provided, however, that where such default cannot reasonably be cured in such thirty (30) day period, if Alltel shall proceed promptly to cure the same and prosecute such curing with due diligence, the time for curing such default shall be extended for such period of time as may be necessary to complete such curing as reasonably determined by the Commissioner in writing.

11. Any notice to be given hereunder by either party to the other shall be in writing and shall be sent certified mail, return receipt requested. Notices shall be sent as follows:

A. If to Alltel: Alltel Corporation

with a copy to:

B. If to City: City of Hoschton

with a copy to:

12. This Agreement has been authorized by the Mayor and Council of the City of Hoschton, Georgia, and by the proper corporate authority of Alltel Corporation and is executed in duplicate as of the day and year first above written.
(Code 1991, § 37-103)

Exhibit "A"

CITY OF HOSCHTON

RESOLUTION AUTHORIZING ALLTEL CORPORATION TO INSTALL, OPERATE AND MAINTAIN TELECOMMUNICATIONS IN THE RIGHTS-OF-WAY OF VARIOUS STREETS AS PER PLANS AND SPECIFICATIONS ON FILE IN THE DEPARTMENT OF PUBLIC WORKS.

WHEREAS, ALLTEL CORPORATION, a Georgia corporation, desires to maintain and install certain communications conduits and cables under, in, on, along, through, or above certain public rights-of-way of the City; and

WHEREAS, ALLTEL CORPORATION processes to perform such installation and maintain only in conjunction with the installation of conduits and cables installed and utilized by Georgia Power Company or Jackson Electric Membership Corporation, which has the right to install such conduits and cables under, in, on, along, through, or above said public rights-of-way pursuant to another agreement with the City, such that ALLTEL CORPORATION's installation will not result in any burden upon the public rights-of-way that is different from or materially greater than the burden that would otherwise be imposed by Georgia Power Company or Jackson Electric Membership Corporation acting alone; and

WHEREAS, ALLTEL CORPORATION is recognized as a public utility, holding a certificate of public convenience and necessity issued by the Georgia Public Services Commission; and

WHEREAS, it is in the best interests of the City to enter into a franchise agreement with ALLTEL CORPORATION for the use of public right-of-way.

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE City OF HOSCHTON, GEORGIA that the Mayor is hereby authorized to enter into a franchise agreement with ALLTEL CORPORATION, substantially in the form attached hereto and made part hereof by reference, for the construction, operation, replacement, removal, and maintenance of communications conduits and cables under, in, on, along, through, or above public rights-of-way in conjunction with the conduits and cables installed and utilized by Georgia Power Company or Jackson Electric Membership Corporation, provided that ALLTEL CORPORATION will be liable to the City of Hoschton for any and all damages resulting from the performance of said agreement.

BE IT FURTHER RESOLVED, that ALLTEL CORPORATION shall pay to the City within thirty (30) days of the execution of this agreement, three percent (3%) of the gross revenues received by ALLTEL CORPORATION during the preceding calendar years for which no franchise fee was paid to the City, and four percent (4%) annually thereafter.

BE IT FURTHER RESOLVED, that the City Attorney be and is hereby directed to prepare an appropriate contractual agreement for execution by the Mayor, and to be approved by the

City Attorney as to form, substantially in accordance with the agreement attached hereto.

BE IT FURTHER RESOLVED, that said agreement shall not become binding on the City, and the same shall incur no liability thereupon, until said agreement has been executed by the Mayor and delivered to the contracting party.

TELEPHONE FRANCHISE ORDINANCE

Each telephone company operating in the City of Hoschton shall pay, on or before January 15th of each year, an occupational license tax for that calendar year in the amount of four percent (4%) of recurring local service revenues received by such company from subscribers located within the City of Hoschton. The annual amount due may be computed by annualizing the recurring local service revenues billed during the month of June preceding the date of payment. The first payment under this Ordinance shall cover the period from its effective date through December 31, of the year in which enacted; shall be four percent (4%) of the recurring local service revenues billed during that part of the year; and shall be paid on or before January 15 of the following year. Any amount of license tax previously paid and absorbed by a telephone company, which is applicable to any period subsequent to the effective date of this Ordinance shall be credited against the amounts imposed herein or by subsequent ordinance.

"Recurring local service revenues" shall mean:

- A. Monthly charges for local exchange service, including:
 - 1. Charges for additional listings and joint users;
 - 2. The guarantee portion of the charge for semi-public pay station services;
 - 3. Charges for local message rate service, including mobile service local messages; and
 - 4. Subscriber station revenues from teletypewriter exchange service.
- B. Charges for Morse transmission, signaling, data transmission, remote metering and supervisory control, where both terminal points are within the City limits.
- C. All charges for local private line services (except audio and video program transmission services) where both terminals of the private line are within the City limits.
- D. Nothing in this definition shall preclude the charging of a separate franchise fee for the transmission of audio or video programs to customers by CATV companies.

The effective date of this Ordinance shall be January 1, 1994.
(Code 1991, § 37-103(exh. A))

Section 37-104 Atlanta Gas Franchise Agreement.

- 1. **Franchise Grant.** The right is hereby granted to Company, its successors and

assigns, to lay, construct, extend, maintain, renew, replace and repair gas pipes, valves, manholes, services boxes, posts, lamps, structures, appliances and all appurtenances and appendages under, along, through and across any streets, avenues, roads, public highways, alleys, lanes, ways, parks, rights-of-way and other public places in the City (hereinafter, collectively referred to as the "City's rights-of-way"), and to use and occupy the City's rights-of-way for the purpose of laying, constructing, extending, maintaining, renewing, replacing and repairing mains, pipes, valves, manholes, service boxes, posts, lamps, structures, appliances and all appurtenances and appendages thereto, used for the transmission, distribution and sale of gas within and through the present or future territorial limits of the City, such right, when exercised as herein provided to continue for twenty (20) years after date of approval of this Ordinance.

2. Gas Rates. Company shall be entitled to charge for gas furnished by it or by its gas marketers, or any combination thereof, such rates as are prescribed by the Georgia Public Services Commission, hereinafter referred to as the "GPSC", or other lawful regulatory body of the State of Georgia.

3. Definitions.

A. Base Year. Means the fiscal year ending September 30, 2002.

B. Base Year Franchise Fee Factor. Means the total franchise fees paid during the Base Year divided by the Design Day Capacity as recorded by the Company on last day of the Base Year. The Base Year Franchise Fee Factor shall be adjusted by the Inflation Index when appropriate.

C. Dedicated Design Day Capacity or "DDDC". Means the sum of the individual capacity in the dekatherms (Dt) attributable to all firm customers located within the City limits of the City, as of the last day of the previous fiscal year.

D. Consumer Price Index or "CPI". Means the Consumer Price Index for all urban consumers as published by the Bureau of Labor Statistics, or any successor index.

E. Firm Customers. Means all residential and business customers who purchase gas service that ordinarily is not subject to interruption nor curtailment.

F. Fiscal Year. Means the twelve (12) months ending September 30 of each year.

G. Inflation Index. Means the percentage change in the CPI for the period from Price Index shall be reduced by any PF A. The Inflation Index shall be applied to the Base Year Franchise Fee Factor in the Fiscal Year following the completion of any rate case by the Company with the GPSC.

H. Productivity Factor Adjustment or "PFA". Means the percent change in the cost of service due to productivity either explicitly or implicitly determined by the GPSC.

4. Franchise Fee. The total amount of franchise fees paid by the Company to the City annually shall be calculated as follows:

The current Fiscal Year total franchise fee shall equal the product of the Design Day

Capacity and the current franchise fee factor. The following formula quantifies these payments:

$$\mathbf{FFc = FFFby \times DDDCc}$$

FFc = total franchise fees due the City during the current Fiscal Year

FFFby = the Base Year Franchise Fee Factor

DDDCc = the Dedicated Design Day Capacity of the Base Year

In the Fiscal Year immediately following the conclusion of a rate case by the Company with the GPSC, the Base Year Franchise Fee Factor (FFFby) is adjusted by the Inflation Index and the following formula quantifies the franchise fee paid each Fiscal Year until the Fiscal Year following the conclusion of another rate case or the expiration of this Franchise Ordinance:

$$\mathbf{FFc = FFFnby \times DDDCc}$$

FFFnby = the Base Year Franchise Fee Factor multiplied by the Inflation Index as illustrated by the following formula:

$$\text{FFFby} \times [1 + (\text{CPI} - \text{PFA})]$$

5. Responsibility for Payment of the Franchise Fee. The Company as the holder of the franchise privilege hereunder is responsible for the payment of all franchise fees payable hereunder, and shall file such reports and returns as required by this Franchise Ordinance, including information used to determine each of the components of the above formula. In addition, the Company shall report annually to the City the names of all gas marketers for which Company is transporting gas on the distribution system.

6. Quarterly Payments. The Company shall remit to the City quarterly franchise fee installments. The installments shall equal one-fourth (1/4) of the total annual franchise fee calculated in accordance with this Franchise Ordinance. The quarterly payment is due and payable on or before the 30th day following the last day of each calendar quarter.

7. Annual Return. The Company shall file a return with its first quarterly installment showing the details of the calculation of the annual franchise fee. During the second, third and fourth quarter of each fiscal year, the Mayor and Council of the City, through its authorized representative or representatives, shall have the right to inspect and audit the books and records of Company for the purpose of verifying the accuracy of the return.

8. Reservation of Police Power. All rights herein granted and authorized by the City shall be subject to and governed only by this Ordinance; provided, however, that the City expressly reserves unto itself all power to adopt general ordinances including, without limitation, all ordinances necessary to protect the safety and welfare of the general public in relation to the rights hereby granted, as long as such ordinances are not in actual conflict with the provisions of this Ordinance.

9. Repair of Public Ways. Company, upon making an opening in the City's rights-of-way, for the purpose of laying, repairing or maintaining gas mains, shall use due care and caution to prevent injury to persons, and shall replace and restore the City's rights-of-way

to their former condition as early as practicable, and within a reasonable time, and shall not unnecessarily obstruct or impede traffic upon the streets, avenues, roads and public highways of said City.

10. Annexation of Property. City shall notify Company in writing upon the annexation of new territory into the City within thirty (30) days following the last day of the quarter in which the annexation became effective. Said notice shall contain the street address, the name of the owner(s) of the annexed property as reflected in the annexation application and any amendments thereto, and the effective date of the annexation.

11. Indemnity of City. Company shall save and keep harmless the City from any and all liability by reason of damage or injury to any person or persons who, due to the Company's negligent installation, maintenance and/or repair of its mains and pipe lines located in the City's rights-of-way, provided that the Company was notified in writing of any such claim against the City and was afforded ample opportunity to defend the same.

12. Conflicts. In the event of a conflict between this Ordinance and the original franchise granted, the Ordinance shall control.

13. Other Fees. The City is prohibited from charging the Company any license fees, occupation tax, encroachment fees, permit fees, maintenance fees or any other payment for use of the City's Rights-of-Way in excess of or in addition to the franchise fee authorized herein. This Agreement does not preclude the City from imposing license fees or occupational taxes on gas marketers.

14. Renewal of Franchise. No later than one hundred eighty (180) days prior to the expiration date of the agreement, Company shall provide written notice to the City of the upcoming expiration date, along with a copy of the current agreement. Unless written notice of non-renewal is given by one party to the other party one hundred twenty (120) days prior to the expiration of this Franchise Ordinance, this Franchise Ordinance shall be considered as renewed and binding in all its provisions for an additional twenty (20) years. However, in the event that Company fails to provide notice of the upcoming: expiration date at least one hundred eighty (180) days prior to the expiration of the agreement, the agreement shall automatically terminate upon its stated expiration date.

15. Severability. In the event that any provision of this Ordinance should be ruled void, invalid, unenforceable or contrary to public policy by any court of competent jurisdiction, the remaining provisions of this Ordinance shall survive and be applied, and together with the invalid or unenforceable portion shall be construed or reformed to preserve as much of the original words, terms, purpose and intent as shall be permitted by law.

16. Repeal. All ordinances and parts or ordinances in conflict with this Franchise Ordinance are repealed to the extent of the conflict.

17. Exclusivity. City and the undersigned warrant and represent that, with the exception of the franchise granted to Company by a previously passed ordinance, which franchise was accepted by Company and City, there is no franchise granted by the City in force or effect, to any other person, firm or corporation, for the distribution and selling of gas, and that, during the term of this Agreement, the City will not enter into any other

agreements or grant any other franchise for the distribution and selling of gas.

18. Notice. All notices under this Ordinance shall be made in writing and shall be delivered or sent by:

- A.** First class, registered or certified mail, postage prepaid, return receipt requested,
- B.** Guaranteed overnight delivery (such as Federal Express or United Parcel Service Next Day Air), or
- C.** By hand delivery addressed to the addresses of the party in question as set forth below or to such other addresses as either party may designate by notice given pursuant to this Section. Notices shall be effective upon receipt by the notified party.

Notices to Company: Atlanta Gas Light Company
c/o AGL Resources Inc.
P.O. Box 4569
Location 1461
Atlanta, GA 30302
Attention: Senior Vice President Governmental
Relations

Plus copies to: Atlanta Gas Light Company
c/o AGL Resources Inc.
10 Peachtree Place
Suite 1000
Location 1465
Atlanta, GA 30308

Notices to City: City of Hoschton
P. O. Box 61
Hoschton, GA 30548
Attention: City Clerk

(Adopted 10/6/2003)

*Effective in the first day of the month following its approval by the Mayor and Council and its acceptance by the Atlanta Gas Light Company.
(Code 1991, § 37-104; Ord of 10-6-2003)*

Section 37-105 Jackson Electric Membership Corporation Franchise Agreement

An ordinance granting permission and consent to Jackson Electric Membership Corporation (hereafter referred to as "Jackson EMC"), its successors, lessees, and assigns, to occupy the streets and public places of the City of Hoschton (hereafter referred to as "the City") in constructing, maintaining, transmitting and distributing electricity, and for other purposes.

1. Grant of Franchise. Be it ordained by the governing authority of the City that the authority, right, permission and consent are hereby granted to Jackson EMC, its

successors, lessees, and assigns, for a period of ten (10) years, to occupy and use the streets, alleys, and public places of the City within the present and future limits of the City as from time to time Jackson EMC may deem proper or necessary for the installation, construction, maintenance, operation and extension of its facilities, which shall include, without limitation, overhead and underground poles, towers, lines, wires, cables, conduits, insulators, transformers, appliances, equipment, connections and other apparatus for the business and purpose of transmitting, conveying, conducting, using, supplying and distributing electricity for light, heat, power and other purposes for which electric energy may be or become useful or practicable for public or private use, and for conducting any other purposes which Jackson EMC is authorized to perform, to reenter upon such streets, alleys, and public places from time to time as it may deem proper or necessary to perform these functions, and to cut and trim trees and shrubbery when and where necessary or proper, in the judgment of Jackson EMC, to ensure safe and efficient service.

2. Conditions. Be it further ordained that the rights, permission and consents herein contained are made for the following considerations and upon the following terms and conditions:

A. Jackson EMC shall pay into the treasury of the City on or before the first day of March, 2008, a sum of money equal to four percent (4%) of the gross sales of electric energy to customers located within the corporate limits of the City and served under residential rate schedules (as prescribed by Jackson EMC and filed with the Georgia Public Service Commission) from lines located on the streets, alleys and public places of the City during the period beginning on the first day of the month following the effective date of this franchise and ending on December 31, 2007, and on or before the first day of March of each year thereafter during the term of this franchise, a sum of money equal to four percent (4%) of the gross sales of electric energy to such customers during the preceding calendar year, on condition that, in the event the City shall grant any other entity the right to use and occupy its streets for like purposes, such use and occupancy shall be upon the same terms and conditions as those herein contained, including the payment provisions hereof.

B. The amount, if any, of any tax, fee, charge or imposition of any kind required, demanded or exacted by the City on any account shall operate to reduce to that extent the amount due from the percentage of gross sales provided for above.

C. Nothing contained herein shall require Jackson EMC to surrender or limit its property rights created by this franchise without due process of law, including adequate compensation, for any purpose at the instance of the City or for any purpose at the instances of any other entity, private or governmental.

3. Annexation into Corporate Limits. Be it further ordained that, notwithstanding anything herein to the contrary, Jackson EMC shall not be obligated to pay to the City the fee provided for herein, or any portion thereof, as to customers living outside the corporate limits of the City, and as to customers located within areas that, after the effective date of this franchise, are annexed to the corporate limits of the City, such fees shall not be required to be assessed before ninety (90) days after Jackson EMC receives written notice from the City that the City has annexed the territory in which said customers are located.

4. Severability. Be it further ordained that, in the event that any provisions or portion of this ordinance should for any reason be held void, invalid, or unenforceable for any reason by any court of competent jurisdiction, such provision or portion shall be deemed a separate, distinct and independent provision or portion, and such holding shall not affect the validity of the remaining portions of this ordinance.

5. Notice. Be it further ordained that all notices under this ordinance shall be made in writing and shall be delivered or sent by:

- A.** First class, registered or certified mail, postage prepaid, return receipt requested;
- B.** Guaranteed overnight delivery (such as Federal Express or United Parcel Service Next Day Air); or
- C.** Hand delivery addressed to the address of the party in question as set forth below or to such other addresses as either party may designate by notice given pursuant to this Section.

Notices shall be effective upon receipt by the notified party.

Notice to Jackson EMC:

Attn: President/CEO
P.O. Box 38
850 Commerce Highway
Jefferson, Georgia 30549

Notice to the City:

City of Hoschton
Attn: Mayor
79 City Square
Hoschton, Georgia 30548

6. Effective Date. Be it further ordained that the effective date of this ordinance is January 31, 2007, and fees levied herein shall begin to assess on the first day of the month following the effective date.

7. Conflicts. Be it further ordained that, upon acceptance by Jackson EMC of the terms and conditions of this ordinance, all laws and ordinances in conflict with this ordinance are repealed to the extent of such conflict.

8. Acceptance. Be it further ordained that Jackson EMC shall, within forty-five days from the approval of this ordinance, file its written acceptance of the same with the Clerk of said City, so as to form a contract between the parties.
(Code 1991, § 37-105; Ord. of 1-9-2007)

CHAPTER 38 WATER CONSERVATION

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

Section 38-101. Definitions

Commercial. Any type of building other than residential.

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.

Residential. Any building or unit of a building intended for occupancy as a dwelling but shall not include a hotel or motel.

(Code 1991, § 38-101)

Section 38-102. Residential Building Construction

No construction may be initiated within the City of Hoschton 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 pounds per square inch (60 lbs./psi) of pressure;
3. Employs a urinal that uses more than an average of one (1.0) gallon of water per flush;
4. Employs a lavatory faucet or lavatory replacement aerator that allows a flow of more than two (2.0) gallons of water per minute; or
5. Employs a kitchen faucet or kitchen replacement aerator that allows a flow of more than two and five-tenths (2.5) gallons of water per minute.

(Code 1991, § 38-102)

Section 38-103. Commercial Building Construction

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

102.

(Code 1991, § 38-103)

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.

(Code 1991, § 38-104)

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, 38-103, and 38-104 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 Hoschton. A fee of as determined by the Mayor and Council shall be charged for the inspection and issuance of such exemption.

