

TOWN OF COHUTTA

MUNICIPAL
CODE

COHUTTA CODE OF CODES
TABLE OF CONTENTS

	TITLE	PAGE
0.	TABLE OF CONTENTS	1-10
1.	COHUTTA ANIMAL CONTROL CODE-	12
	1.1 Definitions.....	
	1.2 Application of Code to Domestic Animals Only...	
	1.3 Purposes	
	1.4 Contract For Enforcement by the county.....	
	1.5 Jurisdiction of Municipal Court.....	
	1.6 Penalty For Violations	
	1.7 Impoundment	
	1-8. Spay and Neuter.....	
	1-9 Detention Periods Following Impoundment.....	
	1-10. Owner Reclaims.....	
	1-11. Interpretation of Code	
	1-11. Incorporation of State Law; Construction	
	1-12. Severability.....	
	Article Two-Rabies and Animal Control.....	
	1-20. Rabies Control: Vaccination Required.....	
	1-21. Dogs Running at Large.....	
	1-22. Dogs Disturbing the Peace.....	
	1-23. Restraint of Nuisance Dogs.....	
	1-24. Restraint of Cats.....	
	1-25. Cruelty to Animals.....	
	1-26. Abandonment of Domesticated Animal.....	
	1-27. Clean Up Requirement.....	
	1-28. Keeping of Sick or Diseased Animals.....	
	1-29. Confinement of Dogs in Heat.....	
	1-30. Shelter Requirements.....	
	1-31. Retention, Disposition and Adoption of Impounded Animals.....	
	1-32. Obstruction or Interference in Enforcement.....	
	1-33. Willful Violation by Third Party.....	
	1-34- Responsible Dog Ownership Enforced (OCGA 4-8-20-33)	
	1-35- Dangerous Dogs	
2.	COHUTTA ALCOHOLIC BEVERAGES CODE.....	22
	1.. Definitions.....	
	2. Purposes.....	
	3. Applicability.....	
	4. Compliance.....	
	5. Laws and Regulations Adopted.....	

6. Penalties.....
7. Alcohol License Commissioner Powers and Duties...
8. Possession of Unsealed Containers.....
9. Possession In Public Places.....
10. Sidewalk cafes, Open Areas and Patio Sales.....
11. Underage Persons Prohibited On Premises.....
12. No Sales to Persons Underage.....
13. Purchase/Possession by Minors
Misrepresentation of Age.....
14. Employees.....
15. Furnishing to Underage Persons.....
16. Business Hours of Licensed Wholesaler.....
17. Hours and sale of Alcoholic Beverages by the]
Package.....
18. Hours and Sale of Alcoholic Beverages for
consumption on the premises.....
21. Closing and vacation of Premises of pouring outlet
22. Service after hours at pouring outlets
23. Coin operated devices, amusement machines....
24. Delivery by retailer beyond licensed premise....
25. Drive-In-Window.....
26. Clear view of entrance and interior of premises...
27. Sales In connection with other businesses.....
28. Misrepresentation of Contents.....
29. Sale to certain persons.....
30. Private Clubs.....
31. Copy of Chapter on Premises.....
- 32 Sale of gasoline on premises where beer, wine and
malt beverages sold.....
33. Limitation on consumption sales.....
34. Proper Identification-Definition.....
35. Responsibility to examine proper identification;
exceptions.....
36. Rebuttable presumptions.....
37. Brown Bagging prohibited; exception; sanction...

3. **COHUTTA FINE AND FEE CODE.....**

37

- 3-11 Cost collected
- 3-12 Other Codes Repealed
- 3-13 Effective upon passage
- 3-14 Severable
- 3-3-3-23 Alcohol Violation
- 3-4-3-12 Animal at Large/Stray

3-4-8-3	Abandoning Live Dog
3-4-13-3	Cruelty to Equine Animals
3-16-1-10	Violation of Statute
3-16-5-60	Reckless Conduct
3-16-7-21	Criminal Trespass
3-16-7-63	Illegal Burning
3-16-7-43	Littering
3-16-8-14	Theft by Shoplifting
3-16-8-2	Theft by Taking
3-16-8-8	Receiving Property Stolen in Another State
3-16-10-24	Obstruction
3-16-11-32	Affray
3-16-11-33	Unlawful Assembly
3-16-11-36	Loitering and/or Prowling
3-16-11-39	Disorderly Conduct
3-16-11-39.1	Harassing Contacts
3-16-11-41	Public Drunk
3-16-11-43	Obstruction of Roadway
3-16-11-44	Disorderly House
3-16-13-56	Cohutta Drug Offense
3-31-12A-3	No Smoking On Public Property
3-32-6-20	Exceeding Size/Weight Laws
3-36-9-11	Defacing Public Property
3-40-1-3	Allowing Illegal Operation
3-40-5-20	Driving Without License
3-40-5-121	Driving While Suspended
3-40-5-145(A)	CMV Driver Employer Violation
3-40-5-152	Measureable Alcohol

COHUTTA RULES OF THE ROAD

46

3-40-6-2	Failure to Obey Lawful Order
3-40-6-10	Driving Without Insurance
3-40-6-14	Noise Violation
3-40-6-15	Suspended Registration
3-40-6-16	Move Over Law Violation
3-40-6-20	Failure to Obey Signs/Signal
3-40-6-26	Tamper With Traffic Signs
3-40-6-41	Drive Wrong Side of Road
3-40-6-42	Improper Passing
3-40-6-46	No Passing Violation
3-40-6-49	Following Too Close
3-40-6-56	Overtaking a Bike
3-40-6-70	Fail To Yield Right of Way
3-40-6-71	Fail to Yield Right of Way in a Turn
3-40-6-77	Serious Injury-Right of Way

3-40-6-95	Pedestrian Under Influence
3-40-6-121	Improper U-Turn
3-40-6-140	Railroad Crossing Violation
3-40-6-162	Failure to Stop for School Bus
3-40-6-180	Too Fast for Conditions
3-40-6-181	Speeding
3-40-6-186	Racing
3-40-6-226	Handicapped Parking Violatin
3-40-6-241	Teen Drivers Cell Phones
3-40-6-242	Person Distracting Driver
3-40-6-248.1	Littering From Vehicle
3-40-6-253	Open Container of Alcohol
3-40-6-255	Failure to Pay for Gasoline
3-40-6-270	Hit and Run
3-40-6-293	Clinging to Vehicle On Road
3-40-6-294	Bicycle Rules
3-40-6-320	Motorized Chair on Roadway
3-40-6-326	DUI in Motorize Chair or Cart
3-40-6-390	Reckless Driving
3-40-6-391	Driving Less Safe
3-40-395	Fleeing/Attempting to Elude Police
3-40-6-397	Aggressive Driving
3-40-7-4	Off-Road Vehicle violation
3-40-8-7	Operating Unsafe Vehicle
3-40-8-9	USDOT Number Displayed
3-40-8-31	Failure to Dim Headlights
3-40-8-70	Improper Use of Horn
3-40-9-8	Driving While Suspended
3-40-13-63	Failure to Appear

Other Violations

56

3-41-1-6	Public Nuisance Violation
3-41-100	Zoning Violation
3-41-101	Property Maintenance Violation
3-42-8-38	Probation Violation

4. COHUTTA NUISANCE CODE.....

57

4.1.	Declarations of Findings of Purpose.....
4.2	Hearing Officer.....
4.3	Definitions.....
4.4	Initiation, Investigation, Proceedings, Lien.....
4.5	Subject Conditions.....
4.6	Powers of Hearing Officer.....
4.7	Service of Process.....
4.8.	Funding.....
4.9.	Supplemental in Effect.....

4.10. Severability.....	
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5. COHUTTA ZONING CODE... 65

5.10 Declaration of Purposes.....	
5.20 Definitions.....	
5.30 General Provisions.....	
5.40 Zoning District and Boundaries	
5.50 Residential Agricultural Zone (RA).....	
5.51 Low Density Residential (R-1).....	
5.52 Horse Residential (R1-A).....	
5.53 Manufactured and Modular Home(R1-M).....	
5.54 Medium Density Residential (R-2).....	
5.55 Light Commercial (C-1).....	
5.56 General Commercial (C-2).....	
5.57 Light Industrial (M-1).....	
5.58 Adult Business Regulation.....	
5.59	
5.60 Commercial Development, M-1 Development, Conditional Use Mixed Use, High Density. Condominium and Town House Regulations.....	
5.61 Housing Restrictions- Used, Small , Overcrowded Narrow, Manufactured/Mobile.....	
5.62 Non-Conforming Uses.....	
5.63 Buffers.....	
5.70 Planning and Land Use Commission.....	
5.71 Administration.....	
5.8 Remedies and Enforcement.....	
5.81 Amendments and Changes.....	
5.82 Validity and severability.....	
5.83 Conflict with Other Rules or agreements.....	
5.84 Conflict with Other Codes.....	
5.85 Effective Date.....	
Appendix “A” Zoning Map.....	
Appendix “B” Variance or Map Change Request	

6. COHUTTA SPEED LIMIT CODE..... 112

7. COHUTTA SUBDIVISION CODE..... 115

- I. General
- II. Procedure For Plat Submittal and Approval
- III. Design Standards

8. COHUTTA ZONING STANDARDS & PROCEDURES

CODE.....	128
8.1 Preamble and Enactment Clause.....	
8.2 Definitions.....	
8.3 Adoption of the Zoning Code.....	
8.4 Amendment.....	
8.5 Public Notice.....	
8.6 Public Hearing.....	
8.7 Conduct of Hearings.....	
8.8 Zoning Standards.....	
8.9 Official Action.....	
8.10 Distribution.....	
8.11 Legal Status, Severability, Conflicting Code, Effective. Date...	
9. COHUTTA SIGN CODE.....	136
10-1 Purposes and Exemptions.....	
10-2 Definitions.....	
10-3 Prohibited Signs and Activities Regarding Signage.....	
10-4 Exempt Signs.....	
10-5 Variance Requirements.....	
10-6 Sign Maintenance.....	
10-7 Computation of Sign Area.....	
10-8 Signs Not To Extend Into Buffer Zone.....	
10-9 Restricted Signs.....	
10-10 Removal of Abandoned or Illegal Signs.....	
10-11 Unconstitutionality-Severability.....	
Effective Date.....	
10. MT. OLIVET CEMETERY CODE.....	145
11-1. Definitions.....	
11-2. Intent; scope.....	
11-3. Description of cemetery boundaries.....	
Dedication of land for cemetery use	
Marker authorized	
Mayor's authority	
11-4. Plots, lots.....	
11-5. Grave site openings—Permit required.....	
11-6. Same—Specifications.....	
11-7. Plot and/or lot corner markings.....	
11-8. Monuments.....	
11-9. Number of burials per lot.....	
11-10. Plantings.....	
11-11. Desecration of burial site.....	
11-12. Hours open.....	
11-13. Burial of animals prohibited.....	

11-14. Violations-Penalty.....	
11. COHUTTA PROPERTY MAINTENANCE CODE...	153
13. COHUTTA GOLF CART CODE.....	154
13-1 -1Findings; definition	
13-1-2 Registration Requirement	
13-1-3 Operation Regulations	
13-1-4 Recreation Path Users-Authorized	
13-1-5 Prohibited Uses	
13-1-6 Motorized Play Vehicles	
13-1-7 Liability	
13-1-8 Penalties	
13-2 Effect of partial invalidation	
13-3 Other Codes	
13-4 Effective Date	
14. COHUTTA SOIL EROSION, SEDIMENTATION AND POLLUTION CONTROL CODE	164
APPENDIX:	182
Georgia Power Franchise Code	
North Georgia EMC Secondary Supplier Code	
Emergency Siren Code	
Labor Rate Ordinance	6/7/2016
Franchise Fee Resolutions	8/2/2016

CODE ADOPTION AND AMENDMENT

Cohutta Animal Control Code	Initially Adopted 5/1/2001 Amended in 3/4/2014 Code Amended 9/6/22
Cohutta Alcoholic Beverages Code	Initially Adopted as Beer and Wine Code 5/12/2000 Amended in 3/4/2014 Code Amended 10/6/15

Fine and Fee Code	Amended 12-5-2017 Amended 9/6/22 Initially Adopted 9/2009 Amended in 3/4/2014 Code Court costs amendment 10/2/18 Amended Fine Ord. 5/4/21 Amended 9/6/22
Nuisance Code	Initially Adopted 6-13-1991 Amended in 3/4/2014 Code
Zoning Code	Initially Adopted 4/11/1986 Substantially amended 12-2009 adding site spec requirements Amended in 3/4/2014 Code 9/10/15 min Sq. Ft. now 1500 Audible comm. fire alarms . Site plans for Historic façade and fire alarm M-1 zone changes 10/5/21 Zoning and Appeals Board 4/12/22 Historic District 4/12/22
Cohutta Speed Limit Code	Initially Adopted Amended in 3/4/2014 Code
Cohutta Subdivision Code	Amended in 8/1/2023 Code Initially Adopted Amended in 3/4/2014 Code Amended in 8/1/2023 Code
Cohutta Zoning Procedures Code	Initially Adopted 11/12/2002 Amended in 3/4/2014 Code Amended 4/12/22
Cohutta Vacant Property Registry Code	Initially Adopted 2013 Amended in 3/4/2014 Code
Cohutta Sign Code	Initially Adopted 3/16/2012 Amended in 3/4/2014 Code
Cohutta Mt. Olivet Cemetery Code	Adopted at 3/4/2014 Code
Cohutta Property Maintenance Code	Adopted and advertised on 7/11/2014 Amended 9/6/22
Soil Erosion, Sedimentation, and Pollution Control Code	Adopted on October 1, 2023.

Georgia Power Franchise Code

Streets Sidewalks and Other public places	8/16/2016
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Cohutta Code	3/4/2014 10/24/2017 8/1/23
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CHAPTER ONE
“COHUTTA ANIMAL CONTROL CODE”

WHEREAS, the Whitfield County Sheriffs Department has assumed responsibility for the control of domesticated animals and dangerous dogs within the County and for enforcement of animal control laws, and

WHEREAS, the Cohutta Council deems it to be in the health, safety, and welfare interests of The Town of Cohutta and its citizens that a supporting Code be adopted;

NOW, THEREFORE, BE IT RESOLVED by the Cohutta Council that the Code known as the *Cohutta Animal Control Code* be adopted:

COHUTTA ANIMAL CONTROL CODE

I. GENERAL.....

- 1.1 Definitions.....**
- 1.2 Application of Code to Domestic Animals Only**
- 1.3 Purposes**
- 1.4 Contract For Enforcement by the county**
- 1.5 Jurisdiction of Municipal Court**
- 1.6 Penalty For Violations**
- 1.7 Impoundment**
- 1-8. Detention Periods Following Impoundment.**
 - 1-9. Owner Reclaims.**
 - 1-10. Interpretation of Code.**
 - 1-11. Incorporation of State Law; Construction**
 - 1-12. Severability.**

ARTICLE II. RABIES AND ANIMAL CONTROL.....

- 1-20. Rabies Control: Vaccination Required.**
- 1-21. Dogs Running at Large.**
- 1-22. Dogs Disturbing the Peace.**
- 1-23. Restraint of Nuisance Dogs.**
- 1-24. Restraint of Cats.**
- 1-25. Cruelty to Animals.**
- 1-26. Abandonment of Domesticated Animal.**
- 1-27. Clean Up Requirement.**
- 1-28. Keeping of Sick or Diseased Animals.**
- 1-29. Confinement of Dogs in Heat.**
- 1-30. Shelter Requirements.**
- 1-31. Retention, Disposition and Adoption of Impounded Animals.**
- 1-32. Obstruction or Interference in Enforcement.**
- 1-33. Willful Violation by Third Party**

Article I. GENERAL

Sec. 1-1. Definitions. As used hereinafter, the following words and terms shall have the meaning set forth unless the context clearly indicates otherwise:

Abandonment: Shall mean the act by an Owner of leaving, deserting, rejecting, or renouncing responsibility of or claim to a domesticated animal.

