Code of Ordinances

City of Hoschton, Georgia

Updated with amendments through February 2008

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CITY OF HOSCHTON, GEORGIA

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CODE OF ORDINANCES

GENERAL PROVISIONS

CHAPTER 1: GENERAL PROVISIONS

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Section 1-101 How Code Designated and Cited

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

Section 1-102 Rules of Construction

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

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

Section 1-103 Definitions

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

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

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

Section 1-104 Section Headings

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

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

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

Section 1-106 Amending Code

1. All ordinances passed subsequent to this Code which amend, repeal or in any way affect this Code shall be numbered in accordance with the numbering system of this Code and printed for inclusion herein. In the case of repealed chapters, sections, and subsections or any part thereof, by subsequent ordinances, such repealed portions may be excluded from the Code by omission from reprinted pages affected thereby. The subsequent ordinances as numbered and printed, or omitted in the case of repeal, shall be prima facie evidence of such subsequent ordinances until such time as the code and subsequent ordinances omitted are re-adopted as a new code by the City Council.
2. Amendments to any of the provisions of this Code may be made by specific reference to the section number of this Code in the following language: "That section _____ of the Code of Ordinances, City of Hoschton, Georgia 20___, is hereby amended to read as follows . . . ." The new provisions may then be set out in full as desired.
3. In the event a new section not heretofore existing in the Code is to be added, the following language may be used. "The Code of Ordinances of the City of 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.
4. All sections, chapters, or provisions sought to be repealed must be specifically repealed by section, chapter, or provision number, as the case may be.

Section 1-107 Altering Code

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

Section 1-108 Penalty Where No Penalty Provided

1. Whenever in this Code or in any ordinance of the City any act is prohibited or is declared to be unlawful, or whenever in such code or ordinance the doing of any act is declared to be unlawful, and no specific penalty is provided therefore, the violation of such provision of this Code or any ordinance shall subject the person committing the violation to a fine not exceeding one thousand dollars ($1,000.00) and costs or to imprisonment for a term not exceeding 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.
2. The infliction of a penalty under the provisions of this Section shall not prevent the revocation of any permit or license or the taking of other punitive or remedial action where called for or permitted under the provisions of the City's Charter or Code.

PART I: ORGANIZATION OF THE GOVERNMENT

CHAPTER 2: ELECTIONS

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ARTICLE I. IN GENERAL

Section 2-101 Adoption of State Rules and Regulations

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

Section 2-102 Authority to Conduct Municipal Elections

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

Section 2-103 Expenses

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

ARTICLE II. REGISTRATION

Section 2-201 Registrars and Deputy Registrars

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

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

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

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

7. Training.

A. The election superintendent and at least one (1) registrar shall attend a minimum of twelve (12) hours training biennially as may be selected by the Secretary of State.

B. The basis for the minimum requirement of training shall be two (2) calendar years.

C. A waiver of the requirement of minimum training, either in whole or in part, may be granted by the Secretary of State, in his/her discretion, upon the presentation of evidence by the election superintendent or registrar that the individual was unable to complete such training due to medical disability, providential cause, or other reason deemed sufficient by the Secretary of State.

D. The cost of the training shall be borne by the municipal governing authority from municipal funds.

E. The minimum training required under this Section shall not apply to deputy registrars.

Section 2-202 Elector Qualifications

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

1. Register as an elector in the manner prescribed by law;

2. Be a citizen of the State of Georgia and of the United States;

3. Be at least eighteen (18) years of age;

4. Be a resident of this (municipality/county); and

5. Be possessed of all other qualifications prescribed by law:

A. No person who has been convicted of a felony involving moral turpitude may register, remain registered, or vote except upon completion of the sentence.

B. No person who has been judicially determined to be mentally incompetent may register, remain registered, or vote unless the disability has been removed.

C. Any person who possesses the qualifications of an elector except those concerning age shall be permitted to register to vote if such person will acquire such qualifications within six (6) months after the day of registration; provided, however, that such person shall not be permitted to vote in a primary or election until the acquisition of such qualifications.

Section 2-203 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

1. Not more than one hundred eighty (180) days prior to the date of the primary or election, or runoff of either, in which the elector desires to vote, any absentee elector may make, either by mail, by facsimile transmission, or in person in the registrar's office, an application to the board of registrars of the county of the elector's residence for an official ballot of the elector's precinct to be voted at such primary, election, or runoff. In the case of an elector residing temporarily out of the county or a physically disabled elector residing within the county, the application for the elector's absentee ballot may, upon satisfactory proof of relationship, be made by such elector's mother, father, grandparent, aunt, uncle, sister, brother, spouse, son, daughter, niece, nephew, grandchild, son-in-law, daughter-in-law, mother-in-law, father-in-law, brother-in-law, or sister-in-law of the age of eighteen (18) or over. The application shall be in writing and shall contain sufficient information for proper identification of the elector; the permanent or temporary address of the elector to which the absentee ballot shall be mailed; the identity of the primary, election, or runoff in which the elector wishes to vote; the reason for requesting the absentee ballot; the name and relationship of the person requesting the ballot if other than the elector. Except in the case of physically disabled electors residing in the county, no absentee ballot shall be mailed to an address other than the permanent mailing address of the elector as recorded on the elector's voter registration record or a temporary out of county address. Relatives applying for absentee ballots for electors must also sign an

oath stating that facts in the application are true. If the elector is unable to fill out or sign such elector's own application because of illiteracy or physical disability, the elector shall make such elector's mark, and the person filling in the rest of the application shall sign such person's name below it as a witness; provided, however, that one timely and proper application for an absentee ballot for use in a primary shall be sufficient to require the mailing of the absentee ballot to an eligible absentee elector who lives outside the county in which the election is held and is also a member of the armed forces of the United States, a member of the merchant marine of the United States, or a spouse or dependent of a member of the armed forces or the merchant marine residing with or accompanying said member or overseas citizen. Any elector meeting criteria of advanced age or disability specified by rule or regulation of the Secretary of State may request in writing on one application a ballot for a primary as well as for any runoffs resulting therefrom. If not so requested by such person a separate and distinct application shall be required for each primary, run-off primary, election, and run-off election. Notwithstanding the foregoing, a separate and distinct application for an absentee ballot shall be required of the presidential preference primary held pursuant to Article 5 of *O.C.G.A.* § 21-2-381 and for any special election or special primary.

Section 2-207 Elector Identification

1. Each elector shall present proper identification to a poll worker at or prior to completion of a voter's certificate at any polling place and prior to such person's admission to the enclosed space at such polling place. Proper identification shall consist of any one of the following:

- **A.** A valid Georgia driver's license;
- **B.** A valid identification card issued by a branch, department, agency, or entity of the State of Georgia, any other state, or the United State authorized by law to issue personal identification;
- **C.** A valid United States passport;
- **D.** A valid employee identification card containing a photograph of the elector and issued by any branch, department, agency, or entity of the United States government, this state, or any county, municipality, board, authority, or other entity of this state.
- **E.** A valid employee identification card containing a photograph of the elector and issued by any employer of the elector in the ordinary course of such employer's business;
- **F.** A valid student identification card containing a photograph of the elector from any public or private college, university, or postgraduate technical or professional school located within the State of Georgia;
- **G.** 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.

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 superintendent of 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 n 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.

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ARTICLE I. IN GENERAL

Section 3-101 Exercise of Governmental Authority

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

1. The power to establish municipal offices, agencies, and employments;

2. The power to define, regulate, and alter the powers, duties, qualifications, compensation, and tenure of all municipal officers, agents, and employees, provided that the members of the municipal governing body shall not have the right to fix or change their own terms or the terms of their successors, nor to alter their own salaries or compensation, except pursuant to the authority of *O.C.G.A.* § 36-35-4, nor to alter such duties or responsibilities as are specifically given to a particular elective official by Charter;

3. The power to authorize any of the offices, agents, and employees of the municipal corporation to serve, in any manner prescribed by applicable law; any process, summons, notice, or order on all persons, as defined in *O.C.G.A.* § 1-3-3 therein named, when:

A. The paper to be served rises out of or relates to an activity or condition conducted or maintained by such person within the territorial jurisdiction of the municipal corporation in violation of an applicable law or ordinance; and

B. The paper to be served originates in or is issued under the authority of the department or branch of municipal government employing such officer, agent, or employee.

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

4. The power to establish merit systems, retirement systems, and insurance plans for all municipal employees and to establish insurance plans for school employees of independent municipal systems and to provide the method or methods of financing such systems and plans;

5. The power to contract with any state department or agency or any other political subdivision for joint services or the exchange of services; to contract with such agencies or subdivisions for the joint use of facilities or equipment; and to contract with any state agency or political subdivision to perform any

service or execute any project for such agency or subdivision in which the municipal corporation has an interest;

6. The power to legislate, regulate, and administer all matters pertaining to absentee voting in municipal elections; and

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

Section 3-102 Code of Ethics

1. **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 Ordinance, 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 (½) of his or her support from the City official or from whom the City official receives, directly or indirectly, more than one-half (½) 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 Untied 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. No councilmember or member of any board or commission shall:

A. Grant or make available to any person any special consideration, treatment, advantage, or favor beyond that which it is the general practice to grant or make available to the public at large;

B. Request, use, or permit the use of any publicly-owned or publicly supported property, vehicle, equipment, labor, or service for the personal convenience or the private advantage of himself or any of the person, except as otherwise allowed by law;

C. Participate in the deliberation of or vote on any matter involving his financial or personal interest;

D. Engage in private employment with, or render services for, any private person who has business transactions with the City, unless he has made full public disclosure of the nature and extent of such employment or services;

E. Appear on behalf of any private persons, other than himself, before any public body in the City;

F. Accept any gift, whether in the form of money, thing, favor, loan, or promise, that would not be offered or given to him if he were not an official or employee;

G. Disclose any confidential information concerning any official or employee, or any other person, or any property or governmental affairs of the City, without prior formal authorization of the governing body;

H. Use or permit the use of confidential information to advance the financial or personal interest of himself or any other person; or

I. Appoint or vote for the appointment of any immediate family member to fill an office, position, employment, or duty, when the salary, wages, pay, or compensation is to be paid out of public funds.

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 disclosure 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.

(Adopted 6/07/2004; Effective 6/27/2004)

6. Hearings and Determinations

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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 hours of the receipt of the complaint.

B. The Special Committee on the Ethics Commission shall appoint six 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 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 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.

A. 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 shalll 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

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(Adopted 1/9/2007, Effective1/19/2007)

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 circcumstances 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 1/9/2007Effective 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 th executive session and the specific reasons for th 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.

(Adopted 1/9/2007, Effective1/19/2007)

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, Roberts' Rules of Order shall govern the conduct of City Council meetings.

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

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

6. **Reports By Committees**. Any business coming before the City Council concerning the subject matter of which any standing or special committee has jurisdiction, may be referred to the proper committee for investigation and report. It shall be the duty of each standing or special committee, whenever 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**.

      (1) 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;

(Adopted 2/4/2008;Effective 2/14/2008)
(Adopted 1/9/2006;Effective 1/19/2006)

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;

(Adopted 2/4/2008;Effective 2/14/2008)
(Adopted 1/9/2006:Effective 1/19/2006)

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, permanently reside within the judicial circuit containing the City of Hoschton, shall as of such date be at least twenty-five (25) years of age, and shall have been admitted to practice law in the State of Georgia for one (1) year.

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

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 term:

A. **Public Employee**. Any person holding a position by appointment or employment in the government of this state or any person holding a position which provides essential public services without which the public health, safety, welfare, or morals would be without which the public health, safety, welfare, or morals would be endangered, by appointment or employment in the government of a county, municipality, school system, or other political subdivision of this state or in any agency, authority, board, commission, or public institution of this state or political subdivision thereof.

B. **Public Employment**. The appointment or employment in the government of this state or the government of a county, municipality, school system, or other political subdivision of this state or in any agency, authority, board, commission, or public institution of this state or political subdivision thereof.

C. **Strike**. The failure to report for duty, the willful absence from one's position, the stoppage or deliberate slowing down of work, or the withholding in whole or in part of the full, faithful, and proper performance of the duties of employment for the purpose of inducing, influencing, or coercing change in the conditions, compensation, rights, privileges, or obligations of public employment; provided, however, that nothing in this Article shall limit or impair the right of any public employee to express or communicate a complaint or opinion on any matter related to the conditions of public employment so long as the same is not designed to and does not interfere with the full, faithful, and proper performance of the duties of employment.

2. No public employee shall promote, encourage, or participate in any strike. Provided, however, that no right to collective bargaining currently recognized by law is abridged by this act.

3. No person exercising any authority, supervision, or direction over any public employee shall have the power to authorize, approve, or consent to a strike by one or more public employees; and such person shall not authorize, approve, or consent to such strike.

4. Any public employee who violates Code Section 45-19-2 shall be deemed to have terminated his or her employment; shall forfeit his or her civil service status, job rights, seniority, and emoluments, if any; and subsequent to such violation shall not be eligible for appointment or reappointment or employment or preemployment in public employment for a period of three (3) years after such violation except upon the following conditions:

A. His or her direct or indirect compensation shall in no event exceed that received by him or her immediately prior to the time of such violation;

B. His or her direct or indirect compensation shall not be increased for three (3) years after such subsequent appointment or reappointment or employment or preemployment; and

C. He or she shall be on probation for period of five (5) years following such appointment or reappointment or employment or preemployment, during which period he or she shall serve without tenure and at the pleasure of the appointing or employing officer of body.

5. Any person who is not a public employee and who shall knowingly incite, agitate, influence, coerce, persuade, or picket to urge a public employee to strike shall be guilty of a misdemeanor and, upon conviction thereof, shall be punished by imprisonment not to exceed one year, or by a fine of not less than one hundred dollars ($100.00) nor more than one thousand dollars ($1,000.00) or both.

Section 3-604 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 wilfully 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

Section 3-701 **Reserved**

Section 3-702 **Reserved**

Section 3-703 **Reserved**

Section 3-704 **Reserved**

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 here 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) Posses 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.

Section 3-706 **Reserved**

Section 3-707 **Reserved**

Section 3-708 **Reserved**

ARTICLE VIII. BOARDS AND COMMISSIONS

Section 3-801 Planning and Zoning Commission

(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. All members of the Commission shall be residents of the City of Hoschton.

(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 City Council shall interview each applicant, after which a majority of the City Council may select the most qualified applicant 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.
   - C. **Removal.** The City Council may remove any member by majority vote at a regularly scheduled City Council meeting.

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

   - 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.
   - 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.

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

   - F. **Conflict of Interest.** Should any member of the Planning 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.
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.

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

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.

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

C. 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.

D. Meetings. Regular meetings of the Planning and Zoning Commission shall be held on the third Monday of each month, 7:00 p.m. at Hoschton City Hall. Whenever there is no business for the Planning Commission, 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. It is the duty of this Commission to provide recommendations to the City Council regarding the implementation of the City's zoning, subdivision, and other related policies, ordinances, and standards.

(Adopted 10/6/2003; Effective 12/16/2003)

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 Hoschton Historical Commission

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 Hoschton Historical Commission shall be appointed by the City Council and shall serve at the pleasure of the City Council. The Hoschton Historical Commission shall be comprised of five (5) members. The members of the Hoschton Historical Commission need not be residents of the City of Hoschton.

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

(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 City Council shall interview each applicant, after which a majority of the City Council may select the most qualified applicant 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.

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

D. Term. The term of office for members of the Commission shall be two (2) 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 (1) year term and position 4, 5 will serve a two (2) year term.

E. Absences. If any member of the Commission is absent for three (3) regularly scheduled meetings in a calendar year, the secretary to the Commission shall certify that fact to the Mayor and City Council and the Mayor and City Council shall thereafter declare that position on the Commission to be vacant.

F. Conflict of Interest. Should any member of the Hoschton Historical 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.

3. Members, Officers, and Duties.

A. Chairperson. The members of the Hoschton Historical Commission shall elect a chairperson. His/her term of office shall be one (1) year. The chairperson shall decide all points of order and procedures, subject to these rules, unless directed otherwise by a majority of the Hoschton Historical Commission in session at the time. The chairperson may appoint one (1) or more committees to investigate and report on matters which come before the Hoschton Historical Commission. The chairperson may make motions and vote in all matters that come before the Commission.

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

B. Vice-Chairperson. The members of the Hoschton Historical Commission shall elect a vice-chairperson. His/her term of office shall be for one (1) 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 Historical Commission shall elect a secretary. His/her term of office shall be for one (1) year. The secretary shall keep all records and generally supervise the clerical work of the Hoschton Historical 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. The Hoschton Historical Commission shall annually, at the first regularly scheduled meeting of the fiscal year, elect its chairperson, vice-chairperson and secretary from among its appointed members.

B. Compensation. The members of the Hoschton Historical 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 publicly advertised meetings of the Hoschton Historical Commission shall be held no less than quarterly at Hoschton City Hall. The Hoschton Historical Commission shall establish the actual date and time of its meetings.

5. Powers and Duties. It is the duty of the Hoschton Historical Commission to inventory historical sites and buildings in Hoschton, to educate owners and other citizens about the heritage and history of these sites and buildings, and encourage the preservation of such sites and buildings

(Adopted 5/2/2005)

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 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 conductive 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.
   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 3/52007;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 3/152007)

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;

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

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 or 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 affect on any outstanding debt or credit obligation.
7. The Department of Community Affairs shall establish registration and reporting procedures for local government authorities. Such procedures shall include, but are not limited to, information on the authority's legal name, function, date and means of creation, contact person, address, and telephone number.

8. The Department of Community Affairs shall establish reasonable fees for the work related to administration and enforcement of this Code Section; provided, however, no fee shall be charged or allowed for the annual registration as required in this Code Section.

9. The Department of Community Affairs shall maintain a certified list of registered local government authorities, available on request. The department shall forward annually to the judge of the probate court in any affected county the registration information for all authorities operating in that county.

10. Local government authorities shall initially register on or before January 1, 1996, and shall register on or before January 1 of each year thereafter.

ARTICLE X. MUNICIPAL PROPERTY

Section 3-1001 Motor Vehicles

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

CHAPTER 4: REVENUE AND FINANCE

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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 Section 1 of this Ordinance.
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 Section 1 of this Ordinance.
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.
   - **D. 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.
   - **E. 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.
   - **F. 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.
   - **G. 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.
   - **H. 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 Ordinance, 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:

BUSINESS	REGULATORY FEE
✶ **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**	**$100.00 per year**
Peddlers of produce including flowers or agricultural products	**$20.00 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.

NUMBER OF EMPLOYEES	TAX LIABILITY
Home Occupation Business	**$45.00**
Owner or 1st Employee- Up to five employees	**$100.00**
Over 5 employees	**$100.00 + $10.00 for ea. 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 Ordinance. 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 Ordinance. The following businesses are not covered by the provisions of this Ordinance 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 is 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. Disable 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 hot 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 Ordinance. 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 Ordinance 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 Ordinance 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.

A. 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.

B. 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 Ordinance 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 an 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 are not necessary for such purposes, such part shall be used to pay any outstanding obligations or to finance the cost of any other purpose of purposes which may be deemed proper by the Mayor and City Council.

9. **Prohibited Agreements.** In the issuance or sale of bond obligations, it shall be unlawful for the Mayor and City Council or any member thereof or any official:

A. To pay or agree to pay, directly or indirectly, any bonus, commission, fee, or other compensation or consideration for the issuance or for the sale of such obligations, and any amount so paid may be recovered for the municipality;

B. To make any agreement with any purchaser or bidder, or his representative, regarding the deposit or disposition of any monies received or to be received from such sale and every such agreement shall be void;

C. To make any agreements pertaining to the sale of bond obligations which contains provisions as to any other matter, and such sale and any such agreement shall be void;

D. To make any agreement or "service contract" with respect to publication of notice of sale and printing of bonds or notes, the providing of a legal opinion or for any of such services, whether or not accompanied by an offer to bid for or purchase such obligations. Any such agreement or contract shall be void, and any amount so paid may be recovered for the municipality; except, however, agreements made directly with a newspaper, bond printer, or an attorney licensed to practice law in the state in which he has his office.

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

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 units

provided for in paragraph (2) of subsection (a) of this Code Section, the audit reports for both fiscal periods shall be submitted within one hundred eighty (180) days after the close of each second fiscal year and the written comments shall be submitted within thirty (30) days after the audit report due date.

Section 4-315 Public Inspection of Audits

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

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

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

Section 4-317 Capital Program

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

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

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

Section 4-318 Transfer of Appropriations

The Mayor may, at any time during the fiscal year, transfer part or all of any unencumbered appropriation balance among programs within a department or office, and the City Council may, by ordinance, transfer part or all of any unencumbered appropriation balance from one department or office to another, except that no appropriation for debt service or capital improvements may be reduced or transferred during any fiscal year, and under no circumstances may the expenditures exceed the total of the budget.

Section 4-319 Emergency Appropriations

Notwithstanding any other provision of this Article, the City Council may make emergency appropriations after the adoption of a budget, for a purpose which was not foreseen at the time of the adoption thereof, or for which adequate provision was not made therein. Such an appropriation shall be made only to meet a public emergency affecting life, health, safety, property, or the public peace, and shall be made only out of actual unappropriated revenues or surplus. If there is no surplus, then temporary borrowing in notes may be made, provided that any such borrowed amounts are included as an appropriation in the next succeeding year's budget.

Section 4-320 Lapse of Appropriations

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

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

Section 4-321 Uniform Chart of Accounts

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

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:

A. Expenditures that were approved through the budget process
B. Expenditures required by a written contract approved by City Council
C. 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 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 be 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 9/18/03)

CHAPTER 5: MUNICIPAL COURT

Section

5-101 Scope of Jurisdiction
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Section 5-101 Scope of Jurisdiction

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

Section 5-102 Appointment and Qualifications of Judge

The Mayor and City Council is authorized to appoint a judge of the municipal court who shall serve in lieu of the Mayor or other members of the Mayor and City Council. Any person appointed as a judge shall be at least twenty-one (21) years of age and shall possess such qualifications and shall receive such compensation as shall be fixed by the Mayor and City Council and shall serve at the pleasure of the governing authority.

Section 5-103 Required Training for Judges of Municipal Courts

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

5. In order to maintain the status of a certified municipal judge, each person certified as such shall complete twelve (12) hours of additional training per annum during each calendar year after the year of his/her initial certification in which he serves as municipal judge.

Section 5-104 Bailiff

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

Section 5-105 Time and Place

The Municipal Court shall hold plea day the 3rd Tuesday of every month at 5:00 p.m. at Hoschton City Hall. Trial day will be held the 1st Tuesday of each month at 5:00 p.m. at Hoschton City Hall.