(Code 1991, § 38-105)

Section 38-106. Enforcement; Penalty

This Chapter shall be enforced by the office of the building inspector of the City of Hoschton.

Citations for violations may be issued by the building inspector of the City of Hoschton.

Any person, corporation, partnership or other entity violating this Chapter shall be tried before the City of Hoschton Municipal Court. Upon conviction, a violation of this Chapter may be punished by a fine not to exceed five hundred dollars (\$500.00) or imprisonment not to exceed thirty (30) days.

(Code 1991, § 38-106)

CHAPTER 39 LAND DEVELOPMENT REGULATIONS

39-101	Zoning Regulations
39-102	Reserved
39-103	Comprehensive Plan
39-104	Northeast Georgia Regional Solid Waste Management Plan
39-105	Architectural and Design Standards

Section 39-101. Zoning Regulations

The Zoning Regulations of the City of Hoschton, February 2008, as amended, are incorporated by reference as if fully set out herein.
(Code 1991, § 39-101)

Section 39-102. Reserved

Section 39-103. Comprehensive Plan

The Comprehensive Plan for the City of Hoschton, Georgia, December 8, 2003, and amended December 3, 2007, is incorporated by reference as if fully set out herein.
(Code 1991, § 39-103)

Section 39-104. Northeast Georgia Regional Solid Waste Management Plan

The Northeast Georgia Regional Solid Waste Management Plan adopted June 1993, and as may be amended.
(Code 1991, § 39-104)

Section 39-105. Architectural and Design Standards

1. Objectives and Findings. In an effort to maintain high quality, long-lasting and sustainable development within the City of Hoschton, the City hereby adopts the following design guidelines and standards for all newly constructed buildings within the OR and DDO zoning districts. Renovations to existing buildings within these districts where the cost of renovation exceeds 25% of the value of the existing structure shall require that the building be brought up to the latest standards as outlined herein, provided however that if the use is residential, and that if no work is contemplated on the exterior, then the cost of renovation of the interior shall not trigger the need to bring the exterior into compliance.

These guidelines are intended to enhance the visual aspect and livability of the entire City. They are intended to encourage an "old-town" look and feel consistent with the original City of Hoschton. These guidelines will foster architectural diversity and interest, yet achieve and maintain consistent, durable and pleasing aesthetic and visual qualities.

2. Grandfathering and Adoption. The following design guidelines and standards are for all newly constructed buildings within the OR and DDO zoning districts. Any project within the City that has received or applied for a Development Permit by the date of adoption of these requirements, shall be allowed to proceed under the previous requirements. Any existing

lawfully constructed building shall not be subject to these requirements, provided however that any building substantially destroyed or being rebuilt shall be governed by these regulations.

3. Building Materials. The use of a common palette of building materials should be maintained for all building facades in a single project or area to create a consistent and traditional architectural identity. Traditional architecture includes the use of red brick, pitched roofs, low-profile signage and subdued colors. For large commercial/retail buildings, variations in facade, rooflines, and depth should be provided to lend the appearance of multi-tenant occupancy.

4. OR District. The Office-Residential district is zoned for single-family uses, and for single-tenant professional office uses. The intent of this zoning district is to mandate a common theme, such that single-tenant professional offices shall appear to be single-family residences.

5. DDO District. The Downtown Development Overlay district is zoned for commercial and institutional uses, and as such larger buildings are contemplated, and these structures permit multi-tenant spaces on a single parcel. As such, the buildings will generally be larger than those in the OR district, and will incorporate larger amounts of floor space behind more expansive front facades.

6. Building Plans. All building plans submitted as an application for a building permit should clearly indicate all of the proposed building materials and colors for each facade as described herein. The plans should clearly show the location and calculate the surface area and percentages of all building materials per facade. Groups of buildings on the same parcel of land may be reviewed and permitted as a single project rather than individual buildings. Grouping of similar buildings is encouraged to minimize the number of reviews required and to allow for originality and design flexibility.

7. Definitions

Arcade. As used herein, an arcade is a covered walkway/structural canopy extending along the entire length of the front facade of a commercial building.

Building. Any structure having a roof supported by walls and intended for the shelter, housing or enclosure of any individual, process, equipment, goods or materials of any kind.

Facade. A vertical exterior face or elevation of a building.

Front Facade. Any facade with a public entry that faces a public right-of-way.

Rear Facade. Any facade without a public entry but facing a public right-of-way. A side facade typically connects a front facade with a rear facade.

Side Facade. Any facade without a public entry but facing a public right-of-way or any facade with a public entry but not facing a public right-of-way. A side facade typically connects a front with a rear facade.

8. General Architectural Requirements.

- A. Commercial facades shall conform to older styles of masonry construction techniques so as to provide for a variation in heights, widths and textures while maintaining a cohesive appearance and as shown in **Section 15 -- Examples**, below.
- B. New construction in the OR District, as well as residential-to-office conversions, shall conform to the styles and techniques for single-family architecture as shown in **Section 15 -- Examples**, below.
- C. If provided, dumpsters shall be screened in accordance with **Section 13 -- Dumpsters**, below.
- D. All ground mounted mechanical, HVAC and like systems shall be screened from public street view (within three hundred feet (300')) on all sides by landscaping or an opaque wall or fence that matches the primary structure.
- E. For all commercial/retail buildings, roof mounted mechanical, HVAC and like systems shall be screened from public street view (within three hundred feet [300']) on all sides.
- F. Contrasting accents colors on any single facade shall be limited to no more than ten percent (10%) of the total wall area for any single facade.
- G. Permanent mounted exterior neon lights shall not be allowed.
- H. In a non-residential development with out-parcels, buildings located on out-parcels shall be constructed of the same primary building material as the principal building with which they are associated.
- I. Backlit awnings, roof mounted lights and/or roof-mounted flagpoles are not permitted. Satellite dishes shall be located in accordance with City of Hoschton Zoning Regulations, Section 9.11.

9. Building Materials. The following building materials may be used and combined to create a consistent, attractive interesting and long-lasting building design. The quantity and type of building materials is outlined below.

A. Allowed Building Materials.

1. Brick. Brick veneers, which are intended to simulate brick exteriors, are not acceptable. Painted brick is not acceptable, with an exception for existing painted buildings, or upon approval of color by Mayor and City Council.
2. Natural stone such as, but not limited to, Granite, Limestone, and Marble are allowed building materials. Terra Cotta and/or Cast Stone, which simulate natural stone, are also acceptable. Painted stone is not allowed.
3. Split-Face Block/Concrete Masonry Unit (CMU) is permitted solely for residential

foundations.

4. High Grade Stucco.
5. Natural Wood and/or Cement-based Artificial Wood Siding.
6. Glass.

B. Ratio and Amounts of Allowed Building Materials. The following table (Table 1) outlines the allowed building materials for uses within each zoning category within the City of Hoschton:

Table 1 - Allowed Building Materials

Zoning Category	Brick	Stone	Glass	Tilt-up Panel	Stucco		Concrete Block		CMU/Split-Face Block		Siding		Metal	Tile
					Front	Side/Rear	Front/Side	Rear	Front/Side	Rear	Front	Side/Rear		
OR	Yes	Yes	No	No	Max 50%	Max 50%	No	No	No	No	Max 40% Facade	Max 50% Facade	No	No
DDO	Yes	Yes	Yes	No	Max 25%	Max 25%	No	No	No	No	Max 10% Facade	Max 10% Facade	No	No

(Adopted 4/7/2003; Effective 4/17/2003)

C. Accent/Trim Exterior Building Material. Small amounts of building materials such as woods, tile, etc., may be used in the DDO to enhance the elevation of the building or for decorative elements but should not exceed ten percent (10%) of total wall area per facade.

Contrasting accent colors of any wall, awning or other feature shall be limited to no more than ten percent (10%) of the total area for any single facade in the DDO.

D. Facade, With the exception of accent/trim materials, in the DDO there shall be no more than two primary building materials used. When a material is restricted as a percentage in Table 1, such as stucco, siding, etc., the building materials may not be combined with another restricted building material. The allowed facade materials shall not apply to windows, glass-front windows, entry doors and/or roll-up doors.

The amount of permitted material shall be calculated using the gross square footage of wall area per facade. A building material that is allowed (such as brick) may be used in any percentage throughout the structure. A material that is restricted (such as stucco) is allowed as a maximum percentage.

For example, a building has a front facade with gross-facade area of one thousand two hundred square feet (1,200 sq. ft.) with four hundred square feet (400 sq. ft.) consisting of windows and doors. Begin with one thousand two hundred square feet (1,200 sq. ft.) for required building material calculations. In this case, the front facade of a building in C-2 zoning district with a wall area of one thousand two hundred square feet (1,200 sq. ft.) shall have no more than three hundred square feet (300 sq. ft.) of stucco on the front facade (ex. $(1,200 \times 25\%=300)$). The balance shall be brick or other allowed material.

10. Roof Requirements

A. Pitched Roofs. All buildings in the OR district shall have pitched roofs. Furthermore, all one-story buildings less than ten thousand gross square feet (10,000 sq. ft.) must have a pitched roof. Pitched roofs shall have a slope of between 3:12 and 12:12. If a pitched roof is not possible, a combination of flat roof and pitched roof is required, which shall include a pitched roof on front and sides of the building to screen the view of any flat roof. Arcades, drive-under canopies, porches and other features shall have pitched roofs. Materials for pitched roofs shall be limited to architectural dimensional grade asphalt shingles, natural slate, natural terra cotta, natural wood shake, copper or factory finished sheet metal.

B. Mansard Roofs. Mansard roofs shall have a maximum pitch of 12:12 with a minimum twelve-foot (12") vertical surface length.

C. Flat Roofs. Flat roofs in the DDO District may be of any material that meets local codes. Exposed metal flashing shall be copper or factory finished sheet metal. If factory finished metal flashing is used, such as standing seam, the color must be subdued to blend with other materials or of a color to simulate weathered copper or bronze. All buildings with flat roofs should include parapet articulation on the front facade(s) of such building. There shall be roof articulations/offsets at a minimum of one per each one hundred twenty-five linear feet (125') of length by a change in the top line of the parapet. Additional articulation may occur at any lesser distance. If the front facade is less than one hundred twenty-five linear feet (125') in length, then a minimum of (1) roof articulation must occur.

D. Other. Drive under canopies for gasoline pumps may have flat roof with vertical or factory formed facing of finished sheet metal.

11. Arcade/Structural Canopy for Retail Use. For any multi-tenant commercial shopping center or strip center, a covered arcade or structural canopy shall be provided along the front facade of the building. Arcades are covered walkways connected to or separate from the principal building. They should be designed in a manner that provides architectural depth to the building and includes covered areas for relief from the weather. The arcade should be a minimum of five (5') feet in width.

12. Landscaping Requirements

A. Provide landscaping islands throughout all surface-parking areas. Interior landscaping islands shall consist of at least one hundred square feet (100 sq. ft.) of planted area and two (2) trees per thirty-six (36) parking spaces. Planting islands may run parallel with the parking bay, centered over the line between parking spaces. Linear island width shall be a minimum of seven feet (7') from back of curb to back of curb. Required trees shall be a minimum of six feet (6') in height at the time of planting.

B. Provide a minimum ten-foot (10') wide landscaping strip between all road rights-of-way and the back-of-curb of abutting off-street paved parking lots.

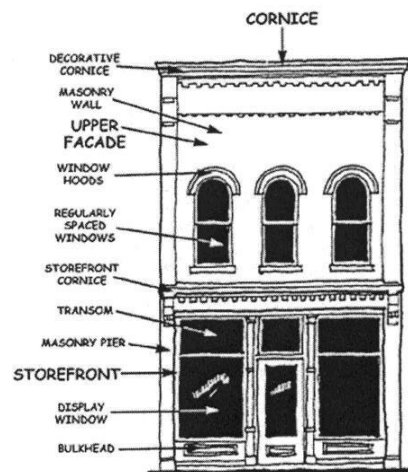
13. Dumpsters. Dumpsters shall be screened by a fence or wall. Dumpsters, which may be seen from adjacent properties or public parking lots, shall be screened from view on all four sides. Screening shall consist of three solid walls matching the majority building elevation material which is seen from the point of view, at least eight feet (8') in height with one hundred percent (100%) solid metal or wooden gates. Dumpsters shall be placed in the rear yard and may be located zero (0') from the property line if the adjoining property is zoned non-residential.

14. Deviations. Deviations from these standards require that the applicant file a request for a variance to be heard by the Planning and Zoning Commission, in accordance with the established procedures for rezonings and variances, and the Planning and Zoning Commission shall make a recommendation to the Council, which shall rule on the request in accordance with the established procedures for variances.

15. Examples. The following graphical representations are to serve as a guide for typical style features the are contemplated in this ordinance for development in the OR and DDO districts.

This is not an all-inclusive listing of permitted styles or design requirements, but is illustrative of the general concept for the DDO and OR Districts.

Substantial deviations from these general themes require the approval of the Mayor and Council as directed in Section 14 above.



A. Commercial Structure in the DDO. The following are examples of acceptable design styles and features desired for the Downtown Development Overlay District:

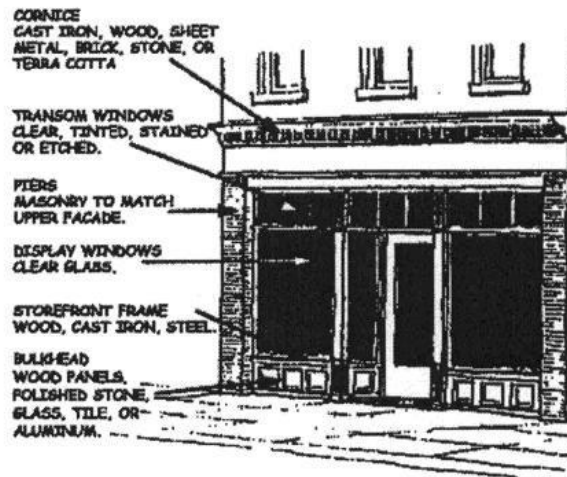
Construction of new buildings, and renovations to existing buildings in the Hoschton Downtown Development Overlay District (DDO) shall incorporate architectural features common to buildings from the 19th and early 20th century.

Those masonry buildings have proven they can stand the test of time. They create a sense of permanence and the idea of a good investment. This is one goal of this legislation - to create a comfort level among owners and residents that encourages

others to want to invest, live and do business in Hoschton.

Features such as the masonry piers on the sides of each building tie the upper portion to the lower retail uses.

Street level facades should employ more glass.

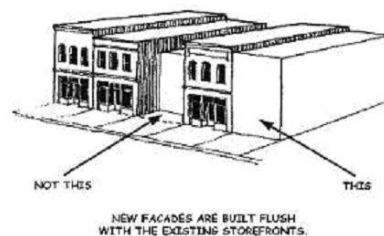
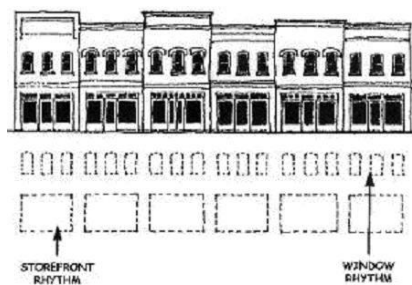


These graphical representations are not the only design styles that are acceptable, but are merely representative of an overall design theme.

Therefore, plans submitted for building permits that comply with these intentions are more likely to gain approval.

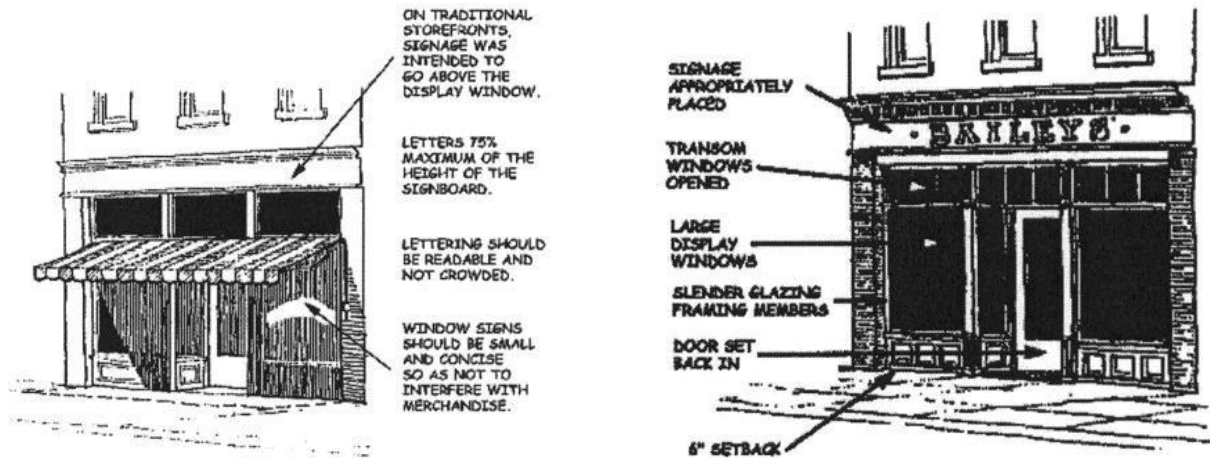
Facades of individual buildings should define the extent of each structure. Variations in height and brick courses can serve to provide a sense of identity to specific occupants.

Care should be given to replicate certain elements such as window placement and spacing to create a sense of continuity, and promote an overall theme within a block.



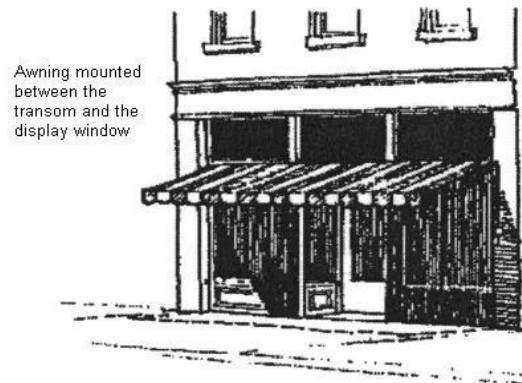
Building fronts should be aligned to compliment one another such that when a new building is added between existing buildings, their fronts are aligned.

When designing new facilities, or renovations to existing structures, designers should utilize common architectural elements that are a part of the general design theme that Hoschton seeks for the DDO.



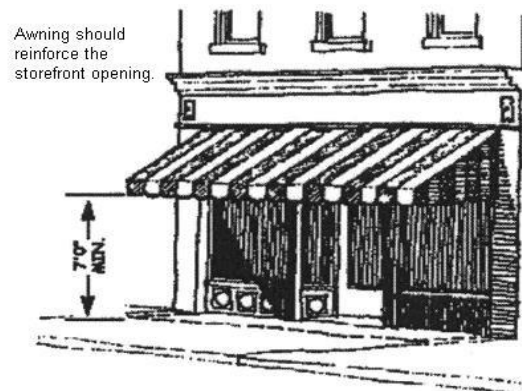
When possible signage should be incorporated into the facade or included in an awning over the front of the building.

The awnings to the right are acceptable awning installations.