Adequate Food and Water: Shall mean food and water which is sufficient in amount and appropriate for the particular type of animal to prevent starvation, dehydration, or a significant risk to the animal's health from a lack of food or water.

Aggressive: Shall be descriptive of any dog which appears to have a propensity for attacking persons, or which has, in fact, attacked a person on at least one (1) occasion, or which threatens persons by growling or barking in such a manner that causes persons of reasonable sensibilities to be apprehensive for his or her safety.

Animal: Shall mean all living non-human creatures, domestic or wild, including livestock.

At Large: Shall mean not under the direct physical or voice restraint of the Owner, whether on or off the Owner's premises.

Bite: Shall mean any physical contact with human skin of the teeth, nails, or claws of an animal which produces bleeding by the person.

Council: Shall refer to the Cohutta Council unless otherwise specified. Synonymous with *Government Authority*.

Cat: Shall mean the domestic cat, *felis catus*.

Citation: Shall mean a written notice issued to a person stating that there is probable cause to believe that the person has committed an infraction of this Code and directing the person to respond to the charge at a certain date and time in the Municipal Court of Cohutta.

County: Shall refer to Whitfield County unless otherwise specified.

Dangerous Dog: Shall mean any dog which, according to the records of the Town of Cohutta (from Cohutta infractions or other jurisdictions notifying Cohutta):

- (a) Inflicts a severe injury upon a person without provocation on public or private property at any time after March 31, 1989: or
- (b) Aggressively bites, attacks, or endangers the safety of persons without provocation after having been classified as a potentially dangerous dog and after the owner has been notified of such classification.

Dangerous Dog Control Officer: Shall mean that individual appointed by the Council to aid in the enforcement and administration of the dangerous dog control portion of this Code by examining and reasonably evaluating whether or not a dog shall be classified as a dangerous dog or as a potentially dangerous dog. Such person may be, but is not required to be, a licensed veterinarian.

Dog: Shall refer to the domestic dog, *canis familiaris*.

Domesticated Animal: Shall mean any animal domesticated by persons so as to live and breed in a tame condition. Examples shall include, but not be limited to, dogs, cats, horses, cattle, goats, ostriches, emus, llamas, and chickens.

Humane Care: Shall mean, but not be limited to, the provision of adequate heat, ventilation, sanitary shelter, and wholesome and adequate food and water, consistent with normal requirements and feeding habits of the animal's size, species, and breed.

Owner: Shall mean any person possessing, harboring, keeping or having custody or control of any domesticated animal or permitting any domesticated animal to remain on or about his or her premises for a period of at least fifteen (15) days.

Person: Shall refer to any individual, firm, corporation, partnership, organization, or association.

Potentially Dangerous Dog: Shall mean any dog which has, without provocation, bitten any person on public or private property at any time after March 31, 1989.

Public Nuisance: Shall mean any domestic animal which unreasonably annoys persons, endangers the life or health of persons or of other domesticated animals, or substantially interferes with the rights of citizens, other than the owner of such animal, to enjoy fully life and property. The term shall include, but not be limited to, any dog which:

- a. Is found at large without identification, or without rabies tag or with visible disease process;
- b. Damages the property of anyone other than its owner;
- e. Chases vehicles;
- d. Attacks other domesticated animals; or
- e. Without provocation, attacks pedestrians or passersby.

Proper Enclosure for a Dangerous Dog or for a Potentially Dangerous Dog: Shall mean an enclosure for keeping a dangerous dog or potentially dangerous dog while on the owners property securely confined indoors or in a securely enclosed and locked pen, fence, or structure, suitable to prevent the entry of children or other animals and designed to prevent the dog from escaping. Any such pen or structure shall have secure sides and a secure top, and, if the dog is enclosed within a fence, all sides of the fence shall be of sufficient height and the bottom of the fence shall be constructed or secured in such a manner as to prevent the dog's escape, either from over or from under the fence. Any such enclosure shall also provide protection from the

elements for the dog. Any such enclosure shall be locked at all times so as to prevent the unintentional opening of the enclosure. The dog shall not be permitted to come into contact with animals other than those which reside at the owner's residence, nor shall the dog be permitted to come into contact with any persons other than the owner and the immediate family.

Quarantine: Shall mean the humane confinement of an animal for observation of symptoms of rabies or other disease in a proper enclosure which prevents the animal from coming into unplanned contact with any other animal or person.

Severe Injury: Shall mean any physical injury which results in broken bones or disfiguring lacerations requiring multiple sutures or cosmetic surgery or a physical injury that results in death.

Stray: Shall mean any dog which is at large and whose owner is unknown or not readily identifiable.

Town: Shall refer to the Town of Cohutta or local jurisdiction *unless otherwise specified*.

Vaccination: Shall mean inoculation with anti-rabies vaccine given by a licensed veterinarian, the dose of which is sufficient to provide immunity against rabies for at least one (1) year.

Sec. 1-2. Application of Code to Domestic Animals Only.

Unless this Code shall specifically state otherwise or unless the context shall clearly provide otherwise, this Code shall apply only to domestic animals, as defined hereinabove, and not to all animals. The Georgia Department of Natural Resources, or other appropriate agency, should be consulted regarding non-domesticated animals, including wild animals and migratory birds.

Sec. 1-3. Purposes.

The broad purposes of this Code shall include, but not be limited to, the following:

- (a) To set forth the minimum standards by which the Cohutta Police Department or other appropriate law enforcement agency shall operate in its enforcement of all State or Municipal laws, Codes, and resolutions relating to domesticated animals and the care, custody, and control of such domesticated animals;
- (b) To protect and to promote the health, welfare, and safety of the general public;
- (c) To educate the general public with regard to proper maintenance and care of domesticated animals, including, but not limited to, educating the public as to the benefits of spaying or neutering such domesticated animals to prevent undesired reproduction;
- (d) To enforce and to promote the public health requirement that all dogs and cats be properly vaccinated against rabies on an annual basis;

- (e) To enforce and to promote the public safety requirement that all Dangerous Dogs and all Potentially Dangerous Dogs be properly confined and that necessary measures be taken to protect the public at large from such animals.

Sec. 1-4. Contract For Enforcement with County.

The Cohutta Police Department's jurisdiction for enforcement of this Code shall be in the incorporated portion of Cohutta. However, it is expressly authorized under the terms of this Code for the Whitfield County Sheriff's Department to provide its services within Cohutta subject to any state law which may govern.

Sec. 1-5. Jurisdiction of Municipal Court.

Pursuant to Charter, the Municipal Court of Cohutta shall have jurisdiction to hear and to determine all alleged violations of this Code unless the accused shall demand a jury trial, in which case the prosecution shall be removed to the Whitfield County Superior Court for jury trial as a misdemeanor.

Sec. 1-6. Penalty for Violation of Code.

Any owner whose animal is found to be in violation of any of the sections of this article may be cited by the animal control officer or through a sworn complaint alleging any violation by a person who has personal knowledge of such violation and who can identify the owner of the animal involved or the premises where the animal is located. Any owner found guilty of violating this article shall be fined up to \$150 in addition to any fees or fines required by the Whitfield County Code as amended.

Sec. 1-7. Impoundment.

- (a) Any animal which is in violation of any portion of this Code may be impounded. The Cohutta Police Department or other appropriate law enforcement agency shall use discretion in determining whether impoundment shall be necessary to effectuate the purposes of this Code.
- (b) All impounded animals shall be designated as strays or owner give-ups.
- (c) All impounded animals shall be provided adequate food and water and shall be provided with humane care while impounded.
- (d) Any detention of animals pursuant to this Code shall be contracted or by agreement provided by Whitfield County
- (e) An owner of an impounded animal may reclaim the animal pursuant to Whitfield County policy.

Sec. 1-8. Spay Neuter Requirement

- (a) Within Cohutta, no person may own, keep, or be in possession of a dog or cat that is six months of age or older which has not been spayed or neutered, unless otherwise exempt from this requirement hereunder.
- (b) Whether a dog or cat shall have attained at least six months of age shall be determined by any duly-authorized animal control officer, by any licensed veterinarian, or by reliable veterinary medical records concerning any such dog or cat.
- (c) Any dog or cat kept for purposes of commercial breeding by a person holding a current breeder's license issued by the Georgia Department of Agriculture, Animal Protection System, shall be exempt from this requirement.
- (d) Any dog or cat for which a licensed veterinarian has signed a document expressing a medical opinion that the animal should not be spayed or neutered for health reasons shall be exempt from this requirement for the duration of the relevant health condition.
- (e) Any citation issued for a first offense violation of this requirement shall be dismissed by the Cohutta Municipal Court if, prior to arraignment thereon, the defendant shall provide reliable veterinary medical records demonstrating that such dog or cat has been spayed or neutered.

Sec. 1-9 Interpretation of Code.

- (a) Nothing herein shall be interpreted or applied so as to create any power or duty in conflict with the preemptive effect of any state or federal law, Code, rule, or regulation.
- (b) Nothing herein shall be interpreted or applied so as to create any liability upon the Town of Cohutta or the Cohutta Police Department or any employee, agent, or any Council member, for the enforcement or failure to enforce any of the provisions contained in this Code.

Sec. 1-11. Incorporation of State Law; Construction

This Code shall be construed to effectuate its purposes and policies and to supplement such existing state laws as may relate to animals.

Sec. 1-12. Severability.

If any section, sentence, clause, or phrase of this Code shall be held by any court of competent jurisdiction to be invalid, unlawful, unconstitutional, or unenforceable, such determination shall not affect the rest and remainder of this Code.

ARTICLE II. RABIES AND ANIMAL CONTROL

Sec. 1-20. Rabies Control: Vaccination Required.

- (a) It shall be unlawful for any person to own any dog or cat over three (3) months of age within the Town of Cohutta unless such dog or cat is vaccinated. This provision does not apply to dogs and cats owned by a licensed research facility or held in a veterinary medical facility or government operated or licensed animal shelter. All dogs and cats shall be vaccinated by a licensed veterinarian in accordance with the latest Compendium of Animal Rabies Vaccines and Recommendations for Immunization published by the National Association of State Public Health Veterinarians.
- (b) No person shall vaccinate dogs or cats against rabies who is not licensed to practice veterinary medicine.

Sec. 1-21. Dogs Running at Large.

It shall be unlawful for any person owning or otherwise having a dog in his or her care, charge, control, custody, or possession to cause or to allow such dog to run at large, loose and unattended, in or on any public property, vacant lot, or private property, specifically including, but not limited to, the property of such owner when such an animal is not identified by collar, is without proof of vaccination, or is openly diseased.

Sec. 1-22. Dogs Disturbing the Peace.

It shall be unlawful for any person owning or otherwise having a dog in his or her care, charge, control, custody, or possession to allow any such dog persistently or continuously to bark, howl, or make noise common to their species or otherwise to disturb the peace and quiet of the surrounding neighborhoods. It shall likewise be unlawful to keep or to maintain such dog in such a manner as to produce noxious or offensive odors, or otherwise to endanger the health and welfare of surrounding persons.

Sec. 1-23. Restraint of Nuisance Dogs.

Cohutta does not have a leash law. However, owners must reasonably restrain their dog when they have been given reasonable notice of a dog's previous acts of or propensity for nuisance while unrestrained so as to prevent the occurrence of a future nuisance.

Sec. 1-24. Restraint of Cats.

Cohutta does not have a leash law. However, owners must reasonably restrain their cat when they have been given reasonable notice of a cat's previous acts of or propensity for nuisance while unrestrained so as to prevent the occurrence of a future nuisance.

Sec. 1-25. Cruelty to Animals.

It shall be unlawful for any person to cause the death or unjustifiable physical pain or suffering to any domesticated animal by an act, an omission, or because of willful neglect. This section shall specifically include, but not be limited to, the following examples of cruelty:

- (a) An owner's failure to provide adequate food and water and/or humane care for any domesticated animal;
- (b) The use of caustic, flammable, boiling, or heated substances upon any domesticated animal;
- (c) The suffocation or drowning of a domesticated animal;
- (d) The torture, microwaving, maiming, or mutilation of any domesticated animal;
- (e) The infliction of burns, cuts, or lacerations upon any domesticated animal.

Sec. 1-26. Abandonment of Domesticated Animal.

It shall be unlawful for any person knowingly and intentionally to abandon any domesticated animal upon any public or private property or public right of way.

Sec. 1-27. Clean Up Requirement.

The owner of every dog shall be responsible for the removal of any excreta deposited by his dog upon public property.

Sec. 1-28. Keeping of Sick or Diseased Animals.

It shall be unlawful for any person to own any domesticated animal which is seriously sick or injured and not provide proper veterinary care. This section shall not be construed to include animals under active veterinary care or veterinary hospitals.

Sec. 1-29. Confinement of Dogs in Heat.

Every female dog in heat shall be confined for a period of twenty-four (24) days in such a manner that such dog cannot come into contact with another dog except for planned breeding. When exercised, the dog shall be securely leashed.

Sec. 1-30. Shelter Requirements.

An owner may confine his or her dog by a chain which is no less than twelve (12) feet in length and which permits the dog to reach shade, shelter and adequate food and water. Dogs confined by chain or fence shall be provided shelter which shall meet the following minimum requirements:

- (a) The housing facilities shall consist of walls on at least three sides, shall be structurally sound, and shall be maintained in good repair to protect the dog from injury and from the elements;
- (b) Enclosures shall be constructed and maintained to provide sufficient space to allow each dog adequate freedom of movement;
- (c) Minimum standards of sanitation necessary to provide humanely clean conditions for both indoor and outdoor enclosures shall include periodic cleaning to remove excretions and other waste materials, dirt, and trash, so as to minimize health hazards;
- (d) When sunlight is likely to cause heat exhaustion of a dog chained or caged outside, sufficient shade by natural or by artificial means shall be provided to protect the dog from direct sunlight.

Sec. 1-31. Retention, Disposition and Adoption of Impounded Animals.

The Town of Cohutta shall by agreement use services of the existing Whitfield County Animal Impounding facility or other agreeing entity

Sec. 1-32. Obstruction or Interference in Enforcement.

It shall be unlawful for any person to obstruct, interfere, or hinder any person in the lawful discharge of his or her duties pursuant to this Code.

Sec. 1-33. Willful Violation by Third Party

It shall be unlawful for any person willfully to cause any domesticated animal to be in violation of any portion of this Code.

Sec. 1-34. Responsible Dog Ownership Enforced

All dog owning persons within the corporate limits of Cohutta, Georgia shall obey and observe the restrictions of O.C.G.A. §4-8-20 through. §4-8-33 “Responsible Dog Ownership” as if set out herein and incorporated and the Town of Cohutta enforces with County agreement for services pursuant to O.C.G.A. §4-8-22, powers set forth in the statute, and penalties authorized by §4-8-29.

Sec. 1-35 Dangerous Dogs

Cohutta adopts the State Dangerous Dog requirements and pursuant to those requirements appoints its Code Office or such other person appointed by the Mayor to be the dangerous dog officer.