(Effective March 13, 2003)

Section 5-106 Record of Cases

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

Section 5-107 Limitations

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

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

Section 5-109 Subpoenas

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

Section 5-110 Failure to Obey Summons or Subpoena

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

Section 5-111 Arrest and Bond

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

Section 5-112 Forfeiture of Bond

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

Section 5-113 Court Cost

(Adopted 6/5/2006, Effective 6/15/2006

The costs which shall be charged against a defendant in the Municipal Court in the event of his/her conviction shall not exceed twenty five dollars ($25.00), which sum shall be paid into the City treasury.

Section 5-114 Malicious Prosecution

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

Section 5-115 Collection of Fines

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

Section 5-116 Appeal

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

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 the Jackson County to furnish court services to the municipality.

Section 5-118 Local Government Code Enforcement Boards

1. Each municipality may, at its option, create or abolish by ordinance local government code enforcement boards.
2. A county or a municipality may, by ordinance, adopt an alternate code enforcement system which gives code enforcement boards the authority to hold hearings and assess fines against violators of the municipal codes and ordinances.

3. Definitions.

A. **Code Inspector** means any authorized agent or employee of the municipality whose duty it is to assure code compliance.

B. **Municipal Codes and Ordinances** means zoning ordinances and resolutions, ordinances and resolutions enacting subdivision regulations, environmental ordinances and resolutions, state minimum standard codes provided for in *O.C.G.A.* § 8-2-25, ordinances and resolutions enacted pursuant to *O.C.G.A.* § 8-2-25, other ordinances and resolutions regulating the development of real property, and ordinances and regulations providing for control of litter and debris, control of junked or abandoned vehicles, and control of overgrown vegetation. Notwithstanding the above, the term "municipal codes and ordinances" shall not include:

(1) Those codes and ordinances requiring a permit, unless the alleged violator has failed to secure all necessary valid permits under said codes and ordinances; or

(2) Any local amendments to the state minimum standard codes provided for in *O.C.G.A.* § 8-2-25 that have not been adopted in conformity with the requirements of subsection (c) of *O.C.G.A.* § 8-2-25.

C. Enforcement Board means a local government code enforcement board.

D. Local Governing Body means the governing authority of the municipality, however designated.

E. Local Governing Body Attorney means the legal counselor for the municipality.

F. Violation Involving the Health or Safety of a Third Party means a violation that creates a legitimate concern for the health and safety of a third party occupant of a dwelling place or that creates an immediate and substantial danger to the environment.

4. The Mayor and Council may appoint one or more code enforcement boards and legal counsel for the enforcement boards. The Mayor and Council may appoint code enforcement boards consisting of three, five, or seven members. The Mayor and Council may appoint up to two (2) alternate members for each code enforcement board to serve on the board in the absence of board members.

5. Members of the enforcement boards shall be residents of the municipality. In making appointments to an enforcement board, the Mayor and Council shall make good faith efforts to appoint one or more individuals who have experience or expertise relevant to one or more of the municipal codes that are within the subject matter jurisdiction of the respective enforcement board, including individuals with property management and litter control experience; provided, however, that the authority and jurisdiction of an enforcement board shall not in any way be limited due to the absence from its membership of one or more individuals with such experience or expertise.

A. The initial appointments to a seven (7) member code enforcement board shall be as follows:

(1) Three (3) members appointed for a term of two (2) years each; and

(2) Four (4) members appointed for a term of four (4) years each.

B. The initial appointments to a five (5) member code enforcement board shall be as follows:

(1) Two (2) members appointed for a term of two (2) years each; and

(2) Three (3) members appointed for a term of four (4) years each.

C. The initial appointments to a three (3) member code enforcement board shall be as follows:

(1) One (1) member appointed for a term of two (2) years; and

(2) Two (2) members appointed for a term of four (4) years each.

D. Upon the expiration of the initial terms specified in paragraphs (A), (B), and (C) all terms shall be for three (3) years.

E. The Mayor and Council may reduce a seven (7) member code enforcement board to five (5) members, upon the simultaneous expiration of the terms of office of two (2) members of the board.

F. A member may be reappointed upon approval of the Mayor and Council.

G. An appointment to fill any vacancy on an enforcement board shall be for the remainder of the unexpired term of office. If any member fails to attend two (2) of three (3) successive meetings without cause and without prior approval of the chairperson, the enforcement board shall declare the member's office vacant, and the Mayor and Council shall promptly fill such vacancy.

H. The members shall serve in accordance with ordinances of the Mayor and Council and may be suspended and removed for cause as provided in such ordinances for removal of members of boards. The Mayor and Council may, with or without cause, refuse to reappoint any member of an enforcement board at the expiration of his or her term of office.

6. The members of an enforcement board shall elect a chairperson, who shall be a voting member, from among the members of the board. The presence of four (4) or more members shall constitute a quorum of any seven-member enforcement board, the presence of three (3) or more members shall constitute

a quorum of any five-member enforcement board, and the presence of two (2) or more members shall constitute a quorum of any three-member enforcement board. Members shall serve without compensation, but may be reimbursed for such travel, mileage, and per diem expenses as may be authorized by the local governing body or as otherwise provided by law.

7. The City Attorney shall either be counsel to an enforcement board or shall represent the municipality or county by presenting cases before the enforcement board, but in no case shall the local governing body attorney serve in both capacities.

8. It shall be the duty of the Code Inspector to initiate enforcement proceedings pursuant to the various codes; however, no member of a board shall have the power to initiate such enforcement proceedings.

9. Except as provided in subsection (10) and (11), if a violation of any code or ordinance is found, the Code Inspector shall notify the violator and give him or her a reasonable time to correct the violation. Should the violation continue beyond the time specified for correction, the Code Inspector shall proceed with enforcement through the appropriate court or shall proceed with enforcement through the appropriate code enforcement board. If the Code Inspector proceeds through a code enforcement board, the Code Inspector shall notify an enforcement board and request a hearing. The code enforcement board shall schedule a hearing, and written notice of such hearing shall be hand delivered or made as provided in *O.C.G.A.* § 36-74-12 to said violator. At the option of the code enforcement board, notice may additionally be served by publication or posting as provided in *O.C.G.A.* § 36-74-12. If the violation is corrected and then recurs or if the violation is not corrected by the time specified for correction by the Code Inspector, the case may be presented to the enforcement board even if the violation has been corrected prior to the board hearing, and the notice shall so state.

10. If a repeat violation is found, the Code Inspector shall notify the violator but is not required to give the violator a reasonable time to correct the violation. The Code Inspector, upon notifying the violator of a repeat violation, shall notify an enforcement board and request a hearing. The code enforcement board shall schedule a hearing and shall provide written notice pursuant to *O.C.G.A.* § 36-74-12. The case may be presented to the enforcement board even if the repeat violation has been corrected prior to the board hearing, and the notice shall so state.

11. If the Code Inspector has substantial reason to believe a violation presents a serious threat to the public health, safety, and welfare or if the violation is irreparable or irreversible in nature, the Code Inspector shall make a reasonable effort to notify the violator and may immediately notify the enforcement board and request a hearing.

12. Upon request of the Code Inspector, or at such other times as may be necessary, the chairperson of an enforcement board may call a hearing of an enforcement board; a hearing also may be called by written notice signed by at least three (3) members of seven-member enforcement board or signed by at least two (2) members of a five-member enforcement board.

13. Minutes shall be kept of all hearings by each enforcement board, and all hearings and proceedings shall be open to the public. The Mayor and Council may provide or assign clerical and administrative personnel to assist the enforcement board in the proper performance of its duties.

14. Each case before an enforcement board shall be presented by the City Attorney or by a Code Inspector or other member of the administrative staff of the local governing body.

15. An enforcement board shall proceed to hear the cases on the agenda for that day. All testimony shall be under oath and shall be recorded. The enforcement board shall take testimony from the Code Inspector and alleged violator. Formal rules of evidence shall not apply, but fundamental due process shall be observed and shall govern the proceedings.

16. At the conclusion of the hearing, the enforcement board shall issue findings of fact, based on evidence of record and conclusions of law, and shall issue an order affording the proper relief consistent with powers granted in this Chapter. The findings and conclusions shall be by motion approved by a majority of those members present and voting, except that at least four (4) members of a seven-member enforcement board, or three (3) members of a five-member enforcement board, or two (2) members of a three-member enforcement board, must vote in order for the action to be official. The order may include a notice that it must be complied with by a specified date and that a fine may be imposed if the order is not complied with by said date. A certified copy of such order may be recorded in the public records of the county and shall constitute notice to any subsequent purchasers, successors in interest, or assigns if the violation concerns real property, and the findings therein shall be binding upon the violator and, if the violation concerns real property, any subsequent purchasers, successors in interest, or assigns. If an order is recorded in the public records pursuant to this subsection and the order is complied with by the date specified in the order, the enforcement board shall issue an order

acknowledging compliance that shall be recorded in the public records. A hearing is not required to issue such an order acknowledging compliance.

17. Each enforcement board shall have the power to:

A. Adopt rules for the conduct of its hearings, which rules shall, at a minimum, ensure that each side has an equal opportunity to present evidence and argument in support of its case;

B. Subpoena alleged violators and witnesses to its hearings, with the approval of the court with jurisdiction over a criminal violator of the municipal code or ordinance. Subpoenas may be served by the sheriff, marshal, or police department of the county or by the police department of the municipality or by any other individual authorized by *O.C.G.A.* § 24-10-23 to serve subpoenas;

C. Subpoena evidence to its hearings in the same way as provided in paragraph (B) of this Section, with the approval of the court with jurisdiction over a criminal violator of the county or municipal code or ordinance;

D. Take testimony under oath; and

E. Issue orders having the force of law to command whatever steps are necessary to bring a violation into compliance.

F. Issue orders having the force of law to command whatever steps are necessary to bring a violation into compliance.

18. An enforcement board, upon notification by the Code Inspector that an order of the enforcement board has not been complied with by the set time may order the violator to pay an administrative fine in an amount specified in this Section.

A. An administrative fine imposed for a violation involving the health or safety of a third party shall not exceed one thousand dollars ($1,000.00) per day.

B. An administrative fine imposed for a violation that is not a violation involving the health or safety of a third party shall not exceed a total of one thousand dollars ($1,000.00).

C. In determining the amount of the fine, if any, the enforcement board shall consider the following factors:

(1) The gravity of violation;

(2) Any actions taken by the violator to correct the violation; and

(3) Any previous violations committed by the violator.

D. An enforcement board may reduce a fine imposed pursuant to this Section.

19. A certified copy of an order imposing an administrative fine may be recorded in the public records of any county and thereafter shall constitute a lien against the land on which the violation exists and upon any real or personal property owned by the violator. Upon petition to the superior court, such order may be enforced in the same manner as a court judgment by the sheriffs of this state, including levy against the personal property, but such order shall not be deemed to be a court judgment except for enforcement purposes. After three (3) months from the filing of any such lien which remains unpaid, the enforcement board may request the Mayor and Council attorney to foreclose on the lien.

20. If an environmental court is in existence with jurisdiction over ordinances subject to the jurisdiction of the enforcement board, the violator may object to the fine imposed and submit to the jurisdiction of the environmental court. The case shall be transferred to the environmental court and handled de novo as an ordinance violation.

21. No lien imposed under this Chapter shall continue for a period longer than twenty (20) years after the certified copy of an order imposing a fine has been recorded, unless within that time an action to foreclose on the lien is commenced in a court of competent jurisdiction. In an action to foreclose on a lien, the prevailing party is entitled to recover all costs, including a reasonable attorney's fee, that it incurs in the foreclosure. The continuation of the lien effected by the commencement of the action shall not be good against creditors or subsequent purchasers for valuable consideration without notice, unless a notice of lis pendens is recorded.

22. An aggrieved party, including the local governing body, may appeal a final administrative order of an enforcement board to the Jackson County Superior Court. Such an appeal shall be a hearing de novo. An appeal shall be filed within thirty (30) days of the execution of the order to be appealed.

23. All notices required by this Section shall be provided to the alleged violator by certified mail, return receipt requested; by hand delivery by the Sheriff or other law enforcement officer, Code Inspector, or other person designated by the local governing body; or by leaving the notice at the violator's usual place of residence with any person residing therein who is above fifteen (15) years of age and informing such person of the contents of the notice.

24. In addition to providing notice as set forth in the above paragraph, at the option of the code enforcement board, notice may also be served by publication or posting, as follows:

A. Notice may be published once during each week for four consecutive weeks (four publications being sufficient) in the newspaper in which the sheriff's advertisements are printed in the county where the code enforcement board is located. Proof of publication shall be made by affidavit of a duly authorized representative of the newspaper.

B. If there is no newspaper of general circulation in the county where the code enforcement board is located, three (3) copies of such notice shall be posted for a least twenty-eight (28) days in three (3) different and conspicuous places in such county, one of which shall be at the front door of the courthouse in said county. Proof of posting shall be by affidavit of the person posting the notice, which affidavit shall include a copy of the notice posted and the date and places of its posting; or

C. Notice by publication or posting may run concurrently with, or may follow, an attempt or attempts to provide notice by hand delivery or by mail as required under subsection (22) of this Section. Evidence that an attempt has been made to hand deliver or mail notice as provided in subsection (22) of this Section, together with proof of publication or posting as provided in subsection (23) of this Section, shall be sufficient to show that the notice requirements of this Code Section have been met, without regard to whether or not the alleged violator actually received such notice.

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.

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

CHAPTER 6: PERSONNEL POLICY

Section

6-101 Personnel Plan

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Section 6-101 Personnel Plan

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

CHAPTER 7: POLICE OPERATING MANUAL

Section

7-101 Police Operating Manual

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Section 7-101 Police Operating Manual

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

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
10-102	West Jackson Fire District
10-103	Enforcement
10-104	Power to Make Modifications
10-105	Penalties

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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.

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

Section

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

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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. 4.24), a distance of 0.24 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. 4.24), 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.
East Jefferson Street from SR 53	to East Hoschton City Limits, a distance of 0.61 miles to be zoned 25 MPH.
Peachtree Road from SR 53	to South Hoschton City Limits, a distance of 0.28 miles to be zoned at 35 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.

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, Effective2/15/2007)

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, Effective2/15/2007)

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, Effective2/15/2007)

Penalties. Unless another penalty is expressly provided by law, any person convicted of a violation of any provision of this COD 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 sections are hereby repealed.

(Adopted 2/5/2007, Effective2/15/2007)

CHAPTER 12: SOLID WASTE MANAGEMENT

Section

ARTICLE I. IN GENERAL

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

ARTICLE II. YARD TRIMMINGS DISPOSAL REGULATIONS

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

ARTICLE III. DUMPSTERS

12-301 Dumpsters

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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 t 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 silvacultural 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 silvacultural 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 Ordinance 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
13-102	Open Burning
13-103	Enforcement
13-104	Penalties

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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 contaminate discharge into open air of a character and in a quantity which is detrimental to or endangers the public health.

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
14-102	Noises Prohibited
14-103	Exemptions
14-104	Penalties
14-105	Injunctions

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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.

PART III: PUBLIC WORKS AND PROPERTY

CHAPTER 15: RESERVED

CHAPTER 16: RESERVED

CHAPTER 17: RESERVED

CHAPTER 18: RESERVED

CHAPTER 19: RESERVED

CHAPTER 20: WATER & SEWERAGE SYSTEMS

Section

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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. 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*

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 exceedence 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
1st Offense	Verbal Warning
2nd Offense	Water cut off with a $250.00 re-connection fee
3rd 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 re-connected 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 402/2007; 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 fifty dollars ($50.00) 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 deposit twenty-five dollars ($25.00) as security for the prompt payment of all accounts of the customer within the sewer system. 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. All such deposits shall be retained in a separate account to be accounted for at the termination of service, except in the case of a customer becoming arrears in charges, at which time the deposit may be withdrawn from the special account and applied to the payment of the delinquent charge.

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 12/042006)

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 20-150 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.

   A. The cost for a single family residential use connection for the owner of such property will be the connection fee specified in th 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 owners 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 customers 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.

l. **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 owners system pressure is greater than the suppliers 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 presented 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 presented.
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 presented unless there is a backflow presented 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 presented, such plumbing must have its own backflow presented 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 supercede 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 quantifies 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 property 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 (½") 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 groundwaters, stormwaters, 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:
    - **A.** Sewer line constructed with solid pipe, with the joints sealed, connecting the impervious tank with a plumbing stub-out; and
    - **B.** 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, nonbiodegradable 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 property 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 form 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

Pollutant	Maximum Daily Concentration (mg/l)	Maximum Monthly Concentration (mg/l)
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 posses 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 handing and treating the wastes.

7. **Grease, Oil and Sand Interceptors.** The requirements of this section shall not apply to private living quarters or dwelling units.

A. For Facilities Other than Eating Establishments.

(1) **Design Criteria.** All sand and oil/grease interceptors used in conjunction with facilities other than eating establishments shall have a capacity that will provide not less than ten (10) minutes nor more than thirty (30) minutes retention time at the peak eight (8) hour flow rate. Flow-through velocities shall not exceed one foot per second (1 ft./sec.) at the peak eight (8) hour flow rate.

(2) **Compliance with Plumbing Code.** All sand and oil/grease interceptors shall be sized, located and constructed in accordance with the provisions of the duly adopted Plumbing Code where such parameters have not been otherwise set forth in this Article.

B. **Restaurant Grease Removal Systems.**

(1) **Required.** Food service establishments discharging to the POTW shall install, operate, clean and maintain a sufficiently sized oil and grease separator (called a grease trap in this Article) necessary to achieve compliance with requirements set forth under this Section.

(2) **Design, Criteria.** All oil and grease, water and solids separators (grease traps) required in this Section shall have a capacity and design in compliance with the following equations:

(a) Restaurants.

(S) x (20) x (HR/12) x (LF) = Capacity in gallons
S = number of seats in dining area
HR = number of hours open unloading factor
1.25 interstate highways
1.00 other freeways
1.00 recreational areas
0.8 main highways

0.5 other highways

(b) Hospitals, Nursing Homes, Other Types of Commercial Kitchens with Varied Seating Capacity.

(M) x (5) x (LF) = capacity in gallons
M - meals per day LF= loading factor:
1.0 with dishwasher
0.5 without dishwasher

Except that no grease trap shall be smaller than one thousand five hundred (1,500) gallons, no single separator shall be larger than three thousand (3,000) gallons and where requirements exceed three thousand (3,000) gallons, multiple units shall be used. In cases of certain fast food restaurants or establishments with potential to discharge large quantities of grease and oil, capacity requirements greater than twenty-five (25) gallons per seat may be required. Prepackaged or manufactured grease traps may be approved by the City with proper engineering and application review.

C. Additives. The use of any additives, such as enzymes, chemicals or bacteria, as a substitute for grease traps or grease trap maintenance is prohibited. The use of additives as a supplement to grease trap or sewer line maintenance may be authorized by the City after proper documentation and efficiency review. This authorization shall be obtained from the City.

D. Grease Trap Maintenance.

(1) Pumping. All grease traps shall be maintained by the user at the user's expense. Maintenance shall include the complete removal of all the contents, including floating materials, wastewater and bottom sludges and solids. Decanting or discharging of removed waste back into the trap from which the waste was removed or to any other grease trap or sanitary sewer connection for the purpose of reducing the volume to be hauled is prohibited.

(2) Pumping Frequency. All grease traps shall be completely pumped out at a minimum of once every three (3) months, or more frequently as required by the water system.

E. Monitoring, Inspection and Entry.

(1) Monitoring. When required by the City, the user shall install a suitable manhole on the discharge sewer to allow observation, sampling and measurement of waste waters. This manhole shall be installed as to be safe and accessible at all times.

(2) Inspection and Entry. Any authorized representative of the City bearing proper credentials and identification shall be permitted to enter and inspect all properties without prior notification. This right of inspection shall, include the right to measure, observe, sample, test, record, review and make copies of all pertinent documents, in accordance with this Section.

F. Administration.

(1) Permit. It shall be unlawful for any food service establishment to discharge process wastewaters into any the POTW without authorization from the City. Permits issued by the City shall have a duration of not more than five (5) years.

(2) Manifest. All pumpage from grease traps must be tracked by a manifest which confirms pumping, hauling and disposal of wastes. This manifest shall contain the following information:

(a) Generator information, including name, address, volume pumped, date and time of the pumping and signature of the generator verifying the information.

(b) Transporter information, including company name, address, license plate number, permit number and driver's name and signature verifying transporter information.

(c) Receiving information, including the facility's name, address, date and time of receiving, EPD number and signature verifying receipt of the waste.

(3) Maintenance Log. A log indicating each pumping for the previous twelve (12) months shall be maintained by each food service establishment. This log shall be kept in a conspicuous location where it can be inspected by heath department and City personnel.

(4) Reporting. The information required in the maintenance log must be submitted to the City annually. The reporting period shall be from January 1 to December 31 of each calendar year. The report must be submitted to City Hall, within thirty (30) days of the end of the reporting period.

(Adopted 8/1/2005; Effective 8/11/2005)

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 inspectors and approve the credentials and 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. Compliance with this Article is required notwithstanding the fact that a written order might not have been issued.
4. 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.
5. 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 compliant 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.

6. 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)

CHAPTER 21: STORMWATER MANAGEMENT

Section

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ARTICLE I. STORMWATER MANAGEMENT ORDINANCE

Section 21-101 Findings of Fact

It is hereby determined that:

Land development projects and associated increases in impervious cover alter the hydrologic response of local watersheds and increase storm water runoff rates and volumes, flooding, stream channel erosion, and sediment transport and deposition. This storm water runoff contributes to increased quantities of water-borne pollutants, and storm water runoff, soil erosion and non-point source pollution can be minimized through the regulation of stormwater runoff from development sites.

Therefore, the City of Hoschton establishes this Ordinance for the regulation of stormwater runoff for the purpose of protecting local water resources from degradation. It is determined that the regulation of stormwater runoff discharges from land development projects and other construction activities in order to control and minimize increases in storm water runoff rates and volumes, soil erosion and sedimentation, stream channel erosion, and non-point source pollution associated with stormwater runoff is in the public interest and will prevent threats to public health and safety.