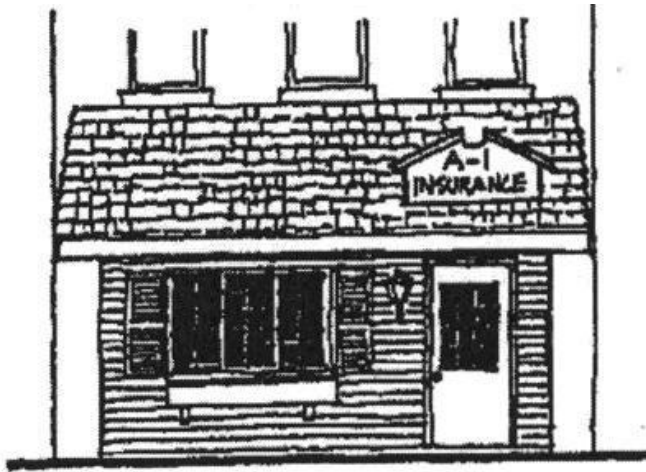


The example to the upper right allows light to enter through the transom windows, creating natural lighting.

The awning on the lower right is larger because it covers the transom windows. This reduces heat gain in the summer, and is better suited to display the name of the store or tenant.



Below is an example of an unacceptable awning:



B. Structures in the OR District.

The following are examples of acceptable architectural styles desired for the OR District:

This is an example of the "Bungalow" style of architecture.



This is an example of the "Craftsman" style of architecture.



This is an example of the "Victorian" style of architecture.



It might utilize brick for the foundation with traditional wood siding, and cedar shake shingles to add detail to the gable ends.

(Adopted 4/2/07)

(Code 1991, § 39-105; Ord. of 4-17-2003; Ord. of 4-2-2007)

CHAPTER 40
ALCOHOLIC BEVERAGES

“EXHIBIT A”

(Amended and Approved in its entirety 1/7/2019)

***State Law Reference:** Georgia Alcoholic Beverage Code, O.C.G.A. § 3-1-1 et seq.; authority to adopt rules and regulations relating to manufacture, sale and distribution of distilled spirits, O.C.G.A. § 3-4-49.

ARTICLE I. GENERAL PROVISIONS

40-101	Title
40-102	License is a Privilege
40-103	Definitions
40-104	Licenses, Generally
40-105	Types of Licenses to Be Issued
40-106	Sale or Possession for Sale Without License or Beyond Boundaries of Premises Covered by License, Penalties
40-107	Penalties for Violation of Ordinance
40-108	Location of Licensed Operation: Distance Requirements from Schools and Church Buildings
40-109	Separate Application and Separate License for Each Location of Sale
40-110	Qualifications of Licensee
40-111	Application Forms
40-112	License Fee Scale
40-113	Fee Schedule
40-114	Withdrawal of Application
40-115	Collection of Fees or Taxes Sums Due
40-116	Granting of Application
40-117	Transferability of License/Change in Ownership
40-118	Display of License at Place of Business
40-119	Expiration; Renewal of License
40-120	Automatic License Forfeiture for Non-use
40-121	Revocation or Non-renewal of License
40-122	Suspension of License
40-123	Hearings
40-124	Notice
40-125	Audits of Licensees
40-126	Retail Consumption Dealers to Store Inventory Only on Premises
40-127	Poured Alcohol to be Transported by Employees
40-128	Licensees to Maintain a Copy of This Ordinance: Employees to Be Familiar with Terms; Licensee Responsible for Violations
40-129	Employment of Underage Persons Prohibited; Exceptions
40-130	Failure to Require and Properly Check Identification
40-131	Sales to Underage Person Prohibited
40-132	Purchase or Possession of Alcoholic Beverages by Underage Persons
40-133	Reserved

- 40-134 Open Area and Patio Sales
- 40-135 No Consumption Outside Premises
- 40-136 Specification of Premises
- 40-137 Solicitation Prohibited
- 40-138 Prohibited Noise from Establishments
- 40-139 Inspection of Licensed Establishments by the Police Department
- 40-140 Establishment Can Be Closed in Cases of Emergency
- 40-141 Sale on Election Days
- 40-142 Bring Your Own Bottle (Brown Bagging) Prohibited
- 40-143 Types of Entertainment, Attire and Conduct Prohibited
- 40-144 Exception for City Sponsored Events
- 40-145 Building.

ARTICLE II. BEER AND WINE

- 40-201 Type of Retail Establishment Where Permitted
- 40-202 License Fee and Amount to Defray Investigative and Administrative Costs to Accompany Application
- 40-203 Hours and Days of Sale
- 40-204 Package Sales

ARTICLE III. DISTILLED SPIRITS

- 40-301 Location where Permitted
- 40-302 Investigative and Administrative Costs.
- 40-303 Hours and Days of Sale.
- 40-304 Consumption Sales Only
- 40-305 Package Sales

ARTICLE IV. TEMPORARY SPECIAL EVENT LICENSE

- 40-401 Eligibility for Issuance of a Temporary Special Event

ARTICLE V. PROVISION OF ALCOHOL AS PART OF PACKAGE DEAL OR ENTRY TO EVENT PROHIBITED

- 40-501 Purchase Price of Drinks Credited Against Admission or Cover Charge
- 40-502 Purchase of Alcohol as Part of Package with Other Goods or Services

ARTICLE VI. EXCISE TAXES

- 40-601 Per Drink Excise Tax
- 40-602 Excise Tax and Bond Requirement on Wholesalers

ARTICLE VII. INCORPORATION OF STATE STATUTES

ARTICLE VIII. SEVERABILITY

ARTICLE IX. REPEALER

ARTICLE I. GENERAL PROVISIONS

Section 40-101. Title

This Ordinance shall be known as the "City of Hoschton Alcohol Ordinance."

Section 40-102. License Is a Privilege.

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

Section 40-103. Definitions.

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

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

Alcoholic Beverage. In this Ordinance means and includes all alcohol, distilled spirits, beer, malt beverage, wine or fortified wine as defined in this Section.

Beer or Malt Beverage. Any alcoholic beverage obtained by the fermentation of any infusion or decoction of barley, malt, hops, or any other product, or any combination of such products in water containing not more than 14 percent alcohol by volume and including ale, porter, brown, stout, lager beer, small beer, and strong beer. Also included are beverages known as "non-alcoholic" beer, which is made by fermentation of any infusion or decoction of barley, malt, hops or other products, and containing less than three percent, but more than 0.1 percent alcohol by volume. The term "malt beverage" does not include sake, known as Japanese rice wine.

City. The City of Hoschton, Georgia.

City Council, Mayor and City Council, or Mayor and Council. The Mayor and City Council of the City of Hoschton, Georgia.

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

Eating Establishment. Any, public place, including a place available for rental by the public, selling prepared food for consumption by the public on the premises with a full service kitchen. A full service kitchen shall consist of a three-compartment pot sink, a stove or grill permanently installed, and refrigerator, all of which must be approved by the Health and Fire Departments. An eating establishment shall be prepared to serve food every hour the establishment is open and shall derive at least sixty percent (60%) of the gross receipts annually from the sale of prepared meals or food.

Fortified Wine. Any alcoholic beverage containing more than twenty-one percent (21%) alcohol by volume made from fruits, berries, or grapes, either by natural fermentation or by natural fermentation with brandy added. Fortified wine includes, but is not limited to, brandy.

Governing Authority. The Mayor and City Council of the City of Hoschton, Georgia.

Hotel. Any building or other structure providing sleeping accommodations for hire to the general public, either transient, permanent or residential. Such businesses shall have one (1) or more public dining rooms with an adequate kitchen. Motels meeting the qualifications set out in this definition for hotels shall be classified in the same category as hotels. Hotels shall have the privilege of granting franchises for the operation of any licensed establishment described in this Ordinance, and the holder of such franchise shall be included in the definition of a hotel pursuant to this definition.

House of Worship. A building or structure, or groups of buildings or structures, that by design and construction are primarily intended for conducting organized religious services and associated accessory uses.

Indoor Commercial Recreational Establishment. Is limited to an establishment that:

- A. Regularly serves prepared food with a full service kitchen (a full service kitchen shall consist of a three-compartment pot sink, a stove or grill permanently installed, and a refrigerator, all of which must be approved by the Health and Fire Departments) prepared to serve food every hour the establishment is open and deriving at least sixty percent (60%) of its total annual gross sales from the sale of prepared meals or food and recreation activities; and
- B. Wherein the sale of food and alcoholic beverages is incidental to its primary enterprise and activity on the premises. The primary activity on the premises of the indoor commercial recreational establishment shall be family-oriented in nature, generally meaning a use that attracts a range of individuals from all age groups. Uses may specifically include, but are not limited to, dinner theaters, bowling centers, and other similar uses. Outdoor commercial recreation is not included, nor shall concession sales of alcoholic beverages be permitted in an outdoor commercial recreational establishment. Bingo parlors, dance halls, nightclubs, taverns, billiard parlors, video arcades, adult entertainment and/or sexually related entertainment activities, and similar uses are specifically excluded from this definition of indoor commercial recreational establishments.

License. An authorization granted by the city to operate as a retail consumption dealer, retail package dealer or wholesale dealer.

Licensee. The individual to whom a license for the sale or distribution of malt beverages or wine under this Ordinance. In the case of a partnership or corporation, all partners, officers, and directors of the partnership or corporation are licensees.

Liter. Metric measurement currently used by the United States.

Manufacturer. Any maker, producer, or bottler of an alcoholic beverage.

- A. In the case of distilled spirits, any person engaged in distilling, rectifying, or blending any distilled spirits.
- B. In the case of malt beverage, any brewer.

Package. A bottle, can, keg, barrel, or other original consumer container.

Package Store. A geographic location within the city wherein a license may be issued for the sale of packaged distilled spirits for consumption off-premises. Such package store must be operated as a distinct business and cannot be operated in conjunction with, or part of any other business, except only as provided in this chapter and/or by state law.

Person. Any individual, firm, partnership, cooperative, nonprofit membership corporation, joint venture, association, company, corporation, agency, syndicate, estate, trust, business trust, receiver, fiduciary, or other group or combination acting as a unit, body politic, or political subdivision, whether public, private, or quasi public.

Pouring Permit. An authorization granted by the county to dispense, sell, serve, take orders, or mix alcoholic beverages in establishments licensed as a retail consumption dealer.

Retail Consumption Dealer. Any person who sells alcoholic beverages for consumption on the premises, at retail, only to consumers and not for resale.

Retail package dealer. Any person who sells unbroken packages, at retail only to consumers and not for resale.

Wholesaler or Wholesale Dealer. Any person who sells alcoholic beverages to other wholesale dealers, to retail dealers, or to retail consumption dealers.

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

Section 40-104. Licenses, Generally

All licenses issued under this Ordinance shall:

1. Permit the licensees to sell or distribute the beverage or beverages for which the license is issued inside the City of Hoschton, Georgia pursuant to the terms of this Ordinance and consistent with the laws of the State of Georgia and the United States;
2. Expire and be renewed in accordance with the City's fee schedule in force and effect at the time.
3. Not be transferred from one person to another or from one location to another without prior approval from the Mayor and City Council upon written application from the licensee; and
4. Permit the licensee to sell malt beverages, wines, or any combination thereof, depending upon the license issued, for beverage purposes by the drink for consumption only on the premises where sold.

Section 40-105. Types of Licenses to Be Issued

The following licenses shall be issued under this Ordinance:

1. Malt beverages and wine for consumption only on the premises.
2. Distilled spirits for consumption only on the premises.
3. Combined licenses for malt beverages, wine and distilled spirits for consumption only on the premises.
4. Malt beverages and wine package sales.
5. Distilled spirits package sales.
6. Combined licenses for malt beverages, wine and distilled spirits package sales.
7. Manufacturer of alcoholic beverages for consumption only on the premises.
8. Temporary special event; event permit for malt beverages or wine; caterers.
9. Malt beverage or wine tasting license.

Section 40-106. Sale or Possession for Sale Without License or Beyond Boundaries of Premises Covered by License, Penalties

It shall be unlawful for any person to sell or possess for the purpose of sale any alcoholic beverage if the person does not have a license granted by the City to sell or possess for sale the alcoholic beverages or to sell or make deliveries beyond the boundaries of the premises

covered by the license. Violations of this Section shall result in a fine of not less than five-hundred dollars (\$500.00).

Section 40-107. Penalties for Violation of Ordinance

Any person who violates any provision of this Ordinance may, upon conviction, be punished by a fine of not less than five-hundred dollars (\$500.00) for each offense and/or thirty (30) days in jail, unless a different penalty is set out in this Ordinance.

Section 40-108. Location of Licensed Operation: Distance Requirements from Schools and Church Buildings

No alcoholic beverages shall be sold or offered for sale in violation of O.C.G.A. § 3-3-21.

1. Licenses shall be issued only for locations in areas zoned for commercial or industrial uses.
2. No person knowingly and intentionally may sell or offer to sell:
 - a. Any distilled spirits in or within 100 yards from the property line of any church building or alcohol treatment facility, or within 200 yards from the property line of any school building, educational building, school grounds or college campus.
 - b. Any wine or malt beverages within 100 yards from the property line of any school building, school grounds or college campus.

This Section shall not apply to any operating commercial establishment for which a new license is applied for if the sale of wine, beer and/or distilled spirits was lawful at such location at any time during the twelve (12) months immediately preceding such application. The term "operating commercial establishment" means any commercial location where business is being conducted.

3. The school building referred to in this Section shall apply only to state, county, City or church school buildings and to such buildings at such other schools in which are taught subjects commonly taught in the common schools and colleges of this state and which are public or private schools as defined in O.C.G.A. § 20-2-690(b). The term "school building" includes only those structures in which instruction is offered.
4. The term "church building" as used in this Section shall mean the main structure used by any religious organization for purposes of worship.
5. The term "alcohol treatment facility" shall include any alcohol treatment facility operated by the state or the county government.
6. For purposes of this section, distance shall be measured by a designated City official following the most direct route of travel on the ground, and shall be measured utilizing a mechanical or electronic measuring device in the following manner:
 - a. From the main entrance of the main structure of church building, school or alcohol

treatment facility;

- b. In a straight line to the nearest public sidewalk, walkway, street, road or highway by the nearest route;
 - c. Along such public sidewalk, walkway, street, road or highway by the nearest route in direction allowed for vehicular traffic;
 - d. To the main entrance of the establishment from which alcoholic beverages are sold or offered for sale.
 - e. From the licensee's property line closest to the property line of the church building, school or alcohol treatment facility or structure within the distance prohibited in this Section.
7. As to any location licensed in the future, if the distance requirements in this Section are met at the time of issuance of any license, the subsequent opening and operation of a church or school or alcohol treatment facility within the distance prohibited in this Section shall not prevent the continuance of an existing license or the renewal thereof or the issuance of a new license to any subsequent owner of such property.
 8. As to any location on City Square, the subsequent opening of a church, school or alcohol treatment facility within the distance prohibited in this Section shall not prevent the issuance of a license to the current or subsequent owner of such property.

Section 40-109. Separate Application and Separate License for Each Location of Sale

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

Section 40-110. Qualifications of Licensee

1. No license for the sale of alcoholic beverages shall be granted to any person who is not a citizen of the United States or an alien lawfully admitted for permanent residence. The applicant must not be less than twenty-one (21) years of age; and must be a resident of Jackson County for not less than six (6) consecutive months before filing the application unless the application specifically designates a resident of Jackson County who has resided within the county for at least six (6) months before filing the application, which resident shall be responsible for any matter relating to the license.
2. If the applicant is a partnership or corporation, then the provisions of this Section shall apply to all its partners, officers and majority stockholders. In the case of a corporation, the license shall be issued jointly to the corporation and the majority stockholder, if an individual. If the majority stockholder is not an individual, then the license shall be issued jointly to the corporation and its agent registered under the provisions of this Ordinance. In the case of a partnership, the license will be issued to all the partners owning at least twenty percent (20%) of the partnership; or if no partner owns twenty percent (20%) of the partnership, then the general partner, managing partner or the partner with the greatest ownership shall be licensed.

3. If the applicant is a non-profit club, then the managing agent may be an officer of the organization rather than a full-time employee if such managing agent is qualified in accord with this Section.
4. No person shall be granted any alcoholic beverage license unless proper information establishes to the satisfaction of the Mayor and City Council or its designee that such person, partners in the firm, officers and directors of the corporation have not been convicted or pled guilty or entered a plea of nolo contendere, and has been released from parole or probation, to any crime involving moral turpitude, illegal gambling or illegal possession or sale of controlled substances or the illegal possession or sale of alcoholic beverages, including the sale or transfer of alcoholic beverages to minors in a manner contrary to law, keeping a place of prostitution, pandering, pimping, public indecency, prostitution, solicitation of sodomy or any sexually related crime within a period of two (2) years immediately prior to the filing of such application. At the time an application is submitted for any alcoholic beverage license, the applicant shall, by a duly sworn affidavit, certify that neither the applicant nor any of the other owners of the establishment has been so convicted in the two (2) years preceding the filing of the application. An applicant's first time conviction for illegal possession of alcohol as a misdemeanor or violation of a county ordinance shall not, by itself, make an applicant ineligible for an alcohol license. If any applicant, partner or officer used in the sale or dispensing of any alcoholic beverage after a license has been granted, been convicted or plead guilty or nolo contendere to a crime involving moral turpitude, illegal gambling or illegal possession or sale of controlled substances or the illegal possession or sale of alcoholic beverages, including the sale or transfer of alcoholic beverages which includes the sale or transfer of alcoholic beverages to minors in a manner contrary to law, keeping a place of prostitution, pandering, pimping, public indecency, prostitution, solicitation of sodomy or any sexual related crime, then the license shall be immediately revoked and cancelled.
5. No license for the sale of alcoholic beverages shall be granted to any person convicted under any federal, state or local law of any felony within two (2) years prior to the filing of application for such license.
6. It shall be unlawful for any City employee directly involved in the issuance of alcoholic beverage licenses under this Ordinance to have any whole, partial or beneficial interest in any license to sell alcoholic beverages in the county.
7. No license for the sale of alcoholic beverages shall be granted to any person who has had any license issued under the police powers of the City or Jackson County previously revoked within two (2) years prior to the filing of the application.
8. The Mayor and City Council may decline to issue a license when any person having any ownership interest in the operation of such place of business or control over such place of business does not meet the same character requirements as set forth in this Section for the licensee.
9. All licensed establishments must have and continuously maintain in Jackson County a registered agent as indicated in subsection (A). The licensee shall file the name of such agent, along with the written consent of such agent, with the Mayor and City Council

and shall be in such form as the Mayor and City Council may prescribe.