Initially Adopted 5/1/2001

Amended in 3/4/2014 Code

Amended 9/6/22

Amended in 8/1/23 Code

**CHAPTER
TWO**

***COHUTTA
ALCOHOLIC BEVERAGES
CODE***

- **ALL THE PROVISIONS ARE EFFECTIVE UPON PUBLICATION.**
- **ARTICLE I. - IN GENERAL**
 - **Sec. 2-1.** - Definitions.
 - **Sec. 2-2.** - Purposes of chapter.
 - **Sec. 2-3.** - Applicability.
 - **Sec. 2-4.** - Compliance with chapter.
 - **Sec. 2-5.** - Laws and regulations adopted.
 - **Sec. 2-6.** - Penalties.
 - **Sec. 2-7.** - Public safety commission powers and duties generally.
 - **Sec. 2-8.** - Possession of unsealed containers.
 - **Sec. 2-9.** - Possession in public places.
 - **Sec. 2-10.** - Sidewalk cafes, open area and patio sales.
 - **Sec. 2-11.** - Underage persons prohibited on premises.
 - **Sec. 2-12.** - Sales to persons underage.
 - **Sec. 2-13.** - Purchase or possession by underage persons; misrepresentation of age.
 - **Sec. 2-14.** - Employees.
 - **Sec. 2-15.** - Furnishing to underage persons.
 - **Sec. 2-16.** - Business hours of licensed wholesaler.
 - **Sec. 2-17.** - Hours and sale of alcoholic beverages by the package.

- **Sec. 2-18.** - Hours and sale of alcoholic beverages for consumption on the premises.
- **Sec. 2-19** Reserved
- **Sec. 2-20.** - Reserved.
- **Sec. 2-21.** - Closing and vacation of premises of pouring outlets.
- **Sec. 2-22.** - Service after hours at pouring outlets.
- **Sec. 2-23.** - Coin-operated devices; amusement machines.
- **Sec. 2-24.** - Delivery by retailer beyond licensed premises.
- **Sec. 2-25.** - Drive-in window.
- **Sec. 2-26.** - Clear view of entrance and interior of licensed premises.
- **Sec. 2-27.** - Sales in connection with other businesses.
- **Sec. 2-28.** - Misrepresentation of contents.
- **Sec. 2-29.** - Sale to certain persons.
- **Sec. 2-30.** - Private clubs.
- **Sec. 2-31.** - Copy of chapter on premises.
- **Sec. 2-32.** - Sale of gasoline on premises where beer, wine and malt beverages sold.
- **Sec. 2-33.** - Limitation on consumption sales.
- **Sec. 2-34.** - Proper identification—Definition.
- **Sec. 2-35.** - Responsibility to examine proper identification; exceptions to prohibitions.
- **Sec. 2-36.** - Rebuttable presumptions.
- **Sec. 2-37.** - Brown bagging prohibited; exception; sanction.
- **ARTICLE I. - IN GENERAL**
- **Sec. 2-1. - Definitions.**
- All definitions set forth in the Georgia Alcoholic Beverage Code (O.C.G.A. title. 3) and state regulations, as amended, are adopted by this chapter. The following words, terms

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

Applicant means any person who files forms designated by the city clerk as an applicant for a license to sell alcoholic beverages either at retail or wholesale, deal in alcoholic beverages either at retail or wholesale or manufacture alcoholic beverages.

Church means a permanent freestanding building located in an area designated for such use by the zoning Codes where persons regularly assemble for religious worship, which shall be publicly designated as a church, but does not include a residence or place of business also used for religious purposes.

Code enforcement officer means a certified peace officer, as defined by state law, or such other person appointed by the mayor and council to enforce this chapter.

College means only such state, county, city, church or other colleges which teach the subjects commonly taught in the common colleges of this state.

Distance means the distance as established in section 2-103 of this chapter.

Eating establishment means an establishment which is licensed to sell distilled spirits, malt beverages, or wines and which derives at least 50 percent of its total annual gross food and beverage sale from the sale of prepared meals or food.

Family means any person related to the holder of a license within the first degree of consanguinity or affinity as determined according to civil law.

License means the authorization by the mayor and council to engage in the sale of alcoholic beverages on the premises.

License Fee means that fee established by the mayor and council from time to time for each license holder, separately: 1) beer and wine package sales, 2) distilled spirit package sales, 3) beer and wine sales by the drink, and 4) distilled spirit sales by the drink.

Licensee means a person, real or artificial, holding any class of license issued under this chapter.

Local caterer or concessionaire means a person, other than the preferred caterer and concessionaire, whose principal business is to cater meals or other food items for functions located off the caterer's premises, who maintains a permanent office within the county and who meets the citizenship and residency requirements of section 2-105 of this chapter.

Lounge means a separate room connected with, a part of or adjacent to a restaurant, as defined in this section, or located in a hotel, provided that the seating capacity of the lounge shall not exceed that of its connected restaurant.

Micro-brewery means a facility using traditional brewing practices to produce less than 5,000 barrels of malt beverage annually.

Micro-distillery means a facility using traditional distilling practices to produce less than 50,000 gallons of distilled spirits annually.

Nonprofit civic organization means an organization which is an exempt organization under section 501(c) or (d) of the Internal Revenue Code of 1986, as amended.

Package store means a geographic location within the city wherein a license may be issued for the sale of packaged alcoholic beverages in unbroken packages and where the sale of alcoholic beverages in unbroken packages comprises more than 50 percent of the licensee's annual gross sales and where the sale of nonalcoholic items is incidental to the business of the licensee at that location; package stores selling distilled spirits must be operated as a distinct business and cannot be operated in conjunction with or as a part of any other business.

Person means any individual or entity as defined in the Georgia Alcoholic Beverage Code, (O.C.G.A. tit. 3) and state regulations, as amended.

Person under age means any individual under the age of 21 years.

Pour and *pouring* mean the sale of alcoholic beverages by the drink for consumption on the premises.

Pouring outlet means any place where distilled spirits or other alcoholic beverages are poured or proposed to be poured.

Premises means either:

- (1) That definite, closed or partitioned-in locality, whether room, shop or building, wherein alcoholic beverages are sold, either by package or for consumption in such locality; or
- (2) As to any pouring outlet, any other location not nearer than 100 feet to any property boundary of the lands exclusively owned, leased or hired by the licensee for such pouring outlet.

Pub means a pouring outlet, as defined in this section, which serves malt beverages or wine by the drink.

Restaurant means a business maintaining a fixed location for the sale and service of food and beverages to members of the general public in a dining room or premises with space to seat not less than 50 persons and serving such food and beverages from a sanitary kitchen within the premises. For the purposes of this definition, such business shall serve food and beverages not less than three hours per day or not less than four days per week.

Retail sale means selling or offering for sale alcoholic beverages to any member of the public.

School means only such state, county, city, church or other schools as teach the subjects commonly taught in the common schools and colleges of this state.

Tavern means a pouring outlet, as defined in this section, which serves malt beverages or wine by the drink.

State Law reference— Definitions relating to alcoholic beverages, O.C.G.A. §§ 3-1-2, 3-3-21.

- **Sec. 2-2. - Purposes of chapter.**

This chapter has been enacted in accordance with a plan designed for the following purposes, among others:

- (1) Promoting the health and general welfare of the community;
- (2) Establishing reasonable and ascertainable standards for the regulation and control of the licensing and sale of alcoholic beverages to protect and preserve schools and churches;
- (3) Giving effect to existing land use and preserving certain residential areas, with reasonable considerations, among others, to the character of the area and the peculiar suitability for particular uses, the congestion in the roads and streets, and with a general view of promoting desirable living conditions and sustaining the stability of neighborhoods and property values; and
- (4) Protecting against the evils of concentration of ownership of retail outlets for alcoholic beverages or preventing undesirable persons from engaging in or having any interest in alcoholic beverages.

- **Sec. 2-3. - Applicability.**

The sections of this chapter and the license fees levied in this chapter shall apply to all persons residing or maintaining a place of business in the city or to any person bringing

alcoholic beverages into the city for the purpose of sale, except those sales made by a salesperson upon order and delivery later.

- **Sec. 2-4. - Compliance with chapter.**

It shall be unlawful for any person to sell or offer for sale at wholesale or retail any alcoholic beverages without having first complied with this chapter including, but not limited to, obtaining the appropriate alcoholic beverage license from the city.

- **Sec. 2-5. - Laws and regulations adopted.**

The state laws and regulations relating to the sale and distribution of alcoholic beverages in the state, as revised and promulgated by the general assembly and by the state revenue department and especially as they relate to wholesale and retail package sales and retail sales for consumption on the premises, are incorporated into and made a part of this chapter as if fully set out in this section.

- **Sec. 2-6. - Penalties.**

Any person violating any of the sections of this chapter or who shall assist any dealer in alcoholic beverages in the city to evade or avoid the payment of the fees and taxes provided for in this chapter shall be guilty of a violation of this chapter and, upon conviction in the municipal court, shall be fined or sentenced to the maximum allowed under the Charter or both such fine and sentence to be inflicted in the discretion of the municipal court, and such person so convicted shall also be subject to having his license revoked if he shall be a licensed dealer in alcoholic beverages either at wholesale or retail.

Charter reference— Penalties inflicted by municipal court.

- **Sec. 2-7. – Appointed alcohol license commissioner powers and duties generally.**

For the purposes of this chapter, the alcoholic license commissioner, by default the Town Clerk, is vested with the following duties and powers:

- (1) *Initial applications.* To screen, verify, investigate and review all initial applications for licenses for the sale of alcoholic beverages, at wholesale and retail, by the package and by the drink, and to make recommendations to the mayor and council to grant or to deny licenses for the sale of alcoholic beverages by the package and for the sale of alcoholic beverages by the drink. The

commission shall make a determination of all qualifications and requirements to ensure that the applicant meets the qualifications and requirements.

- (2) *Renewals.* To investigate and hear reports and charges constituting probable cause not to renew licenses for the sale of alcoholic beverages at wholesale and retail, by the package and by the drink, and to make recommendations to the mayor and council to grant or to deny renewals of licenses for the sale of alcoholic beverages by the package and for the sale of alcoholic beverages by the drink.
- (3) *Determinations of conduct or offenses requiring penalty, suspension, revocation or combination thereof.* To conduct hearings upon charges of the city to any alcohol beverage licensee as to the occurrence of conduct or an offense for which penalty, suspension, revocation or a combination thereof is provided under this chapter; to cause a record and transcript of such hearing to be made and kept; to take any of the actions provided for in section 2-233 below.
- (4) *Modifications.* To recommend to the mayor and council modifications to this chapter and other city Codes and policies pertaining to the regulation, control and taxing of alcoholic beverages.
- (5) *Rules.* To promulgate rules and regulations governing procedure before it.

- **Sec. 2-8. - Possession of unsealed containers.**

It shall be unlawful for any person to possess any distilled spirit in an unsealed container on premises licensed for the sale of alcoholic beverages by the package, and it shall be unlawful for any licensee to permit possession of a distilled spirit in an unsealed container on the premises licensed for the sale of alcoholic beverages by the package.

- **Sec. 2-9. - Possession in public places.**

(a) Except as provided in subsection (b) of this section and section 2-10, it shall be unlawful for any person to drink, consume, transport, carry alcoholic beverage (except in the original package and with the seal unbroken), on any public street, sidewalk, or in any city park, city maintained recreation facility, public parking lot or semi-public parking lot located within the city limits. The term "semi-public parking lot" shall include any area wherein motor vehicles are parked by the public in conjunction with any business, enterprise, commercial establishment, office building or apartment building.

(b) Carrying beer and wine in public areas within the outdoor area designated below and under the conditions below shall not be a violation of this section.

(c) Within the area bordered on the north by 150 feet north of King Street, Leo Way on the east, on the south by Calhoun Lane and on the west by Woodyard Way; the following regulations shall apply:

(1) One drink on-street limit. Any establishment within the area described above licensed to dispense alcoholic beverages by the drink for consumption on the premises is authorized to dispense an alcoholic beverage in a paper or plastic cup conforming to cup specifications promulgated by the Cohutta Police Department from time to time for removal from the premises; provided, however, that no establishment shall dispense to any person more than one such alcoholic beverage at a time for removal from the premises, and no person shall remove at one time more than one such alcoholic beverage from the licensed premises. Each patron shall agree to a designated driver and lawful conduct prior to receiving the drink. A fee to be determined by the Town Council per outside cup shall be collected by the entity and submitted to the Cohutta Town Police monthly.

2) Size limited to 16 ounces. No container in which an alcoholic beverage is dispensed and removed from the licensed premises shall exceed 16 fluid ounces in size. No person shall hold in possession on the streets and sidewalks, in parks and squares, or in other public places within the defined area any open alcoholic beverage container which exceeds 16 fluid ounces in size.

(3) Drinking from can, bottle, or glass prohibited. It shall be unlawful for any person to drink or attempt to drink any alcoholic beverage from a can, bottle, or glass or to possess in an open can, bottle, or glass any alcoholic beverage on the streets, sidewalks, rights-of-way, and parking lots, whether public or private.

(4) Outside consumption of alcoholic beverages permitted within the area. Outside consumption of an alcoholic beverage from a container that is in compliance with this subsection and obtained from an establishment within the area licensed to dispense alcoholic beverages by the drink for consumption on the premises is permitted within the area between 12:30 p.m. and midnight. Provided, however, consumption of an alcoholic beverage in a parked or moving vehicle within the area is prohibited.

5) Other events which include the licensed sale of beer or wine may submit plans for outdoor carry areas separate from the above zone to Town Council, and should the Council approve, any use shall be subject to the Council's specifications to allow outdoor movement of patrons with a drink.

- **Sec. 2-10. - Sidewalk cafes, open area and patio sales.**

The consumption and/or sale of alcoholic beverages shall be allowed in sidewalk cafes, and in open areas and patios under the control of the licensee provided that such open areas and patios are separated from public areas by a physical barrier, fence, rail or similar structure sufficient to prevent ingress and egress by a person(s) except through a controlled access point and further provided that the licensee is in compliance with all other appropriate regulations as to the safe and orderly operation of such establishment and its sidewalk cafe, open area or patio, including, but not limited to, regulations pertaining to maximum capacity, ingress and egress. In the event the designated area is separated from the licensee's premises so that it is necessary to traverse public property to get from one location to the other, then in such event it shall be unlawful for alcoholic

beverages to be carried from said premises to the designated area or vice versa by anyone but licensee or employees of licensee.

- **Sec. 2-11. - Underage persons prohibited on premises.**

No person who holds a license to sell malt beverages, wine, distilled spirits, or other alcoholic beverage shall allow any person underage to be in, frequent or loiter about the premises of the licensee unless such underage person is accompanied by a parent or a legal guardian. However, this section shall not apply to a licensee whose annual sales of food and non-alcoholic beverages upon the premises comprise more than 50 percent of the licensee's annual gross sales and where the sales of alcoholic beverages are merely incidental to the business.

- **Sec. 2-12. - Sales to persons underage.**

No licensee or any other person on a licensed premises shall sell alcoholic beverages to any person under the age of 21 years.

State Law reference— Furnishing alcoholic beverages to underage persons, O.C.G.A. § 3-3-23.

- **Sec. 2-13. - Purchase or possession by underage persons; misrepresentation of age.**

It shall be unlawful for any person under age to purchase or possess any alcoholic beverage. It shall be unlawful for any person under age to misrepresent his age in any manner whatsoever for the purpose of illegally obtaining any alcoholic beverages.

State Law reference— Purchase of alcoholic beverages by underage persons, misrepresentation of age, O.C.G.A. § 3-3-23.

- **Sec. 2-14. - Employees.**

Except as otherwise provided by law:

- (1) No person issued a license under this chapter shall employ any person under 18 years of age in or about the premises where alcoholic beverages are sold, consumed or offered for sale to sell or deliver or to aid or assist in the sale or delivery, directly or indirectly, of alcoholic beverages; and

- (2) No person under 18 years of age shall sell, take orders for or deliver or in any manner take part or assist in the sale, serving or delivery of alcoholic beverages.