Section 21-102 Purpose

The purpose of this Ordinance is to establish minimum stormwater management requirements and controls to protect and safeguard the general health, safety, environment and welfare of the public and protect water and aquatic resources. This Ordinance seeks to meet that purpose through the following objectives:

1. Minimize increases in stormwater runoff from any development in order to reduce flooding, siltation and stream bank erosion and maintain the integrity of stream channels;

2. Minimize increases in non-point source pollution caused by stormwater runoff from development, which would otherwise degrade local water quality;

3. 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;

4. Establish minimum post-development stormwater management standards and design criteria for the regulation and control of stormwater runoff quantity and quality;
5. Establish design and application criteria for the construction and use of stormwater control facilities that can be used to meet the minimum storm water management standards;
6. Establish provisions for the long-term responsibility for and maintenance of stormwater control facilities and practices to ensure that they continue to function as designed, are maintained and pose no threat to public safety; and,
7. 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 Compatibility with Other Permit and Ordinance Requirements

This Ordinance is not intended to interfere with, abrogate, or annul any other ordinance, rule or regulation, stature, or other provision of 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 or regulation, or other provision of law, whichever provisions are more restrictive or impose higher protective standards for human health or the environment shall be considered to take precedence.

Section 21-104 Severability

If the provisions of any article, section, subsection, paragraph, subdivision or clause of this Ordinance shall be judged invalid by a court of competent jurisdiction, such order of judgment shall not affect or invalidate the remainder of any article, section, subsection, paragraph, subdivision or clause of this Ordinance.

Section 21-105 Variances and Waivers

Every applicant shall provide for stormwater management as required by this Ordinance unless they file a written request to waive the stormwater management plan requirements or allow a variance to a specific requirement of this Ordinance. A formal, written application shall be filed with the City of Hoschton and shall include the specific variances sought and sufficient justification for granting the variance or waiver. Variances and waivers may only be granted if all of the following conditions apply:

1. Good and sufficient cause for the variance or waiver is shown by the applicant;
2. It is determined by the City of Hoschton that the failure to grant the variance or waiver could result in exceptional hardship to the applicant;
3. It is determined by the City of Hoschton that the granting of a variance or waiver will not result in increased flood heights or additional threats to public health or safety, water resources and aquatic life, or public or private property; and
4. It is determined by the City of Hoschton that the granting of a variance or waiver will not result in nuisances or conflict with existing local laws or ordinances.

Section 21-106 Development of a Stormwater Design Manual

The City of Hoschton may furnish additional policy, criteria and information including regulations and standards, for the proper implementation of the requirements of this Ordinance and may provide such information in the form of a Stormwater Design Manual.

This manual may include a list of acceptable stormwater management measures, including the specific design criteria for each stormwater management measure. The manual may be updated and expanded from time to time, at the discretion of the Mayor and Council, based on changes in laws or ordinances, improvements in engineering, science, monitoring, and local maintenance experience. Stormwater management measures that are designed and constructed in accordance with the design and sizing criteria of the manual will be presumed to meet the minimum performance standards stated herein.

Section 21-107 Definitions

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

1. **Applicant.** Any person, firm or governmental agency that submits the necessary forms and procedures for approval or a permit to carry out construction of a project.
2. **Channel.** A natural or artificial watercourse with a definite bed and banks that conducts continuously or periodically flowing water.
3. **Clearing.** The removal of trees and brush from the land, but shall not include the ordinary mowing of grass.
4. **City or City of Hoschton, Georgia. (Used interchangeably.)** Municipality acting through the Mayor and Council and any persons that they designate including the City Clerk.
5. **County.** Jackson County.
6. **Clerk or the City Clerk. (Used interchangeably.)** Person designated by the Mayor and Council to review, approve, inspect, and perform other duties related to stormwater management referenced in this Ordinance. The City Clerk may delegate such responsibilities to the City Engineer or others qualified to perform the stated tasks.
7. **Design Professional of Record.** Engineer responsible for the design of the stormwater management facilities and measures. The engineer must be registered in the state of Georgia. A landscape architect or land surveyor, registered in the state of Georgia, may serve as the Design Professional of Record only in the limited capacity permitted by the Official Code of Georgia (Sections 43-23-1 and 43-15-2, respectively).
8. **Detention.** The temporary storage of stormwater runoff in a stormwater management facility for the purpose of controlling the peak discharge.
9. **Detention Facility.** A permanent structure or detention basin for the purpose of temporary storage of stormwater runoff and its subsequent gradual discharge.
10. **Developer.** Any person or persons owning or opting to own and proposing to develop or construct a piece of property.
11. **Drainage Area.** The area contributing runoff to a single point measured in a horizontal plane, which is enclosed by a ridgeline.
12. **Drainage Easement.** A legal right granted by a landowner to a grantee allowing the use of private land for storm water management purposes.
13. **Drainage Structure.** Any storm drains, catchment basins, inlets, berms or other physical construction or provision for the storage or conveyance of storm water runoff.
14. **Easement.** A grant or reservation by the owner of land for the use of such land by others for a specific purpose or purposes and which must be included in the conveyance of land affected by such easement.
15. **Erosion.** The process by which ground surface is worn away by the action of wind, water, ice, or gravity.
16. **Erosion and Sedimentation Control Plan.** A plan for the control of soil erosion and sedimentation resulting from land-disturbing activities.
17. **Exemptions.** Those land development activities that are not subject to the stormwater management requirements contained in this Chapter.
18. **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.
19. **Grading.** Any act by which soil is cleared, stripped, stockpiled, excavated, scarified, filled or any combination thereof.
20. **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.
21. **Imperviousness.** The degree to which a site contains impervious cover.
22. **Infiltration.** The passage or movement of water from the surface into the soil subsurface.
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. **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.
25. **Land Development.** Any of the following actions undertaken by a public or private individual or entity: the division of a lot, tract or parcel of land into two or more lots, plots, sites, tracts, parcels or other divisions by plat or deed, or the combination or recombination of two or more lots, tracts or parcels of land into a lesser number of lots, plots, sites, tracts, parcels or other combinations by plat or deed, and shall also mean any land change, including, without limitation, clearing, digging, grubbing, stripping, removal of vegetation, dredging, grading, excavating, transporting and filling of land, construction, paving, and any other installation of impervious cover.
26. **Land Development Activities.** Those actions or activities which comprise, facilitate or result in land development.
27. **Land Development Project.** A discrete land development undertaking.
28. **Landowner.** The legal or beneficial owner of land, including those holding the right to purchase or lease the land, or any other person holding proprietary rights in the land.
29. **Maintenance.** Any action necessary to preserve stormwater management facilities in proper working condition, in order to serve the intended purposes set forth in this Chapter and to prevent structural failure of such facilities.
30. **Non-point 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, but not be limited to, agricultural, silvicultural, mining, construction, subsurface disposal and urban runoff sources.
31. **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 storm water 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.
32. **Off-Site Stormwater Facility.** Any stormwater management facility located outside the property boundary described in the permit application for land development activity. Easements for the purpose of transporting and management of storm water runoff shall be obtained for any off-site stormwater facility.
33. **On-Site Stormwater Facility.** Any stormwater management facility located within the subject property boundary described in the permit application for land development activity.
34. **On-Site Stormwater Management.** The design, construction, and maintenance of a facility necessary to control stormwater runoff within and for a single development.
35. **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 that are intended to protect downstream properties from flooding for the 2-year through 25-year frequency storm events.
36. **Owner.** 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.
37. **Permit.** The permit issued by the City of Hoschton to the applicant which is required for any land-disturbance activity.
38. **Person.** 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.
39. **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.
40. **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.
41. **Project.** A land development project.

42. **Redevelopment.** A land development project on a previously developed site, but excludes ordinary maintenance activities, remodeling of existing buildings, resurfacing of existing paved areas, and exterior changes or improvements which do not materially increase or concentrate stormwater runoff, or cause additional nonpoint source pollution. Paving of a graveled parking lot shall be considered redevelopment for the purposes of this Ordinance.
43. **Regional Stormwater Management Facility or "Regional Facility".** Storm water 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.
44. **Runoff.** Stormwater runoff.
45. **Site.** The parcel of land being developed, or the portion thereof on which the land development project is located.
46. **Stop Work Order.** An order issued that requires that all construction activity on a site be stopped. The stop work order shall not include maintenance, installation, or repairing of erosion control practices.
47. **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.
48. **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.
49. **Stormwater Management Facility.** Any infrastructure that controls or conveys stormwater runoff.
50. **Stormwater Management Measure.** Any stormwater management facility or nonstructural stormwater practice.
51. **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 Ordinance.
52. **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 storm water runoff from a site.
53. **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.
54. **Stormwater Runoff. The flow of surface water resulting from precipitation.**
55. **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.
56. **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.
57. **Variance.** The modification of the minimum stormwater management requirements for the specific circumstances such that strict adherence of the requirements would result in unnecessary hardship and not fulfill the intent of this Chapter.
58. **Waiver.** The relinquishment from stormwater management requirements by the Mayor and Council for a specific development.
59. **Water Quality Volume (WQv).** The storage needed to capture and treat ninety percent (90%) of the average annual stormwater runoff volume. Numerically (WQv) will vary as a function of long-term rainfall statistical data.
60. **Watershed.** The total drainage area contributing runoff to a single analytical point.

Construction of undefined terms: Terms not herein specifically defined shall be construed in the manner commonly accepted and the interpretation of the same will be furnished by the City of Hoschton upon application.

Section 21-108 Applicability of Chapter

This Ordinance shall be applicable to all land development, redevelopment, and construction within the City of Hoschton with the following exemptions:

1. New developments or redevelopments that do not disturb or alter more than two thousand square feet (2,000 sq. ft.)of land area provided that the amount of impervious cover created, added, or replaced does not exceed one thousand square feet (1,000 sq. ft.).and further provided that the new developments or redevelopments meeting this criteria are not part of a larger common plan of development;

2. Individual single-family or duplex residential lots that are not part of a subdivision or phased development project;

3. Additions or modifications to existing single-family or duplex residential structures;

4. Agricultural or silvicultural land management activities within areas zoned for these activities; and,

5. Repairs to any stormwater management facility or practice deemed necessary by the City of Hoschton.

Section 21-109 Permit Procedures and Requirements

1. **Permit Application Requirements** - No owner or developer shall perform any land development activities without first meeting the requirements of this Ordinance prior to commencing the proposed activity.

Unless specifically exempted by this Ordinance, any owner or developer proposing a land development activity shall submit to the City Clerk a permit application for stormwater management in a format specified by the City of Hoschton for that purpose.

Unless otherwise exempted by this Ordinance, a permit application shall include the following items in order to be considered:

A. Stormwater management plan in accordance with Section 21-109-2;

B. Inspection and maintenance agreement in accordance with Section 21-109-3, if applicable;

C. Performance securities or bonds in accordance with Section 21-109-4, if applicable; and,

D. Plan review fees in accordance with Section 21-109-5 and 21-109-6.

2. **Stormwater Management Plan Requirements -** 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 Section 21-110 below.

This plan shall be in accordance with the criteria established in this Section and must be submitted with the stamp and signature of the Design Professional of Record, who must verify that the design of all stormwater management facilities and practices meet the submittal requirements contained herein, outlined in the stormwater management plan checklist(s) form provided by the City of Hoschton, and contained in the stormwater design manual that may be developed by the City of Hoschton.

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, narratives, and supporting design calculations (hydrologic and hydraulic) for the proposed stormwater management system. The plan shall include, at a minimum, all of the information described herein and required in the stormwater management plan checklist form (Exhibit A) provided by the City of Hoschton. This includes:

A. Common address and legal description of site,

B. Vicinity map of adequate detail showing the site location relative to surrounding landmarks, highway intersections, rivers, and streams,

C. Existing Conditions Hydrologic Analysis. The existing condition hydrologic analysis for stormwater runoff rates, volumes, and velocities, which shall include at a minimum:

(1) A topographic site plan of existing site conditions with the drainage area and sub-area boundaries indicated;

(2) Acreage, soil types and land cover for each sub-area affected by the project (shown on the site plan if practical);

(3) All perennial and intermittent streams and other surface water features (shown on the siteplan as applicable);

(4) All existing stormwater conveyances and structural stormwater controls (shown on the siteplan as applicable);
(5) Direction of flow and exits from the site (shown on the site plan as applicable);
(6) Analysis of runoff provided by off-site areas upstream of the project site; and
(7) Methodologies, assumptions, site parameters and supporting design calculations used in analyzing the existing conditions site hydrology.

The topographic site plan referenced above shall be dated and include, at a minimum, the following information:

(1) A north arrow and graphic scale with the site plan drawn at a scale of not less than one inch equals one hundred feet (1"=100');
(2) Delineation of property lines, tax map and parcel numbers, and deed record names of all adjacent property owners; and
(3) On site contours at intervals of two feet (2') or less and off site contours at intervals of five feet (5') or less. Elevation shall be based on the mean sea level (MSL) datum plane established by the U.S. Coast and Geodetic Survey and shall be stated on the topographic site plan.
(4) The location of existing structures and the location and right-of-way of streets, roads, railroads, utility lines, and easements shall be shown.
(5) The location of all onsite easements and easements down gradient that may be impacted by this plan shall be shown.
(6) The size and location of existing sewers, water mains, storm drains, culverts, or other underground facilities on site and within the right-of-way of streets or roads adjoining the site shall be shown. Grades, invert elevations, and top elevations of storm drains, sewers, and culverts shall be shown.

D. Post-Development Hydrologic Analysis. The post-development hydrologic analysis for stormwater runoff rates, volumes, and velocities, which shall include:

(1) A topographic site plan of developed site conditions with the post-development drainage area and sub-area boundaries indicated;
(2) Total area of post-development impervious surfaces and other land cover areas for each sub- area affected by the project;
(3) Calculations for determining the runoff volumes that need to be addressed for each drainage sub-area for the development project to meet the post-development stormwater management performance criteria in Section 21-110;
(4) Location and boundaries of proposed natural feature protection and conservation areas;
(5) Methodologies, assumptions, site parameters and supporting design calculations used in analyzing the proposed conditions site hydrology.

The topographic site plan referenced above shall be dated and include, at a minimum, the following information:

(1) A north arrow and graphic scale with the site plan drawn at a scale of not less than one inch equals one hundred feet (1"=100');
(2) Proposed on site contours at intervals of two feet (2') or less and off site contours at intervals of five (5') or less. Elevation shall be based on the mean sea level (MSL) datum plane established by the U.S. Coast and Geodetic Survey and shall be stated on the topographic site plan.
(3) The proposed layout of streets, roads, alleys, drives, paved areas, and sidewalks with widths and other designations necessary to convey horizontal and vertical alignments, including profiles, cross-sections, and standard details as applicable, shall be shown.
(4) The location of buildings with roof drainage plans and locations of downspouts, roof drains, and other means used to remove water shall be shown for buildings larger than ten thousand square feet (10,000 sq. ft.) in area or as otherwise required by the City.
(5) The site plan shall include all of the information, required for the existing site in Section 21-109-2 (C), that is also applicable to the post-development site.

Discharge of water concentrated at a point (such as outfall from a pipe, swale, or defined channel) across the property line requires an easement from adjacent property owners to such point that the concentrated water is fully dispersed to overland flow.

If the land development activity on a redevelopment site constitutes more than fifty percent (50%) of the site area for the entire site, then the performance criteria in Section 21-110 must be met for the stormwater runoff from the entire site.

E. **Stormwater Management System**. The narrative description, scaled drawings and design calculations for the proposed postdevelopment stormwater management system, which shall include:

(1) A map and drawings of the stormwater management facilities, including the location of nonstructural site design features and the placement of existing and proposed structural storm water controls, including design water surface elevations, storage volumes available from zero to maximum head, location of inlets and outlets, location of bypass and discharge systems, and all orifice/restrictor sizes;

(2) A narrative describing how the selected structural stormwater controls will be appropriate and effective;

(3) 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;

(4) A hydrologic and hydraulic analysis of the storm water management system for all applicable design storms (including stage-storage or outlet rating curves, and inflow and outflow hydro graphs);

(5) Documentation and supporting calculations to show that the stormwater management system adequately meets the post-development stormwater management performance criteria in Section 21-110;

(6) 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

(7) Where applicable, a narrative describing how the stormwater management system corresponds with any watershed protection plans and/or local greens pace protection plan.

For certain projects, it may be practical to show some of the information required in this subsection on the post-development topographic site plan described in Section 21-109-2 (D).

F. **Post-Development Downstream Analysis**. A downstream peak flow and velocity 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. In calculating runoff volumes, discharge rates and velocities, consideration may need to be given to any planned future upstream land use changes.

G. **Construction-** Phase Erosion and Sedimentation Control Plan. An erosion and sedimentation control plan in accordance with the City of Hoschton Erosion and Sedimentation Control Ordinance and the 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 measures. 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.

Any portion of the site from which the natural vegetative cover has been either partially or wholly cleared or removed by development activities shall be revegetated within fourteen (14) days from the date on which such clearing or construction is temporarily or permanently ceased on that portion of the site. The following criteria shall apply to revegetation efforts:

Reseeding must be done with an annual or perennial cover crop accompanied by placement of straw mulch, or its equivalent, of sufficient coverage to control erosion until such time as the cover crop is established over ninety percent (90%) of the seeded area.

Replanting with native woody and herbaceous vegetation must be accompanied by placement of straw mulch, or its equivalent, of sufficient coverage to control erosion until the plantings are established and are capable of controlling erosion.

The area of revegetation must exhibit survival of a minimum of seventy-five percent (75%) of the cover crop throughout the year immediately following revegetation. Revegetation must be repeated in successive years until the minimum seventy-five percent (75%) survival for one year is achieved.

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 storm water 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 inspection and 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. For subdivision developments, the applicant shall provide documentation to the City Clerk that the homeowner's association bylaws, or another similar legally-binding document, contains adequate provisions to require the homeowner's association to collect funds needed to pay for the perpetual maintenance and inspection as described in the operations and maintenance plan.

J. **Maintenance Access Easements.** The applicant must ensure access from public right-of-way to stormwater management facilities and measures requiring regular maintenance at the site for the purpose of inspection and repair by securing all the maintenance access easements 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. Determination of which storm water facilities and measures will require regular maintenance shall be at the discretion of the City Clerk.

K. **Inspection and Maintenance Agreements.** Unless an on-site storm water management facility or practice is dedicated to and accepted by the City of Hoschton as provided in Section 21-109-3 below, 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 measure in accordance Section 21-109-3.

L. **Evidence of Acquisition of Applicable Local and Non-local Permits.** The applicant shall certify and provide documentation to the City Clerk that all other applicable environmental permits, including, but not limited to, the NPDES permit, have been acquired for the site prior to approval of the storm water management plan. The applicant shall also certify and provide documentation to the City Clerk that a wetlands disturbance permit and/or stream buffer encroachment permit have been acquired for the site prior to approval of the stormwater management plan, if applicable.

M. **Evidence of Acquisition of Drainage Easements**. The applicant shall provide documentation to the City Clerk that easements to discharge stormwater off-site or for on-site discharges that will affect off-site properties have been obtained and filed in the office of the Clerk of Court of Jackson County, if applicable.

3. **Stormwater Management Inspection and Maintenance Agreements**. Prior to the issuance of any permit for a land development activity requiring a stormwater management facility or measure 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, execute an inspection and maintenance agreement (see Exhibit B), and a conservation easement, if applicable, that shall be binding on all subsequent owners of the site. The determination of which stormwater facilities and measures will require formal inspection and maintenance agreements shall be at the discretion of the City Clerk.

The inspection and maintenance agreement, and associated documents necessary to insure funding of the inspection and maintenance agreement, if applicable, must be approved by the City Clerk prior to plan approval, and recorded in the deed records at the Jackson County Clerk of Court office prior to final plat approval.

The inspection and maintenance agreement shall identify by name or 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 measure, 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. These arrangements shall designate for each portion of the site, the person to be permanently responsible for its inspection and maintenance.

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. Inspection reports shall be provided to the City Clerk after each inspection.

In addition to enforcing the terms of the inspection and maintenance agreement, the City Clerk may also enforce all of the provisions for ongoing inspection and maintenance in Section 21-112 of this Ordinance.

The City of Hoschton, in lieu of an inspection and maintenance agreement, may accept dedication of any existing or future storm water 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.

4. Performance and Maintenance Bonds. The City Clerk may, at its discretion, require the submittal of a performance security or bond prior to issuance of a permit in order to insure that the approved storm water management measures are installed by the permit holder as required by the approved stormwater management plan. The amount of the installation performance security shall be the total estimated construction cost of the stormwater management measures approved under the permit, plus twenty-five percent (25%). The performance security shall contain forfeiture provisions for failure to complete work specified in the storm water management plan.

The installation performance security shall be released in full two (2) years after the land development project is completed to the extent shown in the stormwater management plan. The completion date shall be considered as the date on which "as built plans" and written certification by the Design Professional of Record, that the stormwater management measures have been installed in accordance with the approved plan and other applicable provisions of this Ordinance, are submitted to the City. At such time, the City Clerk may elect to make a final inspection of the stormwater management measures to ensure that they are in compliance with the approved plan and the provisions of this Ordinance.

Three months prior to release of the security or bond, the City Clerk shall conduct an inspection of the stormwater management measures to ensure that they remain in compliance with the approved plan and the provisions of this Ordinance. After this inspection, the Clerk shall notify the owner of any deficiencies, and the owner shall correct all noted deficiencies prior to the two-year anniversary of the completion date; or the security or bond will not be released. Provisions for a partial pro-rata release of the performance security based on the completion of various development stages can be done at the discretion of the City Clerk. The security or bond shall only be releasable by the City. (CSA to discuss the wording of this with City Attorney.)

5. Application Procedure

A. The form of application for the stormwater management plan shall be filed with the City of Hoschton to include fees in full at the time of application.

B. Permit applications shall include the items set forth in Section 21-109-1 above. Five copies of the stormwater management plan and the inspection and maintenance agreement shall be included.

C. The City Clerk shall review the permit application, including the stormwater management plan and inspection and maintenance agreement, and inform the applicant as to whether the application,

including the stormwater management plan and inspection and maintenance agreement, is approved.

D. If the City Clerk determines that permit application, including the stormwater management plan or inspection and maintenance agreement, does not meet the requirements of this Ordinance, the City Clerk 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 Section 21-109-5 (C) and this subparagraph shall apply to such re-submittal.

E. Upon a finding by the City Clerk that the permit application, including the stormwater management plan and inspection and maintenance agreement, if applicable, meet the requirements of this Ordinance, the City Clerk may issue a permit for the project, provided all other legal requirements for the issuance of such permit have been met.