10. All applicants for any alcoholic beverage license must be of good character, and all operators, managers, clerks or other employees shall be of like character. Corporate or firm applicants shall be of good business reputation.
11. A license application may be denied to any applicant for any alcoholic beverage license if the applicant lacks adequate financial participation in the proposed business to direct and manage its affairs, or if the application is intended to be a mere surrogate for a person or persons who would not otherwise qualify for a license for any reason whatsoever.
12. The Mayor and City Council may, at its discretion, consider any extenuating circumstances that may reflect favorably or unfavorably on the applicant, application or the proposed location of the business. If circumstances are such that granting of the license would not be in the best interest of the general public, then such circumstances may be grounds for denying the application.
13. For purposes of this Ordinance, a conviction or plea of guilty or nolo contendere shall be ignored as to any offense for which a defendant who was allowed to avail themselves of the Georgia First Offender Act (1968 Ga. Laws, page 324), as amended. Except, however, that any such offense shall not be ignored if the defendant violated any term of probation imposed by the court granting first offender treatment or committed another crime and the sentencing court entered an adjudication of guilt as to the crime for which the defendant had previously been sentenced as a first offender.
14. Licensed retail package stores selling distilled spirits for consumption off the premises shall meet all requirements of this chapter including the following additional requirements:
 - A. Limitation on number of licenses within a family and/or corporation;
 - i. No application for a retail license to sell distilled spirits by the package at retail shall be granted where the person applying for such license and/or members of that person's family and/or a corporation already hold two interests in a license to sell distilled spirits by the package at retail within the state. No person and/or member of his/her family and/or a corporation shall own, hold or control any interest whatsoever in more than one (1) license in the City to engage in the business in selling distilled spirits by the package at retail.
 - ii. As used in this section, an "interest in the license" shall be deemed to exist if the person involved is the outright owner of the license, a co-worker of the license, a general or limited partner in a partnership which owns all or part of a license, a stockholder in any corporation that owns all or any part of a license, an owner, lessor, sublessor or stockholder in any corporation owning or leasing, any real estate which is occupied by a retail liquor store, or shares in any income or corpus of any trust fund or estate having any interest in a retail liquor store. Notwithstanding any of

the other provisions of this section, no person shall be deemed to have more than one interest in any one license.

- iii. All applications for license, whether original or for renewal, must be accompanied by a full and complete statement under oath of information relative to any and all interests as defined in subsection 14(A)(ii) in retail liquor stores. This shall include the names and addresses of all persons interested in the ownership of the business of selling packaged liquor at retail together with any interest each person or members of his immediate family have in any other retail liquor store; the ownership of the land and building where such retail business is operated; the amount of rental paid for the land and building; and the manner in which the same is determined and to whom and at what intervals it is paid; the names and addresses (by affidavit from the owner, lessor or sublessor of such land and building) of all persons having any whole, partial, beneficial or any other interest in and to the land and building on and in which the retail liquor store is to be located; a copy of the proposed lease, and any other information requested by the department of public safety or the Mayor and City Council pertinent to the application under investigation.
 - iv. Any change in any of the relationships and/or ownership interests contained on the application must be filed with the City within five (5) after such change is made, and the failure to do so shall be grounds for immediate cancellation and revocation by the Mayor and City Council of any license issued hereunder or for the immediate dismissal of any application for a license hereunder.
- B. A licensee of a retail establishment under this Chapter shall not operate such business in connection with any other mercantile establishment except a retail store selling package beer and wine, and then only if such package beer and wine store sells only beer, wine and other items of convenience normally associated with the retail sale of package beer and wine, and then only if such package beer and wine is sold only for consumption off premises. No such retailer shall sell, offer for sale, display or keep in stock at his/her place of business where distilled spirits are offered for sale any other product of commodity except:
- i. Wines (if licensed);
 - ii. Beverages containing no alcohol and commonly used to dilute distilled spirits, but no beverages of any kind may be opened or consumed in the place of business;
 - iii. Tobacco products;
 - iv. Malt beverages or beer; and
 - v. Packaged ice, snacks and supplies.

- C. The number of licenses which may be issued by the City for package sales of distilled spirits, and which may be in operation within the City at any one time, shall not exceed one (1) license for each 1,200 citizens according to the Census of 2010 or any other future census.
- D. It shall be unlawful to sell or dispense distilled spirits from “drive-in” or “service” windows. Curb service or other sales of distilled spirits outside the building licensed to sell are expressly prohibited.
- E. Retail dealers in distilled spirits licensed under the provisions of this Chapter shall not buy or accept deliveries of distilled spirits from wholesalers, dealers or distributors except those licensed by the State Revenue Department of Georgia.
- F. All licensed retailers shall store all distilled spirits, wine and beer on the premises for which the license was issued and at no other place. All distilled spirits, wine and beer stock shall be available at all times for inspection by the Mayor and City Council or their duly authorized representatives. Any distilled spirits, wine and beer found in any retailer’s stock that is sold or distributed by a wholesaler not licensed in accordance with the laws of the State of Georgia to make sales and deliveries in the City shall be subject to immediate confiscation.
- G. Invoices:
 - i. Upon each and every delivery by a licensed wholesaler to a licensed retailer, an invoice in triplicate shall be prepared showing the quantities and brands of distilled spirits delivered together with a price thereof, and the excise tax due and collected thereon. The original of such invoice shall be delivered by the wholesaler to the retailer simultaneously with such delivery. The wholesaler shall retain the second copy of such invoice, and shall keep it for a period of twelve (12) months after the date of deliver, and during such 12-month period, such invoices shall be made available for inspection by the Mayor and City Council or their duly authorized representatives. Upon request by the City, a copy of such invoice(s) shall be attached to any reports requested or required by the City.
 - ii. Each retail licensee doing business in the City shall keep and maintain the original invoice of each sale to him/her or purchase by him/her from wholesaler of any distilled spirits for at least twelve (12) months after the date of such purchase, and shall maintain records to show the sales of distilled spirits and any other records required by the City. The City or its duly authorized representative, shall have the right to inspect the records of each licensee and make a complete audit of the records of each licensee at any time. Failure of a licensee to properly maintain records showing receipt of distilled spirits, payment therefor and payment of the taxes due thereon to the appropriate wholesaler, and records which clearly show the sales, the amount of sales and the types of sales of each licensee may, at the discretion of the mayor and council, after a hearing as provided for in this chapter, result in the revocation or suspension of such license.

- H. A retail consumption dealer shall not be eligible for a retail package license, but eating establishments shall be eligible for a license to sell packaged beer and wine for off-premises consumption as allowed hereunder.

Section 40-111. Application Forms

1. All persons desiring to sell alcoholic beverages shall make application on the form prescribed by the Mayor and City Council.
2. The application shall include, but shall not be limited to, the name and address of the applicant; the proposed business to be carried on; if a partnership, the names and resident address of the partners; if a corporation, the names of the officers; the names and address of the registered agent for service of process; the name of the manager(s); and the name of all shareholders holding more than twenty percent (20%) of any class of corporate stock, or any other entity having a financial interest in each entity that owns or operates the establishment for which a license is sought. If the manager changes, the applicant must furnish the City Clerk the name and address of the new manager and other information as requested within five (5) days of such change.
3. All applicants shall furnish data, financial responsibility and other records as set forth in Section 40-111-2 to insure compliance with the provisions of this ordinance. The failure to furnish data pursuant to such request shall automatically serve to dismiss the application with prejudice.
4. The data provided shall be forwarded to the City Clerk to electronically search for any instance of criminal activity during the two (2) years immediately preceding the date of the application (NB State law, O.C.G.A. § 3-3-2, requires fingerprints when an initial application is made).
5. All applications shall be sworn to by the applicant before a notary public or other officer empowered by law to administer oaths.
6. In all instances in which an application is denied under the provisions of this Chapter, the applicant may not reapply for a license for at least one year from the final date of such denial.
7. The Mayor and City Council shall provide written notice to any applicant whose application is denied under the provisions of this Chapter. Such written notification shall set forth in reasonable detail the reasons for such denial and shall advise the applicant of the right to appeal under the provisions of this Ordinance.

Section 40-112. License Fee Scale

Before a license shall be granted, the applicant therefore shall comply with all rules and regulations adopted by the Mayor and City Council regulating the sale of alcoholic beverages and each applicant shall pay a license fee in accordance with the scale fixed, from time to time, by the Mayor and City Council and kept on file in City Hall. The full amount of the fee, plus the full amount of the investigative and administrative fee, shall be submitted with the

application. If the application is denied, the application fee submitted, less the investigative and administrative fee, will be refunded. Once a license has been issued, however, no portion of the application fee shall be refunded if the license is revoked, suspended, transferred or surrendered.

Section 40-113. Fee Schedule.

License fees applicable to this chapter shall be established by resolution of Mayor and City Council from time to time.

Section 40-114. Withdrawal of Application.

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

Section 40-115. Collection of Fees or Taxes Sums Due.

If any person shall fail to pay the sum due under this Ordinance, then the Mayor and City Council or its designee shall issue an execution against delinquent person and such person's property for the amount of the fee or tax, and may suspend the alcoholic beverage license until all fees have been paid in-full. If annual alcoholic beverage license fees are not renewed annually by the date designated by this Ordinance, the business shall not be permitted to sell any alcoholic beverage, either by package or consumption on premises.

Section 40-116. Granting of Application.

1. If the applicant is an individual and the license is granted, then the license shall be issued in the individual's name.
2. If the applicant is a partnership and the license is granted, then the license shall be issued in the name of a partner who is a resident of Jackson County or in the name of the Jackson County resident who was designated as the agent for matters relating to the license and the name of the partnership, jointly.
3. If the applicant is a corporation and the license is granted, then the license shall be issued in the name of the shareholder who is a resident of Jackson County or in the name of the appointed agent doing business in the name of the corporation.
4. In deciding whether or not an application will be granted or denied, the City may consider not only the qualifications of the applicant, the location of the business and its proximity to other enterprises, but the City shall be authorized to and shall also consider:
 - A. The effect that the establishment would have on the neighborhood surrounding the establishment in terms of traffic congestion and the general character of the neighborhood, as well as the effect the establishment would have on the value of

properties surrounding the site; and

- B. The number of alcoholic beverage licenses already granted in the neighborhood, and whether granting the application would be contrary to the public interest or welfare.

Section 40-117. Transferability of License or Change in Ownership.

1. Individuals. In the event of a change of ownership of a business for which an individual has been issued a license, the new owner, if desiring a license, must meet the qualifications specified in Section 40-110, and must file an application as provided in Section 40-111 and tender with the application the investigative and administrative fee as provided in Section 40-112 and any license fee that may be due.
2. Partnerships or Corporations. In the event of a change of any ownership interest in a business which is owned or operated by a partnership or corporation and for which a license has been issued, the licensee shall report such change to the City in writing within five (5) days. "Change of ownership interest" as used herein includes, but is not limited to, any change in:
 - A. Division of profits and/or losses;
 - B. Division of net gross or sales;
 - C. Method of paying or amount of rent paid;
 - D. Ownership of leased premises or buildings or land used in the business;
 - E. Members of a partnership;
 - F. Stockholders of corporate stock; and
 - G. Management.
3. If, as a result of any change of ownership interest, the licensee would not qualify under other provisions of this Ordinance for the issuance of a license, then the license issued to the licensee shall be subject to revocation and shall not be subject to renewal.
4. Each application for transfer of a license shall have attached thereto a completed copy of the notice of change of interest required by the State Revenue Commissioner. After receipt of such application, the Mayor and City Council shall notify the applicant within thirty (30) days of any objection to the transfer. The license shall remain in effect pending approval or disapproval of the transfer. If the transfer is approved, the Mayor and City Council shall permit the license to be transferred upon payment of a transfer fee equal to one-half (1/2) of the annual license fee. All applications for transfer of a license shall be accompanied by the aforesaid transfer fee together with an investigative and administrative of two-hundred dollars (\$200.00). If the transfer is not approved, the transfer fee will be refunded, however, investigative and administrative fee will not be refunded.

5. Upon the death of a licensee, the executor or administrator of the licensee's estate may continue to operate under the license for the balance of the calendar year without payment of any additional fee, or may delegate the operation of the business to another person if the person operating under the license, whether the executor, administrator or delegator, would otherwise be qualified as a licensee under the provisions of this Ordinance.

Section 40-118. Display of License at Place of Business

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

Section 40-119. Expiration; Renewal of License

1. All Licenses granted under this Ordinance shall expire on December 31 of each year. Licensees who desire to renew the license shall file applications and pay the annual fee, including the two-hundred (\$200.00) administrative and investigation fee, with the Mayor and City Council on the form provided for renewal of the license for the ensuing year. Applications for renewal and all license fees must be filed before December 1 of each year, and renewed licenses shall be posted as specified under Section 40-118 on or before December 31. Any licensee paying after December 31 shall pay, in addition to the annual fees and administrative and investigation fee, a late charge of fifty percent (50%) of the total amount of fee owed. Additionally, if a license application is received after January 1, such application shall be treated as an initial application and the applicant shall be required to comply with all rules and regulations for the granting of licenses as if no previous license had been held.
2. All licenses granted under this Ordinance shall be for the calendar year (January 1 – December 31), and the full annual license fee and the administrative and investigation fee must be paid for a license application filed prior to July 1 of the license year.

One-half of the full annual license fee plus the full administrative and investigation fee shall be paid for a license application filed after July 1 of the license year, except for applications for a temporary special event license under Section 40-301 which shall not be halved.

Section 40-120. Automatic License Forfeiture for Non-use

A license issued pursuant to this Ordinance shall be valid only so long as the licensee is actually engaged in the business of the sale of alcoholic beverages for either consumption on the premises where sold or for package sales on the premises where sold. Any holder of any license under this Ordinance who shall for a period of sixty (60) days after the license has been issued cease to operate the business and sale of the product or products authorized shall, after the sixty (60) day period, automatically forfeit the license without the necessity of any further action.

Section 40-121. Revocation or Non-renewal of License.

The Mayor and City Council may revoke any license issued under this Ordinance, or refuse to issue the same, if the licensee or applicant for renewal:

1. Is convicted of a felony or any crime involving moral turpitude;
2. Makes any false statement of a material fact on the application for license or renewal thereof, or on any document required to be filed with the Mayor and City Council;
3. Fails to timely give written notice of any change of ownership interest as required in Section 40-108;
4. Violates any rules or regulations promulgated by the Mayor and City Council under this Ordinance, of which the licensee has reasonable notice; or
5. Becomes disqualified under this Ordinance to hold a license.
6. The Mayor and City Council shall revoke the license of any licensee whose license has been suspended two (2) or more times in any consecutive twelve (12) month period.
7. The Mayor and City Council shall revoke the license for any premises where alcoholic beverages have been sold or distributed during a period of suspension.
8. Whenever it can be shown that a licensee under this Ordinance no longer maintains adequate financial responsibility upon which issuance of the license was conditioned, or whenever the licensee has defaulted in any obligation of any kind whatsoever, lawfully owing to the City.
9. At no time does the revocation of an alcoholic beverage license constitute a refund of any prorated amount of any application or license fees.

Section 40-122. Suspension of License

1. The following shall be grounds for the suspension of a license issued under this Ordinance for such period of time as the Mayor and City Council shall, in its sole discretion, determine appropriate:
 - A. A violation by the licensee of any state or federal law or regulation, or any provision of this Ordinance or the regulations promulgated under its authority;
 - B. The failure of the licensee or employees or agents of the licensee to promptly report to the Jackson County Sheriff and City Clerk any violation of law/breach of peace, disturbance or altercation occurring on or near the licensee's premises;
 - C. The violation of any law, regulation or ordinance pertaining to alcoholic beverages, malt beverages and wines by any employee or agent of the licensee in connection with the operation of the business of the licensee;

- D. Operation of the business of the licensee in such a manner as to create a public nuisance or in a manner contrary to public welfare, safety, health or morals;
 - E. Failure to furnish the Mayor and City Council on request any information or records that would be necessary to needed for use in determining the licensee's compliance and qualifications under this Ordinance; or
 - F. To knowingly sell alcoholic beverages, malt beverages or wines to any person while such person is in an intoxicated condition.
2. Wherever this Ordinance permits the Mayor and City Council to suspend any license issued under this Ordinance but does not mandate the period of such suspension, such discretion shall be exercised within the guidelines of this subsection:
- A. No suspension shall be for a period of time longer than the time remaining on such license.
 - B. The following factors shall be considered on any suspension as set out above:
 - 1. Consistency of penalties mandated by this Ordinance and those set by the Mayor and City Council.
 - 2. Likelihood of deterring future wrongdoing.
 - 3. Impact of the offense on the community.
 - 4. Any mitigating circumstances or remedial or corrective steps taken by licensee.
 - 5. Any aggravating circumstances or failure by the licensee to take remedial or corrective steps.
3. At no time does the suspension of an alcoholic beverage license constitute a refund of any prorated amount of any application or license fees.

Section 40-123. Hearings

- 1. No license shall be denied, suspended or revoked without the opportunity for a hearing as provided in this Section.
- 2. The Mayor and City Council shall provide written notice to the applicant or licensee of its intent to deny, suspend or revoke the license. Such written notification shall be hand delivered or sent certified mail to the applicant at the address shown on the application, and the applicant shall be directed to show cause, if any there be, why the proposed action should not be taken by the Mayor and City Council. The notice shall:
 - A. Advise of the time and place specified for the hearing, which hearing shall be held not less than five (5) days nor more than fifteen (15) days from the date of the service of the notice.

- B. Shall set forth in reasonable detail the grounds for such action and the factual basis supporting those grounds; and
 - C. Advise the applicant or licensee of the right to present evidence, witnesses or arguments and to be represented by counsel at the hearing.
3. No suspension or revocation of any alcoholic beverage license shall be acted upon except for by City Council. A hearing may be held during a regularly scheduled City Council meeting or City Council may establish a called meeting given the proper notice is met.

Section 40-124. Notice

For the purpose of this Ordinance, notice shall be deemed delivered when personally served or when served by certified mail, within three (3) days after the date of deposit in the United States mail.

Section 40-125. Audits of Licensees

- 1. If the Mayor and City Council or its designee deems it necessary to conduct an audit of the records and books of the licensee, it shall notify the licensee of the date, time and place of the audit. The licensee shall cooperate with the audit or forfeit any license(s) issued under this Ordinance. The audit shall be conducted at the establishment during normal business hours, unless the licensee requests otherwise in writing.
- 2. All licensed establishments must maintain the following records for a three (3) year period and make them available for audit at the licensed premises:
 - A. Monthly income or operating statements.
 - B. Daily sales receipts showing liquor, beer, wine and food sales separately (this requirement does not apply to package beer and wine licensees).
 - C. Daily cash register receipts such as Z tapes or guest tickets.
 - D. Monthly state sales and use tax reports.
 - E. Federal income tax return with all Form 1099's.
 - F. Invoices, papers, reports and memoranda containing entries showing amount of purchases, sales receipts, inventory or other information, including bank deposit records, deposit books, bank statements and copies of sales reports, and any other such document the City deems necessary.

Section 40-126. Retail Consumption Dealers to Store Inventory Only on Premises

No retail consumption dealer licensed under this Ordinance shall keep any beer or wine or other alcoholic beverages at any place except the licensed place of business. No retail consumption dealer shall be permitted to enter into any type of arrangement whereby distilled

spirits ordered by a licensee are stored by a licensed wholesaler.

Section 40-127. Poured Alcohol to Be Transported by Employees.

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

Section 40-128. Licensees to Maintain a Copy of this Ordinance Employees to Be Familiar with Terms; Licensee Responsible for Violations.

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

(Code 1991, § 40-128)

Section 40-129. Employment of Underage Persons Prohibited Exceptions.

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

(Code 1991, § 40-129)

Section 40-130. Failure to Require and Property Check Identification.

It shall be a violation not to require and properly check identification to ensure that an underage person is not sold, served, or does not have in his possession alcoholic beverages while in a licensed establishment. Identification in this Section shall mean any document issued by a governmental agency containing a description of the person, such person's photograph and giving such person's date of birth and shall include, without being limited to, a passport, military ID card, driver's license or state department of public safety ID card.