State Law reference— Underage persons employed where alcoholic beverages sold, O.C.G.A. § 3-3-23.

- **Sec. 2-15. - Furnishing to underage persons.**

It shall be unlawful for any person to buy distilled spirits or other alcoholic beverages and furnish them to a person under age, except as provided by law.

State Law reference— Furnishing alcoholic beverages to underage persons, O.C.G.A. § 3-3-23.

- **Sec. 2-16. - Business hours of licensed wholesaler.**

The business hours of any wholesaler licensed to sell alcoholic beverages shall be at all times not inconsistent with limitations on such sales as set forth in this chapter or in state law.

- **Sec. 2-17. - Hours and sale of alcoholic beverages by the package.**

Unless state laws and regulations hereafter provide otherwise, alcoholic beverages by the package may be sold only between the hours of 12:30 p.m. on Sunday and 11:59 p.m. on Saturday.

- **Sec. 2-18. - Hours and sale of alcoholic beverages for consumption on the premises.**

Unless state laws and regulations hereafter provide otherwise, alcoholic beverages for consumption on the premises may be sold Monday through Saturday from 8:00 a.m. to 2:55 a.m. the following day. Properly licensed eating establishments, and establishments which derive at least 50 percent of their annual gross income from the rental of rooms for overnight lodging, may sell alcoholic beverages for consumption on the premises on Sunday from 12:30 p.m. to 12:00 Midnight.

- **Sec. 2-19. - Reserved.**

- **Sec. 2-20. - Reserved.**

- **Sec. 2-21. - Closing and vacation of premises of pouring outlets.**

The premises of all pouring outlets shall be completely closed and vacated by all persons except those persons regularly employed for management, sanitation and supply purposes, no later than 3:00 a.m.

- **Sec. 2-22. - Service after hours at pouring outlets.**

No alcoholic beverages shall be mixed or sold at pouring outlets during the prohibited hours, based upon timely sale of tickets, chits, decanters or other devices.

- **Sec. 2-23. - Coin-operated devices; amusement machines.**

No retail dealer in distilled spirits by the package shall permit on his premises any slot machines or mechanical music boxes or pinball machines of any kind or character or any coin-operated machines or any machines operated for amusement purposes.

- **Sec. 2-24. - Delivery by retailer beyond licensed premises.**

It shall be unlawful for any person issued a license under this chapter to make deliveries of any alcoholic beverages by the package beyond the boundaries of the premises covered by the license or any alcoholic beverages by the drink beyond the indoor boundaries of the premises covered by the license.

- **Sec. 2-25. - Drive-in window.**

It shall be unlawful for any person to sell or dispense distilled spirits or wine from drive-in or service windows.

- **Sec. 2-26. - Clear view of entrance and interior of licensed premises.**

(a) No licensee for the sale of alcoholic beverages by the package shall operate under the license unless the front entrance to the licensed premises is clearly visible from the public street.

(b) No screen, blind, curtain, partition, article or thing which shall prevent a clear view into the interior shall be permitted in the window or upon the doors of any retail store for the sale of alcoholic beverages by the package, and no booth, screen,

partition or other obstruction shall be permitted within the interior of any such store. Each such premises shall be so lighted that its interior is visible day and night.

- **Sec. 2-27. - Sales in connection with other businesses.**

No retail license for the sale of distilled spirits by the package shall be allowed in or in connection with any restaurant, cafe or eating place or in the same room where a bar is maintained for the dispensing and sale of malt beverages and wine by the drink or any other business establishment. Nothing in this section, however, shall be construed to limit or prohibit the operation of a package store in the same building complex with other businesses.

- **Sec. 2-28. - Misrepresentation of contents.**

Under this chapter it shall be unlawful for licensees or their agents to add to the contents of a bottle or to refill empty bottles or in any other manner to misrepresent the quantity, quality or brand name of any alcoholic beverage.

State Law reference— Quality requirements, O.C.G.A. § 3-3-5.

- **Sec. 2-29. - Sale to certain persons.**

No person issued a license under this chapter or any other person on the licensed premises shall sell any alcoholic beverages to any person in an intoxicated condition or to any person known to such licensee or his employees to be an habitual drunkard or to any person known to such licensee or his employees to be of intemperate habits or of unsound mind.

State Law reference— Similar provisions, O.C.G.A. § 3-3-22.

- **Sec. 2-30. - Private clubs.**

Any private club that secures a pouring license under this chapter and that is operated behind locked doors shall provide at least two keys to each lock or, where cards are used for admittance, two cards for each lock, properly marked. One key or card shall be provided to the chief of police, and one key or card shall be provided to the county sheriff. The changing of the locks without supplying new keys or cards shall be grounds for revocation of the license.

- **Sec. 2-31. - Copy of chapter on premises.**

It shall be the duty of the management of a pouring or package outlet to maintain a copy of the pouring or package license Code contained in this chapter at the location and to instruct each employee on the terms thereof.

- **Sec. 2-32. - Sale of gasoline on premises where beer, wine and malt beverages sold.**

The sale of gasoline shall be allowed at a convenience store location which holds a valid and effective beer, wine or malt beverage license issued by the city, subject to the following restrictions:

- (1) There must be present on the premises an inventory of retail goods and merchandise available for sale having a retail value of not less than \$8,000.00, excluding the value of alcoholic beverages and cigarettes, at all times. For purposes of measuring whether an inventory of retail goods and merchandise of a value of at least \$8,000.00 is available at all times for sale on the premises, there must be an average monthly inventory based upon the inventory records for the specific premises of at least \$8,000.00, excluding alcoholic beverages and cigarettes.
- (2) No drive-in window sales of alcoholic beverages shall be allowed.
- (3) Each license holder at the premises shall have his monthly inventory records showing the retail value of all goods and merchandise on the premises at the location of the premises at all times during regular business hours for inspection by the chief of police.

- **Sec. 2-33. - Limitation on consumption sales.**

It shall be unlawful for any person to knowingly and intentionally sell any alcoholic beverage for consumption on premises located within 100 yards of any housing authority property or library.

- **Sec. 2-34. - Proper identification—Definition.**

"Proper identification" as used in this chapter of the Code shall mean any document issued by a governmental agency containing a description of the person, such person's photograph, or both, and such person's date of birth. Proper identification includes, without being limited to, a passport, military identification card, driver's license, or any identification card authorized under O.C.G.A. §§ 40-5-100 through 40-5-104. Proper identification shall not include a birth certificate and shall not include any traffic citation and complaint form.

- **Sec. 2-35. - Responsibility to examine proper identification; exceptions to prohibitions.**

It shall be the responsibility of the licensee to examine the proper identification of each patron to ascertain that such patron is 21 years of age or older. The prohibitions of sections 2-11 and 2-12 of the Code shall not apply with respect to the sale of alcoholic beverages by a person when such person has been furnished with proper identification showing the alcohol beverage is to be sold to a person who is 21 years of age or older.

- **Sec. 2-36. - Rebuttable presumptions.**

For the purpose of any administrative hearing conducted pursuant to the provisions of this chapter 2 of the Code, the following shall constitute rebuttable presumptions without the necessity of further proof:

- (1) The sworn testimony of a police officer that such officer has determined that a person is under the age of 21 years after the examination of such person's identification or the records of any law enforcement agency shall create the rebuttable presumption that such person is under the age of 21 years.
- (2) The fact that a person has been issued an alcoholic beverage license pursuant to this chapter 2 of the Code shall create a rebuttable presumption that the licensee's sale of alcoholic beverages constitutes more than 50 percent of the licensee's annual gross sales.

- **Sec. 2-37. - Brown bagging prohibited; exception; sanction.**

(1) Except as otherwise provided herein, it shall be unlawful for the owner, manager or employee of a food-serving establishment, private club, dance hall or any other establishment primarily in the business of providing food, drink or entertainment to permit customers, guests or invitees to bring an alcoholic beverage onto the premises of such establishment for consumption purposes unless such business holds a valid alcoholic beverage license for the type of alcoholic beverage permitted to be brought into the establishment.

(2) No food-serving establishment, private club, dance hall or any other establishment primarily in the business of providing food, drink or entertainment shall permit customers, guests or invitees to bring an alcoholic beverage onto the premises if any alcoholic beverage license associated with that establishment is suspended or revoked.

(3) A violation of this section shall result in the suspension of the privilege to permit customers, guests or invitees to bring an alcoholic beverage onto the premises of the establishment for a period of two years. Provided, however, if the violation occurs during the suspension or revocation of the alcoholic beverage license associated with the establishment, the suspension of the privilege shall be for a period of time that is the longer of the period of suspension or revocation of the alcoholic beverage license and two years.

(4) This Code shall not apply to a private event on any premises where the general public is not allowed entry. An event at a private club where only club members are allowed entry shall not be deemed a private event for the purposes of this Code.

(5) Any owner, manager or employee of a food-serving establishment, private club, dance hall or any other establishment primarily in the business of providing food, drink, or entertainment who violates this Code shall, upon conviction thereof, be punished by a civil penalty of not less than \$200.00 and not more than \$1,000.00.

Sec. 2-38. - Reserved

Initially Adopted as Beer and
Wine Code 5/12/2000
Amended in 3/4/2014 Code
Amended 10/6/15
Amended 12-5-2017
Amended 9/6/22
Amended 8/1/23 Code

CHAPTER THREE

COHUTTA FINE AND FEE CODE

To Provide For An Administrative Fee In Certain Municipal Court Cases;
To Provide For An Effective Date; To Provide For The Repeal Of
Conflicting Codes; And To Provide For Severability

BE IT ORDAINED by the Mayor and Council of the City of Cohutta and by the authority of the same, IT IS HEREBY ORDAINED as follows:

SECTION 3. 10-COSTS

In every case in Municipal Court of the City of Cohutta involving the violation of a city Code or state statute subject to such municipal court's jurisdiction in which a fine is levied in the amount of \$30.00 or more, or in which incarceration or probation is ordered, there shall be charged and collected a fee to defray in part the administrative cost associated with the process of such case in the Municipal Court. The fee described herein shall be in addition to any fine or other cost or fee levied or charged.

SECTION 3.12-CONFLICTING COHUTTA CODES REPEALED

All Codes or parts of Codes in conflict herewith are hereby repealed.

SECTION 3.13 – EFFECTIVE DATE

This Code shall be effective upon its passage by the Mayor and Council and publication. The fee shall be an add-on as provided in Section 1 to the fine, fee(s), or sentence in any case first entered on the Court's docket after such effective date.

SECTION 3.A-SEVER INVALID PORTIONS

It is hereby declared to be the intention of the Mayor and Council of the City of Cohutta that the section, paragraphs, sentences, clauses, and phrases of this Code are severable and if any phrase, clause, sentence, paragraph or section of this Code shall be declared unconstitutional or otherwise invalid by a court of competent

jurisdiction such unconstitutionality or invalidity shall not affect any of the remaining phrases, clauses, sentences, paragraphs or sections of this Code.

3-3-3-23 ALCOHOL VIOLATION

Except as otherwise authorized by law: Persons under the age of 21 may not directly or indirectly be furnished or possess alcoholic beverages or give misleading information on age or identity to obtain or avoid prosecution for possession of alcoholic beverages. This Code shall not apply to alcohol consumption by a person under 21 years of age when the parent or guardian of the person under 21 years of age gives the alcoholic beverage to the person and is present. A violation of this Code may be punished by incarceration for up to six months and a fine of up to One-Thousand Dollars.

3-4-3-12 LIVESTOCK AT LARGE/STRAY

Any livestock owner negligently permitting that livestock to run at large or stray upon the roads in Cohutta or any property of another without authority, or any person who sets loose livestock from their enclosure without proper authority, shall be guilty of this Code. .

A violation of this Code may be punished by incarceration for up to six months and a fine of up to One-Thousand Dollars.

3-4-8-3 ABANDONING A LIVE DOG

No person shall release a dog on any property, public or private, with the intention of abandoning the dog. A violation of this Code may be punished by incarceration for up to six months and a fine of up to One-Thousand Dollars.

3-4-13-3 CRUELTY TO EQUINE ANIMALS

It shall be unlawful for the owner of any equine to fail to provide adequate food and water to such equine; to fail to provide humane care for such equine; to unnecessarily overload, overdrive, torment, or beat any equine or to cause the death of any equine in a cruel or inhumane manner; or to interfere with or hinder any officer in carrying out his duties under this chapter. A violation of this Code may be punished by incarceration for up to six months and a fine of up to One-Thousand Dollars.

3-16-1-10 VIOLATION OF STATUTE

Any conduct that is made a criminal misdemeanor by any title or statute of this state, shall be punished as a Cohutta violation and may be punished by

incarceration for up to six months and a fine of up to One-Thousand Dollars.

3-16-5-60 RECKLESS CONDUCT

A person who causes bodily harm to or endangers the bodily safety of another person by consciously disregarding a substantial and unjustifiable risk that his or her act or omission will cause harm or endanger the safety of the other person and the disregard constitutes a substantial deviation from the standard of care which a reasonable person would exercise in the situation is guilty of A violation of this Code may be punished by incarceration for up to six months and a fine of up to One-Thousand Dollars

3-16-7-21 CRIMINAL TRESPASS

A person commits the offense of criminal trespass by misdemeanor damage to another's property, unauthorized use of another's property which excludes that party, by entry on the land, transport or premises of another for an unlawful purpose, or upon notice that entry is forbidden, or by remaining upon such property after due notice to depart a violation of this Code may be punished by incarceration for up to six months and a fine of up to One-Thousand Dollars.

3-16-7-63. ILLEGAL BURNING

Illegal Burning consists of intentionally starting or causing a fire in any woodlands, brush, field, or other lands of another without proper permission; or burning any brush, field, forest land, campfire, or debris, whether on one's own land or the lands of another, without taking the necessary precautions before, during, and after the fire to prevent the escape of such fire onto the lands of another; or causing a fire by discarding any lighted cigarette, cigar, debris, or any other flaming or smoldering material that may cause a forest fire; or destroying or damaging any material or device used in the detection or suppression of wildfires. A violation of this Code may be punished by incarceration for up to six months and a fine of up to One-Thousand Dollars.

3-16-7-43 LITTERING

It shall be unlawful for any person or persons to dump, deposit, throw, or leave or to cause or permit the dumping, depositing, placing, throwing, or leaving of litter

on any public or private property in this town or any waters in this town unless in the public welfare under full authority. A violation of this Code may be punished by incarceration for up to six months and a fine of up to One-Thousand Dollars

3-16-8-14 THEFT BY SHOPLIFING

Shoplifting in Cohutta occurs when a person alone or in concert with another person, with the intent of appropriating merchandise to his or her own use without paying for the same or to deprive the owner of possession thereof or of the value thereof, in whole or in part, attempts through artifice to obtain the item without payment. A violation of this Code may be punished by incarceration for up to six months and a fine of up to One-Thousand Dollars

3-16-8-2 THEFT BY TAKING

A person commits the offense of theft by taking in Cohutta when he or she unlawfully takes or, being in lawful possession thereof, unlawfully appropriates any property of another with the intention of depriving that person of the property, regardless of the manner in which the property is taken or appropriated. A violation of this Code may be punished by incarceration for up to six months and a fine of up to One-Thousand Dollars.

3-16-8-8 RECEIVING PROPERTY STOLEN IN ANOTHER STATE

A person commits the offense of theft by receiving property worth less than \$500 stolen in another state when he or she receives, disposes of, or retains stolen property which he knows or should know was stolen in another state, unless the property is received, disposed of, or retained with intent to restore it to the owner. A violation of this Code may be punished by incarceration for up to six months and a fine of up to One-Thousand Dollars

3-16-A-4-24 OBSTRUCTION

A person who knowingly and willfully obstructs or hinders any law enforcement office, Emergency Response Worker or Fireman in the lawful discharge of his official duties in Cohutta is guilty of this Code. A violation of this Code may be punished by incarceration for up to six months and a fine of up to One-Thousand

Dollars.