F. 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:

(1) The applicant shall comply with all applicable requirements of the approved plan and this Ordinance, any other applicable approved plans, any other applicable ordinances, regulations, or requirements, and the applicant shall certify that all land clearing, construction, land development and drainage will be done according to the approved plan;

(2) The land development project shall be conducted only within the area specified in the approved plan;

(3) The City Clerk shall be allowed to conduct periodic inspections of the project; Easements shall be required to release stormwater discharges off-site or for on-site releases that will affect off -site property. Said easements shall be obtained and filed in the office of the Clerk of Court of Jackson County prior to the issuance of a permit and documentation of said easements submitted as a component of the permit application.

(4) No changes may be made to an approved plan without review and written approval by the City Clerk; and,

(5) 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 Section 21-111-2.

6. **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 at the time of submittal of the permit application.

7. **Modifications for Off-Site Facilities**. 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. 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. 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.

A stormwater management plan must be submitted to the City Clerk which shows the adequacy of the off-site or regional facility.

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.

Section 21-110 Post-Development Stormwater Management Performance Criteria

The following performance criteria shall be applicable to all stormwater management plans, unless otherwise provided for in this Ordinance:

1. **Water Quality**. Reserved.
2. **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:
   - **A.** Preservation, restoration and/or reforestation (with native vegetation) of the applicable stream buffer;
   - **B.** Twenty-four (24) hour extended detention storage of the one (1) year, twenty-four (24) hour return frequency storm event if required to protect downstream channels from bank and bed erosion and degradation;
   - **C.** Erosion prevention measures such as energy dissipation and velocity control.
3. **Overbank Flooding Protection.** Downstream overbank flood and property protection shall be provided by limiting (attenuating) the post-development peak discharge rate to the pre-development peak discharge for the twenty-five (25) year, twenty-four (24) hour return frequency storm event. If extended detention of the one (1) year, twenty-four (24) hour storm under Section 21-110-2 (B) is not provided, then peak discharge rate attenuation of the two (2) year, five (5) year, ten (10) year, and twenty-five (25) year return frequency storm event must be provided. Refer to Section 21-109-2 for the required calculations to be submitted. For sites less than two thousand (2,000) acres, the SCS unit hydro graph method shall be used unless the City Clerk provides prior approval of another method. The Rational Method may only be used for sites of less than twenty-five (25) acres and may only be used to design storm sewer systems including gutter flow and inlets, storm drain pipes, culverts, and small ditches. In no case shall the Rational Method be used for designs involving the storage of stormwater runoff including detention ponds.
4. **Extreme Flooding Protection.** Extreme flood and public safety protection shall be provided by controlling and safely conveying the one hundred (100) year, twenty-four (24) hour return frequency storm event such that flooding is not exacerbated. The one hundred (100) year event must be routed through the site without overtopping any dam. Refer to Section 21-109-2 for the required calculations to be submitted. For sites less than two thousand (2,000) acres, the SCS unit hydrograph method shall be used unless the City Clerk provides prior approval of another method. The Rational Method may only be used for sites of less than twenty-five (25) acres and may only be used to design storm sewer systems including gutter flow and inlets, storm drain pipes, culverts, and small ditches. In no case shall the Rational Method be used for designs involving the storage of stormwater runoff including detention ponds.
5. **Structural Stormwater Controls.** All structural stormwater management facilities shall be selected and designed using criteria accepted by the City Clerk. All structural stormwater controls must be designed appropriately to meet their intended function. In addition, if hydrologic or topographic conditions, or land use activities warrant greater control than that provided by the minimum control requirements, the City Clerk 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.
6. **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 that one parcel, existing or proposed, shall meet the following minimum requirements:
   - **A.** Methods to calculate stormwater flows shall be in accordance with practices accepted by the City of Hoschton;
   - **B.** All culverts, pipe systems and open channel flow systems shall be sized in accordance with practices accepted by the City of Hoschton;
   - **C.** Design and construction of stormwater conveyance facilities shall be in accordance with the criteria and specifications accepted by the City of Hoschton; and
   - **D.** Documentation and supporting calculations shall be submitted as required in Section 21-109-2.
7. **Dam Design Guidelines.** Any land disturbing activity that involves a site which proposes a dam shall comply with the Georgia Safe Dams Act (*O.C.G.A.* § 12-5-370 to 12-5-385) and the Department of

Natural Resources Environmental Protection Division Rules for Dam Safety (Chapter 391-3-8) as applicable.

Section 21-111 Construction Inspections of Post-Development Stormwater Management System

1. **Inspections to Ensure Plan Compliance During Construction.** Periodic inspections of the stormwater management system construction may be conducted, at the discretion of the City Clerk, by the staff of the City of Hoschton or conducted and certified by a professional engineer who has been approved by the City Clerk. Construction inspections shall utilize the approved stormwater management plan for establishing compliance.

   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 noted variations or violations of the conditions of the approved stormwater management plan.

   If any violations are found, the applicant shall be notified in writing of the nature of the violation and the required corrective actions.
2. **Final Inspection and As Built Plans.** 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. All applicants are required submit actual "as built" plans for all stormwater management facilities and measures and must be certified by the Design Professional of Record. A final inspection by the City Clerk may, at the discretion of the City of Hoschton, also be required.

Section 21-112 Ongoing Inspection and Maintenance of Stormwater Management Facilities and Measures

1. **Long-Term Maintenance Inspection of Stormwater Management Facilities and Measures.** Storm water management facilities and measures 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 Ordinance.

   A stormwater management facility or measure shall be inspected on a periodic basis by the responsible person in accordance with the approved inspection and maintenance agreement. The interval between inspections shall not be more than one year and a shorter interval may be required at the discretion of the City of Hoschton. Inspection reports shall be submitted to the City Clerk subsequent to each inspection. 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 Clerk 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 subsection 21-112-4 hereof.

   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 measures.
2. **Right-of-Entry for Inspection.** The terms of the inspection and maintenance agreement shall provide for the City Clerk 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 Ordinance.

3. **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 on an annual basis unless requested otherwise by the City.
4. **Failure to Maintain**. 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, twenty-four (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 measure in proper working condition. 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.

Section 21-113 Violations, Enforcement and Penalties

Any action or inaction which violates the provisions of this Ordinance or the requirements of an approved stormwater management plan or permit, may be subject to the enforcement actions outlined 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 stormwater management permit, an approved stormwater management plan, inspection and maintenance 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:

   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 stormwater management 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 with the City Clerk within five (5) days after the notice of violation (except, that in the event the violation constitutes an immediate danger to public health or public safety, the written notice of appeal must be filed within twenty-four (24) hours.
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, anyone 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 five (5) days (except, that in the event the violation constitutes an immediate danger to public health or public safety, twenty-four [24] hours shall be sufficient) to cure such violation. ill 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 anyone or more of the following actions or impose anyone or more of the following penalties.

   A. **Stop Work Order.** The City Clerk 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 undertaken 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.

B. Withhold Certificate of Occupancy. The City Clerk 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 undertaken the remedial measures set forth in the notice of violation or has otherwise cured the violations described therein.

C. Suspension, Revocation or Modification of Permit. The City Clerk 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 Clerk 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 five (5) days, or such greater period as the City Clerk may in her sole discretion deem appropriate (except, that in the event the violation constitutes an immediate danger to public health or public safety, twenty-four [24] hours shall be the period), and after the City Clerk has taken one or more of the actions described above, the City Clerk may impose an assessment for each day the violation remains unremedied after receipt of the notice of violation as follows:

(1) (One hundred fifty dollars ($150.00) per day for the first two (2) days that the violation remains unremedied;

(2) Five hundred dollars ($500.00) per day for the third and fourth days that the violation remains unremedied;

(3) (Seven hundred fifty dollars ($750.00) per day for the fifth through tenth days that the violation remains unremedied;

(4) (One thousand dollars ($1,000.00) per day for each day in excess often days that the violation remains unremedied.

If second or subsequent notices of violation are issued for violations upon the same property within forty-five (45) days, the assessments shall be five hundred dollars ($500.00) per day for the first four (4) days that the violation remains unremedied and one thousand dollars ($1,000.00) per day for each additional day that the violation remains unremedied. The applicant or other responsible person may appeal the amount of the penalty by filing a written notice of appeal with the City Clerk within five (5) days after notice of the assessment.

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 Hoschton Municipal Court to answer charges for such violation. Upon conviction, such person shall be punished by a fine not to exceed one thousand dollars ($1,000.00) or imprisonment for sixty (60) days or both. Each act of violation and each day upon which any violation shall occur shall constitute a separate offense.

3. Appeals.

A. Appeal from the City officials or employees. Any person or persons jointly or severally aggrieved by any decision of a City employee or official shall have the right of appeal to Hoschton Mayor and Council if such appeal is filed with the Clerk of the City Council within five (5) days of the rendering of the decision.

B. Appeal from Mayor and Council. Any person or persons jointly or severally aggrieved by any decision of Hoschton Mayor and Council regarding any matter pertaining to this Chapter shall have the right of appeal to the Jackson County Superior Court if said appeal is filed with the Clerk of Court within thirty (30) days of the rendering of the decision by Hoschton Mayor and Council.

Exhibit "A"

City of Hoschton
Checklist for Stormwater Management Site Plan Preparation and Review

1. Application Information

Name, legal address and telephone number

2. Common address and legal description of site

3. Signature and stamp of registered engineer(or landscape architect or land surveyor where allowed by Georgia law) and designer/owner certification.

4. Vicinity map showing the site location relative to surrounding landmarks, highway intersections, rivers and streams.

5. Existing and proposed mapping and plans (recommended scale of 1" = 100' or greater detail) which illustrate at a minimum:

Existing and proposed topography (minimum 2-foot contours for on-site topography required)

A north arrow and graphic scale

Delineation of property lines, tax map and parcel numbers, and deed record names of all adjacent parcels

Perennial and intermittent streams

Mapping of predominant soils form USDA soil surveys as well as the location of any site-specific borehole investigations that may have been performed

Boundaries of existing predominant vegetation and proposed limits of clearing and grading

Location and boundaries of natural feature protection and conservation areas such as wetlands, lakes, ponds and other setbacks

The locations of structures and other impervious surfaces including the location and right-of-way of streets, roads, railroads, utility lines, and easements

Selection and location of structural stormwater controls

Locations, and sizes of inverts where applicable, of existing and proposed conveyance systems such as storm drains, inlets, catch basins, culverts, channels, swales, and areas of overland flow

Flow paths

Location of floodplain/floodway limits and relationship of site to upstream and downstream properties and drainages

Location and dimensions of proposed channel modifications, such as bridge and culvert crossings

The location of buildings with rood drainage plans and locations of downspouts, roof drains and other means used to remove water for buildings larger than 10,000 square feet in surface area

Exhibit "A" (Continued)

6. Hydrologic and hydraulic analysis including:

Existing conditions hydrologic analysis for runoff rates, volumes, and velocities showing methodologies used and supporting calculations including drainage basins, sub-basins, and the area of existing impervious surfaces and other land cover areas for each sub-basin affected by the project

Proposed (post-developmental) conditions, hydrologic analysis for runoff rates, volumes, and velocities showing methodologies used and supporting calculations including drainage basins, sub-basins, and the area of existing impervious surfaces and other land cover areas for each sub-basin affected by the project

Hydrologic and hydraulic analysis of the stormwater management system for all applicable design storms

Calculations for structural stormwater controls including contributing drainage area, storage, and outlet configuration

Stage-discharge or outlet rating curves and inflow and outflow hydrographs for storage facilities

Analysis of potential downstream impact/effects of the project, where necessary

Dam safety and breach analysis, where necessary

7. Representative cross-section and profile drawings and details of structural stormwater controls and conveyances which include:

Existing and proposed structural elevations (e.g. invert of pipes, manholes, etc.)

Design water surface elevations

Structural details of structural control designs, outlet structures, embankments, spillways, grade control structures, conveyance channels, etc.

8. Applicable construction specifications

9. Erosion and sediment control plan that at a minimum meets the requirements outlined in the Manual for Erosion and Sediment Control in Georgia

10. Landscaping plans for structural stormwater controls and any site reforestation or revegetation

11. Operations and maintenance plan that includes:

Name, address and phone number of responsible parties for maintenance activities

Description and schedule of maintenance tasks

Description of funding source

Access and safety issues

Procedures for testing and disposal of sediments, if required

12. Evidence of acquisition of all applicable local and non-local permits

13. Waiver or variance if applicable

Exhibit "A" (Continued)

14. Evidence of acquisition of all necessary legal agreements (e.g. easements, covenants, land trusts, etc.)

Note: Permit application also requires an inspection and maintenance agreement, performance securities or bonds, if applicable, and plan review fees. Refer to Section 21 of the City of Hoschton Code of Ordinances for full requirements.

Exhibit "B"

City of Hoschton
Stormwater Facility Inspection and Maintenance Agreement

THIS AGREEMENT, made and entered into this_____day of, _____ 20___, by and between (Insert Full Name of Owner) _____ hereinafter called the "Landowner", and the City of Hoschton, hereinafter called the "City". WITNESSETH, that WHEREAS, the Landowner is the owner of certain real property described as (Tax Map/ Parcel Identification Number) _____ as recorded by deed in the land records of Jackson County, Georgia, Deed Book _____ Page _____, hereinafter called the "Property".

WHEREAS, the Landowner is proceeding to build on and develop the property; and WHEREAS, the Site Plan/Subdivision Plan known as _____ , (name of Plan/Development) hereinafter called the "Plan", which is expressly made a part hereof, as approved or to be approved by the City, provides for detention of stormwater within the confines of the property; and

WHEREAS, the City and the Landowner, its successors and assigns, including any homeowners association, agree that the health, safety, and welfare of the residents of Hoschton, Georgia, require that on-site stormwater management facilities be constructed and maintained on the Property; and

WHEREAS, the City requires that on-site stormwater management facilities as shown on the Plan be constructed and adequately maintained by the Landowner, its successors and assign, including any homeowners association.

NOW, THEREFORE, in consideration of the foregoing premises, the mutual covenants contained herein, and the following terms and conditions, the parties hereto agree as follows:

1. The on-site stormwater management facilities shall be constructed by the Landowner, its successors and assigns, in accordance with the plans and specifications identified in the Plan.

2. The Landowner, its successors and assigns, including any homeowners association, shall adequately maintain the stormwater management facilities. This includes all pipes, channels or other conveyances built to convey stormwater to the facility, as well as all structures, improvements, and vegetation provided to control the quantity and quality of the stormwater. Adequate maintenance is herein defined as good working condition so that these facilities are performing their design functions. The City of Hoschton may develop Structural Control Maintenance Checklists which, if developed and where applicable, are to be used to establish what good working condition is acceptable to the City.

Exhibit "B" (Continued)

3. The Landowner, it successors and assigns, shall inspect the stormwater management facility and submit an inspection report annually. The purpose of the inspection is to assure safe and proper functioning of the facilities. The inspection shall cover the entire facilities, berms, outlet structure, pond areas, access roads, etc. Deficiencies shall be noted in the inspection report. The inspection report shall be prepared, sealed, and signed by an engineer registered in the state of Georgia.

4. The Landowner, its successors and assigns, hereby grant permission to the City, its authorized agents and employees, to enter upon the Property and to inspect the stormwater management facilities whenever the City deems necessary. The purpose of the inspection is to follow-up on reported deficiencies and/or to respond to citizen complaints. The City shall provide the Landowner, its successors and assigns, copies of the inspection findings and a directive to commence with the repairs if necessary.

5. In the event the Landowner, its successors and assigns, fails to maintain the stormwater management facilities in good working condition acceptable to the City, the City may enter upon the Property and take whatever steps necessary to correct deficiencies identified in the inspection report and to charge the costs of such repairs to the Landowner, its successors and assigns. This provision shall not be constructed to allow the City to erect any structure of permanent nature on the land of the Landowner outside of the easement for the stormwater management facilities. It is expressly understood and agreed that the City is under no obligation to routinely maintain or repair said facilities, and in no event shall this Agreement be constructed to impose any such obligation on the City.

6. The Landowner, its successors and assigns, will perform the work necessary to keep these facilities in good working order as appropriate. In the event a maintenance schedule for the stormwater management facilities (including sediment removal) is outlined on the approved plans, the schedule will be followed.

7. In the event the City pursuant to this Agreement, performs work of any nature, or expends any funds in performance of said work for labor, use of equipment, supplies, materials and the like, the Landowner, it successors and assigns, shall reimburse the City upon demand, within thirty (30) days of receipt thereof for all actual costs incurred by the City hereunder. If reimbursement is not made to the City by the Landowner, its successors and assigns, within the above stated time period, there shall be a lien on all property of the owner which utilizes or will utilize the stormwater management facilities, which lien, when filed in the Jackson County Real Estate Records, shall have the same status and priority as liens for ad valorem taxes and may be placed on the tax bill and collected as ordinary taxes.

8. This Agreement imposes no liability of any kind whatsoever on the City and the Landowner agrees to hold the City harmless from any liability in the event the stormwater management facilities fail to operate properly.

9. This Agreement shall be recorded among the land records of Jackson County, Georgia, and shall constitute a covenant running with the land, and shall be binding on the Landowner, its administrators, executors, assigns, heirs and any other successors in interests, including any homeowners association.

Exhibit "B" (Continued)

WITNESS the following signatures and seals:

_____
Individual/Company/Corporation/Partnership Name (Seal)

By:
_____

_____

(Type Name and Title)

The foregoing Agreement was acknowledged before me this _____ day of _____,

20____, by _____

_____

NOTARY PUBLIC

My commission expires on: _____.

COUNTY OF _____, GEORGIA

Approved as to Form:

_____
(City Attorney Date)

CHAPTER 22: STREETS, CURBS, AND SIDEWALKS

Section

22-101	**General Regulations**
22-102	**Street Construction and Improvements**
22-103	**Reserved**
22-104	**Reserved**
22-105	**Reserved**

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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: RESERVED

CHAPTER 24: MUNICIPAL CEMETERIES

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24-102	Purchases and Conveyance of Lots
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24-104	Depth of Burial
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Section 24-101 Management and Supervision

The responsibility for the management, operation, maintenance, and general supervision of all municipal cemeteries shall be vested in the Department of Public Work.

Section 24-102 Purchases and Conveyance of Lots

1. **Lot Valuation.** The Mayor and City Council shall place a value upon all unsold lots in the municipal cemeteries, and shall record such valuation on an official map or plat of each cemetery, which maps shall be kept on file, open to public inspection in the office of the City Clerk.
2. **Method of Purchase.** Any person desiring to purchase an easement in a particular lot or lots, for the purpose for which it is intended, shall be permitted to do so upon payment of the price fixed for such lot or upon making arrangements, according to rules and regulations that may be established by the Mayor and Council, for the purchase of such lot or lots on an installment plan.

   There shall be no discrimination in the sale of lots on any basis.
3. **Manner of Conveying.** Conveyances of burial lots shall be executed in the name of the City by the Mayor and the City Clerk/Treasurer 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 and sepulcher 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 as fully as if set out in each such conveyance.
4. **Recording of Deed.** At the time the City conveys a burial lot, the City Clerk/Treasurer, in addition to collecting the 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 so recorded before delivery thereof to such purchaser. No sale or transfer or any such burial lot or any right therein, nor any subdividing of any burial lot by any purchaser or those claiming under him, 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.
5. **Records of Ownership.** The City Clerk shall keep full and complete records of the ownership of all easements in the municipal cemeteries, of the burial capacity of each lot, of the location of each

grave, of the names and ages of the persons buried in each grave that has been or shall hereafter be used, and of the date of burial of each.

6. **Sale or Transfer by Owner.** Owners of lots shall not be permitted to sell or transfer lots without providing written notification to the City Clerk.

Section 24-103 Rules for Interment

No deceased person shall be interred in any municipal cemetery until the City Clerk has found:

1. That the lot in which burial is to be made has been fully paid for;
2. That the person arranging for such burial has the right to the use of such lot;
3. That such lot is not used beyond its capacity; and
4. That proper record is made of the name and age of the deceased person and of the exact location of the grave.

Section 24-104 Depth of Burial

Any excavation or grave in which a dead body is buried within the City of Hoschton, Georgia, must be covered with at least eighteen inches (18") of soil on top of the vault or burial casing in which body is placed and be level with the grain and around the excavation or grave.

Section 24-105 Restrictions on Use

1. **Enclosures.** Only marble coping enclosure will be permitted around any burial lot in the cemetery. The City reserves the right to erect curbing along the walks and driveways if it so desires.
2. **Plantings.** The planting of flowers and shrubs, or any other effort to improve or beauty anything within a municipal cemetery shall be done only after the plans for such work shall have been submitted to the Mayor and Council and approved thereby.
3. **Stones and Monuments.** Owners of cemetery lot easements shall have the right to erect proper stones or monuments marking the burial site.
   - **A.** Headstones shall not exceed two feet (2') in height above the ground and eighteen inches (18") in width and shall be set in a solid concrete foundation.
   - **B.** Monuments of cut stone or marble shall not exceed ten feet (10') in height.

Section 24-106 Regulations in General

1. **Unauthorized Interments.** It shall be unlawful for any person to inter any dead body in any part of a municipal cemetery without the express authorization of the City Clerk.
2. **Disinterment.** Disinterments shall be made only when authorized by the Mayor and Council and the County Health Department.

Section 24-107 Authority of the City to Regulate

The Mayor and City Council of the City reserve to themselves and their successors in office the right to alter, amend, modify or add to the rules, regulations, conditions, and restrictions herein set forth at any time it is deemed advisable to do so in order to carry out the purpose of this Chapter.

There shall be no liability whatsoever, either tort or contractual, on the part of the City, or its officials or officers (or their successors in office), or its agents or employees, to any purchasers of any cemetery lots, or to any person holding under them, or to the family or relatives of any person buried in the cemetery, or to any person

or the family of such person who has erected any monument, marker, or mausoleum therein, by reason of any acts, thing or things, omission, negligence, or otherwise relating to the cemetery. In accepting any conveyance of any burial lot, each purchaser agrees that all heirs and assigns shall hold such lot subject to all amendments hereto made by the Mayor and City Council.

Section 24-108 Offenses

1. **Trespassing.** No person shall trample upon lots or interfere in any way or manner whatsoever with any tombstones, trees, flowers, grass, fence, or other portion or part of such cemeteries.
2. **Vandalism.** It shall be unlawful for any person to remove, deface, or in any manner injure any monument, enclosure, mausoleum, or ornament, or to cut down or injure any shrub, tree, or other plant without the express consent of the cemetery's governing authority.
3. **Littering.** Littering is strictly forbidden and shall be punishable by fines of up to five hundred dollars ($500.00).
4. **Entering Cemeteries at Night.** It shall be unlawful for any person to enter any municipal cemetery or walk upon or across any such cemetery between sunset and sunrise without the written consent of the Mayor and City Council.