(Code 1991, § 40-130)

Section 40-131. Sales to Underage Person Prohibited.

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

1. Sell or offer to sell any wine, malt beverage, or any other alcoholic beverage to any person under the age of twenty-one (21) years.
2. Sell or offer to sell wine, malt beverage or any other alcoholic beverage to any person unless such person has furnished proper identification showing that the person to whom the alcoholic beverages are being sold is twenty-one (21) years of age or older. For the

purposes of this subsection proper identification means any document issued by a government agency containing a description of the person, such person's photograph, or both, and giving such person's date of birth, including but not limited to, a passport, military identification card, driver's license, or identification card authorized under an act to require the department of public safety to issue identification cards to persons who do not have a motor vehicle driver's license. Proper identification shall not include a birth certificate.

3. Sell or offer to sell any alcoholic beverages to any person who is noticeably intoxicated, who is of unsound mind, or who is a habitual drunkard whose intemperate habits are known to the licensee or his employees.
4. Sell alcoholic beverages upon the licensed premises or permit alcoholic beverages to be consumed thereon, on any day or at any time when the sale or consumption is prohibited by-law.
5. The penalty for violation of this Section by an individual shall be as follows:
 - A. For the first offense, a minimum fine of one-thousand dollars (\$1,000.00).
 - B. For the second offense and subsequent violations within one (1) year, a minimum fine of one-thousand dollars (\$1,000.00) and a suspension of the alcoholic beverage license to be determined by Mayor and City Council.
6. Any licensed establishment where three (3) or more violations of this Section or Section 3-3-23 of the Georgia Alcoholic Beverage Laws and Regulations have occurred within any thirty-six (36) month period shall be punished as follows:
 - A. For the third offense within any thirty-six (36) month period, suspension of license(s) for a period not to exceed ninety (90) days.
 - B. For the fourth and any subsequent violation within any thirty-six (36) month period, suspension of license(s) for a period not to exceed one (1) year.

As to the penalties in subsection (6), if there is a change in a majority of the licensed establishments' owners, partners or shareholders, the violations under the old ownership shall not count against the new owners; however, a different corporation, partnership or other association will be charged with the violations of its predecessor(s) if a majority of the owners, partners or shareholders are the same.

(Code 1991, § 40-131)

Section 40-132. Purchase or Possession of Alcoholic Beverages by Underage Persons

1. No person under the age of twenty-one (21) years of age shall purchase or possess any alcoholic beverage other than as set forth in Section 40-129 hereof.
4. It shall be unlawful for any person under the age of twenty-one (21) years to attempt to purchase any alcoholic beverage or misrepresent his/her age in any manner whatever

for the purpose of obtaining alcoholic beverages.

(Code 1991, § 40-132)

Section 40-133. Reserved.

Section 40-134. Open Area and Patio Sales.

1. Alcoholic beverage sales can be made by a licensed consumption on-premises establishment in a patio/open area type environment if the establishment has been approved to do so by the Mayor and City Council.
2. The requirement for approval is that the patio/open area be enclosed by some structure providing for public ingress/egress only through the main licensed premises. The purpose of this requirement is to prevent a customer from leaving the outside sales area with an open drink without the licensee's knowledge.
3. The height of such structure shall be a minimum of three-and-one-half feet (3 1/2') above the patio floor, but the structure does not have to be solid or restrict visibility into or out of the patio/open sales area. It must be permitted and approved by the Inspection Department and the county's fire department as required by governing regulations or codes.
4. The only exit from this area is to be through the licensed establishment's main premises and through an exit posted with a sign that reads "No Alcoholic Beverages Beyond This Point."
5. If a licensee desires a patio/open sales area inside an existing structure, plans will be reviewed and approved on an individual basis by the Mayor and City Council. Interior type patio/open sales areas must also meet the requirements of the development and fire codes.
6. Nothing contained in this Section shall prohibit a hotel or motel with a consumption on the premises license from making sales and allowing consumption of alcoholic beverages in ballrooms, meeting rooms, reception rooms, or patio areas of such hotel or motel, provided such functions are catered in connection with a meeting, conference, convention or similar type gathering at such hotel or motel. "Patio areas," as that term is used in this subsection, do not have to conform to the standards in this Section.

(Code 1991, § 40-134)

Section 40-135. No Consumption Outside Premises.

1. It is prohibited for customers to leave the premises with open alcoholic beverages, and it is the licensee's responsibility to ensure that no open beverages are sold and carried out. However, nothing in this Section shall be construed to prohibit the carrying out of wine or malt beverages for consumption on a golf course or the sale of wine or malt beverages outside on a golf course to golfers.

2. It is prohibited for customers to gather outside an alcoholic beverage establishment and consume alcoholic beverages.
3. It is prohibited for the manager or any employee to allow persons to gather outside an alcoholic beverage establishment and consume alcoholic beverages.

(Code 1991, § 40-135)

Section 40-136. Specification of Premises.

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

(Code 1991, § 40-136)

Section 40-137. Solicitation Prohibited.

No retail consumption dealers licensed under this Ordinance shall require, permit, suffer, encourage, or induce any employee or person to solicit in the licensed premises for herself/himself, or for any person other than the patron and guest of the patron, the purchase by the patron of any drink, whether alcoholic beverage or nonalcoholic beverage or money with which to purchase the beverage; nor shall any licensee pay a commission or any other compensation to any person frequenting the establishment or to an agent or manager to solicit for herself/himself or for the others, the purchase by the patron of any drink, whether alcoholic beverage or nonalcoholic beverage, or money with which to purchase the beverage.

(Code 1991, § 40-137)

Section 40-138. Prohibited Noise from Establishments.

It shall be unlawful for any establishment licensed under this Ordinance to make or cause to be made any loud, unnecessary or unusual sound or noise that unreasonably annoys, disturbs, injures or endangers the comfort, repose, health, peace, or safety of others in the county and that is audible to a person of normal hearing ability from the nearest property line of the

business in question. In no event, however, shall any such loud, unnecessary or unusual sound or noise be made by an establishment licensed under this Ordinance after the hours of 11:00 p.m.

(Code 1991, § 40-138)

Section 40-139. Inspection of Licensed Establishments by the City.

City of Hoschton personnel designated by Mayor and City Council shall have the authority to inspect establishments licensed under the alcoholic beverages ordinances of the City during any time in which any persons are located at the premises. These inspections shall be made for the purpose of verifying compliance with the requirements of this Ordinance and state law. This Section is not intended to limit the authority of any other official to conduct inspections authorized by other provisions of this Ordinance.

(Code 1991, § 40-139; Ord. of 12-4-2006)

Section 40-140. Establishment Can Be Closed in Cases of Emergency.

The Mayor or their designee may immediately close an establishment licensed under this Ordinance in case of emergency for the safety of the public or to investigate a crime for a period of time not to exceed twenty-four (24) hours.

(Code 1991, § 40-140)

Section 40-141. Reserved.

Section 40-142. Bring Your Own Bottle (Brown Bagging) Prohibited.

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

(Code 1991, § 40-142)

Section 40-143. Types of Entertainment, Attire and Conduct Prohibited.

1. Preamble and Purpose.
 - A. Based upon the experiences of other counties and municipalities, including, but not limited to, Atlanta and Fulton County, Georgia; DeKalb County, Georgia; Austin, Texas; Seattle and Renton, Washington; New York, New York; Los Angeles, California; and Ft. Lauderdale and Palm Beach, Florida, which experiences the Mayor and City Council believe are relevant to the problems faced by the City and based upon the evidence and testimony of the citizens and experts who have appeared before such bodies, as well as the testimony of citizens and experts received by this commission, the Mayor and City Council takes note of the notorious and self-evident conditions attendant to the commercial exploitation of human sexuality, which do not vary greatly among generally comparable communities within our country.

- B. Moreover, it is the finding of the Mayor and City Council that public nudity and semi-nudity, under certain circumstances, particularly circumstances relating to the sale and consumption of alcoholic beverages in so-called "nude bars" or establishments offering so-called "nude entertainment" or "erotic entertainment", begets criminal behavior and tends to create undesirable community conditions. Among the acts of criminal behavior identified with nudity and alcohol are disorderly conduct, prostitution, and drug trafficking and use. Among the undesirable community conditions identified with nudity and alcohol are depression of property values in the surrounding neighborhoods, increased expenditure for and allocation of law enforcement personnel to preserve law and order, increased burden on the judicial system as a consequence of the criminal behavior herein described, and acceleration of community blight by the concentration of such establishments in particular areas. Therefore, the limitation of nude or semi-nude conduct in establishments licensed to sell alcohol for consumption on the premises is in the public welfare and is a matter of governmental interest and concern to prevent the occurrence of criminal behavior and undesirable community conditions normally associated with establishments that serve alcohol and also allow and/or encourage nudity or semi-nudity.
2. Prohibited Activities. Any establishment licensed under the provisions of this Ordinance is prohibited from permitting or engaging in the following activities:
- A. The employment or use of any person in any capacity in the sale or service of alcoholic beverages while such person is unclothed or in such attire, costume or clothing as to expose to view any portion of the female breast below the top of the areola or any portion of the pubic hair, anus, cleft of the buttocks, vulva or genitals;
- B. Live entertainment that provides or features nude or semi-nude or erotic dancing or the performance of obscene acts that simulate:
- a. Sexual intercourse, masturbation, sodomy, bestiality, oral copulation, flagellation or any sexual acts that are prohibited by law;
- b. The touching, caressing or fondling of the breast, buttock, anus or genitals; or
- c. The displaying of the pubic hair, anus, vulva or genitals.
- d. The showing of any film, still pictures, electronic reproduction or other visual reproductions depicting any of the acts described in subsection (B), above, which are obscene under state law; or
- e. The holding, promotion or allowance of any contest, promotion, special night or any other activity where patrons of the licensed establishment are encouraged or allowed to engage in any of the above-prohibited conduct.
3. Mainstream Activity Excluded. Notwithstanding the prohibitions in subsection (2), nothing in this Ordinance shall be or is intended to apply to theatrical or motion picture performance houses, museums, or to restaurants or places set apart for traditional

family-oriented naturism where the consumption or service of alcohol is not a primary purpose or the mainstream activity of such establishment. The phrase "places provided or set apart for nudity" means as follows: places provided or set apart for traditional family oriented naturism including nudist parks, clubs, and resorts chartered by the American Association for Nude Recreation or affiliated with the Naturists Society or by traditional family oriented naturists groups.

(Code 1991, § 40-143)

Sec 40-144. Exception for City Sponsored Events.

1. Whenever the City Council shall determine that the public interest would be served by such action, the Council may designate by resolution that the provisions of ordinance sections 40-106, 40-109, 40-126 and 40-135 shall not apply to City sponsored events at such place, at such time and in such manner as specifically designated by resolution.
2. In the event that the City Council does enact a resolution excepting a specific event from the provisions of ordinance sections 40-106, 40-109, 40-126 and 40-135, the following provisions shall control in that instance:
 - A. *Two drink on-street limit.* Any establishment licensed to dispense alcoholic beverages by the drink for consumption on the premises is authorized to dispense beer or wine only (and not distilled spirits) in a paper or plastic cup, or other container other than a can, bottle, or glass, away from or for removal from the premises; provided, however, that no establishment shall dispense to any person more than two such alcoholic beverages at a time away from or for removal from the premises, and no person shall possess or remove at one time more than two such alcoholic beverages from the licensed premises. A single 1/2 carafe container shall be considered to be two such alcoholic beverages. Employees of licensed establishments, if on duty and not consuming alcoholic beverages, may exceed this limit during the performance of their duties, if allowed by the resolution.
 - B. *Size limited to 16 ounces for single beverage or 1/2 carafe for wine.* No container in which beer or wine is dispensed pursuant to this ordinance shall exceed 16 fluid ounces in size for a single drink; provided, however, that wine may be dispensed in a 1/2 carafe container not exceeding 20 fluid ounces in size. No person shall hold in his or her possession on the streets and sidewalks, in parks and squares, or in other public places within the defined area any open alcoholic beverage container which exceeds the restrictions contained in this section.
 - C. *Drinking from can, bottle, or glass prohibited.* It shall be unlawful for any person to drink or attempt to drink any alcoholic beverage from a can, bottle, or glass or to possess in an open can, bottle, or glass any alcoholic beverage on the streets, sidewalks, rights-of-way, and parking lots, whether public or private.

(Ord. of 9-8-2008(02))

Sec 40-145. Building.

No alcoholic beverage license shall be issued to any person unless the building in which the business will be located exists or unless proposed plans and specifications and a building permit of a proposed building to be built are attached to the application. The completed building or the proposed building shall comply with this Code of Ordinances, regulations of the state revenue commissioner and the laws of the state. The proposed building shall also be subject to final inspection and approval, when completed, by the City. Each building in which the business will be located shall contain sufficient lighting so the building itself and the premises on all sides of the building are readily visible at all times. Premises licensed for sale of alcoholic beverages by the package shall be lighted so as to reveal the inside retail area of the building and so as to reveal all of the outside premises of said building.

ARTICLE II. BEER AND WINE

Section 40-201. Type of Retail Establishment Where Permitted

A. No beer or wine shall be sold for consumption on the premises where sold except:

1. In sites in areas zoned C-1, C-2, C-3, or M-1 and which are being used as one of the following:
 - a. Are eating establishments regularly serving prepared food with a full service kitchen. A full service kitchen will consist of a three (3) compartment pot sink, a stove or grill permanently installed, and a refrigerator, all of which must be approved by the health and fire departments. Such eating establishment will regularly serve food every hour the eating establishment is open and shall derive at least sixty (60%) of sales from food;
 - b. Are indoor commercial recreation establishments regularly serving prepared food with a full service kitchen. A full service kitchen will consist of a three (3) compartment pot sink, a stove or grill permanently installed, and a refrigerator, all of which must be approved by the health and fire departments. Such establishment will regularly serve food every hour the eating establishment is open and shall derive at least sixty percent (60%) of its total annual gross revenue from the sale of prepared meals or food and recreation activities;
 - c. Are an indoor publicly owned civic and cultural center capable of serving prepared food, with a full service kitchen (a full service kitchen will consist of a three-compartment pot sink, a stove or grill permanently installed, and a refrigerator, all of which must be approved by the health and fire departments); prepared to serve food every hour they are open and deriving at least sixty percent (60%) of its total annual gross sales from the sale of prepared meals or foods and recreation activities. When eating establishments are located in hotels, motels, every entrance to the establishment shall be from a public lobby, hallway, mall or other publicly used interior portion of the primary use structure; or
 - d. A golf course that derives at least sixty percent (60%) of its annual gross revenue from the sale of prepared meals or food and recreation activities, i.e. golf.

These eating establishments must be located in a zoning district which permits restaurants and drive-in restaurants as conforming uses or where these eating establishments are incidental to a hotel or motel.

(Code 1991, §40-201; amended 5/5/08, adopted 5/15/08)

Section 40-202. License Fee and Amount to Defray Investigative and Administrative Costs to Accompany Application

Each application for a license under this Article shall be accompanied by a certified check for the full amount of the license fee, together with a separate check or cash in the amount of one hundred fifty dollars (\$150.00) to defray investigative and administrative costs. If the application is denied and the license refused, or if the applicant withdraws his application prior to its being issued, the license fee shall be refunded, but the one hundred fifty dollars (\$150.00) cost paid for investigative and administrative fees shall be retained. However, any person applying for more than one license shall pay only one fee to defray investigative and administrative expenses, which fee shall be the largest of the investigative and administrative fees authorized under this Ordinance. Any applicant for a license under this Article who has in existence at the time of making the new application an existing license under this Article shall pay seventy-five dollars (\$75.00).

(Code 1991, § 40-202)

Section 40-203. Hours and Days of Sale for Consumption on Premises

1. Beer and/or wine may be sold or distributed for consumption on the premises between the hours of 10:00 a.m. through 2:00 a.m. Monday through Saturday, and between the hours of 12:30 p.m. and 2:00 a.m. on Sunday.
2. No beer and/or wine shall be sold for consumption at any time in violation of any local ordinance or regulation or of any special order of the governing authority.

(Code 1991, § 40-203; Ord. of 5-5-2008(09); Ord. of 5-5-2008; Ord. of 11-2 2009)

Section 40-204. Package Sales

1. Consistent with the requirements of this chapter, package sales of beer and wine shall be allowed.
2. License holder may make package sales of beer and wine between the hours of 7:00 a.m. and 12:00 midnight Monday through Saturday, and from 12:30 p.m. to 11:30 p.m. on Sunday.

ARTICLE III. DISTILLED SPIRITS

Section 40-301. Locations where permitted.

No distilled spirits may be sold by the drink for consumption on the premises where sold except:

A. In sites in areas zoned C-1, C-2, C-3, or M-1 which meet the following requirements:

1. In eating establishments regularly serving prepared food, with a full service kitchen (a full service kitchen will consist of a three-compartment pot sink, a stove or grill permanently installed, and a refrigerator, all of which must be approved by the health and fire departments), regularly serving food every hour they are open and deriving at least 60% of its gross receipts annually from the sale of prepared meals or food.

When eating establishments are located in hotels, motels, and high-rise office and apartment buildings, every entrance to the establishment shall be from a public lobby, hallway, mall or other publicly used interior portion of the primary use structure.

(Code 1991, § 40-301; Ord. of 1-9-2006; Ord. of 5-5-2008(11); § 1)

Section 40-302. Investigative and Administrative Costs.

Each application for a license under this Ordinance shall be submitted to the City Clerk and be accompanied by cash or check for the full amount of the license fee plus the amount of the administrative and investigation fee as indicated on the fee schedule. If the applicant is denied a state license, the amount representing the license fee shall be refunded; however, the fee paid for administrative and investigation shall be retained.

(Code 1991, § 40-302; Ord. of 1/9/06)

Section 40-303. Hours and Days of Sale

1. Distilled spirits may be sold or distributed for consumption on the premises between the hours of 10:00 a.m. through 2:00 a.m. Monday through Saturday, and between the hours of 12:30 p.m. and 2:00 a.m. on Sunday.
2. Distilled spirits shall not be sold for consumption at any time in violation of any local ordinance or regulation or of any special order of the governing authority.

(Code 1991, § 40-303; Ord. of 1-9-2006; Ord. of 5-5-2008(10), § 1; Ord. of 5-5-2008(12); Ord. of 11-2-2009, § 1)

Section 40-304. Consumption Sales Only

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

(Code 1991, § 40-304; Ord. of 1-9-2006)

Section 40-305. Package Sales

1. Consistent with the requirements of this chapter, a package store may operate.
2. A package store may operate between the hours of 7:00 a.m. and 12:00 midnight Monday through Saturday, and 12:30 p.m. to 11:30 p.m. on Sunday.