3-16-10-32 AFFRAY

A person is guilty of an affray when fighting in some public place to the disturbance of the public tranquility. A violation of this Code may be punished by incarceration for up to six months and a fine of up to One-Thousand Dollars

3-16-10-33 UNLAWFUL ASSEMBLY

A person unlawfully assembles with another person for the purpose of committing an unlawful act and the failure to withdraw from the assembly on being lawfully commanded to do so by a peace officer and before any member of the assembly has inflicted injury to the person or property of another. A violation of this Code may be punished by incarceration for up to six months and a fine of up to One-Thousand Dollars.

3-16-10-36 LOITERING AND/OR PROWLING

A person commits the offense of loitering or prowling when he or 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. flight, failure to provide identification or efforts to hide may establish circumstances for alarm. A violation of this Code may be punished by incarceration for up to six months and a fine of up to One-Thousand Dollars.

3-16-10-39 DISORDERLY CONDUCT A person commits the offense of disorderly conduct when he or she acts in a violent or tumultuous manner toward another person whereby such person is placed in reasonable fear of the safety of such person's life, limb, or health; or acts in a violent or tumultuous manner toward another person whereby the property of such person is placed in danger of being damaged or destroyed; or without provocation, uses to or of another person in such other person's presence, those incendiary words commonly called "fighting words". A violation of this Code may be punished by incarceration for up to six months and a fine of up to One-Thousand Dollars.

3-16-10-39.1 HARASSING CONTACTS

A person commits the offense of Harassing Contacts when he or she communicates in person or via telephone or e-mail, or text message or other messaging manner with the intent to harass, molest, threaten or intimidate, or threatens bodily harm to another person; when a person communicates a threat of bodily harm, or fails to disengage a conversation, or uses an electronic device to harass another person. A violation of this Code may be punished by incarceration for up to six months and a fine of up to One-Thousand Dollars.

3-16-10-41 PUBLIC DRUNK

A person who shall be and appear in an intoxicated condition in any public place or within the curtilage of any private residence not his own other than by invitation of the owner or lawful occupant, which condition is made manifest by boisterousness, by indecent condition or act, or by vulgar, profane, loud, or unbecoming language is guilty of Public Drunk. A violation of this Code may be punished by incarceration for up to six months and a fine of up to One-Thousand Dollars.

3-16-10-43 OBSTRUCTION OF ROADWAY

A person who, without authority of law, purposely or recklessly obstructs any highway, street, sidewalk, or other public passage in such a way as to render it impassable without unreasonable inconvenience or hazard and fails or refuses to remove the obstruction after receiving a reasonable official request or the order of a peace officer that he do so is guilty of Obstruction of Roadway. A violation of this Code may be punished by incarceration for up to six months and a fine of up to One-Thousand Dollars.

3-16-10-44 DISORDERLY HOUSE

A person who keeps and maintains, either by himself or others, a common, ill-governed, and disorderly house, to the encouragement of gaming and drinking to the common disturbance of the neighborhood or orderly citizens commits the offense of Disorderly House. A violation of this Code may be punished by incarceration for up to six months and a fine of up to One-Thousand

Dollars

3-16-13-56 COHUTTA DRUG OFFENSE

Unless otherwise specified felony with respect to a particular offense, any person who violates any provision of the Georgia Controlled Substances Act shall be guilty of a Cohutta Drug Offense to include marijuana less than 1oz and/or have possession Georgia Dangerous Drugs for which they are not prescribed as defined and/or outlined by the Official Code of Georgia Annotated 16-13-71 and 16-13-72, unless such violation(s) is repealed from state and/or federal statutes. Furthermore, it shall be unlawful to any person to be in possession of a drug related object as defined and outlined by the Official Code of Georgia Annotated 16-13-32.2 and/or have drugs not in their original container as defined and outlined by Official Code of Georgia Annotated 16-13-75. A violation of this Code is punishable by up to a year of Home Confinement, 30 days on community service and a One-Thousand Dollar Fine.

3-31-12A-3 NO SMOKING ON PUBLIC PROPERTY smoking shall be prohibited in all enclosed public places in Cohutta. A violation of this Code may be punished by incarceration for up to six months and a fine of up to One-Thousand Dollars.

3-32-1-10 COHUTTA ROADWAY OFFENSE

Any person who, while in Cohutta, violates any of the provisions of Georgia Title 32 for which no specific penalty is provided, whether or not such act or omission is expressly declared elsewhere in Title 32 to be unlawful, or who violates any of the rules and regulations issued under authority of and in accord with the provisions of title 32 shall be guilty of a Cohutta Roadway offense. A Violation of this Code is punishable by up to a One-Thousand Dollar Fine and up to 30 days of Community Service.

3-32-6-20 EXCEED SIZE/WEIGHT LAWS

No vehicle or load shall be operated or moved upon the public roads of Cohutta, if a dimension or the weight of such vehicle or load exceeds the limitations set forth in Chapter Six of Title 32 of the Georgia Code or if the load is improperly secured. A Violation of this Code is punishable by up to a One-Thousand Dollar Fine and up to 30 days of Community Service.

3-36-A-4-11**DEFACING PUBLIC PROPERTY**

Any person who designedly destroys, injures, or defaces any public building or its appurtenances or furniture or uses the same for an indecent purpose in Cohutta shall be

liable for the damages and shall be guilty Defacing Public Property. A violation of this Code may be punished by incarceration for up to six months and a fine of up to One-Thousand Dollars.

3-40-1-3**ALLOWING ILLEGAL OPERATION OR OCCUPANCY**

It is unlawful for the owner or any other person employing or otherwise directing the driver or having passengers within any vehicle under their control to require or knowingly permit and/or allow the operation or passenger occupancy of such vehicle upon a highway in any manner contrary to law. A Violation of this Code is punishable by up to a One-Thousand Dollar Fine and up to 30 days of Community Service.

3-40-1-8**COMMERCIAL DRIVING**

In Cohutta, no person shall drive or operate a commercial vehicle, or cause the operation of such a vehicle in violation of the rules promulgated by the Georgia Commissioner of

Public Safety. A Violation of this Code is punishable by up to a One-Thousand Dollar Fine and up to 30 days of Community Service.

3-40-5-20**DRIVING WITHOUT LICENSE**

No person shall drive any motor vehicle upon a road in Cohutta unless such person has a valid driver's license under this chapter for the type or class of vehicle being driven and no person shall be permitted to have more than one valid driver's license at any time. A Violation of this Code is punishable by up to a One-Thousand Dollar Fine and up to 30 days of Community Service.

3-40-5-29**DRIVING WITHOUT LICENSE ON PERSON**

Every licensee shall display his or her license upon the demand of a law enforcement officer. A refusal to comply with such demand not only shall constitute a violation of this subsection but shall also give rise to a presumption of a violation of subsection (a) of this Code section and of Code Section 40-5-20. A Violation of this Code is punishable by up to a One-Thousand Dollar Fine and up to 30 days of Community Service.

3-40-5-121**DRIVING WHILE SUSPENDED**

Any person who drives a motor vehicle on any public highway of this state without being properly licensed or at a time when his or her privilege to so drive is suspended, disqualified, or revoked shall be guilty of Driving While Suspended in Cohutta. A Violation of this Code is punishable by up to a One-Thousand Dollar Fine and up to 30 days of Community Service.
and subject to ordered driver safety classes.

3-40-5-145(A)**CMV DRIVER EMPLOYER VIOLATION**

No employer may knowingly allow, require, permit, or authorize a driver to drive a commercial motor vehicle during any period in which the driver has a driver's license suspended, revoked, or canceled by a state; has lost the privilege to drive a commercial motor vehicle in a state; or has been disqualified from driving a commercial motor vehicle; or in which the driver has more than one driver's license; or in which the driver, or the commercial motor vehicle that he or she is driving, or the motor carrier operation, is subject to an out of service order; or in violation of a federal, state, or local law or regulation pertaining to railroad-highway grade crossings. A Violation of this Code is punishable by up to a One-Thousand Dollar Fine and up to 30 days of Community Service for every documented trip through Cohutta.

3-40-5-152 MEASUREABLE ALCOHOL – Commercial Motor Vehicle

A person may not drive, operate, or be in physical control of a commercial motor vehicle while having any measurable alcohol in his or her system. A Violation of this Code is punishable by up to a One-Thousand Dollar Fine and up to 30 days of Community Service.

COHUTTA RULES OF THE ROAD

3-40-6-2 FAILURE TO OBEY LAWFUL ORDER

No person shall fail or refuse to comply with any lawful order or direction of any police officer, firefighter, police volunteer authorized by Cohutta, or school-crossing guard designated by Cohutta and invested by law with authority to direct, control, or regulate traffic. A Violation of this Code is punishable by up to a One-Thousand Dollar Fine and up to 30 days of Community Service.

3-40-6-10 DRIVING WITHOUT INSURANCE

An owner or any other person who knowingly operates or knowingly authorizes another to operate a motor vehicle without effective insurance on such vehicle or without an approved plan of self-insurance shall be guilty of Driving Without Insurance. A Violation of this Code is punishable by up to a One-Thousand Dollar Fine and up to 30 days of Community Service. for each day found in violation. If the cited driver shows proof of the purchase of effective insurance purchased after the citation, any fine shall be reduced by 50%.

3-40-6-14 NOISE VIOLATION

Apart from lawful political speech or safety noise, it shall be unlawful for any person operating or occupying a motor vehicle on a street or highway to operate or amplify the sound produced by a radio, tape player, Engine Brake, or other mechanical sound-making device or instrument from the motor vehicle so that the sound is plainly audible at a distance of 100 feet or more from the motor vehicle. A Violation of this Code is punishable by up to a One-Thousand Dollar Fine and up to 30 days of Community Service.

3-40-6-15 SUSPENDED REGISTRATION

Any person who knowingly drives a motor vehicle on any public road or highway of this state at a time when the vehicle registration of such vehicle is suspended, canceled, or revoked shall be guilty Suspended Registration.

3-40-6-16 MOVE OVER LAW VIOLATION

Absent other authorized direction, the motor vehicle driver coming upon a stationary authorized emergency vehicle with flashing lights shall approach with due caution and make a lane change into a lane not adjacent to the authorized emergency vehicle if possible in the existing safety and traffic conditions or if a lane change is not possible, travel slowly prepared to stop. A Violation of this Code is punishable by up to a One-Thousand Dollar Fine and up to 30 days of Community Service.

3-40-6-20 FAILURE TO OBEY SIGNS/SIGNAL

The driver of any vehicle shall obey the instructions of an official traffic-control device applicable thereto, placed in accordance with this chapter, unless otherwise directed by a police officer, subject to the exceptions granted the driver of an authorized emergency vehicle. A Violation of this Code is punishable by up to a One-Thousand Dollar Fine and up to 30 days of Community Service.

3-40-6-26 TAMPER WITH TRAFFIC SIGNS

No person shall, without lawful authority, attempt to or in fact alter, deface, injure, knock down, or remove any official traffic-control device or any railroad sign or signal or any inscription, shield, or insignia thereon or any other part thereof. A Violation of this Code is punishable by up to a One-Thousand Dollar Fine and up to 30 days of Community Service.

3-40-6-41 DRIVE WRONG SIDE OF ROAD

Drivers of vehicles proceeding in opposite directions shall pass each other to the right, and, upon roadways having width for not more than one lane of traffic in each direction, each driver shall give to the other at least one-half of the main traveled portion of the roadway or as nearly one-half as possible. A Violation of this Code is punishable by up to a One-Thousand

Dollar Fine and up to 30 days of Community Service.

3-40-6-42 IMPROPER PASSING

The driver of a vehicle overtaking another vehicle proceeding in the same direction shall pass to the left thereof at a safe distance and shall not again drive to the right side of the roadway until safely clear of the overtaken vehicle; and except when overtaking and passing on the right is permitted, the driver of the overtaken vehicle shall give way to the right in favor of the overtaking vehicle and shall not increase the speed of his or her vehicle until completely passed by the overtaking vehicle. A Violation of this Code is punishable by up to a One-Thousand Dollar Fine and up to 30 days of Community Service.

3-40-6-46 NO PASSING VIOLATION

Where signs or markings are in place to define a no-passing zone, no driver shall at any time drive on the left side of the roadway within such no-passing zone or on the left side of any pavement striping designed to mark such no-passing zone throughout its length. A Violation of this Code is punishable by up to a One-Thousand Dollar Fine and up to 30 days of Community Service.

3.40.6.48 FAILURE TO MAINTAIN LANE

The operator of a motor vehicle shall at all times maintain its lane of travel without a proper signal to change. A Violation of this Code is punishable by up to a One-Thousand Dollar Fine and up to 30 days of Community Service.

3-40-6-49 FOLLOWING TOO CLOSE

The driver of a motor vehicle shall not follow another vehicle more closely than is reasonable and prudent, having due regard for the speed of such vehicles and the traffic upon and the condition of the highway. A Violation of this Code is punishable by up to a One-Thousand Dollar Fine and up to 30 days of Community Service.

3.40.6.52 TRUCKS USING MULTI-LANE

The operator of a commercial motor vehicle shall use the right lane in a multilane highway. A violation of this Code is punishable by up to a One-Thousand Dollar

Fine and up to 30 days of Community Service.

3-40-56 OVERTAKING A BIKE

When overtaking and passing a bicycle that is proceeding in the same direction on the roadway, shall leave three feet distance between such vehicle and the bicycle and shall maintain such clearance until safely past the overtaken bicycle. A Violation of this Code is punishable by up to a One-Thousand Dollar Fine and up to 30 days of Community Service.

3-40-6-70 FAIL TO YIELD RIGHT OF WAY

When two vehicles approach or enter an intersection from different highways at approximately the same time, the driver of the vehicle on the left shall yield the right of way to the vehicle on the right. A Violation of this Code is punishable by up to a One-Thousand Dollar Fine and up to 30 days of Community Service.

3-40-6-71 FAIL TO YIELD RIGHT OF WAY IN A TURN

The driver of a vehicle intending to turn to the left within an intersection or into an alley, private road, or driveway shall yield the right of way to any vehicle approaching from the opposite direction which is within the intersection or so close thereto as to constitute an immediate hazard. A Violation of this Code is punishable by up to a One-Thousand Dollar Fine and up to 30 days of Community Service.

3-40-6-77 SERIOUS INJURY .

Any person who causes a serious injury to another person as a result of a collision with a motorcyclist, bicyclist, pedestrian, or farmer operating any vehicle used to transport agricultural products, livestock, farm machinery, or farm supplies by committing any right of way violation under this chapter when such motorcyclist, bicyclist, pedestrian, or farmer operating any vehicle used to transport agricultural products, livestock, farm machinery, or farm supplies is abiding by the provisions of this title shall be guilty of a serious offense punishable by 30 days of Community Service. and up to a One-Thousand Dollar Fine.

3-40-6-95**PEDESTRIAN UNDER INFLUENCE**

A person who is under the influence of intoxicating liquor or any drug to a degree which renders him or her a hazard shall not walk or be upon any roadway or the shoulder of any roadway. Violation of this Code is punishable by up to a One-Thousand Dollar Fine and up to 30 days of Community Service.

3-40-6-121**IMPROPER U-TURN**

No vehicle shall be turned so as to proceed in the opposite direction upon any curve; upon the approach to or near 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 and without interfering with other traffic; or where a prohibition is posted. Violation of this Code is punishable by up to a One-Thousand Dollar Fine and up to 30 days of Community Service.