CHAPTER 25: RESERVED

CHAPTER 26: RESERVED

CHAPTER 27: RESERVED

CHAPTER 28: RESERVED

CHAPTER 29: RESERVED

PART IV: GENERAL GOVERNMENTAL REGULATIONS

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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 antirabies 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

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.

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.

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 poundkeeper 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 Count 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 parvobacteriaceae (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

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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 non-compliance 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 Ordinance

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 section, except in case of necessity. Any parent or guardian of any person described above violating this Ordinance 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 wilfully violating the provisions of the first section of this Ordinance 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 the first section of this Ordinance 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 Ordinance 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

1. A person commits the offense of loitering or prowling when he/she is in a place at a time or in a manner not usual for law-abiding individuals under circumstances that warrant a justifiable and reasonable alarm or immediate concern for the safety of persons or property in the vicinity.
2. A person or group in the City Parks, Business, shall be understood to be loitering if the above are closed or are not being used for the purpose of which they were built.
3. The above ordinance will work in compliance with *O.C.G.A.* Title 16, Chapter 11.
4. A person committing the offense of Loitering shall be guilty of a misdemeanor.

Section 31-113 Reserved

Section 31-114 Parking Ordinance

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 and 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.

Penalty. Any person violating this ordinance shall be subject to a monetary fine:

(1) Not to exceed $50.00 for the first violation.

(2) Not to exceed $100.00 for the second violation.

(3) 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

A. 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.

B. The City of Hoschton expressly adopt O.C.G.A. 40-6-253 in its entirety. For the purposes of this ordinance, 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.

Section 31-119(1)

A. As used in this ordinance, "Open Container" means any container which is immediately capable of being consumed from or which the seal has been broken.

B. The City of Hoschton expressly adopts the definitions of "Alcoholic Beverage" contained in O.C.G.A. 40-6-253.

C. 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.

D. The provision of this ordinance shall not apply to passengers in a vehicle for hire or the living quarters of a motor home.

E. Any person who violates provisions of this code 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.

A. An emergency call includes, but is not limited to, a call that the caller terminates without first speaking or relaying an emergency message.

B. To the extent that this section is preempted by the state law, only the state law shall apply.

C. 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:

1. Directly violates this section:
2. 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;
3. Aids or abets the violation of this ordinance; or
4. 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

A. 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.

B. 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:

1. It is not equipped with a speedometer which is in good working order as required by O.C.G.A. 40-8-8;
2. Is not equipped with working headlights as required by O.C.G.A. 40-8-22.
3. Is not equipped with working tail light as required by O.C.G.A. 40-8-23.
4. Is not equipped with working brake lights and turn signals as required by O.C.G.A. 40-8-25 or;
5. 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

A. Except as provided in subsection (B) 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.

B. 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 2/052007; Effective 2/15/2007)

CHAPTER 32: LICENSING AND BUSINESS REGULATION

Section

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ARTICLE I. GENERAL REGULATIONS

Section 32-101 Applications

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

1. **Form of Application.** Each application shall be a written statement upon forms provided by the City Clerk/Treasurer.
2. **Contents of Application.** Each application shall contain the following information:
   - **A.** Name and home address of the applicant if an individual, or home office address if a corporation or partnership;
   - **B.** Place where the proposed business is to be located;
   - **C.** Kind of business to be conducted;
   - **D.** Names and home addresses of the partners, if a partnership;
   - **E.** Names and home addresses of the officers and directors, if a corporation**;**
   - **F.** Complete record of all arrests and convictions against the applicant and every partner, officer, or director of the applicant for violation of any and all laws and ordinances of the City, state, or federal government; and
   - **G.** Such additional information which the City Clerk/Treasurer or City Council may find reasonably necessary to the fair administration of this Section.
3. **Verification.** Each application shall be sworn to by the applicant if an individual, or by a partner if a partnership, or by an officer if a corporation.

In accordance with *O.C.G.A.* § 36-60-6, the City of 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 Casher** **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, such amount to be prorated by quarters to the end of the fiscal year.
   A. **Issuance of Receipts.** The City Clerk/Treasurer shall issue a receipt to the applicant for the amount of the fee tendered with the application for a license, provided that such receipt shall not be construed as approval of the application, nor shall it entitle or authorize the applicant to open or maintain any business contrary to the provisions of this Section.
   B. **Rebate of Fee.** Upon the disapproval of any application for which a fee has been submitted under the provisions of this Chapter, the City Clerk/Treasurer shall refund such fee, provided that the applicant is not otherwise indebted to the City.
5. **Confidentiality of Information.** All information furnished or secured under the authority of this Section shall be kept in strict confidence by the City Clerk/Treasurer, shall not be subject to public inspection, and shall be utilized solely by the officers of the City responsible for administering the provisions of this Section.
6. **False Statements.** False statements on any application for a license shall be grounds for immediate revocation of such license.

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 the last day of the fiscal year of the City when no provision to the contrary is made.
2. Each licensee shall make a written application for renewal on forms supplied by the City Clerk/Treasurer on or before November 15, which application shall contain substantially the same information as the initial application and be accompanied by all required fees.
3. The following numbered paragraphs shall be added:
   A. 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.

(*Adopted 12/1/2003*).

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.

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

B. 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.

(*Adopted 12/1/2003*)

Section 32-106 Revocation, Suspension, Etc.

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

Section 32-107 Change of Location

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

Section 32-108 Transfer of Licenses

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

Section 32-109 Duplicate Licenses

A duplicate license shall be issued by the City Clerk/Treasurer to replace a previously issued license which has been lost, stolen, defaced, or destroyed without any wilful 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

Any such license fee not paid by April 15, for each respective year, shall be delinquent.

ARTICLE II. BUSINESSES REGULATED

Section 32-201 Malt, Vinous and Other Alcoholic Beverages

1. **Purpose of Section.** This Section has been enacted in accordance with a plan designed for the purposes, among others, of promoting the health and general welfare of the community, to establish reasonable standards for the regulation and control of the licensing and of malt and vinous beverages; to protect and preserve schools; to give effect to existing land use; to protect those of minor age in the community; and to preserve certain residential areas, with reasonable considerations, among others, to the character of the areas and their peculiar suitability for particular uses, the congestion in the roads and streets, and with a general view of promoting desirable living conditions and sustaining stability of neighborhood and property values; and to protect against the evils of concentration of outlets for malt and vinous beverages in one (1) family or to prevent undesirable persons from controlling the malt and vinous beverage industry.
2. **Definitions.**
   - **A. Interest in License.** As used in this Section, an interest in a license shall be deemed to exist if the person involved is the outright owner of the license; a co-owner of the license; a partner in the partnership which owns all or any part of a license; a stockholder of a corporation organized for a pecuniary gain which owns all or any part of a license; an owner, lessor, sublessor or stockholder in any corporation organized for pecuniary gain owning or leasing any real estate which is occupied by a business or establishment which sells malt and/or vinous beverages, or shares in any of the income or corpus of any trust fund or estate having any interest in one of the aforesaid establishments which sells malt and/or vinous beverages.
   - **B. Malt Beverages.** Malt beverage shall mean any and all malted, fermented, or brewed beverages of any name or description, manufactured from malt, wholly or in part, such as beer, lager beer, near beer, porter or ale, and all brewed or fermented beverages, and beverages in which maltose is one of the substantial ingredients, whether alcoholic or not, or whether intoxicating or not.
   - **C. Vinous Beverages.** Vinous beverages shall mean any and all wines fortified and unfortified, produced either within or without the State of Georgia, and containing not more than twenty-one percent (21%) alcohol by volume.
   - **D. Package Sales.** Package sales shall mean the sale in packages or containers of malt or vinous beverages for consumption only off the premises.
   - **E. Types of Licenses.** The City of Hoschton shall issue licenses for package sales only.
3. **Personal Restrictions on Interest in Retail Business.**
   - **A.** Not more than one (1) license to engage in the sale of malt and vinous beverages in package sales or on the premises in the City shall be issued to any one (1) person, which shall include all members of that person's family.
   - **B.** Family shall be deemed to include any person related to the holder of the license within the first degree of consanguinity of affinity as computed according to the civil law.

C. After the effective date of this Section, no person or member of his or her family shall own, hold or control any interest whatsoever in more than two (2) licenses to engage in the business of selling malt and vinous beverages, unless the licensee is a corporation which owns or controls a chain of retail stores.

D. A licensee may take in partners or additional stockholders. Under this Section, any additional partner or stockholder must be approved by the Mayor and City Council.

4. Retail License Prohibited From Having Direct Financial Interest in Wholesale Liquor Business. No person shall hold a retail license who also has any direct financial interest in any wholesale alcoholic beverage business.

5. Zoning Requirements For License Location. No license shall be issued within the areas described in this Section unless the location has been zoned commercial (C1 or C2) or wholesale/industrial (M1) under the zoning chapter of this Code.

6. Business Location Near Schools and Other Licensees; Distance Requirements. The distance set out in this Section shall be measured in a straight line. No license shall be issued to any retailer hereunder where the place of business of the licensee is located within two hundred feet (200') from any church or within two hundred feet (200') from any property line of any school ground. The schools referred to herein shall include only such state, county, City, church or other schools as teach the subjects commonly taught in the common schools of this state, and shall not include private schools or colleges wherein only specialized subject such as law, stenography, business, music, art, medicine, dentistry, vocational occupations and other special subjects are taught.

7. Locations Near Private Residence; Distance Requirements; Private Residence Defined.

A. A private residence, for the purpose of this Section, is defined as a house or dwelling wherein not less than one (1) nor more than two (2) families reside and shall not include an apartment house having facilities for housing more than two (2) families, nor a boarding or rooming house where there are five (5) or more boarders or roomers. Any building occupied as a residence located within an area zoned for business shall not be construed as a private residence.

B. No license shall be issued to any location which is within one hundred fifty feet (150') of any private residence, that distance to be measured from the nearest point of the proposed business to the nearest point of the residential building.

8. Types of Businesses to be Licensed or Prohibited. Package sales licenses may be issued to package stores or to grocery stores or to any applicant who meets the requirements of a license for consumption off the premises.

9. Standards to Determine Sleeping or Seating Capacity; Inspections; Compliance with Fire Requirements. Where a minimum sleeping or seating capacity is prescribed herein, the requirement shall be judged by existing ordinances of the county or state regulations or by reasonable standards. The fire department, shall, upon request of the City Clerk/Treasurer inspect these premises and report their findings to the City Clerk/Treasurer. All premises licensed hereunder shall conform at all times to all fire regulations of the City, county and state.

10. Penalties for Violation of Section; Application Irregularities.

A. Any person who acquires a license or a renewal thereof, in violation of this Section by any misrepresentation or fraudulent statement, or who, after acquiring a license, is found to have violated any of the provisions of this Section, and shall be found guilty of any such offense and upon conviction thereof shall be punished as for a misdemeanor as provided in the City Charter and the license issued shall be revoked. Each day's continuance of a violation shall be considered a separate offense.

B. Any untrue or misleading information contained in, or material omission left out of an original, renewal of transfer application for a license shall be cause for the denial thereof and, if any license has been granted under these circumstances, these shall be cause for revocation.

C. Revocation of a license for violation of this Section shall be for a minimum of six (6) months and a maximum of twenty-four (24) months, the period to be determined at the discretion of the judge. A total of three (3) separate and unrelated violations shall constitute grounds for permanent revocation.

D. Any person, firm, or corporation violating any of the provisions of this Section shall, on conviction therefor in the Municipal Court of the City, be fined not more than two hundred fifty dollars ($250.00), sentenced to confinement in jail for not more than ninety (90) days, or be subject to revocation of their license, or all three, at the discretion of the judge. The aforesaid penalties may be levied against each separate offense of this Section.

11. Qualifications for Applicants. All applicants for licenses must attach to their application evidence of their good character. No license, whether original or renewal, shall be issued to any person, partnership or corporation organized for pecuniary gain where any individual having an interest either as owner, partner, general or limited, stockholder, directly or indirectly, beneficial or absolute, or the spouse of any individual with any interest as set forth herein, shall have been convicted or pleaded guilty taken a plea of nolo contendere to any federal, state or local law whether felony or misdemeanor, within ten (10) years immediately prior to the filing of the application for a license, unless in the determination of the City Council such conviction should be disregarding due to its irrelevancy to the issue of applicant's fitness to hold a license or to the applicant's tendency to maintain the operation for which he is seeking a license in conformity with federal, state and local laws and regulations.

(Amended 9/15/1998)

12. Application Contents.

A. All applications for licenses, both originals or renewals, in addition to other requirements in this part of the Code must be accompanied by a full and complete statement under oath of information relative to any and all interest (as defined before in Section 32-20-3 in establishments which sell at wholesale and/or retail malt and vinous beverages. This shall include:

(1) The names and addresses of all persons interested in the ownership of the business applying for a license to sell malt or vinous beverages, together with an interest each person or any member of his or her immediate family has in any other business licensed to sell malt or vinous beverages;

(2) The ownership of the land and building where the business is to be operated;

(3) A set of fingerprints of all persons with any interest in the ownership of the business. These fingerprints must be processed through and found negative by the Georgia Crime Information Center (GCIC) and the National Crime Information Center (NCIC);

(4) Photograph of principal officers; and

(5) Any other information called for by the Mayor and City Council.

B. Any change in any relationship herein declared must be filed with the Mayor and City Council and/or City Clerk/Treasurer when the change is made, and failure to so file within a period of thirty (30) days after the change is made shall be grounds for cancellation or revocation by the Mayor and City Council.

13. Investigation of Application.

A. Applicants, by filing for a license to sell malt and vinous beverages, agree to furnish the date, information and records as called for herein and also agree to submit under oath to interrogation by the City Clerk/Treasurer, City Attorney, and/or Mayor and City Council as to any facts considered pertinent to the application. Applicants, by filing the application, also agree to produce for oral interrogation by the City Clerk/Treasurer, City Attorney, and/or Mayor and City Council, any person or persons requested by the City Clerk/Treasurer and/or Mayor and City Council, as being important in the ascertainment of the facts relative to the granting of

the license. Failure to furnish this date, information and records or failure to produce these persons within thirty (30) days from the date of the request by the City shall automatically serve to dismiss with prejudice the application of the applicant failing to furnish the date, information and records or failing to produce these persons.

B. All applications for new licenses for sale of malt and vinous beverages, and applications for renewals thereof, shall be investigated by the designee of the Mayor and City Council, and no new or renewal license shall be acted upon by the Mayor and City Council or issued by the City Clerk/Treasurer until the designee has indicated in writing that in his or her opinion no violation exists upon the facts as stated and ascertained by the aforesaid investigation as to any ordinance or law in effect as of the date of the rendering of the opinion.

C. All applicants for new licenses or for transfers of locations shall be passed upon by the Mayor and City Council and their action shall be taken within sixty (60) days from the date of the filing of the application or notice of extension by the Mayor and City Council is given two (2) weeks prior to the sixty (60) day deadline.

D. Any change in any relationship declared in Section 32-201-3, application contents, which requires investigation by the City Clerk/Treasurer and/or Mayor and City Council prior to the issuance of a renewal license shall be passed upon by the Mayor and City Council within sixty (60) days from the date of filing of the changes.

14. **Property Survey.** All applications shall include a certificate of the proposed premises and the straight line distance from the proposed premises to the building and property line of the nearest school, residence, and church showing compliance with the appropriate provisions and sections of this Section.

15. **Physical Requirements for Licensed Premises.** No license shall be granted to a retailer, under the provisions of this Section, unless the front entrance to the premises is clearly visible from a public street, provided, however, that this restriction shall not apply where the license is issued to a location in a shopping center.

16. **Public Hearing on Application.** All applications for licenses shall be acted upon by the Mayor and City Council after a public hearing and advertisement in at least two (2) consecutive issues of the legal organ of the City, which notice shall contain a particular description of the location of the proposed business and shall give the name of the applicant, and, if a partnership, the names of all the partners, both general and limited; and, if a corporation, the names of the officers and board of directors. The advertisement referred to herein shall be a type not smaller than ten (10) point capital and lower case and shall be at least a one inch (1"), two (2) columns advertisement.

17. **Issuance of License.**

A. All licenses must be obtained and license fees and business taxes paid no later than two (2) weeks from the date of the approval of the application by the Mayor and City Council and, if not so obtained, the temporary permit granted by the Mayor and City Council shall be void.

B. When a license has been approved and the applicant has deposited with the City Clerk/Treasurer the required fees and taxes, the license will be issued.

C. The cost of license shall be established annually by the Mayor and City Council and shall be posted publicly in the City Hall.

18. **Term of License.** No license under this Section shall be issued for less than a calendar year period and, in case of the revocation or surrender of the license before expiration of the calendar year period, the holder shall not be entitled to receive any refund of any fees or taxes whatsoever.

19. **Transferability of License.**

A. Licenses shall not be transferable, except as otherwise provided herein. In the case of the death of any person holding a license, or any interest therein, the same may, at the discretion of the Mayor and City Council, be transferred to the administrator, executor, or the lawful heir

of the decedent. The executor, administrator, or lawful heir shall have a thirty (30) day grace period or until the next regular scheduled City Council meeting to apply for a license transfer, whichever is longer.

B. Nothing in this Section, however, shall prohibit one (1) or more partners in a partnership holding a license to withdraw from the partnership in favor of one (1) or more partners who were partners at the time of the issuance of the license.

C. Should a transfer of location be approved, there shall be no pro rata return of any license fee or business tax and the new location shall be considered as a new license hereunder.

D. All applications for transfer of locations shall comply with the provisions herein set forth governing new licenses.

E. This Section is in no way to be construed to conflict with any federal or state bankruptcy or receivership laws.

20. Procedure When License Denied by State. In the event the applicant is denied a license by the state, upon the proof of that refusal he or she shall be entitled to a refund of the license fee or business tax less the investigative fee as required plus an additional charge of twenty-five dollars ($25.00) to cover the clerical costs of granting the license. This refund may be made by the City Clerk/Treasurer without the necessity of any action by the Mayor and City Council.

21. Suspension or Revocation of License.

A. Whenever the state shall revoke any permit or license, the City license to deal in that product shall thereupon be automatically revoked without any action by the Mayor and City Council or any municipal officer.

B. Whenever a holder of a license granted in the section by the Mayor and City Council shall fail to open for business the establishment referred to in the license and begin the sale of products or product authorized by the license within nine (9) months from the date of issuance of the license, or whenever a holder of a license shall begin the operation of a business and sale of the product or products as authorized in the license but shall fail to operate the business for a period of nine (9) consecutive months, the holder shall automatically forfeit his or her license, which shall be canceled or revoked without the necessity of any further action of the Mayor and City Council.

C. Except as provided for herein, no license which has been issued or which may hereafter be issued by the City to any person under this Section shall be suspended or revoked, except for due cause as hereinafter defined, and after a hearing and upon the prior three (3) day written notice to the holder of the license of the time, place and purpose of the hearing and a statement of the charge upon which the hearing shall be held.

D. Due cause for the suspension or revocation of license shall consist of the violation of any laws or ordinances regulating the businesses, or violation of regulations made pursuant to authority granted for the purpose of regulating the businesses, or for the violation of any state or federal law, or for the violation of any City ordinance other than traffic ordinances. A conviction or a plea of nolo contendere to the offense of driving an automobile while under influence of intoxicating liquor or drugs shall not be considered an excepted traffic violation.

E. The hearing shall be conducted before the Mayor and City Council by the City Clerk/Treasurer and/or City Attorney.

F. In the event of revocation, no refund or any portion of the license fee or business tax shall be returned.

22. Prevention of Evasion; Records; Inspections.

A. Upon demand by the City Clerk/Treasurer and/or the Mayor and City Council it shall be the duty of any licensee to throw open to these City officials or their designee, during regular business hours, all portions of the place of business for the purpose of enabling these City officials to ascertain and gain any information as may be necessary for determination of the

percentage of gross receipts from the sale of food and the percentage of gross receipts from the sale of malt and vinous beverages. Upon demand by these City officials, it shall also be the duty of any licensee to furnish the City officials during regular business hours at the licensee's place of business all books of account, invoices, papers, reports and memoranda containing entries showing amount of purchases, sales receipts, inventory and other information, from which the correct percentages of gross receipts from the sale of food as opposed to malt and vinous beverages, including exhibition of bank deposit books, bank statements, copies of sales tax receipts to the State of Georgia, copies of Georgia income tax reports and federal income tax reports.

B. It shall be the duty of any licensee of the City to secure, preserve, maintain and keep for a period of three (3) years the records and documents enumerated and referred to in the previous subsection.

C. It shall be unlawful for any licensee or for any servant, employee, or agent of the licensee to obstruct or interfere with any City officials in obtaining information necessary for determination of the aforesaid percentage of sales.

D. Except in the case of judicial proceedings or other proceedings necessary to collect the license fee or business tax provided in this Code, it shall be unlawful for any officer, employee, agent or clerk of the City or any person to divulge or make known in any manner the information required to be submitted in the registration and application for license, or otherwise submitted under the terms of this Section and the rules and regulations promulgated in connection therewith. All information so submitted shall be confidential and open only to the officials, employees, agents or clerks of the City using the information for the purpose of the administration of this Section. Independent auditors or bookkeepers employed by the administrator shall be classed as employees. Nothing herein contained shall prevent the disclosure of the license fee or business tax levied and assessed upon any person subject thereto, the name, address, and type of business of the license holder. Nothing herein contained shall be construed to prohibit publication by the City officials of statistics, so classified as to prevent the identification of particular reports or returns on the items thereof, or the inspection of the records by duly qualified employees of the tax departments of the State of Georgia or of the United States.

23. Prohibited Hours of Operation. No license holder shall sell, give away or otherwise dispense malt and vinous beverages between the hours of 12:00 midnight, Saturday and 6:00 a.m. Monday, and shall not permit their places of business to be opened for the sale of malt and vinous beverages on Sundays or Christmas Day except as otherwise specifically permitted by the laws of Georgia. Sale of malt and vinous beverages will be permitted on Election Day, effective September 15, 1998.

(Amended 9/15/1998)

24. Employees.

A. No licensee shall employ in any premises used for the sale of malt and vinous beverages any person under the age of eighteen (18) years or who has been convicted in this or any state or by the United States or any other country of soliciting for prostitution, keeping a disorderly place, illegally dealing in narcotics, sex offenses, or any charge relating to the unlawful manufacture or sale of intoxicating liquors or any other crime involving moral turpitude within ten (10) years immediately prior to the date of employment, and employment of such a person subjects the licensee to suspension or revocation of the license by the Mayor and City Council.