ARTICLE IV. TEMPORARY SPECIAL EVENT LICENSE

Section 40-401. Eligibility for Issuance of a Temporary Special Event

A. License.

1. A temporary license may be issued to any person, firm or corporation, for a period not to exceed ten (10) days in any one year, for an approved special event. The person, firm or corporation must make application and pay the fee that may be required by the ordinances and shall be required to comply with all the general ordinances and the licensing and regulations for a consumption on the premises establishment with the exception of the full service kitchen requirement.
2. The special event must meet the following criterion before the issuance of a license to sell alcoholic beverages:
 - a. The special event must be associated with and benefit the cause of a charitable or civic organization.
 - b. The special event must receive approval from the Mayor or their designee on crowd control and security measures.
 - c. The special event must receive approval from the Mayor and City Council on traffic control measures; and if road closures are requested, the request must be placed on the agenda and heard by City Council at a regularly scheduled city council meeting. Highway road closures must receive approval by the Georgia Department of Transportation. All road closure requests must be received at least ninety (90) days in advance of the date of the special event.
 - d. The location at which the special event is to take place must be properly zoned.
 - e. The premises at which the special event is to take place must be approved by the City of Hoschton Mayor and City Council.
3. Any volunteer of the special event licensee working the special event in any position, dispensing, selling, serving, taking orders or mixing alcoholic beverages shall not be required to obtain a pouring permit for the special event.
4. The Mayor or their designee may immediately revoke any temporary license for a special event if continued alcohol sales may endanger the health, welfare or safety of the public.
5. As a condition on the issuance of a temporary special event license, the licensee shall indemnify and hold the City of Hoschton harmless from claims, demand or cause of action that may arise from activities associated with the special event.

(Code 1991, § 40-401)

ARTICLE V. PROVISION OF ALCOHOL AS PART OF PACKAGE DEAL OR ENTRY TO EVENT PROHIBITED

Section 40-501. Purchase price of Drinks Credited Against Admission or Cover Charge

No licensee for the sale of alcoholic beverages by the drink shall authorize or permit the purchase price of any alcoholic beverages sold by the licensee to a customer to be credited against any minimum, admission or cover charge imposed upon the customer by the licensee.

Section 40-502. Purchase of Alcohol as Part of Package with Other Goods or Services

No licensee may require the purchase of any alcoholic beverage as a part of or prerequisite to the purchase of any other product of service. If alcoholic beverages are included as part of a package or bundle of non-alcoholic goods and/or services, the alcoholic beverages must be priced separately and all customers must be allowed to purchase the remaining goods and services without the alcoholic beverages at a price from which the full price of the alcoholic beverages has been deducted.

(approved 2016; adopted 2016)

ARTICLE VI. EXCISE TAXES

Section 40-601. Per Drink Excise Tax.

1. Excise taxes received in the City after the 20th day of the month shall be charged a ten percent (10%) penalty.
2. If the Mayor and City Council deem it necessary to conduct an audit of the records and books of the licensee, he/she will notify the licensee of the date, time and place of the audit.
3. Any licensee who violates any provision of this Article may, upon conviction, be punished by a fine of not less than two hundred fifty dollars (\$250.00), and the license of such location may be suspended or revoked.
4. Every purchaser of distilled spirits by the drink shall be liable for a tax thereon at the rate of three percent of the retail price or charge for such drink. Such taxes shall be collected by the licensee licensed under this article, and such licensee shall remit the same to the city on or before the tenth day of the succeeding month along with a summary of the licensee's gross sales derived from the sale of distilled spirits by the drink, excluding malt beverages. Gross sales shall include all credit card sales and shall be reported and taxes collected thereon shall be submitted to the licensing and revenue manager to the same extent as required of cash sales. Each licensee shall be allowed a deduction equal to that rate authorized for deductions from state tax under part V of the Georgia Retailer's and Consumer's Sales and Use Tax Act, O.C.G.A. § 48-8-50, as now written or hereafter amended; provided that the tax is not delinquent at the time of payment. It shall be the duty of every such licensee required to make a report and pay any tax levied pursuant to this article, to keep and preserve suitable records of the sales taxable pursuant to this article, and such other books or accounts as may be necessary to

determine the amount of tax due. It shall be the duty of every licensee to keep and preserve such records for a period of three years.

(Code 1991, § 40-601; Ord. of 1-9-2006)

Section 40-602. Excise Tax and Bond Requirement on Wholesalers.

1. There is hereby levied an excise tax computed at the rate of twenty-two cents \$0.22 per liter or \$0.65 per ounce which shall be paid to the governing authority on all distilled spirits and wine sold by wholesalers to retailers in the City of Hoschton. Such tax shall be paid to the City Clerk by the wholesale distributor on all distilled spirits and wine sold to the licensees for the sale of distilled spirits and wine in the City of Hoschton as follows: each wholesaler selling, shipping, or in any way delivering distilled spirits or wine to any licensees hereunder, shall collect the excise tax at the time of delivery and shall remit the same together with a summary of all deliveries to each licensee on or before the tenth day of the month following. Excise taxes received in the planning and development department after the twentieth day of the month shall be charged a ten percent penalty. The \$0.22 per liter or \$0.65 per ounce shall be prorated so that all containers of distilled spirits and wine shall be taxed on the basis of \$0.22 cents per liter or \$0.65 per ounce. It shall be unlawful and a violation of this chapter for any wholesaler to sell, ship or deliver in any manner any distilled spirits or wine to a retail dealer without collecting said tax. It shall be unlawful and a violation of this chapter for any retail dealer to possess, own, hold, store, display or sell any distilled spirits or wine on which such tax has not been paid. Each wholesaler shall be paid three percent of the amount of taxes collected as reimbursement for collection of the said tax.

(Adopted 10/02/2006; Effective 10/12/2006)

2. There is hereby levied an excise tax on all beer and malt beverages sold by wholesalers to retailers in the City of Hoschton at the rate of twenty-two cents (\$0.22) per liter and six dollars (\$6.00) for each container of tap or draft beer or malt beverage of fifteen and one-half (15 1/2) gallons and in similar proportion for bottles, cans and containers of various sizes as follows:

Size of Container	Tax per Container
7 ounces	\$0.0291
8 ounces	0.0333
12 ounces	0.0500
14 ounces	0.0583
16 ounces	0.0666
32 ounces	0.1333
1/2 barrel (15 1/2 gallon)	6.0000

1 barrel (31 gallons)

2.0000

All provisions as to excise tax in this Section shall apply to this tax on beer and malt beverages except the tax rate which is set out in this subsection and the reimbursement of three percent (3%) of the taxes collected which shall not apply to beer and malt beverage wholesalers.

3. Each wholesale dealer prior to commencement of any business operation within the county shall post a performance bond with the City Clerk equal to one and one-half (1 1/2) times the estimated highest monthly payment to be made in a calendar year of the excise tax based on sales collected by the wholesaler dealer from the retailers to secure the payments for the tax imposed herein. These bonds shall be secured by cash which shall bear no interest, or a surety bond executed by a surety company licensed to do business in this state and approved by the designee of the Mayor and City Council.
4. A wholesaler may be excused from posting the performance bond as provided herein after demonstrating full and satisfactory compliance with the provisions herein for a period of twelve (12) months subsequent to the commencement of business operations within the county. Continued exemption from the requirement of posting the performance bond shall be conditioned upon continued compliance with the terms of this Article and the payment of all sums as required by the provisions herein.

(Code 1991, § 40-602; Ord. of 10-2-2006)

Section 40-603. Distilled Spirits; Levy; Rate

1. In addition to all other taxes or license fees heretofore or hereafter imposed upon retail dealers engaged in the City in the business of selling distilled spirits, there is imposed and levied upon retail dealers within the City an excise tax to be computed and collected as hereinafter set forth.
2. The tax levied hereunder shall be computed on the basis of \$0.22 per liter for distilled spirits excluding fortified wine, sold or delivered as hereafter set forth, with a proportionate tax at the same rate on all fractional parts of a liter.

(amended 11/2/15; adopted 11/13/15)

ARTICLE VII. INCORPORATION OF STATE STATUTES

The Mayor and City Council of the City of Hoschton hereby adopt and incorporate within this Ordinance the following provisions of the Official Code of Georgia, which provisions are hereby made a part of this Ordinance by reference thereto:

1. O.C.G.A. § 3-3-40. Definitions.
2. O.C.G.A. § 3-3-41. Performance of Actual or Simulated Sexual Acts.
3. O.C.G.A. § 3-3-42. Employee Solicitation of Patrons of Drinks on Premises.

4. O.C.G.A. § 3-3-43. Permitting Persons to View Sexually Related Acts or Conduct Performed on Other Premises.
5. O.C.G.A. § 3-3-44. Permitting Persons to Remove Alcoholic Beverages to Other Premises to View Sexually Related Conduct or Activities.
6. O.C.G.A. § 3-3-45. Employment of or Assistance to Persons Engaged in Sexually Related Conduct or Activity or Nudity.
7. O.C.G.A. § 3-3-46. Grounds for Suspension and Revocation of Alcoholic Beverage License.

(Code 1991, Ch. 40, Article VII)

ARTICLE VIII. SEVERABILITY

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

(Code 1991, Ch. 40, Article VIII)

ARTICLE XI. REPEALER

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

(Code 1991, Ch. 40, Article IX; Ord. of 12-9-2004)

**CHAPTER 41
LIGHTING DISTRICTS**

41-101 Responsibility for Illumination of Public Rights-of-way in New Subdivisions

41-102 Street Lighting District for Existing Subdivision

Section 41-101. Responsibility for Illumination of Public Rights-of-way in New Subdivisions

The developer of property lying within a proposed major subdivision that is subject to the subdivision regulations provided by the City, with lots less than two (2) acres in size of land, shall be required to construct and install lighting fixtures for the illumination of public rights-of-way to be located within such proposed subdivision, subject to the provisions of this Ordinance.

The developer shall submit plans and specifications which shall be approved by the public utility company which will provide electric service to the proposed subdivision and shall include, but not be limited to, a preliminary plat of the proposed subdivision showing the approved location of the lighting fixtures within the subdivision as required by the appropriate public utility and a description of the fixtures, poles, and other components approved for use by such utility company.

When seventy-five percent (75%) of the platted lots of subject development are lawfully occupied, the home owner's association, developer, or appropriate entity may petition the City to assume financial responsibility of any electric power bill arising from operation of said street lights. Nothing herein shall obligate the City to assume financial responsibility for the maintenance, operation, or service of such streetlights. The developer may petition the City to transfer at a lower occupancy rate, at which point the developer assumes financial responsibility for all lots that are not lawfully occupied.

The City is hereby authorized to levy and collect a special assessment or fee per individual or lot owner of the development to defray electricity expense paid to the respective power company and an administrative costs. The City is further authorized to bill the individuals or lot owners on their monthly utility bills. Late assessment may be levied by the City for any unpaid services received. These assessments may include, but are not limited to, monetary charges, loss of City services and property liens.

(Code 1991, § 41-101)

Section 41-102. Street Lighting District for Existing Subdivision

The owners of lots within an existing major subdivision, who have existing street lights, may submit a petition to City Council, requesting establishment of a street lighting district. The petition must contain the signatures of at least seventy-five percent (75%) of the owners of the property lying within the proposed street lighting district in favor of such designation. Unless one hundred (100%) of the lot owners have signed the petition, a public hearing shall be advertised one (1) time in the official organ of the county; and signs shall be posted in the proposed street lighting district giving notice of the hearing at least ten (10) days before the public hearing. The number and size of the signs shall be such as required by the City Zoning Ordinance for a request to rezone property. If petition is approved by City Council, the City will

be authorized to levy and collect a special assessment or fee per individual or lot owner of the development to defray electricity expense paid to the respective power company and any administrative costs. The City is further authorized to bill the occupants or lot owners on their monthly utility bills.

(Effective 9/18/2003)

(Code 1991, § 41-102; Ord. eff. 9-18-2003)

CHAPTER 42 FALSE ALARMS

42-101	Definitions
42-102	Registration
42-103	Responsibility of Alarm User
42-104	Responsibility of Alarm Administrator
42-105	Exemptions
42-106	Offenses
42-107	Appeals

Section 42-101. Definitions

Alarm Administrator. A person or designee designated by the Public Safety Committee, and or Chief of Police, to control and review False Alarm reduction efforts.

Alarm Registration. The Alarm registration is the notification by an Alarm Company or an Alarm user to the Alarm Administrator that an Alarm System has been installed and is in use.

Alarm System. An alarm system is a device or series of devices, including, but not limited to, systems interconnected with a radio frequency method such as cellular or private radio signals, which emit or transmit a remote or local audible, visual or electronic signal indicating an alarm condition and intended to summon the Hoschton Police Department, West Jackson Fire Department or Jackson County EMS, including Local Alarm System. Alarm System does not include an alarm installed on a vehicle or person unless the vehicle or personal alarm is permanently located at a site.

False Alarm. A false alarm is the activation of a fire, burglary and/or robbery or personal alarm by other than a medical emergency, fire, unintentional smoke, forced entry or attempted forced entry to the premises and at a time when no fire has occurred, no emergency medical treatment is needed or criminal act is being committed or attempted on the premises. False alarms shall include negligently activated alarms, alarms which are the result of equipment which has been improperly installed or maintained, and alarms which are purposefully activated to summon the police, firemen or emergency medical personnel in non-emergency situations, but does not include an alarm caused by violent weather conditions, acts of God or other causes which are beyond the user's control.

Multiple Alarm Sites. Multiple Alarm Sites means more than one alarm system on the premises.

Panic or Personal Alarm. Panic or personal alarm means an alarm system signal generated by the manual activation of a device intended to signal a life threatening or emergency situation requiring EMS, fire, or law enforcement.

(Code 1991, § 42-101)

Section 42-102. Registration

1. Registration Required. It shall be unlawful to maintain within the City of Hoschton, an alarm system on commercial or residential premises unless the person owning or

operating the business or residential location, where such alarm system is maintained, shall file with the City of Hoschton, a valid alarm registration issued by the Alarm Administrator or designee. A separate registration is required for each Alarm Site (multiple alarm sites). Fire alarms, burglary or robbery alarms, or panic alarms (any combination) on one site will be considered as one registration.

2. Completed Application. Upon receipt of a completed application form, the Alarm Administrator shall register the applicant and assign an alarm index number unless the applicant has failed to pay a prior summons or citation, assessment or, had an alarm registration for the Alarm Site suspended or revoked, and the violation causing the suspension or revocation has not been corrected.
3. Alarm Registration Application. Each Alarm Registration must include the following information:
 - A. The name, complete address, and telephone numbers of the Person who will be the registration holder and be responsible for the proper maintenance and operation of the Alarm System and payment of fees assessed under this article;
 - B. The classification of the Alarm Site as either residential, commercial, government entity or apartment;
 - C. For each Alarm System located at the Alarm Site, the classification of the Alarm System, i.e., fire, burglary, Holdup, panic or other, and for each purpose whether audible or silent;
 - D. Mailing address if different from the Alarm Site;
 - E. Any dangerous or special conditions present, i.e. attack dog, at the Alarm Site.
 - F. Name and telephone numbers of at least two individuals who are able and have agreed to receive notification of an alarm activation at any time; respond to the Alarm Site within 30 minutes; and will deactivate the Alarm System if such becomes necessary.
 - G. Type of business conducted at the Alarm Site; and
 - H. Stating that Law Enforcement, fire, or EMS response may be based on factors such as: availability of police units, fire or EMS, priority of calls, weather conditions, traffic conditions, emergency conditions, staffing levels, etc.
4. False Application. Any false statement of a material fact made by an applicant for the purpose of obtaining an alarm registration shall be sufficient cause for refusal to issue a registration.
5. Transferability. An alarm registration cannot be transferred to another Person or Alarm Site. An Alarm User shall inform the Alarm Administrator of any change that alters any information listed on the registration application within five (5) business days.

6. Registration Charge. There shall be a registration fee of \$10.00 for the cost of administration of the Alarm documentation.

(Code 1991, § 42-102)

Section 42-103. Responsibility of Alarm User

1. Any commercial premises employing an alarm or system shall post in a prominent or conspicuous place notice of an alarm control company and alarm index number sticker. This index number, which is assigned by the alarm administrator, will correspond with at named representative who can be notified at all times and who is authorized to enter the premises and deactivate the alarm system or who can contact a person who can deactivate the system if there are no means of access to the premises.
2. It shall be unlawful for any person to activate any alarm system for the purpose of summoning the police, except in the event of an actual or attempted criminal act. It shall also be unlawful for anyone to notify the police of an activated alarm and fail to disclose to the police their knowledge or apparent knowledge that the alarm system has been activated due to some electrical or other malfunction of the alarm system.
3. All alarm users shall be required to respond to the location where the alarm is activated or when requested by the City of Hoschton Police Department or West Jackson Fire Department. The key holder will be given 30 minutes from the time the officer or firemen arrive at the premises to respond to the alarm, unless other arrangements are made through the Alarm Administrator. Upon activation, the alarm shall not sound any longer than fifteen minutes.

(Code 1991, § 42-103)

Section 42-104. Responsibility of the Alarm Administrator

1. The Alarm Administrator will be the monitoring agency for the False Alarm Ordinance. He or she will make notification to any owner or occupier of the premises who have violated the ordinance.
2. The Alarm Administrator will issue a written notice of all false alarms to Alarm users. This notice is in addition to the notice issued to the key holder answering the false alarm.

(Code 1991, § 42-104)

Section 42-105. Exemptions

1. There shall be a 30-day grace period following the initial installation of an alarm system during which period false alarms shall not be counted. This grace period is provided to allow the installing company or other installer and the user to take necessary corrective action with regard to the operation of the alarm system. A responsible person at a premise must maintain written proof, in the form of an invoice, of the date of installation of an alarm system for exemption under this section.
2. An alarm activated during an alarm system testing procedure shall not be considered a false alarm if the alarm user first notifies and receives permission from the user's alarm

company, or designee, or the administrator of the Jackson County 911 system to test the system.

(Code 1991, § 42-105)

Section 42-106. Offenses.

1. Upon the police, fire, or EMS responding to the second (2nd) false alarm within a 12-month period, the owner or occupier of the premises where said alarm or burglary system is maintained shall be given a written notice that two (2) responses to false alarms have occurred within a 12-month period. Any additional false alarms would result in the Alarms Administrator assessing a service fee due and payable within 30 days following notice thereof, and treated as any other municipal liability, such as taxes, and issued a summons or citation to the owner of the premises for violation of the False Alarm Ordinance. The violation would result in fees as shown:

Number of False Alarms Fee:

	1 st Year	2 nd Year
3 through 5	\$25.00	\$50.00
6 or more	\$50.00	\$100.00

2. Upon the police or fire department responding to each false alarm, the responding key holder will be advised of the false alarm. If the key holder fails to respond to any false alarm, the responding officer or firemen will notify the Alarm Administrator to assess a fee to the owner or occupier for violation of the False Alarm Ordinance. If the key holder fails to respond to any false alarm after the second (2nd) false alarm, the Alarm Administrator will issue a double assessment. One Assessment will be for the owner or occupier for violation of this section (b), and one assessment will be issued for the owner or occupier for violation of section (a). The violation of this section would result in an assessment the same as for the number of false alarms 3 through 5.
3. In the event that an owner or occupier fails to register their alarm system, the Alarm Administrator will assess a fee to the owner or occupier for violation of the False Alarm Ordinance. The violation of this section would result in an assessment the same as for the number of false alarms 6 or more, 2nd year.
4. In the event that an owner or occupier is a corporation or government entity, the summons will be addressed to the corporation or government entity and made attention to a designated individual. It will be the corporation's or government entity's responsibility to inform the Alarm Administrator who the designated individual will be.

(Code 1991, § 42-106)

Section 42-107. Appeals.