3-40-6-140**RAILROAD CROSSING VIOLATION**

Whenever any person driving a vehicle approaches a railroad grade crossing, such driver shall stop within 50 feet but not less than 15 feet from the nearest rail of such railroad and shall not proceed until he can do so safely, when a clearly visible electric or mechanical signal device gives warning of the immediate approach of a train; when a crossing gate is lowered or a human flagman gives or continues to give a signal of the approach of the passage of a train; or when an approaching train is plainly visible and is in hazardous proximity to such crossing. No person shall drive through or around a closed or closing crossing barrier, no person shall drive a vehicle over the railroad grade crossing while a train is approaching or where insufficient undercarriage clearance exists. Violation of this Code is punishable by up to a One-Thousand Dollar Fine and up to 30 days of Community Service.

3-40-6-162**FAILURE TO STOP FOR SCHOOL BUS**

The driver of a vehicle meeting or overtaking from either direction any school bus stopped on the highway shall stop before reaching such school bus when the school bus signals it is to stop and such driver shall not proceed until the school bus resumes motion or the visual signals are no longer actuated. Violation of this Code is punishable by up to a One-Thousand Dollar Fine and up to 30 days of Community Service.

3-40-6-180 TOO FAST FOR CONDITIONS

No person shall drive a vehicle at a speed greater than is reasonable and prudent under the conditions and having regard for the actual and potential hazards then existing. Violation of this Code is punishable by up to a One-Thousand Dollar Fine and up to 30 days of Community Service.

3-40-6-181 SPEEDING

No person shall drive a vehicle at a speed in excess of the posted speed limit. Violation of this Code is punishable by up to a One-Thousand Dollar Fine and up to 30 days of Community Service.

3-40-6-186 RACING

No person shall drive any vehicle on a highway in Cohutta in any race, speed competition or contest, drag race or acceleration contest, test of physical endurance, exhibition of speed or acceleration, or for the purpose of making a speed record, and no person shall in any manner participate in any such race, competition of speed, contest of speed, or test or exhibition of speed. Violation of this Code is punishable by up to a One-Thousand Dollar Fine and up to 30 days of Community Service.

3-40-6-226 HANDICAP PARKING VIOLATION

It shall be unlawful for any person to stop, stand, or park any vehicle in a parking place for persons with disabilities unless The vehicle is used for a disabled person and there is a proper permit or license displayed. Violation of this Code is punishable by up to a One-Thousand Dollar Fine and up to 30 days of Community Service.

3-40-6-241 TEEN DRIVERS CELL PHONES

It shall be unlawful for any person with an instructional license or a class D license under the age of 18 to use a cell phone except for emergency communication while operating a motor vehicle. Violation of this Code is punishable by up to a One-Thousand Dollar Fine and up to 30 days of Community Service.

3-40-6-242 PERSON DISTRACTING DRIVER

No passenger in a vehicle shall ride in such position or commit any act as to interfere with the driver's view ahead or to the sides or to interfere with his control over the driving mechanism of the vehicle. Violation of this Code is punishable by up to a One-Thousand Dollar Fine and up to 30 days of Community Service.

3-40-6-248.1 LITTERING FROM VEHICLE

No vehicle shall be driven or moved on any public road unless such vehicle is constructed or loaded or covered so as to prevent any of its load from dropping, escaping, or shifting in such a manner as to either create a safety hazard; or deposit litter on public or private property while such vehicle is on a public road. Violation of this Code is punishable by up to a One-Thousand Dollar Fine and up to 30 days of Community Service.

3-40-6-253 OPEN CONTAINER OF ALCOHOL

A person shall not consume any alcoholic beverage; or possess any open alcoholic beverage container in the passenger area of any motor vehicle which is on the roadway or shoulder of any road in Cohutta. Violation of this Code is punishable by up to a One-Thousand Dollar Fine and up to 30 days of Community Service.

3-40-6-255 FAILURE TO PAY FOR GASOLINE

No person shall drive a motor vehicle so as to cause it to leave the premises of an establishment at which gasoline offered for retail sale was dispensed into the fuel tank of such motor vehicle unless due payment or authorized charge for the gasoline so dispensed has been made. Violation of this Code is punishable by up to a One-Thousand Dollar Fine and up to 30 days of Community Service.

3-40-6-270 HIT & RUN

If a person causes a traffic accident which is the proximate cause of an injury other than a serious injury or if such accident resulted in damage to a vehicle which is driven or attended by any person, such a person knowingly failing to stop and give full identification and render reasonable assistance, shall be guilty of Hit and Run. Violation of this Code is punishable by up to a One-Thousand Dollar Fine

and up to 30 days of Community Service.

3-40-6-293 CLINGING TO VEHICLE ON ROAD No person riding upon any bicycle, coaster, roller skates, sled, or toy vehicle shall attach the same or himself or herself to any vehicle upon a roadway. Violation of this Code is punishable by up to a One-Thousand Dollar Fine and up to 30 days of Community Service.

3-40-6-294 BICYCLE RULES

Every person operating a bicycle upon a roadway shall ride a well-functioning bicycle as near to the right side of the roadway as practicable no more than two abreast. Violation of this Code is punishable by up to a One-Thousand Dollar Fine and up to 30 days of Community Service.

3-40-6-320 MOTORIZED CHAIR ON ROADWAY

No person shall operate any electric personal assistive mobility device on the roadway of any highway unless the maximum speed limit of the roadway is 35 miles per hour or less or a special lane is provided. Violation of this Code is punishable by up to a One-Thousand Dollar Fine and up to 30 days of Community Service.

3-40-6-326 DUI IN A MOTORIZED CART/CHAIR

Any person who is under the influence of any intoxicating liquor or any drug to a degree which renders him or her a hazard shall not operate any electric personal assistive mobility device on any highway or sidewalk. Violation of this Code is punishable by up to a One-Thousand Dollar Fine and up to 30 days of Community Service.

3-40-6-390 RECKLESS DRIVING

Any person who drives any vehicle in reckless disregard for the safety of persons or property commits the offense of reckless driving. Violation of this Code is punishable by up to a One-Thousand Dollar Fine and up to 30 days of Community Service.

3-40-6-391(A)(1) DRIVING LESS SAFE

A person shall not drive or be in actual physical control of any moving vehicle while under the influence of alcohol or drugs or without sufficient sleep or while distracted by texting or cellphone use to the extent that it is less safe for the person to drive. Violation of this Code is punishable by up to a One-Thousand Dollar Fine and up to 30 days of Community Service. In addition, Driver Safety Classes, DUI classes, Sleep studies, and Addiction interviews may be part of the sentence.

3-40-6-395 FLEEING/ATTEMPTING TO ELUDE POLICE

It shall be unlawful for any driver of a vehicle willfully to fail or refuse to bring his or her vehicle to a stop or otherwise to flee or attempt to elude a pursuing police vehicle or police officer when given a visual or an audible signal to bring the vehicle to a stop. Violation of this Code is punishable by up to a One-Thousand Dollar Fine and up to 30 days of Community Service.

3-40-6-397 AGGRESSIVE DRIVING

A person commits the offense of aggressive driving when he or she operates any motor vehicle with the intent to annoy, harass, molest, intimidate, injure, or obstruct another person. Violation of this Code is punishable by up to a One-Thousand Dollar Fine and up to 30 days of Community Service.

3-40-7-4 OFF-ROAD VEHICLE VIOLATION

Any person operating an off-road vehicle without operative brakes or without mufflers or other silencing equipment or on any private property without the express written permission of the owner of the property or his or her agent violates off Road Vehicle requirement. Violation of this Code is punishable by up to a One-Thousand Dollar Fine and up to 30 days of Community Service.

3-40-8-7 OPERATING UNSAFE VEHICLE

No person shall drive or move on any Cohutta road or highway any motor vehicle, trailer, semitrailer, 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, and the vehicle is in such safe mechanical condition as not to endanger the driver or other occupant or any person upon the highway. Violation of this Code is punishable by up to a One-Thousand Dollar Fine and up to 30 days of

Community Service.

3-40-8-9 USDOT NUMBER DISPLAYED It shall be unlawful to operate in this Town any truck or truck tractor having a gross weight of 43,000 or more pounds which does not correctly display the USDOT number. Violation of this Code is punishable by up to a One-Thousand Dollar Fine and up to 30 days of Community Service.

3-40-8-31 FAILURE TO DIM HEADLIGHTS Whenever a driver of a vehicle approaches an oncoming vehicle within 500 feet or follows another vehicle within 200 feet to the rear he or she shall dim the headlights. Violation of this Code is punishable by up to a One-Thousand Dollar Fine and up to 30 days of Community Service.

3-40-8-70 IMPROPER USE OF HORN or BRAKE

No horn, brake or warning device shall emit an unreasonably loud or harsh sound or a whistle. Violation of this Code is punishable by up to a One-Thousand Dollar Fine and up to 30 days of Community Service.

3-40-A-4-8 DRIVING WHEN SUSPENDED

Any person whose driver's license or nonresident's operating privilege has been suspended and who, during such suspension, drives any motor vehicle upon any highway has a Suspended License Violation. Violation of this Code is punishable by up to a One-Thousand Dollar Fine and up to 30 days of Community Service.

3-40-13-63 FAILURE TO APPEAR ON UTC

The willful failure of any person to appear in accordance with the written promise contained on the citation and complaint and served upon such person shall constitute an offense. Violation of this Code is punishable by up to a One-Thousand Dollar Fine and up to 30 days of Community Service.

OTHER VIOLATIONS

3-41-1-6 PUBLIC NUISANCE VIOLATION

Any person who shall erect or continue after notice to abate a nuisance which tends to annoy the community, injure the health of the citizens in general, or corrupt the public morals shall be guilty of Public Nuisance. Violation of this Code is punishable by up to a One-Thousand Dollar Fine per day of violation and up to 30 days of Community Service.

3-41-1-100 ZONING VIOLATION

Any person who shall violate the Cohutta Zoning Code shall be guilty of a Cohutta Zoning Violation punishable by up to a One-Thousand Dollar Fine per day of violation and up to 30 days of Community Service.

3-41-1--101 PROPERTY MAINTENANCE VIOLATION

Any person who shall violate the Cohutta Property Maintenance Code shall be punishable by up to a One-Thousand Dollar Fine per day of violation and up to 30 days of Community Service.

3-42-8-38 PROBATION VIOLATION Whenever, within the period of probation, an officer believes that a probationer under his or her supervision has violated the terms of probation in a material respect, the officer may require home confinement of the probationer and return the probationer to the Municipal Court of Cohutta. Any officer authorized by law to issue warrants may issue a warrant for the arrest of the probationer upon the affidavit of one having knowledge of the alleged violation, returnable forthwith before the Municipal court. After the hearing, the Municipal court may revoke, modify, or continue the probation. If the probation is revoked, the court may order the execution of the sentence originally imposed or of any portion thereof. In such event, the time that the defendant has served under probation shall be considered as time served and shall be deducted from and considered a part of the time he or she was originally sentenced to serve.

Initially Adopted 9/1/2009
Amended in 3/4/2014 Code
Court costs amendment 10/2/18
Amended Fine Ord. 5/4/21
Amended 9/6/22
Amended with 8/1/23 Code

CHAPTER FOUR

NUISANCE CODE

Finding That There Is The Existence Or Occupancy of Dwellings Or Other Buildings Or Structures In The Town of Cohutta Which Are Unfit For Human Habitation Or For Commercial, Industrial, Business Occupancy Or Use and Are Inimical to the Welfare Of the People of the Town of Cohutta;

And Further to Find That Within The Town of Cohutta There Exists on Private Property An Accumulation of Weeds, Trash, Junk, Filth and Other Unsanitary and Unsafe Conditions Creating A Public Health Hazard Or General Nuisance To Those Persons Residing In the Vicinity;

To Provide For the Repair, Closure, Or Demolition Of Unfit Buildings Or Structures And Health Hazards On Private Property Within the Town of Cohutta;

To Establish The Procedure For Abatement Of Nuisances Generally Provided to Municipalities Pursuant to O.C.G.A. Section 41-2-7 Through Section 41-2—17;

To Designate The Building Inspector Of The Town of Cohutta Or Such Other Qualified Person As the Public Officer to Exercise The Power Prescribed In This Code; To Provide For the Collection of Costs For the Town Of Cohutta In Vacating and Closing Or Removal Or Demolition Of Buildings Or Structures or Unhealthful Conditions On Private Property Found To Be Unfit for Human Habitation Or Unfit For Its Current Commercial, Industrial, Or Business Use Or a Public Health Hazard Or A General Nuisance To Those Persons Residing In the Vicinity;

To Specify A Procedure For Determinations And Grant Specific Powers To The Building Inspector or Such Authorized Officer For Purposes Of Fulfilling The Purposes Of This Code; To Provide For Service of Complaints Or Orders Upon Owners And Parties In Interest Of Unfit Buildings And Structures; To Provide Authority For Use of Revenue, Grants, And Donations to Repair, Close Or Demolish Unfit Buildings Or Structures And to Carry Out the Purposes of This Code;

To Provide That Powers and Procedures Set Forth In This Code Are In Addition to and Supplemental To Other Powers Conferred By Other Laws Relating to Abatement of Nuisances; To Provide For Severability; To Provide An Effective Date And For Other Purposes

4.1. Declaration of Findings and Purpose

4.2 Hearing Officer

4.3 Definitions

4.4 Initiation, Investigation; Proceedings

**4.5 Subject Conditions 4.6 Hearing Officer Powers 4.7 Service
4.8 Funding 4.9 Supplemental in Effect 4.10 Severability**

BE IT ORDAINED by the Mayor and Council of the Town of Cohutta, Georgia and by authority of the same it is hereby ordained as follows:

4.1. Declaration of Findings and Purpose

a) The Mayor and Council find and declare that in the Town of Cohutta there exist dwellings, buildings, or structures which are unfit for human habitation or for commercial, industrial, or business uses due to dilapidation and defects increasing the hazards of fire, accidents or other calamities; lack of adequate ventilation, light or sanitary facilities; or other conditions rendering such dwellings, buildings, or structures unsafe or unsanitary, and are detrimental to the health, safety or welfare or otherwise inimical to the welfare of the residents of the Town of Cohutta; and further, it is found and declared that in the Town of Cohutta on private property from time to time there exists an accumulation of weeds, tall grass, trash, junk, filth, and other unsanitary or unsafe conditions creating a public health hazard or a general nuisance to those persons residing in the vicinity.

(b) For the purpose of protection of the public health, safety and welfare and pursuant to the authority vested in the Town of Cohutta and its governing authority pursuant to O.C.G.A. Section 41-2-7 through Section 41-2-17, the Mayor and Council re-establish this Code for the abatement of those conditions described in subsection (a) or Section 1 which presently exist and which may exist in the future.

4.2. Hearing Officer

It is declared the duty of the owner of every dwelling, building, structure or property in the Town of Cohutta to construct and maintain such dwelling, building, structure or property in conformance with applicable codes in force within the jurisdiction, and this Code which declares it to be a public nuisance to construct or maintain any dwelling, building, structure, or property in violation of this code.

The Municipal Court Judge of Cohutta may enforce the provisions of this Code as hereinafter set forth as “Hearing Officer” in the matter.

4.3. Definitions

As used in this Code, the following words and phrases shall have the following meanings unless the context clearly indicates a different meaning:

“Closing” - means securing and closing a dwelling, building, or structure.

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

“Owner” — means the holder of the title in fee simple and every mortgagee on record.

“Parties in Interest” — means persons in possession of said property and all individuals, associations, and corporations who have interest of record in Whitfield County in a dwelling, building or structure, including but not limited to executors, administrators, life tenants, remaindermen, guardians and trustees.

“Public Authority” - means the Whitfield County Health Department or Whitfield County Fire Department or Cohutta Town Council.