B. The City Council, within its own discretion, from time to time, may require employees working in an establishment selling beer or wine to submit information for purposes of supplementing any information available to the City with respect to employees. Each such employee shall pay a five dollar ($5.00) fee for local records check and I.D. card to be worn while so employed.

The City Clerk/Treasurer may require them to apply for complete fingerprinting for criminal history check within all provisions hereinafter, and in the discretion of the City Clerk/Treasurer such additional fees as are reasonably related to recovery of the City's cost in time, equipment and material for such additional fingerprint search shall be charged.

C. **Applicability; Clearance.** No person may work, except as in subsection (d) below, in an establishment holding a license for sale of packaged malt or vinous beverages hereunder until such person has been fingerprinted by the police department and has been issued an I.D. card temporarily by the police department which shall indicate the person is eligible temporarily.

D. **Time Limit.** All persons subject to the provisions of this Section shall, within three (3) days after the date of their first work in an establishment holding a license to sell alcoholic beverages, report to the City Police Department for purposes of being fingerprinted.

E. **Investigation and Report.** The City Police Department shall have a reasonable search made relative to any police record of the person fingerprinted. In the event there is no record of a violation of this Section, such temporary issuance above shall become permanent unless canceled. If it should be found there is a violation of this Section by the person fingerprinted, the chief of police shall notify the licensee that such person is not eligible for continued work. No person shall continue working after receiving such notice of ineligibility. It shall be the responsibility of the licensee after receiving notification of the ineligibility of such worker to ensure that the worker ceases to work.

F. **List of Employees to Be Filed.** It shall be the duty of all persons holding any license to sell alcoholic beverages to file with the Chief of Police the names of all employees, with their home addresses and home telephone numbers and places of employment. Changes in the list of employees, with the names of new employees, must be filed with the Chief of Police within three (3) days from the date of any such changes.

G. **Licensee Responsible.** The licensee is responsible for the conduct or actions of his or her employees while in his or her employ.

H. No licensee shall work in any premises for the sale of alcoholic beverages any person in any capacity found to have been convicted of, or who shall have entered a plea of nolo contendere to, any felony within a period of ten (10) years immediately prior to the filing of any such application, or to any misdemeanor within a period of five (5) years immediately prior to the filing of any such application, for any felony or misdemeanor of any state, or of the United States, or any municipal ordinance except a traffic violation. The term "conviction" shall include an adjudication of guilt or plea of guilty, or a plea of nolo contendere or the forfeiture of a bond by a person charged with a crime.

I. Notwithstanding the above provisions the Mayor and City Council, in their sole discretion, may direct the issuance of a letter of eligibility to persons who have in the past been convicted of, or plead guilty to, or entered a plea of nolo contendere, or forfeited a bond on any crime not involving force or violence, and the Mayor and City Council after a thorough investigation of all the facts, including parole or probation officer's reports, judge's recommendations, and any other evidence bearing on the character of the applicant have determined that such action is in keeping with the public good and ends of justice, or the public interest and welfare.

J. Minors under eighteen (18) years old may be employed in or about places of business where malt or vinous beverages are sold, provided the minors shall not be allowed or required to dispense, sell, deliver off premises, or take orders for malt and vinous beverages, or in any manner aid or assist in the dispensing, sale, delivery, or take orders for such beverages as per state law.

25. **License Number to be Displayed.** Each person licensed to sell malt and vinous beverages shall publicly display his or her business license and the license or licenses issued to authorize the sale of malt or vinous beverages.

26. Condition of Premises.

A. All licensed premises shall be kept clean and in proper sanitary condition and in full compliance with the provisions and regulations governing the conditions or premises used for the storage and sale of food for human consumption. It shall be unlawful to permit any disturbance of the peace or obscenity or any lewd, immoral or improper entertainment conduct or practices on the premises.

B. The fire department shall, upon request of the City Clerk/Treasurer and/or the Mayor and City Council, inspect each premises and report their findings to the same. All premises licensed hereunder shall conform at all times with all fire regulations of the City.

27. Other Types of Liquor Prohibited. It shall be unlawful for any person operating places licensed for the sale of malt and vinous beverages to store or have therein any other alcoholic beverages for which he or she holds no license.

28. Machines Used For the Purpose of Musical Entertainment and Cigarette Dispensing Permitted. Machines or central systems used for musical entertainment are permitted, provided that the machines or systems may be controlled by the individual user or maintained by the licensee in such a manner so as to assure proper decorum at all times. Loud or otherwise abusive sounds are specifically prohibited.

29. Sales Outside of Licensed Premises. It shall be unlawful for any sale to be made outside of the building, premises or place of business licensed for sales except of permitted herein.

30. Copy of Provisions to Be Maintained on Licensed Premises; Effect of Violation by Employee or Agent of Licensee. It shall be the duty of the licensee hereunder to maintain a copy of this Section on the premises and to instruct each and every employee of the terms thereof. A violation of the chapter by an employee or agent of the licenses shall be deemed a violation of the licensee.

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 conditioned air 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

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

Section 32-209 Reserved

Section 32-210 Reserved

Section 32-211 Reserved

Section 32-212 Reserved

Section 32-213 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 side-shows.
   - **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, gams 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 operators) 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 County 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. 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

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.

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.

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, with additional copies furnished the Director of Public Safety.

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 enjoinment 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 Director of

Planning and Development shall issue an adult entertainment establishment license to an applicant who informs the Director of Planning and Development 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 Director of Planning and Development 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)

CHAPTER 33: NUISANCES

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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**. Deed, 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:

(1) Property covered by a valid land disturbing permit;

(2) Property one (1) acre or greater in size;

(3) 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 unsubdivided 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 of 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 34-113, 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.
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 a property owner on 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)

CHAPTER 34: ANNEXATIONS TO CORPORATE LIMITS

Section

34-101 Property Annexed

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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 l407, 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. Allen 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 27minutes 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 pointSouth 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 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 West 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, then 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; then 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 of180.96 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)

CHAPTER 35: SOIL EROSION AND SEDIMENTATION CONTROL

Section

35-101	Title
35-102	Definitions
35-103	Exemptions
35-104	Minimum Requirements For Erosion and Sedimentation Control Using Best Management Practices
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35-106	Inspection and Enforcement
35-107	Penalties and Incentives
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Section 35-101 Title

This Ordinance will be known as the Hoschton Soil Erosion and Sedimentation Control Ordinance.

Section 35-102 Definitions

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

1. **Best Management Practices (BMP'S)**. A collection of structural practices and vegetative measures which, when properly designed, installed and maintained, will provide effective erosion and sedimentation control. The term "properly designed" means 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).
2. **Board.** The Board of Natural Resources.
3. **Buffer**. The area of land immediately adjacent to the banks of state waters in its natural state of vegetation, which facilitates the protection of water quality and aquatic habitat.
4. **Commission**. The State Soil and Water Conservation Commission.
5. **Cut**. A portion of land surface or area from which earth has been removed or will be removed by excavation; the depth below original ground surface to excavated surface. Also known as excavation.
6. **Department**. The Department of Natural Resources.
7. **Director**. The Director of the Environmental Protection Division of the Department of Natural Resources.
8. **District**. The Oconee River Soil and Water Conservation District.
9. **Division.** The Environmental Protection Division of the Department of Natural Resources.
10. **Drainage Structure.** A device composed of a virtually nonerodible material such as concrete, steel, plastic, or other such material that conveys water from one place to another by intercepting the flow and carrying it to a release point for stormwater management, drainage control, or flood control purposes.
11. **Erosion**. The process by which land surface is worn away by the action of wind, water, ice or gravity.

12. **Erosion and Sedimentation Control Plan**. A plan for the control of soil erosion and sedimentation resulting from land-disturbing activity. Also known as the "plan."
13. **Ground Elevation**. The original elevation of the ground surface prior to cutting or filling.
14. **Fill**. A portion of land surface to which soil or other solid material has been added; the depth above the original ground.
15. **Finished Grade.** The final elevation and contour of the ground after cutting or filling and conforming to the proposed design.
16. **Grading.** Altering the shape of ground surfaces to a predetermined condition; this includes stripping, cutting, filling, stockpiling and shaping or any combination thereof and shall include the land in its cut or filled condition.
17. **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.
18. **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.
19. **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.
20. **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.
21. **Natural Ground Surface**. The ground surface in its original state before any grading, excavation or filling.
22. **Nephelometric Turbidity Units (NTU)**. Numerical units of measure based upon photometric analytical techniques for measuring the light scattered by finely divided particles of a substance in suspension. This technique is used to estimate the extent of turbidity in water in which colloidally dispersed particles are present.
23. **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 a storm-water pollution prevention 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 storm-water pollution prevention plan or to comply with other permit conditions.
24. **Permit**. The authorization necessary to conduct a land-disturbing activity under the provisions of this Ordinance.
25. **Person**. Any individual, partnership, firm, association, joint venture, public or private corporation, trust, estate, commission, board, public or private institution, utility, cooperative, state agency, municipality or other political subdivision of this State, any interstate body or any other legal entity.
26. **Project.** The entire proposed development project regardless of the size of the area of land to be disturbed.
27. **Qualified Personnel**. Any person who meets or exceeds the education and training requirements of *O.C.G.A.* § 12-7-19.
28. **Roadway Drainage Structure**. A device, such as a bridge, culvert, or ditch, composed of a virtually nonerodible material such as concrete, steel, plastic, or other such material that conveys water under

a roadway by intercepting the flow on one side of a traveled way consisting of one or more defined lanes, with or without shoulder areas, and carrying water to a release point on the other side.

29. **Sediment.** Solid material, both organic and inorganic, that is in suspension, is being transported, or has been moved from its site of origin by air, water, ice, or gravity as a product of erosion.

30. **Sedimentation**. The process by which eroded material is transported and deposited by the action of water, wind, ice or gravity.

31. **Soil and Water Conservation District Approved Plan**. An erosion and sedimentation control plan approved in writing by the Oconee River Soil and Water Conservation District.

32. **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.

33. **State General Permit**. The National Pollution Discharge Elimination System 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.

34. **State Waters.** Any and all rivers, streams, creeks, branches, lakes, reservoirs, ponds, drainage systems, springs, wells, and other bodies of surface or subsurface water, natural or artificial, lying within or forming a part of the boundaries of the State, which are not entirely confined and retained completely upon the property of a single individual, partnership, or corporation.

35. **Structural Erosion and Sedimentation Control Measures.** Practices for the stabilization of erodible or sediment-producing areas by utilizing the mechanical properties of matter for the purpose of either changing the surface of the land or storing, regulating or disposing of runoff to prevent excessive sediment loss. Examples of structural erosion and sediment control practices are riprap, sediment basins, dikes, level spreaders, waterways or outlets, diversions, grade stabilization structures, sediment traps and land grading, etc. Such measures can be found in the publication *Manual for Erosion and Sediment Control in Georgia*.

36. **Trout Streams**. All streams or portions of streams within the watershed as designated by the Game and Fish Division of the Georgia Department of Natural Resources under the provisions of the Georgia Water Quality Control Act, *O.C.G.A.* § 12-5-20 *et seq*. Streams designated as primary trout waters are defined as water supporting a self-sustaining population of rainbow, brown or brook trout. Streams designated as secondary trout waters are those in which there is no evidence of natural trout reproduction, but are capable of supporting trout throughout the year. First order trout waters are streams into which no other streams flow except springs.

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

A. Permanent seeding, sprigging or planting, producing long-term vegetative cover; or

B. Temporary seeding, producing short-term vegetative cover; or

C. Sodding, covering areas with a turf of perennial sod-forming grass.

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

38. **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.

39. **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, "Mineral Resources and Caves Act";

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 Section 35-104 of this Ordinance 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 horizontal feet (50'), but the Director may grant variances to no less than twenty-five feet (25'). 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 horizontal feet (25'), and no variance to a smaller buffer shall be granted. The minimum requirements of Section 35-104 of this Ordinance and the buffer zones provided by this paragraph shall be enforced by the Issuing Authority.

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 chicken, hens and turkeys; producing plants, trees, fowl, or animals; the production of aqua culture, horticultural, dairy, livestock, poultry, eggs and apiarian products; farm buildings and farm ponds;

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 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 feet (200') of the bank of any state waters, and for purposes of this paragraph, "State Waters" excludes channels and drainageways which have water in them only during and immediately after rainfall events and intermittent streams which do not have water in them year round; provided, however, that any person responsible for a project which involves less then one (1) acre, which involves land-disturbing activity, and which is within two hundred feet (200') of any such excluded channel or drainageway must

prevent sediment from moving beyond the boundaries of the property on which such project is located and provided, further, that nothing contained herein shall prevent the Local Issuing Authority from regulating any such project which is not specifically exempted by paragraphs A,B,C,D,E,F,H, or I of this Section;

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 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 Department of Transportation or State Tollway Authority which disturb one (1) or more contiguous acres of land shall be subject to provisions of Code Section 12-7-7.1; except where the Department of Transportation, the Georgia Highway Authority, or the State Road and Tollway Authority is a secondary permitted 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 permitted 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 bv permit holders: and

11. Any public water system reservoir.

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

1. General Provisions. Excessive soil erosion and resulting sedimentation can take place during land-disturbing activities. Therefore, plans for those land-disturbing activities which are not excluded by this Ordinance shall contain provisions for application of soil erosion and sedimentation control measures and practices. The provisions shall be incorporated into the erosion and sedimentation control plans. Soil erosion and sedimentation control measures and practices shall conform to the minimum requirements of Section 35-104 (2) and (3) of this Ordinance. The application of measures and practices shall apply to all features of the site, including street and utility installations, drainage facilities and other temporary and permanent improvements. Measures shall be installed to prevent or control erosion and sedimentation pollution during all stages of any land-disturbing activity.

2. Minimum Requirements/BMP'S.

A. Best management practices as set forth in Section 35-104 (2) and (3) of this Ordinance shall be required for all land-disturbing activities. Proper design, installation, and maintenance of best management practices shall constitute a complete defense to any action by the Director

or to any other allegation of noncompliance with paragraph (2) of this subsection or any substantially similar terms contained in a permit for the discharge of stormwater issued pursuant to subsection (f) of *O.C.G.A.* § 12-5-30, "Georgia Water Quality Control Act." As used in this subsection, the terms "proper design" and "properly designed" mean designed 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 then 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) *O.C.G.A.* § 12-5-30, the "Georgia Water Quality Control Act", for each day on which such failure occurs.

D. The Director may require, in accordance with regulations adopted by the board, reasonable and prudent monitoring of the turbidity level of receiving waters into which discharges from land-disturbing activities occur.

3. The rules and regulations, ordinances, or resolutions adopted pursuant to this Chapter for the purpose of governing land-disturbing activities shall require, as a minimum, 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 and sedimentation control shall include provisions for treatment or control of any source of sediments and adequate sedimentation control facilities to retain sediments on-site or preclude sedimentation of adjacent waters beyond the levels specified in Section 35-104-2 (B) of this Ordinance;

O. Except as provided in paragraph (P) of this subsection, there is established a twenty-five foot (25') 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 a least as protective of natural resources and the environment, where otherwise allowed by the Director pursuant to *O.C.G.A.* § 12-2-8, or where a drainage structure or a roadway drainage structure must be constructed, provided that adequate erosion control measures are incorporated in the project plans and specifications, and are implemented; provided, however, the buffers of a least twenty-five feet (25') 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 feet (50') 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 foot (50') 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 steams" 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-rive gallons per minute (25 gpm) or less shall have a twenty-five foot (25') 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 feet (50') 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.

4. Nothing contained in this Chapter 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 35-104-3 of this Ordinance.

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

Section 35-105 Application/Permit Process

1. **General.** The property owner, developer and designated planners and engineers shall review the general development plans and detailed plans of the Local Issuing Authority that affect the tract to be developed and the area surrounding it. They shall review the Zoning Ordinance, Stormwater Management Ordinance, Subdivision Ordinance, Flood Damage Prevention Ordinance, this Ordinance, and other ordinances which regulate the development of land within the jurisdictional boundaries of the Local Issuing Authority. However, the operator owner is the only party 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 Hoschton Planning and Zoning Department to perform such activity.

B. The application for a permit shall be submitted to the Hoschton Planning and Zoning Department and must include the applicant's erosion and sedimentation control plan with supporting data, as necessary. Said plans shall include, as a minimum, the data specified in Section 35-105-3 of this Ordinance. Soil erosion and sedimentation control plans shall conform to the provisions of Section 35-104-2 and 35-104-3 of this Ordinance. Applications for a permit will not be accepted unless accompanied by five (5) copies of the applicant's soil erosion and sedimentation control plans. All applications shall contain a certification stating that the plan

preparer or the designee thereof visited the site prior to creation of the plan or that such a visit was not required in accordance with rules and regulations established by the board.

C. A fee, in the amount of eighty dollars ($80.00), shall be charged for each acre or fraction thereof in the project area.

D. 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 acre of land-disturbing activity, and these fees shall be calculated and paid by the primary permitted 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.

E. Immediately upon receipt of an application and plan for a permit, the Local Issuing Authority shall refer the application and plan to the District for its review and approval or disapproval concerning the adequacy of the erosion and sedimentation control plan. A District shall approve or disapprove a plan within thirty-five (35) days of receipt. Failure of a 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 Issuing Authority. No permit will be issued unless the plan has been approved by the District, and any variances required by Section 35-104-3 (O) and (P) and bonding, if required as per Section 35-105-2 (E)(2), have been obtained. Such review will not be required if the Issuing Authority and the District have entered into an agreement which allows the Issuing Authority to conduct such review and approval of the plan without referring the application and plan to the District.

F. Permit Applicant with Previous Violations.

(1) If a permit applicant has had two or more violations of previous permits, this Ordinance Section, or the Erosion and Sedimentation Act, as amended within three (3) years prior to the date of filing of the application under consideration, the Local Issuing Authority may deny the permit application.

(2) 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 Ordinance 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 35-104-3 of this Ordinance. Conformance with the minimum requirements may be attained through the use of design criteria in the current issue of the *Manual for Erosion and Sediment Control in Georgia*, published by the State Soil and Water Conservation Commission as a guide; or through the use of alternate design criteria which conform to sound conservation and engineering practices. *The Manual for Erosion and Sediment Control in Georgia* is hereby incorporated by reference into this Ordinance. The plan for the land-disturbing activity shall

consider the interrelationship of the soil types, geological and hydrological characteristics, topography, watershed, vegetation, proposed permanent structures including roadways, constructed waterways, sediment control and stormwater management facilities, local ordinances and State laws.

B. Data Required for Site Plan.

(1) Narrative or notes, and other information: Notes or narrative to be located on the site plan in general notes or in erosion and sediment control notes.

(2) Description of existing land use at project site and description of proposed project.

(3) Name, address, and telephone number of the property owner.

(4) Name and telephone number of twenty-four (24) hour local contact who is responsible for erosion and sedimentation controls.

(5) Size of project, or phase under construction, in acres.

(6) Activity schedule showing anticipated starting and completion dates for the project. Include the statement in bold letters, that "the installation of erosion and sedimentation control measures and practices shall occur prior to or concurrent with land-disturbing activities."

(7) Stormwater and sedimentation management systems-storage capacity, hydrologic study, and calculations, including off-site drainage areas.

(8) Vegetative plan for all temporary and permanent vegetative measures, including species, planting dates, and seeding, fertilizer, lime, and mulching rates. The vegetative plan should show options for year-round seeding.

(9) Detail drawings for all structural practices. Specifications may follow guidelines set forth in the *Manual for Erosion and Sediment Control in Georgia*.

(10) **Maintenance Statement**. Erosion and sedimentation control measures will be maintained at all times. If full implementation of the approved plan does not provide for effective erosion and sediment control, additional erosion and sediment control measures shall be implemented to control or treat the sediment source.

C. Maps, drawings, and supportive computations shall bear the signature/seal of a registered or certified professional in engineering, architecture, landscape architecture, land surveying, or erosion and sedimentation control. After December 31, 2006, all 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 as developed by the commission pursuant to *O.C.G.A.* § 12-7-20. The certified plans shall contain:

(1) Graphic scale and north point or arrow indicating magnetic north.

(2) Vicinity maps showing location of project and existing streets.

(3) Boundary line survey.

(4) Delineation of disturbed areas within project boundary.

(5) Existing and planned contours, with contour lines drawn with an internal in accordance with the following:

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

(6) Adjacent areas and features areas such as streams, lakes, residential areas, etc. which might be affected should be indicated on the plan.

(7) Proposed structures or additions to existing structures and paved areas.

(8) Delineate the twenty-five foot (25') horizontal buffer adjacent to state waters and the specified width in MRPA areas.

(9) Delineate the specified horizontal buffer along designated trout streams, where applicable.

(10) Location of erosion and sedimentation control measures and practices using coding symbols from the *Manual for Erosion and Sediment Control in Georgia*, Chapter 6**.**

D. Maintenance of all soil erosion and sedimentation control practices, whether temporary or permanent, shall be at all times the responsibility of the property owner.

4. Permits.

A. Permits shall be issued or denied as soon as practicable but in any event not later than forty-five (45) days after receipt by the Local Issuing Authority of a completed application, providing variances and bonding are obtained, where necessary.

B. No permit shall be issued by the Local Issuing Authority unless the erosion and sedimentation control plan has been approved by the District and the Local Issuing Authority has affirmatively determined that the plan is in compliance with this Ordinance, any variances required by Section 35-104-3 (O) and (P) are obtained, bonding requirements, if necessary, as per Section 35-105-2 (F)(2) 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. If the tract is to be developed in phases, then a separate permit shall be required for each phase.

D. The permit may be suspended, revoked, or modified by the 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.

Section 35-106 Inspection and Enforcement

1. The Hoschton Planning and Zoning Department 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 both primary and secondary 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 permitted is conducting land-disturbing activities. Secondary permittees shall be responsible for installation and maintenance of best management practices where the secondary permitted 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 Hoschton Planning and Zoning Department shall have the power to conduct such investigations as it may reasonably deem necessary to carry out duties as prescribed in this Ordinance, and for this purpose to enter at reasonable times upon any property, public or private, for the purpose of investigation and inspecting the sites of land-disturbing activities.

3. No person shall refuse entry or access to any authorized representative or agent of the Issuing Authority, the Commission, the District, or Division who requests entry for the purposes of inspection, and who presents appropriate credentials, nor shall any person obstruct, hamper or interfere with any such representative while in the process of carrying out his official duties.

4. The Districts or the Commission or both shall periodically review the actions of counties and municipalities which have been certified as Local Issuing Authorities pursuant to *O.C.G.A.* § 12-7-8(a). The Districts or the Commission or both may provide technical assistance to any county or municipality for the purpose of improving the effectiveness of the county's or municipality's erosion and sedimentation control program. The Districts or the Commission shall notify the Division and request investigation by the Division if any deficient or ineffective local program is found.