1. In the event that a location is assessed a false alarm fee, and the owner, business or legal entity does not agree that the alarm activation should be classified as a false alarm, the owner, business or legal entity may appeal the ruling through the proper process as follows:

A. The proper representative of the owner, business, or legal entity, having or maintaining the alarm system may contact the Chief of Police and appeal the ruling. The Alarm Administrator will present any documentation on behalf of the City.

B. In the event that the owner, business or legal entity (proper representative) and the Chief of Police or the Fire Chief are not able to resolve and agree on the alarm classification, the proper representative may request a meeting with the City Council Public Safety Committee to appeal the ruling. The Alarm Administrator will present any documentation on behalf of the City.

C. The ruling of the Public Safety Committee will be final.

(Code 1991, § 42-107; Ord. of 1-31-2006)

CHAPTER 43 SIGNS

(amended 11/8/10; adopted 11/18/10)

Section 43-101	Purpose
Section 43-102	Definitions
Section 43-103	Permit – Required
Section 43-104	Permit - Application
Section 43-105	Permit – Expiration Date
Section 43-106	Permit – Fees
Section 43-107	Identification Labels
Section 43-108	Continuance of Non-Conforming Permanent Signs
Section 43-109	Misleading Advertising
Section 43-110	Conforming, Non-Conforming Sign Prohibited for Same Establishment on Same Lot
Section 43-111	City Occupation Tax Certificate, Public Liability Insurance Required
Section 43-112	Prohibited Signs
Section 43-113	Reserved
Section 43-114	Exemptions from Permitting Requirements
Section 43-115	Discontinued Businesses
Section 43-116	Maintenance
Section 43-117	Illumination
Section 43-118	Signs Permitted and Regulated in Zoning Districts According to Purpose of Such Signs
Section 43-119	Restrictions in Residential Zoning Districts
Section 43-120	Provisions for Non-Residential Districts
Section 43-121	Height and Setback Requirements
Section 43-122	Illegal Signs
Section 43-123	Wall and Canopy Signs
Section 43-124	Variances and Appeals
Section 43-125	Suspension, Revocation of Permit, License
Section 43-126	Enforcement
Section 43-127	Penalty
Section 43-128	Temporary Directional Real Estate Signs
Section 43-129	Flags
Section 43-130	Banners
Section 43-131	Weekend Directional Signs Advertising Private Sales or Events
Section 43-132	Chapter Severability
Section 43-133	Repealer; Effective Date

Section 43-101. Purpose

The Mayor and Council find that signs provide an important medium through which individuals may convey a variety of noncommercial messages. However, left completely unregulated, signs can become a threat to public safety as a traffic hazard and a detriment to property values and the City's overall public welfare as well as an aesthetic nuisance.

By enacting this ordinance, the Mayor and Council intent to:

1. Balance the rights of individuals to convey their messages through signs and the right of the public to be protected against the unrestricted proliferation of signs;
2. Protect the public health, safety, and welfare of the citizens and others within the City;
3. Reduce traffic and pedestrian hazards;
4. Promote the aesthetic qualities of the City;
5. Property values by minimizing the possible adverse and visual blight caused by signs;
6. Promote economic development;
7. Ensure the fair and consistent enforcement of sign regulations; and
8. Promote the stated purpose of the City of Hoschton Zoning Regulations which are expressly incorporated herein.

(Ord. of 11-8-2010(2), § 42-101)

Section 43-102. Definitions *(Amended 6/4/2007)*

For the purpose of this Chapter, certain terms and words are hereby defined. Words used in the present tense shall include the future, the singular number shall include the plural, and the plural the singular, the work "shall" is mandatory and not directory, the work "person" includes a firm, organization, partnership, trust and corporation, and the work "City" shall mean the City of Hoschton, Georgia.

As used in this Chapter, unless the context otherwise indicates, the following words and terms have the meaning ascribed to them:

Advertising device means any structure or device erected or intended for the purpose of displaying advertising situated upon or attached to real property.

Animated means a sign with action, motion, or changing colors which requires electrical energy. This definition does not include signs which indicate time, temperature or date.

Arcade, directory, mall sign means a serial sign which identifies the names of businesses, offices, professionals, industries or other entities located within a planned center.

Area of sign means the area within a continuous perimeter enclosing the limits of writing, representation, emblem, or any figure of similar character together with any frame, other material, open space or color forming an integral part of the display or used to differentiate such from the background against which it is placed. The sign area of painted or affixed wall signs when composed of letters only is the sum of the areas of the smallest contiguous rectangles each capable of containing one such letter. For double-faced signs, except for commercial off-premises signs, only the largest display faces shall be measured in computing the sign area.

Banner means a sign with or without characters, letters, illustrations or ornamentations applied to cloth, paper, flexible plastic or fabric of any kind with only such material for a backing.

Billboard means an off-premises advertising sign or off-premises directional sign, other than a real estate directional sign, which advertises or directs attention to businesses, products, services or establishments not conducted on the premises on which the signs are located.

Business sign means any notice or advertisement, pictorial or otherwise, which directs attention to goods, commodities, products, services or entertainment sold or offered upon the premises where such sign is located.

Canopy means any sign that is a part of or attached to an awning, canopy or other fabric, plastic or structural protective cover over a door, entrance, window or outdoor service area. A marquee is not a canopy.

Clock sign means any timepiece erected outside of any building for the purpose of advertising the business on the premises on which it is located.

Commercial sign means a sign which identifies, advertises or directs attention to a business, or is intended to induce the purchase of goods, property or service, including without limitation, any sign naming a brand of goods or service and real estate signs.

Construction sign means a sign erected and maintained on premises announcing the proposed or existing construction of a building(s) or project.

Double-faced sign means a sign which has two (2) display areas against each other or where the interior angle formed by the display areas is sixty (60) degrees or less, where one face is designed to be seen from one direction and the other face from another direction.

Entrance sign shall mean any ground sign placed at the intersection of a public street and a private entrance into an apartment, office, condominium or industrial complex or some other building with multiple residential or commercial units. Entrance signs shall not exceed twenty-four (24) square feet.

Flashing sign means a sign, the illumination of which is not kept constant in intensity at all times when in use, and which exhibits marked changes in lighting effects. Illuminated signs which indicate only the time, temperature or date shall not be considered as flashing signs.

Freestanding sign shall mean a sign securely affixed to a substantial support structure which is permanently attached to the ground and wholly independent of any building for support.

Frontage, building means the width in linear of the front exterior wall of a particular establishment.

Frontage, road means the width in linear feet of each lot where it abuts the right-of-way of any public street.

Ground sign means a permanently affixed sign which is wholly independent of a building for

support.

Illuminated sign, direct means a sign illuminated by an internal light source.

Illuminated sign, indirect means a sign illuminated by an external light source directed primarily toward such sign.

Licensee means the person and/or entity erecting the sign on property of owner and/or permittee.

Marquee means a roofed structure attached to and supported by a building and projecting over public or private sidewalks or rights-of-way.

Marquee sign means a business sign painted on, attached to or hung from a marquee.

Menu Signs is a small two sided sign that is portable and easily moved by one person, not over six (6) square feet in area per face that does not impede pedestrian or automotive traffic.

Nonconforming sign means any sign which does not conform to the provisions of this Chapter.

Nonconforming use means a structure or land lawfully occupied by an existing use which does not conform with the permitted uses for the zoning district in which it is located as outlined in the City Zoning Regulations.

Off-premises signs:

1. *Off-premises advertising sign* means a sign which is not located upon the premises of the business or entity indicated or advertised by said sign. This includes products advertised in conjunction with a business entity.
2. *Off-premises directional sign* means a sign not located upon the premises of the business or entity indicated on the sign and only for the purpose of directing traffic to business establishments, real estate developments, public and private clubs, schools and other such facilities. The advertising of products and/or services shall not be allowed on the sign structure.

Permittee means the person and/or entity owning the land (landowner) on which the sign is erected.

Planned center, office, commercial or industrial means a group of retail stores, service establishments, offices, industries or any other businesses planned to serve the public which is in common ownership or condominium ownership.

Political sign means a noncommercial sign identifying or urging voter support for a particular election, issue, political party, candidate for public office, political idea, or opinion.

Portable sign means sign which is not permanently affixed, including but not limited to, signs mounted or painted on vehicles which are parked in such a manner as to serve the purpose of an advertising device.

Real estate sign means a temporary sign erected by the owner or his agent advertising the real property upon which the sign is located for rent lease or for sale.

Roof sign means a sign projecting over the coping of a flat roof or over the ridge of a gable, hip or gambrel roof, and supported by or attached to said roof.

Sidewalk or sandwich sign means a movable sign not secured or attached to the ground or surface upon which it is located.

Sign means a device or representation for visual communication which is used for the purpose of bringing the subject thereof to the attention of others.

Sign face means that part of a sign that is or can be used for advertising purposes.

Subdivision sign shall mean freestanding or ground sign placed at the intersection of two roads, at least one (1) of which is a public road, with the other road being the main thoroughfare into and out of a commercial or residential subdivision. Subdivision signs may not exceed twenty-four (24) square feet.

Swinging or projecting sign means a sign projecting more than six (6) inches from the outside wall or walls of any building upon which it is located.

Temporary sign means a sign of a nonpermanent nature. Unless otherwise provided herein, all such signs shall be removed within ten (10) days after the purpose of which the sign is intended to advertise has been accomplished.

Trailer sign means any sign mounted on wheels and that may be moved from one location to another.

Wall sign means a sign applied to or mounted to the wall or surface of a building or structure, the display surface of which does not project more than (6) inches from the outside wall of such building or structure. The total lettering on one side of a building or structure shall constitute one (1) wall sign.

Window sign means a sign installed inside a window and intended to be viewed from the outside.

(Ord. of 6-4-2007; Ord. of 11-8-2010(2), § 42-102)

Section 43-103. Permit – Required

Except as specifically excluded from the provisions of this Chapter, it shall be unlawful for any person to post, display, substantially change or erect a sign or advertising device in the City without first having obtained a sign permit.

(Ord. of 11-8-2010(2), § 42-103)

Section 43-104. Permit – Application

Application for sign permits required in §43.103 shall be filed by the sign owner or his agent in

the office of the City Clerk or his/her designee(s) upon forms furnished by the City. Said application shall describe and set forth the following:

1. The type and purpose of the sign as defined in this Chapter.
2. The approximate cost of the sign.
3. The street address of the property upon which subject sign is to be located and the proposed location of subject sign on subject property. In the absence of a street address, a method of location acceptable to the City Clerk or his/her designee(s) shall be used.
4. The square foot area per sign and the aggregate square foot area.
5. The name(s) and address(es) of the owner(s) of the real property upon which the subject sign is to be located.
6. Consent of the owner, or his agent, granting permission for the placement or maintenance of subject sign on his property.
7. The City Clerk or his/her designee(s) will require a sketch or print drawn to scale showing pertinent information such as display materials. Additional information of such print or sketch to insure compliance with this Chapter may be required.
8. Name, address, phone number and business license number of the sign contractor.

All applicants for electrical signs must provide a completed electrical subcontractor affidavit.

The City shall process all sign permit applications and make a determination of whether to grant or deny applications within thirty (30) business days of the City's actual receipt of application and sign permit fee. The City Clerk or his/her designee(s) shall notify the applicant of his/her decision by hand delivery or by mailing a notice to the address on the permit application by Certified Mail, Return Mail Receipt Requested on or before the 30th day after the City's receipt of the application. If mailed, notice shall be deemed to have been given upon mailing in conformity with this section. The City Clerk or his/her designee(s) shall reject any application containing any false material statements or omissions. Any rejected application later resubmitted shall be deemed to have been submitted on the date of resubmission, instead of original submission. If the City fails to act within the 30-day period, the permit shall be deemed to have been granted.

(Ord. of 11-8-2010(2), § 42-104)

Section 43-105. Permit – Expiration Date

A sign permit shall become null and void if the sign for which the permit was issued has not been completed within six (6) months after the date of issuance. No refunds will be made for a permit after the permit is issued. If later a sign is desired to be erected at the same location, a new applicant for the sign must be processed and another fee paid in accordance with the fee schedule applicable at such time. Should it be determined that a sign was issued pursuant to an application containing a false material statement, the City Clerk or his/her designee(s) shall

revoke said application and the subject sign shall be removed. A revocation pursuant to this section be appealable pursuant to procedures for appeals contained in this Chapter.

(Ord. of 11-8-2010(2), § 42-105)

Section 43-106. Permit – Fees

No permit shall be issued until appropriate application has been filed with the City Clerk or his/her designee(s) and a fee of \$100.00, or as may hereafter be provided by the Mayor and City Council.

(Ord. of 11-8-2010(2), § 42-106)

Section 43-107. Identification Labels

With each new permit the City Clerk or his/her designee(s) shall issue an identification label bearing the same number as the permit with which it is issued. It shall be the duty of the permittee or his agent to affix such label to the sign in the lower right hand area so it will be easily seen. The absence of a proper label shall be prima facie evidence that the sign has been, or is being, erected or operated in violation of the provisions of this Chapter.

(Ord. of 11-8-2010(2), § 42-107)

Section 43-108. Continuance of Non-Conforming Permanent Signs

The lawful use of a permanent sign existing at the time of the enactment or the amendment of this ordinance may be continued even though such use does not conform to the provisions this Chapter except that the non-conforming sign shall not be:

- A. Extended to occupy a greater are of land.
- B. Enlarged, altered, modified, improved or rebuilt in conformance with this Chapter but it may be repaired to the extent necessary to maintain it in a safe condition and neat and orderly appearance. A change in the advertising message on the sign shall not constitute an alteration or modification of the sign.

Non-conforming signs no longer in use by the owner or operator shall be removed within ten (10) days of discontinuance of use for four (4) months or the City shall order the removal of such signs at the expense of the owner or operator.

Discontinuance may be determined by failure to renew occupation tax certificate, cancellation of City services or abandonment of property.

A non-conforming sign may not be removed by an act of an owner and later replaced by another non-conforming sign.

(Ord. of 11-8-2010(2), § 42-108)

Section 43-109. Misleading Advertising

It shall be unlawful for a person to display false or misleading statements upon signs or other public places calculated to mislead the public as to anything sold, services to be performed, or information disseminated. The fact that any such sign or display shall contain words or

language sufficient to mislead a reasonable or prudent person shall be prima facie evidence of a violation of this Section by the persons displaying such sign, or permitting same to be displayed at their residence, establishment, or place of business.

(Ord. of 11-8-2010(2), § 42-109)

Section 43-110. Conforming, Non-Conforming Sign Prohibited for Same Establishment on Same Lot

No conforming sign or advertising device shall be erected for the same establishment on the same lot with an existing nonconforming sign until the nonconforming sign has been removed or made to conform to the provisions of this Chapter.

(Ord. of 11-8-2010(2), § 42-110)

Section 43-111. City Occupation Tax Certificate, Public Liability Insurance Required

It shall be unlawful for any person to engage in the business of erecting or maintaining signs within the City, unless and until such entity shall provide an occupation tax certificate valid in the State of Georgia and a certificate of insurance from an insurance company authorized to conduct business in the state evidencing that the entity has in effect public liability and property damage insurance in the sum of one-hundred thousand dollars (\$100,000.00) for property damage for any one (1) claim and public liability insurance in an amount not less than one million dollars (\$1,000,000.00) for injuries, including accidental death to one (1) person.

(Ord. of 11-8-2010(2), § 42-111)

Section 43-112. Prohibited Signs

The following types of signs are prohibited throughout the City of Hoschton:

1. Signs on public rights-of-way other than publicly owned or maintained signs.
2. Window signs which exceed thirty (30) percent of the window area.
3. Signs which contain words, pictures, or statements which are obscene, as defined by O.C.G.A. § 16-12-80.
4. Signs which simulate an official traffic control device, warning sign, or regulatory sign or which hide from view any traffic control device, signal or public service sign, except as allowed by § 43-114(b) below.
5. Signs which emit or utilize in any manner any sound capable of being detected on any traveled road or highway by a person with normal hearing abilities.
6. Signs which interfere with road or highway visibility or obstruct or otherwise interfere with the safe and orderly movement of traffic or which otherwise pose a hazard to traffic due to structural deficiencies in the structure of such signs.
7. Signs erected by nailing, fastening or affixing the sign in any manner to any tree, post, curb, utility pole, natural feature or other structure except as may be set forth herein.

8. Signs which advertise any activity, service or product prohibited by the laws or regulations of the United States or the State of Georgia or by the ordinances or resolutions of Jackson County or the City of Hoschton. This section shall not prohibit signs promoting the legalization of any matter presently prohibited by federal, state or local law.
9. Animated signs (except for time and weather information signs, official warning and regulator sign(s)).
10. Signs which obstruct any fire escape, any means of egress or ventilation or shall prevent free passage from one part of a roof to any other part thereof, as well as signs attached to any fire escape.
11. Signs which do not conform to building and electrical codes.
12. Signs for which a permit is required that do not display the sign permit number and the name and address of the person responsible for erecting and maintaining the sign.
13. Roof signs.
14. Tri-faced signs.
15. Signs which are in violation of the rules and regulations of any zoning overlay district presently existing or as may later be enacted.
16. Any sign constructed of non-durable material including, but no limited to, paper, cardboard or flexible plastic that has been displayed for more than sixty (60) days. Nothing herein shall prohibit such a sign from being replaced by an identical sign. This provision does not apply to flags or banners which are governed by §43-130 and §43-131.
17. Portable signs.
18. Signs located on any substandard lot created after the enactment of this Chapter, unless the substandard lot is created as the result of governmental action.
19. Abandoned commercial signs. Commercial signs (including sign structures) shall be deemed abandoned if the business, service or commercial transaction to which it relates has been discontinued for thirty (30) days. Discontinuance may be determined by:
 - a. Failure to renew occupation tax certificate;
 - b. Cancellation of City services; or
 - c. Abandonment of property.
20. Any sign that is structurally unsound or is a hazard to traffic or pedestrians.

21. Dilapidated or neglected signs. A sign (including sign structure) will be dilapidated or neglected if it does not present a neat and orderly appearance which may be manifested by the following: rust or holes on or in the sign or sign structure, or broken, missing, loose or bent parts, faded or flaking paint, non-operative or partially non-operative illuminating or mechanical devices or missing letters in sign copy.

22. Rotating signs.

(Ord. of 6-4-2007; Ord. of 11-8-2010(2), § 42-112; Amended 6/4/2007)

Section 43-113. Reserved

Section 43-114. Exemptions from Permitting Requirements

1. Signs erected by a public officer in the performance of his/her duties, including but not limited to: public notices, safety signs, danger signs, traffic official control devices, memorial plaques, and historical markers shall be exempt from the provisions of this Chapter.
2. The following types of signs shall be exempt from the permit requirements of §43-103.
 - a. Window signs installed for purposes of viewing from outside the premises. However, such signs shall not exceed thirty (30) percent of the available window space.
 - b. Non-illuminated freestanding signs having an aggregate sign area per lot of the (10) square feet or less. However, each such sign may not exceed six (6) square feet in size and may not be greater than four (4) feet above the grade level of the adjacent street to which the sign is located or three (3) feet above ground level, whichever is greater.
 - c. Signs for the sole purposes of displaying street numbers as may be required by other ordinances and other signs required by law.
 - d. Non-commercial flags and banners as provided in §§ 43-129 and 43-130.
 - e. Non-governmental traffic control devices in or adjacent to parking areas and driveways.
 - f. Menu Signs. Menu signs may only be displayed by 1: a business establishment with a business license issued by the City and a physical location in the City, and such signs shall only be displayed while the establishment is open but not before 6:00 a.m. and not after 9:00 p.m. or 2: a person or organization sponsoring or hosting an event in the City as provided in 43.131 (Weekend Directional Signs Advertising Private Sale or Events). Two (2) menu signs per lot or parcel are allowed. Menu signs shall not impede pedestrian or automotive traffic. No menu sign shall be located within ten (10) feet of the pavement of any street, and shall not be permitted on any public right-of-way.