“Repair” — means closing a dwelling, building or structure for the cleaning or removal of debris, trash and other materials present and accumulated which create a health or safety hazard in or about a dwelling, building or structure or for structural reinforcement and enhancement, replacement of windows, or roofing of structures.

4.4 Initiation Investigation, proceedings

a) Whenever, a request is filed with the Chairman of The Cohutta Zoning and Appeals Board by a public authority or a request is received by at least five unrelated residents of the Town of Cohutta charging that any dwelling, building or structure is unfit for human habitation or for commercial, industrial, or business use or that there exists an accumulation of weeds, trash, junk, filth and other unsanitary or unsafe conditions creating a public health hazard or a general nuisance to those residing in the vicinity, said Chairman shall investigate the property or shall refer the petition to a building inspector, appointed or specially appointed by the Council and Mayor.

b) If his preliminary investigation discloses a basis for charges outlined in a) above, the Chairman of The Cohutta Zoning and Appeals Board or the Building Inspector

to whom the matter has been referred shall issue and cause to be served upon the owner of and any parties in interest in such dwelling, building, structure, or private premises a complaint stating the charges in that respect and containing a notice that hearing will be held before the Cohutta Municipal Court, the Building Inspector or the the Cohutta Zoning and Appeals Board at the Cohutta Town Hall not less than fifteen (15) days nor more than forty-five (45) days after the filing of said complaint; that the owner and any parties in interest shall be given the right to file an answer to the complaint and to appear in person or otherwise give testimony at the place and time fixed in the complaint; and that the rules of evidence prevailing in courts of law or equity shall not be controlling in the hearing. Service of the notice shall be as directed in O.C.G.A. §41-2-12 a through d.

c) If, after such notice and hearing, the Hearing Officer determines that the dwelling, building, structure or private premises under consideration is unfit for human habitation or is unfit for its current commercial, industrial or business use or there exists an accumulation of weeds, trash, junk, filth, and other unsanitary or unsafe conditions creating a public hazard or nuisance to those residing in the vicinity, the Hearing Officer shall state in writing his findings of fact in support of such determination. *Upon approval of the form of said order by two Cohutta Councilmen or the Mayor of Cohutta* the Hearing Officer shall issue the order and cause it to be served upon the owner and parties with interest in the property. The order shall require the following:

(i) If the repair, alteration, or improvement of said dwelling, building, or structure can be made at a reasonable cost in relation to the value of the dwelling, building or structure the order shall require the owner and parties with an interest within the time specified in the order, to repair, alter, or improve such dwelling, building or structure so as to render it fit for human habitation or for current commercial, industrial or business use or to vacate and close the dwelling, building or structure as a human habitation; or

(ii) If the necessary repair, alteration, or improvement of the said dwelling, building, or structure in order to bring it into full compliance with applicable codes relevant to the cited violations cannot be made at a reasonable cost in relation to the present value of the dwelling, building, or structure *and would exceed one—half said value*, the order shall require the owner or parties in interests, within the time specified in the order, to remove or demolish such dwelling, building or structure; or

(iii) In matters involving unsanitary or unsafe conditions or nuisances, the order shall require the owner or parties in interest to remove from the premises the accumulation of weeds, trash, junk, filth, and other unsanitary or unsafe conditions in the time specified in the order.

(iv) For the purposes of this Code, the court shall make its determination of “reasonable cost in relation to the present value of the dwelling, building or structure” without consideration of the value of the land on which the structure is situated,; provided

that the costs of preparation necessary to repair, alter, or improve a structure may be considered. Income or financial status of the owner shall not be a consideration. The present value of the structure and the costs of repair, alteration, or improvement may be established by affidavits of real estate appraisers with a Georgia appraiser classification as provided in Chapter 39A of Title 43, qualified building contractors, or qualified building inspectors without actual testimony presented. Costs of repair, alteration, or improvement of the structure shall be the cost necessary to bring the structure into compliance with this Code.

d) If the owner or parties in interest fail to comply with an order to repair, alter or improve or vacate and close or demolish the dwelling, building or structure or to remove an accumulation of weeds, trash, junk, filth, and other unsanitary or unsafe conditions, the Hearing Officer shall cause to be posted on the main entrance of any building, dwelling or structure so closed a placard with the following words:

“This building is unfit for human habitation or commercial, industrial or business use; the use or occupation of this building for human habitation, or for commercial, industrial, or business use is unlawful and prohibited.”

e) If the owner or parties in interest fail to comply with any order to remove or demolish the dwelling, building, or structure, or to remove an accumulation of weeds, trash, junk, filth and other unsanitary or unsafe conditions from the private premises, the Hearing Officer may cause such dwelling, building, or structure or the accumulation of weeds, trash, junk, filth and other unsanitary or unsafe conditions to be removed and unoccupied structures closed; provided however, the Hearing Officer shall not cause an occupied structure to be closed or any structure to be demolished until the Cohutta Town Council shall have by Code ordered the Hearing Officer to proceed to effectuate the purposes of this Code with respect to the particular property or properties which the Hearing Officer shall found to be unfit for human habitation or unfit for its current commercial, industrial or business use, or creating a public health hazard or a general nuisance to those persons residing in the vicinity and which property or properties shall be described in such Code.

f) The cost of repairing, altering or improving and vacating and closing or demolition, including all court costs, appraisal fees, administrative costs incurred, and all other costs necessary to the abatement action, including restoration to grade of real property after demolition, shall be a lien against the real property upon which such cost was incurred under O.C.G.A. §41-2-9(a)(7). Said lien shall attach to the real property upon the filing of a certified copy of the order requiring repair, closure, or demolition in the office of the clerk of Whitfield County Superior Court and shall relate back to the previously filed lis pendens notice

Within 90 days of the completion of repairs, and upon final determination of costs, fees and expenses incurred in accordance with this chapter, the zoning administrator shall transmit to the appropriate county tax commissioner a statement of the total amount due and secured by said lien, together with copies of all notices served to interested parties. The Whitfield County Tax Commissioner is authorized under O.C.G.A. §41-2-9(b)(2) to collect and enforce this lien immediately remitting the collection to the Town for payment of the lien, subject to the right of redemption of property set forth in O.C.G.A. §§48-4-80 and 48-4-81.

If the dwelling, building or structure is removed or demolished by the Hearing Officer, he shall arrange for the sale of the materials in such dwelling, building or structure and shall credit the proceeds of such sale against the removal or demolition and any balance remaining not otherwise paid by consent of the owner and parties in interest shall be deposited by the Hearing Officer in the Superior Court of Whitfield County, Georgia, and shall be secured in such manner as may be directed by said Court and shall be disbursed by such Court to the persons found to be entitled thereto by final order and decree of such Court.

g) Nothing in this Code shall be construed to impair or limit in any way the power of the Town of Cohutta to otherwise define or declare nuisances and to cause the removal and abatement by summary proceedings or otherwise as provided in other laws or Codes. In addition, nothing in this Code shall cause the Town of Cohutta, the Chairman of The Cohutta Zoning and Appeals Board or the Cohutta Building Inspector to be under a duty to enforce the provisions of this Code absent a duly received Petition from 5 unrelated residents of the Town of Cohutta.

4.5 Subject Conditions

The Hearing Officer may determine under this Code that a dwelling, building, or structure is unfit for human habitation or is unfit for its current commercial, industrial or business use or is a nuisance or a health and safety hazard if he finds that conditions exist in such building, dwelling, or structure which are dangerous or injurious to the health, safety, or morals of the occupants of neighborhood dwellings, buildings, or structures; or of other residents of the Town of Cohutta. Such conditions may include the following (without limiting the generality of the foregoing):

- (a) defects therein increasing the hazards of fire, accidents, or other calamities;
- (b) lack of adequate ventilation, light or sanitary facility;
- (c) dilapidation;

- (d) disrepair;
- (e) structural defects; and
- (f) uncleanliness

4.6 Hearing Officer Powers

In addition to the other listed powers granted the Hearing Officer, the Hearing Officer shall have the following powers:

- (a) To administer oaths and affirmations, to examine witnesses, and to receive evidence all as authorized pursuant to O.C.C.A. Section 41-2-11 (2);
- (b) To enter upon premises for the purposes of making examinations and cleaning, repairing, or closing structures, provided, however, that such entries for examination shall be made in such manner as to cause the least possible inconvenience to the persons in possession;
- (c) To appoint and affix the duties of such officers, agents, and employees as he deems necessary to carry out the purposes of this Code; and
- (d) To delegate any of his functions and powers under the Code to such officers as he may designate.

4.7. Service of Process

- a) Complaints or orders issued by the Hearing Officer pursuant to this Code shall be served in the following manner. At least 14 days prior to the date of the hearing, the public officer shall mail copies of the complaint by certified mail or statutory overnight delivery, returned receipt requested, to all interested parties whose identities and addresses are reasonably ascertainable. Copies of the complaint shall also be mailed by first class mail to the property address to the attention of the occupants of the property, if any, and shall be posted on the property within three business days of filing of the complaint and at least 14 days prior to the date of the hearing.
- b) For interested parties whose mailing address is unknown, a notice stating the date, time, and place of the hearing shall be published in the Daily Citizen once a week for two consecutive weeks prior to the hearing.
- c) A notice of lis pendens shall be filed in the office of the Whitfield County Superior Court .

d) Orders and other filings shall be served in the manner herein provided. Any interested party who fails to appear or answer at the hearing shall be deemed to have waived all further notice in the proceeding.

4.8. Funding

The Town of Cohutta is authorized to make appropriations from its revenues as it may deem necessary and apply grants or donations to assist it in carrying out the provisions of this Code and this is authorized pursuant to O.C.G.A. Section 41-2-15.

4.9 Supplemental in Effect

Nothing in this Code shall be construed to abrogate or impair the powers of the Cohutta Municipal Court or any department or agency of the Town of Cohutta to enforce any provisions under any Local Act of the General Assembly, the City's Charter, or the City's Code of Codes or regulations on the same subject matter nor to prevent or punish violations thereof; and the powers conferred by this Code shall be in *addition to and supplemental to the powers conferred by another law*.

4.10 Severability

The provisions of this Code are severable, and if any phrase or part of this Code should be held invalid, such invalidity shall not effect the validity of the remainder of the Code.

Initially Adopted 6-13-1991
Amended in 3/4/2014 Code
Amended in 8/1/2023 Code

CHAPTER FIVE

ZONING CODE

TABLE OF CONTENTS

Article	5.10	- Purpose
Article	5.20	- Definitions .
Article	5.30	- General Provisions
Article	5.40	- Zoning Districts and Boundaries
Article	5.50	- “ R-A ” Very Low Density Residential-Agricultural District Regulations
Article	5.51	- “ R-I ” Low Density Residential District Regulations
Article	5.52	- “ R-IA ” Low Density Residential with Horses District Regulations
Article	5.53	- “ R-IM ” Modular, Manufactured and prebuilt District Regulations
Article	5.54	- “ R-2 ” Medium Density Residential District Regulations
Article	5.55	- “ C-I ” Light Commercial District Regulations
Article	5.56	- “ C-2 ” General Commercial District Regulations
Article	5.57	- “ M-1 ” Light Industrial District Regulations
Article	5.58	-Adult Business Regulations
Article	5.59	--Smoke and Fire Detection Systems
Article	5.60	- Condo, Townhouse, Planned Unit Development, Variance Regulations
Article	5.61	Housing Restrictions
Article	5.62	- Non-conforming Uses
Article	5.63	- Buffers
Article	5.64	-Cohutta Historic District
Article	5.70	- Zoning Board
Article	5.71	- Administration
Article	5.80	- Remedies and Enforcement
Article	5.81	- Amendment and Changes
Article	5.82	- Validity
Article	5.83	- Conflict With Other Rules, Regulations and Private Agreements
Article	5.84	- Conflicting Codes
Article	5.85	- Adoption and Effective Date.
Appendix A		Minimum Lot Size- Refer to Lot Area Definition section
Appendix B		Town Zoning Map

ARTICLE 5.1 PURPOSE

The zone regulations and districts as herein set forth are made for the purpose of promoting the health, safety, morals, and general welfare of the community. They are designed to lessen congestion in the streets, to secure safety from fire, panic and other dangers, to provide adequate light and air, to prevent overcrowding of the land, to avoid undue concentration of population, to facilitate adequate provision of transportation, water sewage, schools, parks and other requirements. They are made with reasonable consideration as to the character of each district and its peculiar suitability for particular uses, and with a view to conserving the value of buildings, and encouraging the most appropriate use of land throughout the incorporated Town of Cohutta.

The Cohutta Zoning and Appeals Board is also created in this Code for the purpose of planning for the orderly growth of Cohutta and administering the regulations contained herein.

ARTICLE 5.2 DEFINITIONS

For the purpose of this Code, certain terms and words are hereby defined. Words used in the present tense shall include the future; the singular number shall include the plural and the plural the singular; the word “building” shall include the word “structure and the word ‘shall’ is mandatory and not discretionary. The word “Board” denotes Commission. Any words not herein defined shall be construed as defined in other Codes and codes and where definitions in other Codes and codes are in conflict with those herein, the definitions herein shall prevail.

Accessory Structure. A structure detached from a principal building on the same lot and customarily incidental and subordinate to the principal building or use. Accessory structures include, but are not limited to: satellite dishes, open sheds and shelters that contain two hundred (200) square feet or less, or water or storage tanks for either liquid, semi-liquid, or gaseous substances, of one thousand (1,000) gallons or more. A building permit shall not be required for accessory structures.

Accessory Use. A use of land or of a structure, or portion thereof, customarily incidental to and subordinate to the principal use of the land or structure and located or utilized upon the same lot or parcel as the principal use.

Adult Business. 1) any business where employees or patrons expose specified anatomical areas, or engage in specified sexual activities, or 2) any other business or establishment which offers its patrons services, products, or entertainment characterized by an emphasis on matter depicting, describing, discussing or relating to specified sexual activities or specified anatomical areas.

Agricultural. The art or science of cultivating the soil and activities incidental thereto; the growing of soil crops in the customary manner on open tracts of land; forestry; farming and animal husbandry. The term shall include the incidental retail or wholesale selling by the producer of products raised on the premises or products of the same nature acquired from other sources; provided that space necessary for parking of vehicles of customers shall be furnished off the public right-of-way. The raising of swine or poultry is not included in the definition of agricultural for the purposes of the Cohutta Zoning Code.

Agritourism. A portion of the travel industry which, for a fee, offers education, entertainment, relaxation, hospitality, shopping or dining experiences in the context of outdoor adventures, while visiting working farms, orchards, ranches, wineries, and other agricultural operations.

Alley. A public or private thoroughfare which affords only a secondary means of access to abutting property and not intended for general traffic circulation.

Alteration of Building. Any change in the supporting members of a building (such as bearing walls, beams, columns, or girders) except such change as may be required for its safety; any addition to a building; or of a building from one location to another.

Amusements, Commercial. Businesses which operate for a profit by amusing or entertaining patrons through the use of electronic/ video pinball games; pool/ping pong tables; miniature racetracks, gaming devices, etc.; services may include light food/refreshment services, but not including establishments serving alcoholic beverages or indoor/outdoor shooting ranges.

Animal Hospital. A building used for the treatment, housing or boarding of small domestic animals such as dogs, cats, rabbits, and birds or fowl by a veterinarian.

Animal Shelter. See "Kennel."

Apartment. See "Dwelling, Multi-family."

Assisted Living Home. Synonymous with Personal Care Home.

Bed and Breakfast Home. A dwelling, not a hotel, which while retaining its residential appearance and character, offers nightly lodging and a morning meal for a combined fee to persons who are unrelated to the resident owner or resident tenant of the dwelling. Such accommodations shall be provided in not more than five (5) bedrooms on any given night and shall be provided to no person for more than five (5) consecutive nights. See Tourist Home.