5. The Board, on or before December 31, 2003, shall promulgate rules and regulations setting forth the requirements and standards for certification and the procedures for decertification of a Local Issuing Authority. 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 thirty (30) 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 correction action within thirty (30) days after notification by the Division, the Division may revoke the certification of the county or municipality as an 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 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 (5) days to correct the violation. If the violation is not corrected within five (5) 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 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 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)(2). The Issuing Authority may call the bond or any party thereof to be forfeited any may use the proceeds to hire a contractor to stabilize the site of the land-disturbing activity and bring it into compliance.

4. **Monetary Penalties.** 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 county ordinances, any magistrate court or any other court of competent jurisdiction trying cases brought as violations of this Ordinance under county ordinances approved under this Ordinance shall be authorized to impose penalties for such violations not to exceed two thousand five hundred dollars ($2,500.00) for each violation. Each day during which violation or failure or refusal to comply continues shall be a separate violation.

Section 35-108 Education and Certification

After December 31, 2006, all 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.

Section 35-109 Administrative Appeal, Judicial Review

1. **Administrative Remedies.** The suspension, revocation, modification or grant with condition of a permit by the Issuing Authority upon finding that the holder is not in compliance with the approved erosion and sediment control plan; or that the holder is in violation of permit conditions; or that the holder is in violation of any ordinance; shall entitle the person submitting the plan or holding the

permit to a hearing before the Mayor and Council within fifteen (15) days after receipt by the Issuing Authority of written notice of appeal.

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

(Effective 12/14/2004)

CHAPTER 36: STATE MINIMUM STANDARD CONSTRUCTION CODES

Section

36-101	State Minimum Standard Codes
36-102	Statewide Application
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36-105	Inspection and Permit
36-106	Enforcement of Codes
36-107	Inspectors, Inspections, and Violations
36-108	Code Compliance Inspections
36-109	Plumbing Code

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

Section 36-101 State Minimum Standard Codes

"State minimum standard codes" shall mean the following codes:

1. Standard Building Code (SBCII);
2. National Electrical Code as published by the National Fire Protection Association;
3. Standard Gas Code (SBCII);
4. Standard Mechanical Code (SBCII);
5. Georgia State Plumbing Code or the Standard Plumbing Code (SBCII);
6. Council of American Building Officials One and Two Family Dwelling Code, with the exception of Part 5 - Plumbing;
7. Georgia State Energy Code for Buildings as adopted by the State Building Administrative Board pursuant to an Act approved April 10, 1978 (Ga. L. 1978, p. 2212), as such code exists on September 30, 1991;
8. Standard Fire Prevention Code (SBCII);
9. Standard Housing Code (SBCII);
10. Standard Amusement Device Code (SBCII);
11. Excavation and Grading Code (SBCII);
12. Standard Existing Buildings Code (SBCII);
13. Standard Swimming Pool Code (SBCII);
14. Standard Unsafe Building Abatement Code (SBCII).

Section 36-102 Statewide Application

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

Section 36-103 Adoption of Codes by Municipalities

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

Section 36-104 Local Amendments to State Minimum Codes

1. In the event that the governing authority of any municipality or county finds that the state minimum standard codes do not meet its needs, the local government may provide requirements not less stringent than those specified in the state minimum, standard codes when such requirements are based on local climatic, geologic, topographic, or public safety factors; provided, however, that there is a determination by the local governing body of a need to amend the requirements of the state minimum standard code based upon a demonstration by the local governing body that local conditions justify such requirements not less stringent than those specified in the state minimum standard codes for the protection of life and property. All such proposed amendments shall be submitted by the local governing body to the Department of Community Affairs sixty (60) days prior to the adoption of such amendment. Concurrent with the submission of the proposed amendment to the department, the local governing body shall submit in writing the legislative findings of the governing body and such other documentation as the local governing body deems helpful in justifying the proposed amendment. The department shall review and comment on a proposed amendment. Such comment shall be in writing and shall be sent to the submitting local government with a recommendation:

A. That the proposed local amendment should not be adopted, due to the lack of sufficient evidence to show that such proposed local amendment would be as stringent as the state minimum standard codes and the lack of sufficient evidence to show that local climatic, geologic, topographic, or public safety factors require such an amendment;

B. That the proposed local amendment should be adopted, due to a preponderance of evidence that such proposed local amendment would be as stringent as the state minimum standard codes and a preponderance of evidence that the local climatic, geologic, topographic, or public safety factors require such an amendment; or

C. That the department has no recommendation regarding the adoption or disapproval of the proposed local amendments, due to the lack of sufficient evidence to show that such proposed local amendment would or would not be as stringent as the state minimum standard codes and the lack of sufficient evidence to show that local climatic, geologic, topographic, or public safety factors require or do not require such an amendment.

2. The department shall have sixty (60) days after receipt of a proposed local amendment to review the proposed amendment and make a recommendation as set forth in Section 36-104-1. In the event that the department fails to respond within the time allotted, the local governing body may adopt the proposed local amendment.

3. In the event that the department recommends against the adoption of the proposed local amendment, a local governing body shall specifically vote to reject the department's recommendations before any local amendment may be adopted.

4. No local amendment shall become effective until the local governing body has caused a copy of the adopted amendment to be filed with the department. A copy of an amendment shall be deemed to

have been filed with the department when it has been placed in the United States mail, return receipt requested.

5. Nothing in this subsection shall be construed so as to require approval by the department before a local amendment shall become effective.

6. The department shall maintain a file of all amendments to the state minimum standard codes adopted by the various municipalities and counties in the state, which information shall be made available to the public upon request. The department may charge reasonable fees for copies of such information. An index of such amendments shall be included in each new edition of a state minimum standard code.

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

8. Except as otherwise provided in this Section, building related codes or sections dealing with the subjects of historic preservation, high-rise construction, or architectural design standards for which a state minimum standard code does not exist may be adopted by a local jurisdiction following review by the department. The department's review shall be limited to a determination that the proposed code or ordinance is consistent with the approved state minimum standard codes when common elements exist and is not less restrictive than the requirement of said codes. Changes to all other state minimum standard codes shall be approved only pursuant to the provisions of this Section regarding local amendments.

Section 36-105 Inspection and Permit

1. No local inspector shall require any person performing work in compliance with a state minimum standard code or variations thereto which are in conformity with the provisions of this part to comply with the standards of any other building code not covered by this part.

2.

A. In lieu of inspection by an inspector or other person employed by the governing authority of any county or municipality, a licensed master plumber or utility contractor shall have the option of installing a water or sewer line according to the alternative inspection procedure described in this subsection where the installation is on private property outside the building underground.

B. If the master plumber or utility contractor elects to utilize this inspection procedure, he or she shall file with the local inspector:

(1) Notice that the water and sewer line will be installed in accordance with the Standard Plumbing Code and will be inspected pursuant to the alternative inspection procedure described in this subsection;

(2) A copy of his or her master plumber or utility contractor certificate issued by the State Construction Industry Licensing Board;

(3) A copy of his or her trenching competent person certificate;

(4) A certificate showing that a bond has been filed in accordance with paragraph (2) of subsection (b) of Code Section 43-14-12, except that such bond shall be in the amount of fifty thousand dollars ($50,000.00) and issued by a surety rated “A,” “Class VI,” or better by the A.M. Best Company; and

(5) Within five (5) business days after completion of the installation, a sworn certification that the water or sewer line has been installed in accordance with the Standard Plumbing Code.

C. The department shall promulgate a standard form notice and a standard form certificate that shall be used to administer this subsection. Local inspectors shall make copies of the standard forms available to contractors.

D. The master plumber or utility contractor shall be required to pay to the governing authority the applicable permit fee.

E. Upon submission of the certification required by this subsection, the local governing authority shall be required to accept the inspection without the necessity of further inspection or approval, except that the local governing authority may perform an inspection at any time and may issue a stop-work order if the work if found to be in violation of code requirements.

F. Any other provision of this subsection notwithstanding, the alternative inspection procedure described in this subsection shall be applicable only to installations on private individual single-family residential property.

3.

A. Any county or municipal building permit issued in this state to a general contractor or homebuilder for residential or commercial construction shall have prominently printed thereon at least one inch (1") apart from any other text on such permit and in type size and boldness equal to or greater than any other type size and boldness in the body of the permit the following:

> *"The issuance of this permit authorizes improvements of the real property designated herein which improvements may subject such property to mechanics' and material men's liens pursuant to Part 3 of Article 8 of Chapter 14 of Title 44 of the Official Code of Georgia Annotated. In order to protect any interest in such property and to avoid encumbrances thereon, the owner or any person with an interest in such property should consider contacting an attorney or purchasing a consumer's guide to the lien laws which may be available at building supply home centers."*

B. Any county or municipal construction permit, including but not limited to mechanical, plumbing, or electrical permits, issued in this state on existing residential or commercial property shall have prominently printed thereon at least one inch (1")apart from any other text on such permit and in type size and boldness equal to or greater than any other type size and boldness in the body of the permit the following:

> *"The issuance of this permit authorizes improvements of the real property designated herein which improvements may subject such property to mechanics' and material men's liens pursuant to Part 3 of Article 8 of Chapter 14 of Title 44 of the Official Code of Georgia Annotated. In order to protect any interest in such property and to avoid encumbrances thereon, the owner or any person with an interest in such property should consider contacting an attorney or purchasing a consumer's guide to the lien laws which may be available at building supply home centers."*

C. Any person or entity which is issued a permit which authorizes improvements to new or existing residential or commercial real property shall be required to:

(1) Post a copy of such permit in a conspicuous place in the vicinity of such property where such improvements are being undertaken;

(2) Deliver a copy of the permit to the property owner within ten (10) days after the permit is received.

4. A local inspector, including a fire service employee enforcing a state or local fire safety standard, who specifies a code violation noted during an inspection shall, upon the written request of the permit holder, cite in writing the particular code book, section, and edition of the code which is the basis of the violation.

5.

A. If a governing authority of a county or municipality cannot provide inspection services within two (2) business days of receiving a valid written request for inspection, then, in lieu of inspection by inspectors or other personnel employed by such governing authority, any person, firm, or corporation engaged in a construction project which requires inspection shall have the option of retaining, at its own expense, a professional engineer who holds a certificate of registration issued under Chapter 15 of Title 43, and who is not an employee of or otherwise affiliated with or financially interested in such person, firm, or corporation, to provide the required inspection.

B. Any inspection conducted by a registered professional engineer shall be no less extensive than an inspection conducted by a county or municipal inspector.

C. The person, firm, or corporation retaining a registered professional engineer to conduct an inspection shall be required to pay to the county or municipality which requires the inspection the same permit fees and charges which would have been required had the inspection been conducted by a county or municipal inspector

D. The registered professional engineer shall be empowered to perform any inspection required by the governing authority of any county or municipality, including, but not limited to, inspections for footings, foundations, concrete slabs, framing, electrical, plumbing, heating ventilation and air conditioning (HVAC), or any and all other inspections necessary or required for the issuance of a certificate of occupancy by the governing authority of any county or municipality, provided that the inspection is within the scope of such engineer's branch of engineering expertise.

E. The registered professional engineer shall submit a copy of his or her inspection report to the county or municipality.

F. Upon submission by the registered professional engineer of a copy of his or her inspection report to the local governing authority, said local governing authority shall be required to accept the inspection of the registered professional engineer without the necessity of further inspection or approval by the inspectors or other personnel employed by the local governing authority unless said governing authority has notified the registered professional engineer, within two (2) business days after the submission of the inspection report, that it finds the report incomplete or the inspection inadequate and has provided the registered professional engineer with a written description of the deficiencies and specific code requirements that have not been adequately addressed.

G. A local governing authority may provide for the prequalification of registered professional engineers who may perform inspections pursuant to this subsection. No ordinance implementing prequalification shall become effective until notice of the governing authority's intent to require prequalification and the specific requirements for prequalification have been advertised in the newspaper in which the sheriff's advertisements for that locality are published. The ordinance implementing prequalification shall provide for evaluation of the qualifications of a registered professional engineer on the basis of the engineer's expertise with respect to the objectives of the inspection, as demonstrated by the engineer's experience, education, and training.

H. Nothing in this subsection shall be construed to limit any public or private right of action designed to provide protection, rights, or remedies for consumers.

Section 36-106 Enforcement of Codes

1. The governing body of any municipality or county adopting any state minimum standard code shall have the power:

A. To adopt by ordinance or resolution any reasonable provisions for the enforcement of the state minimum standard codes, including procedural requirements, provisions for hearings, provisions for appeals from decisions of local inspectors, and any other provisions or procedures necessary to the proper administration and enforcement of the requirements of the state minimum standard codes;

B. To provide for inspection of buildings or similar structures to ensure compliance with the state minimum standard codes;

C. To employ inspectors, including chief and deputy inspectors, and any other personnel necessary for the property enforcement of such codes and to provide for the authority, functions, and duties of such inspectors;

D. To require permits and to fix charges therefor;

E. To contract with other municipalities or counties adopting any state minimum standard code to administer such codes and to provide inspection and enforcement personnel and services necessary to ensure compliance with the codes; and

F. To contract with any other county or municipality whereby the parties agree that the inspectors of each contracting party may have jurisdiction to enforce the state minimum standard codes within the boundaries of the other contracting party.

2. No local inspector shall require any person performing work in compliance with a state minimum standard code or variations thereto which are in conformity with the provisions of this part to comply with the standards of any other building code not covered by this part.

Section 36-107 Inspectors, Inspections, and Violations

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

A. **CABO** means the Council of American Building Officials.

B. **Qualified Inspector** means:

(1) A person inspecting for compliance with the Standard Building Code or the building portion of the CABO One- and Two-Family Dwelling Code who holds a certification from the SBCCI as a building inspector;

(2) A person inspecting for the compliance of residential buildings with the National Electrical Code or the electrical portion of the CABO One- and Two-Family Dwelling Code who holds a certification from the SBCCI as a residential electrical inspector or an electrical contractor license from the State Construction Industry Licensing Board;

(3) A person inspecting for the compliance of nonresidential buildings with the National Electrical Code who holds a certification from the SBCCI as a commercial electrical inspector or an electrical contractor license from the State Construction Industry Licensing Board;

(4) A person inspecting for compliance with the Standard Gas Code who holds a certification from the SBCCI as a mechanical inspector or plumber, or master plumber license from the State Construction Industry Licensing Board;

(5) A person inspecting for compliance with the Standard Mechanical Code or the mechanical portion of the CABO One- and Two-Family Dwelling Code who holds a certification from the SBCCI as a mechanical inspector or a conditioned air contractor license from the State Construction Industry Licensing Board;

(6) A person inspecting for compliance with the Georgia State Plumbing Code, the Standard Plumbing Code, or the plumbing portion of the CABO One- and Two-Family Dwelling Code who holds a certification from the SBCCI as a plumbing inspector or a journeyman plumber or master plumber license from the State Construction Industry Licensing Board;

(7) A person inspecting for compliance any portion of the CABO One- and Two-Family Dwelling Code who holds a certification from the SBCCI as a one and two-family dwelling inspector;

(8) A person inspecting for compliance with the Georgia State Energy Code for Buildings who has completed eight (8) hours of training that is conducted or approved by the department; or

(9) A person inspecting for compliance with any of the codes listed in subparagraphs 1 through 8 of this paragraph who holds a certificate of registration as a professional engineer issued under *O.C.G.A.* Chapter 15 of Title 43 and is practicing within the scope of his or her branch of engineering expertise while conducting such inspection.

C. **SBCCI** means the Southern Building Code Congress International.

D. **State Construction Industry Licensing Board** means that board created pursuant to *O.C.G.A.* § 43-14-3.

2. The governing authority of any municipality which has adopted provisions for the enforcement of the state minimum standard codes shall post a notice stating whether the personnel employed by that governing authority to conduct inspections for compliance with such codes are qualified inspectors. Such notice shall separately address each minimum standard code enumerated in subdivisions (9)(B)(i)(I) through (9)(B)(i)(VII) of *O.C.G.A.* § 8-2-20 and the building, electrical, mechanical, and plumbing portions of the CABO One- and Two-Family Dwelling Code, and state whether all personnel assigned to conduct inspections for the particular code or portion of the code are qualified inspectors for that code or portion of the code.

3. If such notice states that not all personnel assigned to conduct inspections for a particular state minimum standard code or portion of such code are qualified inspectors for that code or portion of the code, then the governing authority may retain qualified inspectors not employed by the governing authority to conduct inspections. If the Mayor and Council does not so retain qualified inspectors, then any person, firm, or corporation engaged in a construction project which requires inspection shall have the option of retaining, at its own expense, a person who is a qualified inspector for that code or portion of the code and who is not an employee of or otherwise affiliated with or financially interested in such person, firm or corporation to provide the required inspection.

4. The person, firm, or corporation retaining a qualified inspector to conduct an inspection pursuant to this Section shall be required to pay to the municipality which requires the inspection the same permit fees and charges which would have been required had the inspection been conducted by a county or municipal inspector.

5. A qualified inspector retained pursuant to this Section shall be empowered to perform any inspection required by the governing authority of any county or municipality, including but not limited to inspections for footings, foundations, concrete slabs, framing, electrical, plumbing, heating ventilation and air condition (HVAC), or any and all other inspections necessary or required for the issuance of a certificate of occupancy by the governing authority of any county or municipality; provided, however, that the qualified inspector must possess the qualifications described in paragraph (B) of subsection (1) of this Section for the particular type of inspection. Any inspection conducted pursuant to this Section shall be no less extensive than an inspection conducted by a county or municipal inspector.

6. Upon submission by the qualified inspector of a copy of his or her inspection report to the local governing authority, said local governing authority shall be required to accept the inspection of the

qualified inspector without the necessity or further inspection or approval by the inspectors or other personnel employed by the local governing authority unless said governing authority has notified the qualified inspector, within two (2) business days after the submission of the inspection report, that it finds the report incomplete or the inspection inadequate and has provided the qualified inspector with a written description of the deficiencies and specific code requirements that have not been adequately addressed.

7. Nothing in this Section shall be construed to apply to inspections for compliance with a state or local fire safety standard or erosion control standard.

8. Nothing in this Section shall be construed to limit any public or private right of action designed to provide protection, rights, or remedies for consumers.

Section 36-108 Code Compliance Inspections

1. If the Mayor and Council cannot provide inspection services within two (2) business days of receiving a valid written request for inspection, then in lieu of inspection by inspectors or other personnel employed by such governing authority, any person, firm or corporation engaged in a construction project which requires inspection shall have the option of retaining, at its own expense, a professional engineer who holds a certificate of registration issued under *O.C.G.A.* § Chapter 15 of Title 43, and who is not an employee of or otherwise affiliated with or financially interested in such person, firm, or corporation, to provide the required inspection.

2. Any inspection conducted by a registered professional engineer shall be no less extensive than an inspection conducted by a county or municipal inspector.

3. The person, firm, or corporation retaining a registered professional engineer to conduct an inspection shall be required to pay to the county or municipality which requires the inspection the same permit fees and charges which would have been required had the inspection been conducted by a county or municipal inspector.

4. The registered professional engineer shall be empowered to perform any inspection required by the governing authority of any county or municipality, including, but not limited to, inspections for footings, foundations, concrete slabs, framing, electrical, plumbing, heating ventilation and air conditioning (HVAC), or any and all other inspections necessary or required for the issuance of a certificate of occupancy by the Mayor and Council of any county or municipality, provided that the inspection is within the scope of such engineer's branch of engineering expertise.

5. The registered professional engineer shall submit a copy of his or her inspection report to the county or municipality.

6. Upon submission by the registered professional engineer of a copy of his or her inspection report to the Mayor and Council the Mayor and Council shall be required to accept the inspection of the registered professional engineer without the necessity of further inspection or approval by the inspectors or other personnel employed by the Mayor and Council unless the Mayor and Council has notified the registered professional engineer, within two (2) business days after the submission of the inspection report, that it finds the report incomplete or the inspection inadequate and has provided the registered professional engineer with a written description of the deficiencies and specific code requirements that have not been adequately addressed.

7. The Mayor and Council may provide for the prequalification of registered professional engineers who may perform inspections pursuant to this subsection. No ordinance implementing prequalification shall become effective until notice of the governing authority's intent to require prequalification and the specific requirements for prequalification have been advertised in the newspaper in which the sheriff's advertisements for that locality are published. The ordinance implementing prequalification shall provide for evaluation of the qualifications of a registered professional engineer on the basis of

the engineer's expertise with respect to the objectives of the inspection, as demonstrated by the engineer's experience, education, and training.

8. Nothing in this Section shall be construed to limit any public or private right of action designed to provide protection, rights, or remedies for consumers.

Section 36-109 Plumbing Code

1. **Adoption.** There is hereby adopted by the Mayor and City Council, for the purpose of establishing standards and procedures affecting the installation of plumbing and plumbing materials, the Georgia State Plumbing Code, being particularly that code published by the State Building Administrative Board, of which code not less than one (1) copy has been and now is filed in the office of the City Clerk/Treasurer, and the same is adopted and incorporated as fully as if set out at length herein, and from the date on which this Section shall take effect, the provisions thereof shall be controlling within the corporate limits of the City

2. **Definitions of Terms Used in State Plumbing Code.**

A. Wherever the term **"Plumbing Inspector"** is used in the State Plumbing Code, it shall mean the person designated by the Mayor and City Council to administer and enforce the provisions of said code.

B. Wherever the term **"Corporate Counsel"** is used in the State Plumbing Code, it shall mean the City Attorney of this municipality.

C. Wherever the term "municipality" is used in the State Plumbing Code, it shall mean this City.

3. **Enforcement**. The Georgia State Plumbing Code adopted herein shall be enforced by [the department of housing and building inspection].

4. **Penalties.** Any person who shall violate any of the provisions of the Georgia State Plumbing Code or fail to comply therewith, or who shall violate or fail to comply with any order made thereunder, shall, for each such failure or violation or noncompliance, be punished by a fine not to exceed one thousand dollars ($1,000.00) and costs, or by imprisonment not to exceed thirty (30) days or both, any and all of such penalties to be imposed in the discretion of the Judge of the Municipal Court.

CHAPTER 37: FRANCHISE ORDINANCE

Section

37-101	Cable Television Ordinance
37-102	Cable Franchise Document
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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.

(Approved 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) day 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)

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.

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 proposes 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.

Exhibit "A" (Continued)

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.