(Ord. of 6-4-2007; Ord. of 11-8-2010(2), § 42-114; Amended 6/4/2007)

Section 43-115. Discontinued Businesses

When a business or service using identification or business sign is discontinued, all signs and sign structures relating to this business or service shall be removed within thirty (30) days from the date of discontinuance. Discontinuance may be determined by:

1. Failure to renew occupation tax certificate;
2. Cancellation of City services; or
3. Abandonment of property.
(*Ord. of 11-8-2010(2), § 42-115*)

Section 43-116. Maintenance

All signs shall be maintained in good condition so as to present a neat and orderly appearance. The City of Hoschton may order removal after due notice any sign which shows gross neglect or has become dilapidated.

The City of Hoschton shall give the owner ten (10) days written notice to correct the deficiencies or to remove the sign or signs. If the owner refuses to correct the deficiencies or remove the sign, the City of Hoschton shall order the removal of the sign or signs at the expense of the owner.

(*Ord. of 11-8-2010(2), § 42-116*)

Section 43-117. Illumination

1. The light from any illuminated sign shall not be of an intensity or brightness which will interfere with the peace, comfort, convenience, and general welfare of residents or occupants of adjacent properties.
2. No sign shall have blinking, flashing or fluctuating lights or other illuminating devices which have a changing light intensity, brightness or color except those depicting only time, temperature or date.
3. No colored lights shall be used at any location or any manner so as to be confused with or construed as traffic control devices.
4. Neither direct nor reflected light from primary light sources shall create a hazard to operators of motor vehicles.

(*Ord. of 11-8-2010(2), § 42-117*)

Section 43-118. Signs Permitted and Regulated in Zoning Districts According to Purpose of Such Signs

If not otherwise stated, any sign not specifically permitted in a zoning district as provided under this section, shall be prohibited in that district, except as otherwise provided for under this Ordinance.

(Ord. of 11-8-2010(2), § 42-118)

Section 43-119. Restrictions in Residential Zoning Districts

These shall be a maximum of two (2) subdivision or entrance signs per entrance into any residential subdivision or residential real estate development, face each sign not exceed 24 square-feet in area and four (4) feet in height. Entrance signs may be illuminated. Temporary signs, as defined, not exceeding six (6) square-feet are permitted.

(Ord. of 11-8-2010(2), § 42-119)

Section 43-120. Provisions for Non-Residential Districts

The following signs are permitted in all nonresidential zoning districts except as noted:

1. One (1) freestanding or ground sign (including arcade, directory or mall sign) per entrance, limited to sixty (60) square feet and not exceeding a height of sixteen (16) feet; and
2. One wall sign per unit, each of which is limited to 12 square feet in size, or one (1) square foot per linear foot of wall on which the sign is erected, whichever is greater; and
 - a. Location requirements. Freestanding signs (except for signs allowed by subsection 43-121(a) on a non-residential lot shall comply with subsections 43-121(d)(1) and (2) and shall be confined to the buildable area of the lot.
 - b. Any sign provided for in any zoning district may contain noncommercial messages.

(Ord. of 11-8-2010(2), § 42-120)

Section 43-121. Height and Setback Requirements

- A. The height of all freestanding and ground signs at their highest point above the level of the ground shall not exceed sixteen (16) feet in non-residentially zoned districts and shall be governed by § 10.19 in residentially zoned districts. The level of the ground shall not be altered in such a way to provide additional sign height. The height of monopole sign structures shall be measured from the base of the pole at ground level to the top of the pole or top of the highest sign face, whichever is higher. The height of any multi-pole sign structure shall be measured the same as a monopole structure, except that the measurement shall be made using the shortest pole. Ground signs shall be measured from ground level base of the sign structure (deemed to include any skirting) to the highest point of the sign.
- B. The height of all wall and canopy signs at their highest point above ground level shall be as provided in §43-124 of this Chapter.
- C. No sign or sign structure above a height of three (3) feet shall be maintained within fifteen (15) feet of the intersection of the right-of-way lines extended of two (2) streets. However, a sign support structure not more than ten (10) inches in diameter may be located within the required corner visibility area if all other requirements of this Chapter

are met and the lowest elevation of the sign surface is at least twelve (12) feet above the ground level.

D. All signs shall be set back as follows:

1. Ten (10) feet from the curb line of each street adjacent to the lot upon which the sign is situated (applicable to all zoning districts);
2. If the right-of-way is more than ten (10) feet from the curb line as described in (1) above, the sign shall be set back at least (1) foot from the right-of-way (applicable to all zoning districts);
3. In a residential zoning district, if the distance between the right-of-way to the front of the principal structure is less than fifteen (15) feet, signs shall be set back two-thirds (2/3) of the distance between the curb line and the front of the principal structure on the lot on which the sign is located.

(Ord. of 11-8-2010(2), § 42-121)

Section 43-122. Illegal Signs

Illegal signs; impoundment; authority of the code enforcer; recovery of expenses; the code enforcer shall be authorized to abate or impound any prohibited sign or sign that is in violation of these regulations. This section shall not apply to grandfathered non-conforming signs.

- A. The code enforcer shall be authorized to abate or impound any sign that is in violation of these regulations if not abated by the property owner and/or the sign owner within twenty-four (24) hours after notice has been given, unless the time limit has been more specifically noted elsewhere in this section. If the property owner or sign owner cannot be found, the code enforcer may impound the sign after a reasonable attempt to contact said person has been made.
- B. In the event that the such abatement or impoundment requires more than nominal effort, and the owner of any lot or premises upon which an illegal sign as described in this section fails to legally correct, remedy or remove such sign within ten (10) days after initial notice to do so is given in accord with this chapter, the City may do such work as necessary to correct, remedy or remove such condition, or cause the same to be done, and pay therefore and charge the expenses and appropriate administrative costs incurred thereby to the owner of such lot. The doing of the work by the City shall not relieve such person from prosecution for failure to comply with such notice in violation of this section.
- C. The City shall deliver a detailed invoice of such expenses and administrative fees to the owner and require payment within thirty (30) days. Such expenses may be assessed against the lot or real estate upon which the work was done or the improvements made. Whenever any work is done or improvements are made by the City under the provisions of this section, and payment is not received within thirty (30) days, the City Clerk their designee on behalf of the City may file a statement of the expenses incurred thereby in proper form with the Clerk of Superior Court. Such statement shall give the amount of such expenses and the date or dates on which the work was done or the improvements

were made.

- D. After the statement provided for in subsection 43-121(c) is filed, the City shall have a lien on the lot or real estate upon which the work was done or improvement made to secure the expenses thereof. Such lien shall be second only to tax liens, and the amount thereof shall bear interest at the rate of eight (8) percent per annum from the date of payment by the City of such expenses. For any such expenditures and interest, suit may be instituted and recovered and foreclosure of the lien may be had in the name of the City, and the statement of expenses made in accord with subsection 43-121(b) and (c), or a certified copy thereof, shall be prima facie proof of the amount expended for such work or improvements. The City Clerk or her designee is hereby authorized to execute releases of liens upon payment thereof.
- E. Any sign that does not comply with the restrictions established herein and is impounded by the City will be released to the owner after paying twenty-five dollars (\$25.00) for each such sign, plus any costs contained on a statement provided for in subsection 43-121(c). Signs not claimed within five (5) days of removal by the City may be destroyed. If the City has a removed, unclaimed sign from a permit holder or has destroyed such a sign, any permit issued by the City shall be suspended until the sign is paid for. The permit shall be terminated if a permit holder is found in violation on three (3) or more occasions.

(Ord. of 11-8-2010(2), § 42-122)

Section 43-123. Wall and Canopy Signs

- A. **Wall or Projected Signs.** Wall or projected signs shall be securely fastened to the building surface. These signs may project from the building three (3) feet; provided that if they project more than four (4) inches from the building surface, they shall maintain a clear height of eight (8) feet above the ground level when erected over pedestrian walkways or driveways but fourteen (14) feet over areas of truck service access. All wall and projecting signs shall not exceed above the parapet wall.
- B. **Canopy Signs.** Canopy signs shall be no less than eight (8) feet above the ground when erected over pedestrian walkways and fourteen (14) feet above areas of vehicle service access at the lowest extremity of the sign. Canopy signs shall be otherwise regulated as provided for wall signs.

(Ord. of 11-8-2010(2), § 42-123)

Section 43-124. Variances and Appeals

The City Council shall have the following powers and duties in addition to any other duties provided elsewhere.

- A. *Administrative review.* To hear and decide whether there is an error in any order, requirement, decision or determination made by the City Clerk or his/her designee(s) in the enforcement of this Chapter.
- B. *Variances.* To authorize upon appeal in specific cases such variance from the terms of this Chapter as not be contrary to the public interest, when due to special conditions a

literal enforcement of the provisions of this Chapter will, in an individual case result in unusual hardship, so the spirit of this Chapter shall be observed, public safety and welfare secured, and substantial justice done. The mere existence of a nonconforming sign or advertising device shall not constitute a valid reason to grant a variance. A variance may be granted in an individual case of unusual hardship upon a finding by the board that the following conditions exist:

1. There exist extraordinary and exceptional conditions pertaining to the property in question resulting from its size, shape, or topography which are not applicable to other lands or structures in the area.
2. A literal interpretation of the provisions of this Chapter would deprive the applicant of rights commonly enjoyed by other similar properties.
3. Granting the variance requested will not confer upon the property of the applicant any significant privileges which are denied to other similar properties.
4. The requested variance will be in harmony with the purpose and intent of this Chapter and will not be injurious to the neighborhood or to the general welfare.
5. The special circumstances are not the result of actions of the applicant.
6. The variance requested is the minimum variance which will make possible the logical use of the land, building or structure.
7. The variance is not a request to permit a type of sign which otherwise is not permitted in the zoning district involved.

C. Appeal. An individual whose permit application has been denied or a permittee whose permit has been revoked may appeal the decision of the hearing officer, to the City Council provided that they file written notice of an appeal with the City Clerk within ten (10) business days of the hearing officers' decision. Such appeal shall be considered by the Council at the next City Council meeting held after the City's receipt of the written notice of appeal, provided that notice of appeal is received a minimum of two full business days before the meeting. If the applicant is no satisfied with the ruling of the City Council, he or she may seek judicial review by filing for a Writ of Certiorari in the Superior Court of Jackson County within 30 days of the decision of the City Council.

(Ord. of 11-8-2010(2), § 42-124)

Section 43-125. Suspension, Revocation of Permit, License

Violation of any provisions of this chapter will be grounds for terminating the permit granted by the City to the owner and/or the license of the person or entity erecting the sign. No permit and/or license shall be suspended, revoked or canceled except for due cause as hereinafter defined, and the permittee and/or license is granted a public hearing before City Council. The permittee and/or licenses will be given a ten- (10) day written notice of the time place and purpose of the hearing, with a statement of the reason for the suspension, revocation or canceling of such permit and/or license. "Due cause" is he willful and/or continued violation of

the provisions of this Chapter. The termination of the permit and/or license does not in any way preclude the person or persons alleged to have violated the provisions of this Chapter from being tried for violating this Chapter, or preclude the City from taking any other action authorized by this Code and/or any action authorized by law.

(Ord. of 11-8-2010(2), § 42-125)

Section 43-126. Enforcement

This Chapter shall be administered and enforced by the City Clerk, Ordinance Enforcement Officer or their designee(s) empowered to administer the Zoning Regulations of the City.

In case any sign, advertising device, or other device covered by this Chapter is or is proposed to be erected, constructed, altered, converted, or used in violation of any provisions of this Chapter, the City Clerk or his/her designee(s) or any other person authorized to issue citations for violations of Hoschton City Ordinances may, in addition to other remedies, and after due notice to the appropriate person, issue a citation for violation of the City Code requiring the presence of the violator in the municipal court; institute injunction, or other appropriate action or proceeding to prevent such unlawful erection construction, alteration, conversion, or use to correct or abate such violation.

(Ord. of 11-8-2010(2), § 42-126)

Section 43-127. Penalty

Any violation of this ordinance or any provision thereof shall be an offense and punishable in accordance with Chapter 33 of the Code of the City of Hoschton.

(Ord. of 11-8-2010(2), § 42-127)

Section 43-128. Temporary Directional Real Estate Signs

Temporary real estate directional signs shall be permitted within any zoning district, provided they serve a temporary purpose, are maintained in an attractive and sound manner, and are removed at the owner's expense within 90 days following issuance of a certificate of occupancy for the final unit of each phase of the development. Temporary real estate directional signs shall comply with the following:

1. Such signs shall be located within two (2) miles of the property to which they refer, as measured along existing streets.
2. No such sign shall be located within ten (10) feet of the pavement of any street and shall not be permitted on any public right-of-way.
3. Such sign shall not exceed sixteen (16) square feet in sign area where adjacent to any state or national highway, and shall not exceed 4 square feet in area where adjacent to all other streets.
4. Such signs referring to the same property and located on the same street shall be separated by a minimum distance of one-thousand (1,000) feet.
5. No more than two such signs advertising different project shall be permitted on any lot.

6. Such signs shall not be illuminated.
7. Overall sign height shall not exceed six (6) feet.
8. No signs prohibited under §43-112 shall be used as a Temporary Directional Real Estate Sign.
(Ord. of 11-8-2010(2), § 42-128)

Section 43-129. Flags

All flags shall be displayed on purpose-built, professional fabricated flagpoles, which may be vertical or mast arm flagpoles. In non-residential districts, flagpoles shall not exceed the allowed height provided for a structure or building in the applicable zoning district, or fifty (50) feet, whichever is less. Flagpoles in residential districts shall not exceed twenty-five (25) feet in height or the height of the primary structure on the lot, whichever is less.

The maximum dimensions of any flag shall be proportional to the flagpole height. The hoist side of the flag shall not exceed twenty percent (20%) of the vertical height of the flagpole. In addition, flags are subject to the following limitations:

Pole Height	Maximum Flag Size (Total Square Feet)
Up to 30 feet	30 square feet
30 to 50 feet	60 square feet
50 feet or greater	150 square feet

1. Each lot or parcel shall be allowed per flag pole.
2. A maximum of 2 flags shall be allowed per flagpole.
3. Flags displaying a logo, message, statement or commercial message and banners not meeting the definition of a flag contained herein shall conform to all applicable ordinances pertaining to signs.
4. A vertical flagpole must be set back from all property boundaries a distance which is at least equal to the height of the flagpole.
5. Flags and flagpoles shall be maintained in good repair and to the extent applicable shall be in compliance with the building code. Flagpoles with broken halyards shall not be used and flags which are torn or frayed shall not be displayed.
6. On officially designated county, state or federal holidays, there shall be no maximum flag size or number or other limitations on display.
7. This section shall not be construed to restrict the right to display eligible flags as banners or non-commercial signage as provided in this Chapter.
(Ord. of 11-8-2010(2), § 42-129)

Section 43-130. Banners

- A. Banners, streamers, pennants, balloons and similar temporary advertising devices shall be permitted on private property during the grand opening of a business, no more than 5 days prior to the opening and no longer than 30 days after the date of the opening. After the grand opening, each business owner will be permitted to utilize such advertising devices on such property for a period not to exceed 30 days in any 4-month period, said period being measured from calendar month and day to future calendar month and day. For both grand openings and special sales, each lot or parcel shall be limited to no more than 2 banners. No banner, streamer or similar sign shall be used without first obtaining a permit for each such sign, the fee for which is 25% of the sign permit fee. Non-profit organization will require a permit but the fee will be waived.
- B. Temporary Banners while permanent sign is being constructed: For new business locating in the City, owners, while applying for a permanent sign permit are allowed to place a temporary banner in the location of the permanent sign for no more than 60 days. In the 60-day period, drawings and plans for the permanent sign shall be provided and permit fee paid. The permanent sign must be installed and the banner must be removed before the expiration of the 60 days. If the permanent sign is not approved because it violates this ordinance, the banner must still be removed.
- C. Banners shall conform to the following standards:
1. Each banner shall not exceed fifteen (15) square feet.
 2. Each banner must be individually attached to a pole, mast arm, or other structure.
 3. The number of banners per lot shall be the same as that provided for flags in §43.130 above.
 4. All banners must be maintained in good condition as provided for flags in §43-130 above.
- D. A person desiring to display a banner described in this subsection shall complete and submit an application for a permit on a form obtained from the City Clerk. At the time of filing the application, the applicant shall pay a \$25.00 application fee. In the event the permit is issued, the applicant shall post a \$150.00 bond with the City Clerk. The permit shall be numbered and dated and shall expire in thirty (30) days. The applicant shall attach the permit to the promotional sign. Nonprofit organizations shall be exempt from the payment of the application fee and posting of a bond.
- E. In the event the banner described in the subsection is not removed at the end of the thirty- (30) day period, the bond shall be forfeited. The applicant shall also be subject to being cited to appear in the Hoschton Municipal Court for violation of the section and subject to the punishment set out in section 43-127 of this Article. Each day the sign is not removed shall constitute a separate violation.

(Ord. of 11-8-2010(2), § 42-130)

Section 43-131. Weekend Directional Signs Advertising Private Sales or Events

Weekend Directional Sign Advertising Private Sales or Events shall be permitted from 6:00 p.m. Thursday until 11:59 p.m. on Sunday subject to the following specific requirements:

1. Such signs shall be located within two miles of the property to which they refer, as measured along existing streets;
2. No such sign shall be located within ten (10) feet of the pavement of any street and shall not be permitted on any public right-of-way.
3. Such signs shall not exceed four (4) square feet in area and shall be self-supporting.
(*Ord. of 11-8-2010(2), § 42-131*)

Section 43-132. Chapter Severability

In the event any article, section, subsection, sentence, clause or phrase of this Chapter shall be declared or adjudged invalid or unconstitutional, such adjudication shall in no manner affect the other articles, sections, subsections, sentences, clauses or phrases of this Chapter, which shall remain in full force and effect, as if the article, section, subsection, sentence, clause or phrase so declared or adjudged invalid or unconstitutional were not originally a part thereof. The Mayor and Council of the City of Hoschton hereby declare that it would have adopted the remaining parts of this Chapter if it had known that such part or parts thereof would be declared or adjudged invalid or unconstitutional.

(*Ord. of 11-8-2010(2), § 42-132*)

Section 43-133. Repealer; Effective Date

All ordinances and parts of ordinances in conflict herewith are repealed to the extent of any such conflict; except that no such repeal shall be effective with respect to any pending enforcement action or prosecution pursuant to existing law; and this Ordinance shall be effective upon its adoption by the Council of the City of Hoschton.

(*Ord. of 11-8-2010(2), § 42-133*)