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:

   FFc = FFFby *x* 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:

FFc = FFFnby *x* DDDCc

FFFnby = the Base Year Franchise Fee Factor multiplied by the Inflation Index as illustrated by the following formula:

FFFby *x* [1 + (CPI - 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.

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 ifs 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 judgement 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 fpr 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.

(Adopted 1/9/07)

CHAPTER 38: WATER CONSERVATION ORDINANCE

Section

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

❖❖❖❖

Section 38-101 Definitions

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

Section 38-102 Residential Building Construction

No construction may be initiated within the City of 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.

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.

Section 38-104 Residential/Commercial Construction

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

Section 38-105 Exemptions

New construction and the repair or renovation of an existing building shall be exempt from the requirements of Sections 38-102, 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.

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.

CHAPTER 39: LAND DEVELOPMENT REGULATIONS

Section

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.

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.

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.

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 façades 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 façade, 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 façades.

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 façade as described herein. The plans should clearly show the location and calculate the surface area and percentages of all building materials per façade. 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

A. Arcade. As used herein, an arcade is a covered walkway/structural canopy extending along the entire length of the front façade of a commercial building.

B. 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.

C. Façade. A vertical exterior face or elevation of a building.

D. Front Façade. Any façade with a public entry that faces a public right-of-way.

E. Rear Façade. Any façade without a public entry but facing a public right-of-way. A side façade typically connects a front façade with a rear façade.

F. Side Façade. Any façade without a public entry but facing a public right-of-way or any façade with a public entry but not facing a public right-of-way. A side façade typically connects a front with a rear façade.

8. General Architectural Requirements.

A. Commercial façades 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 façade shall be limited to no more than ten percent (10%) of the total wall area for any single façade.

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 Cate-gory	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 façade.

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 façade in the DDO.

D. Façade, 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 façade. 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 façade with gross-façade 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 façade 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 façade (ex. (1,200 x 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 façade(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 façade is less than one hundred twenty-five linear feet (125') in length, then a minimum or (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 façade 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.

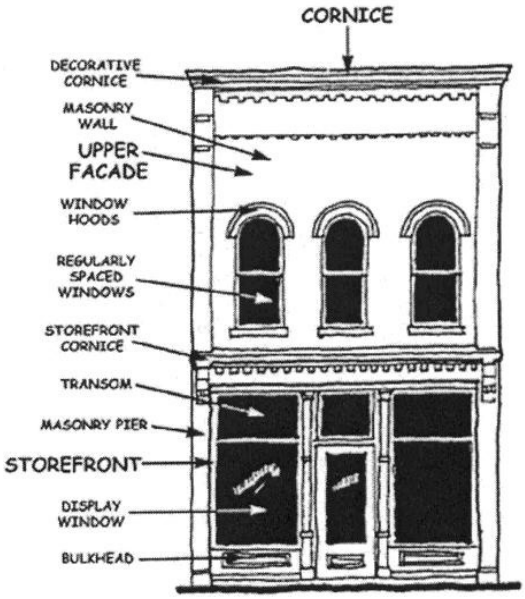
13. Dumpsters. Dumpsters shall be screened by a fence or wall. Dumpsters, which may be seen from adjacent properties or public parking lots, shall be screened from view on all four sides. Screening shall consist of three solid walls matching the majority building elevation material which is seen from the point of view, at least eight feet (8') in lheight with one hundred percent (100%) solid metal or wooden gates. Dumpsters shall be placed in the rear yard and may be located zero (0') form 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 tha 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.



Commercial Structures in the DDO.

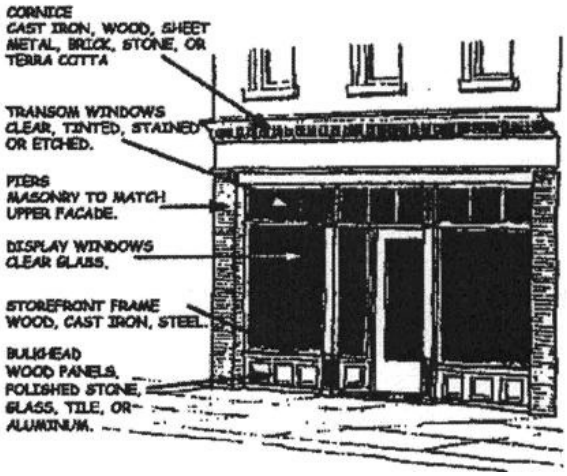
The following are examples of acceptable design styles and features desired for the Downtown Development Overlay District:

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 portions to the lower retail uses.

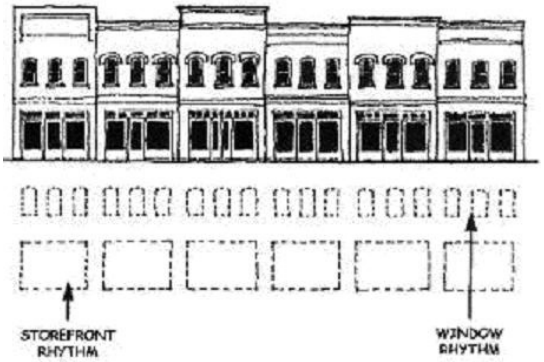
Street level façades should employ more glass.



These graphical representations are not the only design styles that are acceptable, but are merely representative of an overall design theme.

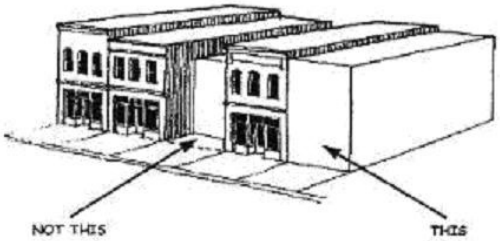
Therefore, plans submitted for building permits that comply with these intentions are more likely to gain approval.

Façades 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.



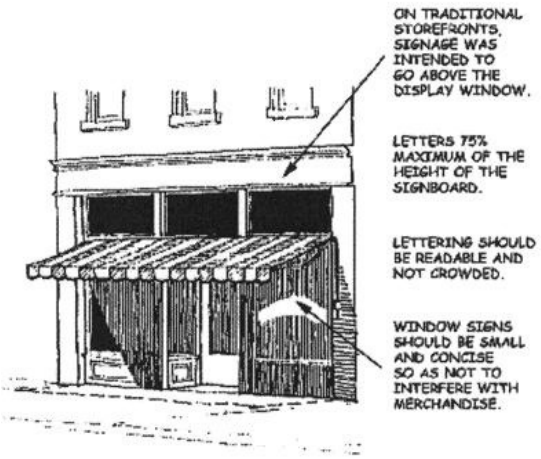
Care should be given to replicate certain elements such as window placement and spacing to create a sense of continuity, and promote an overall theme within a block.

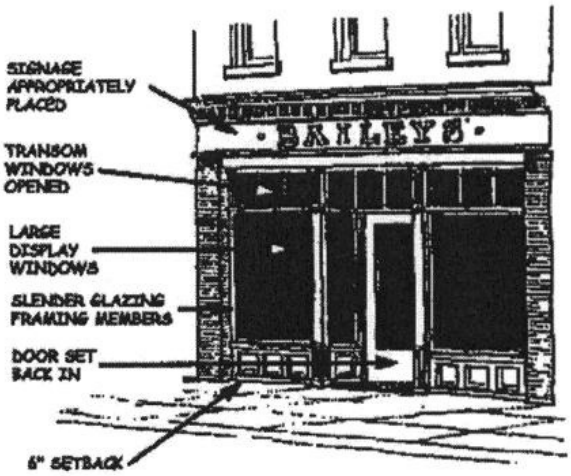
Building fronts should be aligned to compliment one another such that when a new building is added between existing buildings, their fronts are aligned.



NEW FACADES ARE BUILT FLUSH WITH THE EXISTING STOREFRONTS.

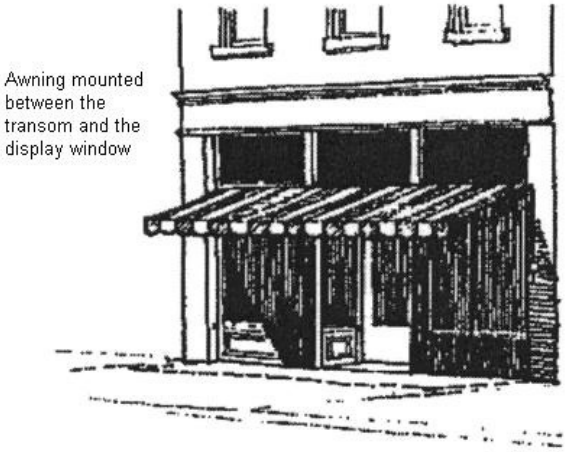
When designing new facilities, or renovations to existing structures, designers should utilize common architectural elements that are a part of the general design theme that Hoschton seeks for the DDO.





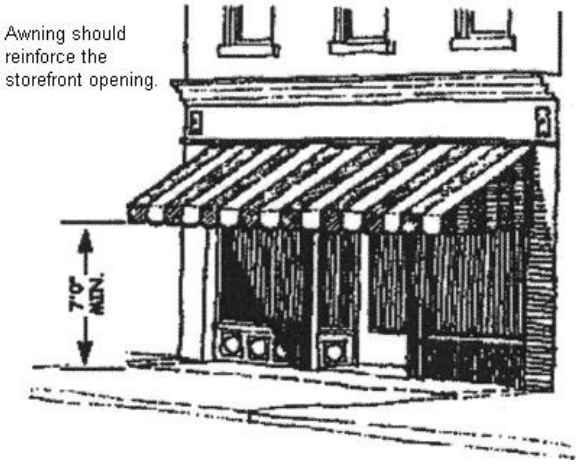
When possible signage should be incorporated into the façade or included in an awning over the front of the building

The awnings to the right are acceptable awning installations.

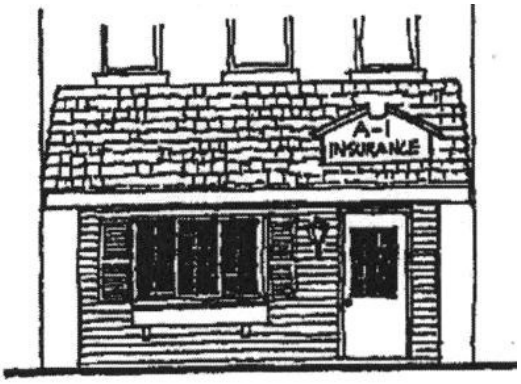


The example to the upper right allows light to enter through the transom windows, creating natural lighting.

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.



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)

CHAPTER 40: ALCOHOLIC BEVERAGE ORDINANCE

Section

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
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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 accord 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:

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

2. **Alcoholic Beverage**. In this Ordinance means and includes all alcohol, distilled spirits, beer, malt beverage, wine or fortified wine as defined in this Section.

3. **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.

4. **City**. The City of Hoschton, Georgia.

5. **City Council, Mayor and City Council, or Mayor and Council**. The Mayor and City Council of the City of Hoschton, Georgia.

6. **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.

7. **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.

8. **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.

9. **Governing Authority**. The Mayor and City Council of The City of Hoschton, Georgia.

10. **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.

11. **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.
12. **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.
13. **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.
14. **Liter**. Metric measurement currently used by the United States.
15. **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.
16. **Package.** A bottle, can, keg, barrel, or other original consumer container.
17. **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.
18. **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.
19. **Retail Consumption Dealer.** Any person who sells alcoholic beverages for consumption on the premises, at retail, only to consumers and not for resale.
20. **Retail package dealer.** Any person who sells unbroken packages, at retail only to consumers and not for resale.
21. **Wholesaler or wholesale dealer.** Any person who sells alcoholic beverages to other wholesale dealers, to retail dealers, or to retail consumption dealers.
22. **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.

(Adopted 1/09/2006; Effective 1/19/2006)

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 on December 31 of each year and an application for renewal shall be made annually on or before the 30th day of November each year. Any licensee must annually meet the requirements set forth by the Mayor and City Council in order to obtain a renewal of any license. Any licensee making proper application with supporting documents for a license to operate during the following calendar year, and having filed such application before November 30, shall be permitted to continue to operate pending final approval of the licensee's application for the following year if final approval is not granted before January 1;
3. Not be transferred from one person to another or from one location to another without prior approval from the 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:

A. Malt beverages and wine to be served for consumption only on the premises.
B. Distilled spirits to be served for consumption only on the premises.
C. Combined licenses for malt beverages, wine and distilled spirits to be served for consumption on the premises.

(Adopted 1/09/2006; Effective 1/192006).

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 two hundred fifty dollars ($250.00).

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 two hundred fifty dollars ($250.00) 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

1. Licenses shall be issued only for locations in areas zoned C-1 or C-2.
2. No person may sell or offer to sell;

A. Any distilled spirits in or within 100 yards of any church building or within 200 yards of any school building, educational building, school grounds, or college campus;

B. Any wine or malt beverages within 100 yards of any school building, school grounds, or college campus.

This subparagraph shall not apply at any location for which a new license is applied for if the sale of wine and beer was lawful at such location at any time during the 12 months immediately preceding such application. (Adopted 1/9/06;Effective 1/19/06)

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 the most direct route of travel by vehicle on the ground and shall be measured 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.

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, including 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 canceled.

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 of 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, in 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.

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 and Chief of Police the name and address of the new manager and other information as requested within ten (10) days of such change.

3. All applicants shall furnish data, fingerprints, 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 fingerprints provided shall be forwarded to the Chief of Police and/or the Georgia Bureau of Investigation, as well as the Federal Bureau of Investigation, to search for any instance of criminal activity during the two (2) years immediately preceding the date of the application.

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 funds submitted, less the investigative and administrative fee will be refunded. Once a license has 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 Ordinance are set out as follows:

1. Retail dealers of beer and wine to be consumed on the premises, five hundred dollars ($500.00) per year.
2. Retail dealers of distilled spirits to be consumed on the premises, $500 per year.
3. Retail dealers of beer, wine and distilled spirits to be consumed on the premises, $850 per year.

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.

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 local government may consider not only the qualifications of the applicant, the location of the business and its proximity to other enterprises. The commission 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/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 County Commission 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 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 fee of one hundred fifty dollars ($150.00). If the transfer is not approved, then the transfer fee will be refunded, but the investigative and administrative fee will not be refunded. Renewal application requires a seventy-five dollars ($75.00) investigative and administrative fee.

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 delegatee, 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, with the requisite fee enumerated in Section 40-113 and a seventy-five dollar ($75.00) 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 must be filed before November 30 of each year. Any renewal applications received after November 30 shall pay in addition to the annual fee, a late charge of twenty percent (20%). If license application is received after January 1, such application shall be treated as an initial application and the applicant shall be required to comply with all rules and regulations for the granting of licenses as if no previous license had been held. If a license application is received after January 1, full investigative and administrative

costs will be assessed.

2. All licenses granted under this Ordinance shall be for the calendar year, and the full license fee must be paid for a license application filed prior to July 1 of the license year. One-half of a license 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.

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

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 sale of alcoholic beverages for consumption only 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 beer; 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 three 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.

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 and employees or agents of the licensee to promptly report to the Chief of Police 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 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.

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 twenty (20) days (if the notice is mailed) or fifteen (15) days (if the notice is hand delivered), but not more than ten (10) 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.

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.

   The Mayor and City Council can waive all or some of the requirements of the foregoing sentence if it finds that no such records exist and it is not financially practical based on the net income of the licensed establishment to require them to keep such records.

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.

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 parents or guardian.

Section 40-130 Failure to Require and Properly Check Identification

It shall be a violation not to require and properly check identification to ensure that an underaged 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.

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 two hundred fifty dollars ($250.00).
- **B.** For the second offense and subsequent violations within one (1) year, a minimum fine of five hundred dollars ($500.00).

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.

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

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 ½') 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 trough 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.

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.

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.

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.

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.

Section 40-139 Inspection of Licensed Establishments by the Police Department

Sworn officers of the Hoschton Police Department 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.

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

Section 40-140 Establishment Can Be Closed in Cases of Emergency

The Chief of Police or his 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.

Section 40-141 Sale on Election Days

1. Pursuant to the delegation of authority - granted to this Governing Authority by Act No. 750 (House Bill No. 247) approved April 10, 1985, amending *O.C.G.A.* § 3-3-20(b)(2)(B), the sale of wholesale and retail of alcoholic beverages, to wit: wine and malt beverages, shall be prohibited during the polling hours of any election; provided, however, nothing herein shall authorize the sale of alcoholic beverages within two hundred fifty feet (250') of a polling place during such time as the polls are open.

2. All ordinances and parts of ordinances in conflict herewith are hereby expressly repealed.

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.

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:

1. Sexual intercourse, masturbation, sodomy, bestiality, oral copulation, flagellation or any sexual acts that are prohibited by law;

2. The touching, caressing or fondling of the breast, buttock, anus or genitals; or

3. The displaying of the pubic hair, anus, vulva or genitals.

4. 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

5. 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.

ARTICLE II. BEER AND WINE BY THE DRINK

Section 40-201 Type of Retail Establishment Where Permitted

1. No beer or wine shall be sold for consumption on the premises where sold except:

A. In sites in areas zoned C-1 or C-2 and which are being used as one of the following:

1. 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;

2. 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;

3. 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

4. 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.

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).

Section 40-203 Hours and Days of Sale

1. Beer and/or wine shall not be sold or distributed for consumption on the premises except between the hours of 10:00 a.m. - 11:00 p.m. Sunday through Saturday.

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.

ARTICLE III. RETAIL SALES OF DISTILLED SPIRITS FOR CONSUMPTION ON THE PREMISES

(Adopted 1/9/06; Effective 1/19/06)

Section 40-301 Locations where permitted.

No distilled spirits may be sold by the drink for consumption on the premises where sold except:

1. In sites in areas zoned C-1 or C-2 which meet the following requirements:

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 installled, 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.

Section 40-302 Investigative and administrative costs.

Each application for a license under this article shall be submitted to the planning and development department and accompanied by cash or check for the full amount of the license fee, plus the amount of the administrative fee, as indicated on the fee schedule. The investigative fee shall be submitted to the police department. If the applicant is denied a state license, the deposit representing the license fee shall

be refunded; but the fee paid for investigation and administrative cost 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 Code.

Section 40-303 Hours and days of sale.

1. Distilled spirits may be sold for consumption on the premises between the hours of 10:00 a.m. to 11:00 p.m. Sunday thru Saturday.

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.

Section 40-304 Consumption sales only.

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

ARTICLE IV. TEMPORARY SPECIAL EVENT LICENSE

Section 40-401 Eligibility for Issuance of a Temporary Special Event

1. License.

A. 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.

B. The special event must meet the following criterion before the issuance of a license to sell alcoholic beverages:

1. The special event must be associated with and benefit the cause of a charitable or civic organization.

2. The special event must receive approval from the City of Hoschton Chief of Police on crowd control and security measures.

3. The special event must receive approval from the City of Hoschton Mayor and City Council, on traffic control measures.

4. The location at which the special event is to take place must be properly zoned.

5. The premises at which the special event is to take place must be approved by the City of Hoschton Mayor and City Council.

C. Any employee or volunteer of the special event licensee, working the special event in any position dispensing, selling, serving, taking orders or mixing alcoholic beverages shall not be required to obtain a pouring permit for the special event.

D. The Chief of Police or his designee may immediately revoke any temporary license for a special event if continued alcohol sales may endanger the health, welfare or safety of the public.

E. As a condition on the issuance of a temporary special event license, the licensee shall indemnify and hold the City of Hoschton harmless from claims, demand or cause of action that may arise from activities associated with the special event.

ARTICLE V. HAPPY HOUR

Section 40-501 Promotions and Sales

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

A. Offer or deliver any free alcoholic beverage to any person or group of persons;

B. Deliver more than one (1) alcoholic beverage to one (1) person at a time, however, nothing herein shall prohibit a brew pub from offering a sampler of malt beverages in containers not exceeding four (4) ounces. Each sampler shall not exceed four (4) different types of malt beverages;

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

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

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

F. Sell, offer to sell, or deliver alcoholic beverages, including malt beverages, in any container which holds more than thirty-two (32) fluid ounces nine hundred forty seven thousandths (.947 liters), except to two (2) or more persons at any one time;

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

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

2. Each licensee shall maintain a schedule of the price charged for all alcoholic beverages to be served and consumed on the licensed premises or in any room or part thereof. The licensee shall not vary the schedule of prices from day to day or from hour to hour within a single day. The schedule of prices shall be posted in a conspicuous manner so as to be in view of the paying public, and the schedule shall be effective for not less, than one (1) calendar week.

3. No licensee shall advertise or promote in any way, whether within or without the licensed premises, any of the practices prohibited under subsection (1) of this Section.

4. No provision of this Section shall be construed to prohibit licensees from offering free food or entertainment at any time, to prohibit licensees from including an alcoholic beverage as part of a meal

package, or to prohibit the sale or delivery of wine by the bottle or carafe when sold with meals or to more than one person.

5. It is the intent of this Section to prohibit activities typically associated with promotions referred to as happy hour or similarly designated promotions.

6. The Chief of Police shall have responsibility for the enforcement of this Article.

7. No licensee may require the purchase of any alcoholic beverage as a part of or prerequisite to the purchase of any other product or service. If alcoholic beverages are included as part of a package of other goods and/or services, the alcoholic beverages must be priced separately and all customers must be allowed to purchase the remaining goods and services without the alcoholic beverages at a price from which the full price of the alcoholic beverages has been deducted.

8. Any person deemed guilty of violating this Section may be punished by a fine not to exceed one thousand dollars ($1,000.00) and/or by imprisonment not to exceed thirty (30)(days in the common jail of the county. Licensees may further be subject to revocation proceedings.

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 county 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.

(Adopted 1/9/06;Effective 1/19/06)

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 ½) 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
½ barrel (15 ½ 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 ½) 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.

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.

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.

ARTICLE IX. REPEALER

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

(Adopted 12/9/2004)

CHAPTER 41: LIGHTING DISTRICTS

Section

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.

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)

CHAPTER 42: FALSE ALARMS

Section

42-101	Definitions
42-102	Registration (or permit)
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

1. **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.
2. **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.
3. **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.
4. **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, alrams 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.
5. **Multiple Alarm Sites**. Multiple Alarm Sites means more than one alarm system on the premises.
6. **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.

Section 42-102 Registration (or permit)

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.

42-1

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.

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, whick 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.

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.

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.

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

	1st Year	2nd 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.

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.

ORDINANCE

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

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

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

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

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

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

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

ATTEST:

City Clerk

Mayor

City Attorney

Councilmember

Councilmember

Councilmember

Councilmember

Councilmember

Councilmember

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