Bed and Breakfast Inn. A dwelling, not a hotel, which while retaining its residential appearance and character, offers nightly lodging and a morning meal for a combined fee to persons who are unrelated to the resident owner or resident tenant of the dwelling.

Such accommodations shall be provided to no greater than eighteen (18) persons on any given night and shall be provided to no person for more than five (5) consecutive nights.

Berm. A mound of earth, or the act of pushing earth into a mound.

Board of Zoning Appeals. Cohutta Board of Zoning and Appeals. The Board authorized to hear and decide appeals relating to the enforcement of this Code.

Boarding House – See Rooming House. Dwelling housing short term or long term tenants who pay for the use of a room and the shared use of a kitchen and bath facility.

Buffer, Stream. 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. In contrast, see “Buffer, Zoning.”

Buffer, Zoning. An area of natural vegetation or man-made construction that is intended to provide a visual and dimensional separation between dissimilar land uses. In contrast, see “Buffer, Stream.”

- a. **Natural buffer:** A visual screen created by vegetation of such density so as to present an opaque visual separation when viewed from one side to the other throughout the year.
- b. **Structural buffer:** A visual screen created through construction of a solid wooden fence, decorative masonry wall, earthen berm, or combination of fence or wall with an earthen berm, which may be supplemented with vegetation, so as to present an opaque visual separation when viewed from one side to the other throughout the year.

Building. Any structure attached to the ground which has a roof and which is designed for the shelter, housing or enclosure of persons, animals or property of any kind.

Building Height. The vertical distance measured from the finished grade of a building measured from the middle of the front of the building to the highest point of roof surface of a flat roof or parapet wall; the deck line of a mansard floor; and to the mean height level between eaves and ridges of a gable, hipped, or gambrel roof. Height shall not include vertical projections from a building, including chimneys, flagpoles, flues, spires, steeples, belfries, and cupolas.

Building Line. A line parallel to the street right-of-way line at a distance therefrom equal to the depth of the front yard required for the zoning district in which the lot is located. When the lot frontage is an arc and less than the minimum required lot width, the building line is parallel to the chord of the arc and located where the minimum lot width requirement is obtained. (See Setback Line.)

Building, Principal. A building in which is conducted the main use of the lot on which said building is located.

Camp, Private. A lot or parcel which may include multiple structures owned and/or operated for fraternal, social, educational, recreational, cultural, or religious enrichment and which may or may not be a for-profit operation. Such facilities may provide overnight camping, cabin, or lodging facilities when such accommodations are directly related to and utilized in connection with the overall purpose of the camp. A private camp shall not include for-profit campgrounds or motor lodges.

Cemetery. A place for the exclusive burial of dead persons, including a mausoleum and/or columbarium.

Cemetery, Pet. A parcel of land used for the interring of animal remains.

Chief Building Official. The officer or other designated authority charged with the administration and enforcement of the State of Georgia construction codes, as adopted.

Church. A building in which persons regularly assemble for religious worship of the same faith and which is publicly designated as a church, but shall not include a parsonage, thrift, or clothing store, food service, or accessory uses of a church.

Church, Accessory Use of. A use customarily incidental and subordinate to the principal use of a building as a church, including uses such as day care facilities, kindergartens, family exercise or sport facilities, cemeteries, mausoleums, and columbariums.

City: The Town of Cohutta, Georgia.

Clinic. A building or a portion of a building where patients are not lodged overnight, but are admitted for medical examination and treatment by one or more physicians or dentists practicing together.

Club, Lodge, Civic or Fraternal Organization. An incorporated or unincorporated association for civic, social, cultural, literary, political, recreational, or like activities, operated for the benefit of its members and not open to the general public. Excludes clubs which are operated for profit, shooting clubs, and places of religious worship or assembly.

Columbarium. A vault with niches for urns containing the ashes of cremated human remains.

Communication Transmission Tower. A structure that is intended to support antennae that or receive radio, television, or telephone communications, or for dispatching communications.

Community Center. A building or facility used to provide recreational, social, educational and cultural activities for an area of a community, which is owned and operated by the management agency of that community, or the Homeowner's

Association of that community. A community can be an incorporated area, a developed subdivision, or a planned development.

Condominium. A building, or group of buildings, in which units are owned individually, and the structure, common areas and facilities are owned by all the owners on a proportional, undivided basis.

Conference/Convention Center. A facility typically designed to accommodate 300 or more people and used for conventions, conferences, seminars, product displays, recreation activities, and entertainment functions, along with accessory functions including outdoor displays, food and beverage preparation and service for on-premise consumption. The accommodations can include sleeping, eating, and recreation. The site shall be of sufficient size to accommodate all off-street parking associated with an individual event.

Convenience Center. A site where one or more containers are located for temporary storage of solid waste brought to the site by persons transporting only their own household solid waste. A convenience center may also include a recycling collection station.

Convenience Store. Any retail establishment offering for sale prepackaged food products, household items, and other goods commonly associated with the same.

Crosswalk. A right-of-way within a block dedicated to public use, intended primarily for pedestrian use designed to provide access to adjacent roads and lots.

Cul-de-sac. A road having one end open to traffic and the other end terminated in a minimum right-of-way and paved turnaround with a minimum outside diameter of eighty (80) feet.

Cultural Facility. A structure or portion of a structure used as an art gallery, museum, historical display, performing arts theatre, library, and other uses similar in character to those listed.

Day Care Facility: State Licensed Adult Day Care, Group Day Care or Day Care and smaller unlicensed Family Day Care Homes.

Debris. All sand, gravel, slag, brickbats, rubbish, waste material, metal cans, refuse, garbage, trash, litter, dead animals or discarded materials of every kind and description, including loose or scattered handbills, newspapers, posters and other such items which may be carried by the wind or water.

Density. The number of dwelling units per acre of land. Gross density refers to the number of units per acre of the total land to be developed. Net density refers to the number of units per acre of land devoted to residential use.

District: A delineated section or sections of Cohutta for which the zoning regulations governing the use of buildings and premises, and the intensity of use are uniform.

Drive-In: Any use providing the opportunity of selling, serving, or offering goods or services directly to customers waiting in vehicles to consume or use the goods or services while on the premises of the principal use.

Dwelling. A building which is designed or used exclusively for residential purposes, including single-family, and multi-family residential buildings, boarding houses, fraternities, sororities, dormitories, manufactured homes, and industrialized homes, but not including hotels and motels.

Dwelling, Multi-family. A building in single ownership containing three (3) or more dwelling units, including what is commonly known as apartment buildings, triplexes and fourplexes, rooming and boarding houses, fraternities, sororities, dormitories, townhouses and condominiums.

Dwelling, One-Family. A detached building containing one (1) dwelling unit only.

Dwelling, Two-Family (duplex). A single structure situated upon a single lot or parcel which contains two (2) separate and distinct dwelling units, each of which is completely separated from the other by an un-pierced wall, extending from ground to roof, or an un-pierced ceiling/floor, extending from exterior wall to exterior wall, except possibly for a common stairwell exterior to each unit.

Dwelling- Maximum Occupancy In order to protect the health, safety, and welfare of the public, no person shall occupy any dwelling which does not meet the following minimum size requirements per occupant thereof: There shall be at least one hundred fifty (150) square feet of habitable floor area within a habitable room for the first occupant of each dwelling, with at least seventy-five (75) square feet of habitable floor area within a habitable room for each additional occupant thereof. For purposes of this requirement, an occupant shall be considered any person who spends, on average, more than two (2) nights per week or eight (8) nights per month, whichever is greater, at such dwelling.

Dwelling Unit. One or more rooms within a dwelling constituting a separate, independent housekeeping establishment, with provisions for cooking, eating, personal hygiene (sanitary and bathing facilities) and sleeping, and physically set apart from any other rooms or dwelling units in the same structure.

Dwelling, Zero Lot Line. A type of single-family detached residence in which one interior side yard may be lawfully reduced to zero on any lot within an approved development for the purpose of creating larger, more useable, and more easily maintained yard spaces, particularly on smaller lots.

Dwelling-Multiple: A building designed as three or more separate units for or occupied exclusively by three or more families.

Easement. The right of a person, governmental agency, or public utility company to use public or private land owned by another for a specific purpose.

Event Center. A facility used for weddings, anniversaries, birthdays, showers, reunions, recitals, dances, and ethnic and religious celebrations, etc. The accommodations can include sleeping, eating, and recreation. The site shall be of sufficient size to accommodate all off-street parking associated with an individual event.

Facade. The architectural details of the face of a building which are intended to be viewed by the public. The front facade of the building is the wall which contains the primary entrance to the building.

Family: Two or more persons occupying a dwelling and living as a single housekeeping unit, all of whom are related to each other by birth, adoption, or marriage, as distinguished , from a group occupying a boarding house, rooming house, or hotel and herein defined. To the extent required by the Fair Housing Act, any unrelated group which is protected by the terms of the act shall constitute a family for the purposes of this Code. Any family shall not numerically exceed the permitted or maximum capability of on site sewage management systems for any such parcel.

Farming. The business of cultivating land, or employing it for the purposes of animal husbandry, including the cultivation and fertilization of the soil as well as caring and harvesting the crops. (Also see Organic Farming and Processing.)

Fence. An artificially constructed barrier of any materials or combination of material erected to enclose or to screen areas of lands. A privacy fence is one which is solid and is otherwise designed to limit visibility.

Flea Market. A commercial marketing use, temporary or permanent in nature, held in an open area or structure where groups of individual sellers, leasing or renting spaces from the owner, offer goods for sale to the public.

Flood plain. Any land area susceptible to periodic inundation by water from any source.

Floor Area, Heated. The gross floor area of all spaces within a building that are heated by mechanical means, known also in dwelling units as “living area.” Heated floor area does not include garages, unheated basements or cellars, attic storage areas, partially unenclosed decks or lanais, and areas open to the sky.

Frontage. The side of a lot abutting upon a road.

Garage Private. An accessory building designed or used for the storage of motor-driven vehicles owned or used by the occupants of the buildings to which it is accessory.

Garage-General Service: A building or portion thereof, other than a private, storage, or parking garage, designed or used for equipping, servicing, repairing, hiring, selling or incidental short-term storing of motor-driven vehicles, but excluding the storage of wrecked or junked vehicles to which repairs are not intended to be made. No outdoor storage of wrecked or junked vehicles observable from beyond the parcel is included in this use.

Garage-Storage: A building or portion thereof designed or used exclusively for storage of motor-driven vehicles, and within which motor fuels and oils may be sold, but no vehicles are equipped, repaired or sold.

Garage, Parking. A building or portion thereof designed or used primarily for the parking and storage of motor-driven vehicles.

Garage, Yard or Carport Sales. Any sale of used household goods, clothes, or other items of personal property conducted at or near a residential dwelling by the owner or occupant of said dwelling who is not a merchant with respect to the goods sold.

Governing Authority. With respect to the municipality of Cohutta or other municipalities, the Governing Authority is the duly elected Town Councilmen and Mayor. With respect to unincorporated Whitfield County, Georgia, the Governing Authority is the duly elected Whitfield County Board of Boarders.

Gross Floor Area. The sum of the areas of one or more floors of a structure, including all areas for human occupancy, as measured from the exterior faces of the walls, but excluding unenclosed porches, interior parking spaces, or any space where the floor to ceiling height is less than six (6) feet, six (6) inches.

Group Home. A single-family dwelling, approved and licensed by the State of Georgia Department of Human Resources, housing persons who are mentally /physically handicapped, elderly, terminally ill, AIDS/HIV victims, Alzheimer's patients, or children and teens with emotional problems, operating as a single housekeeping unit under a common housekeeping management plan based on an intentionally structured relationship providing the organization and stability of a home environment.

Habitable Floor Area. The total floor area of all habitable rooms within a dwelling unit. No portion of any room which is less than seven (7) feet in width shall be included in determining habitable floor area.

Habitable Room. Any room within a dwelling unit other than kitchens, bathrooms, toilet rooms, laundry rooms, mud rooms, pantries, dressing rooms, storage spaces, closets, foyers, hallways, utility rooms, garages, car ports, boiler rooms, heater rooms,

recreation rooms, interior rooms not provided with natural light and ventilation, and special purpose rooms shared by more than one (1) dwelling unit.

Halfway House. A building for temporary residence by non-related persons, who are recovering from alcohol abuse or other chemical-based substances, with one or more surrogate parents that provide services that include room, meals, supervision, rehabilitation, and counseling to enable residents to move back into society and live independently.

Health Clubs. A facility designed for the major purpose of physical fitness or weight loss which includes, but is not limited to, such equipment as weight resistance machines, whirlpools, saunas, showers, and lockers. This shall not include municipal or privately owned recreation buildings.

Health Department. The State Department of Human Resources and/or the Whitfield County Health Department and/or the Whitfield County Board of Health.

Holiday Tree and Produce Farm. A lot or parcel whereby pumpkins, corn, gourds, and the like, evergreen trees, and/or greenery for use as holiday decoration are grown or produced. Can also include a corn maze.

Holiday Tree Lot, temporary. A lot or parcel whereby retail sales of Holiday trees, wreaths, garlands, and related accessories are conducted seasonally during the months of November and/or December only.

Home Occupation. Any occupation or activity which is clearly incidental to use of the premises for dwelling purposes and which is carried on wholly within a main building by a member of a family residing on the premises, where there is not a variation from the residential character of the premises, and there is no employment of persons outside the family.

Hospice. A building or portion thereof in which terminally ill persons live in order to receive appropriate Medicare-certified hospice services.

Hotel. A building offering overnight sleeping accommodations for travelers; ingress and egress to and from all rooms are made through an inside lobby or office supervised by a person in charge at all hours. Such use has eighty (80%) percent of the rooms occupied by a different registered guest at least every five (5) days, provides patrons with daily maid service and a telephone switchboard service to receive incoming/outgoing messages, and shall comply with the applicable requirements of the Health Department and **OCGA § 31-28-1 et seq.**, and may provide additional services such as restaurants, retail gift shops, meeting rooms, swimming pools, and exercise facilities.

Impervious Surface. A man-made structure or surface which prevents the infiltration of storm water into the ground below the structure or surface. Examples are buildings, roads, driveways, parking lots, decks, swimming pools, or patios.

Industrialized Building. Any structure or component thereof which is wholly or in substantial part made, fabricated, formed, or assembled in manufacturing facilities for installation on a building site and has been manufactured in such a manner that all parts or processes cannot be inspected at the installation site without disassembly, damage to, or destruction thereof. However, the term does not include a mobile structure or a system that is capable of inspection at the building site.

Inert Waste Landfill. A disposal site accepting only wastes which will not or are not likely to cause production of leachate of environmental concern. Such wastes are limited to earth and earth-like products, concrete, cured asphalt, rock, bricks, yard trimmings, stumps, limbs, and leaves. This definition excludes industrial and demolition wastes as defined by Georgia Department of Natural Resources, Environmental Protection Division Rules and Regulations, Solid Waste Management.

Institution: A public or semi-public building occupied by a non-profit corporation or non-profit establishment for public use.

Junk Vehicles. Any automobile, vehicle, or part thereof which is in an inoperative condition, by reason of its having been wrecked, dismantled, partially dismantled, abandoned, or discarded, and which does not have a valid license plate and current year tag attached thereto. For purposes of this Code, a vehicle is "inoperative" if it is incapable of movement by its own power. This definition shall not apply to any vehicle in a carport, shed, or other accessory structure.

Junk Yard. A property used for indoor or outdoor storage, keeping or abandonment, whether or not for sale or resale, of junk including scrap metal, rags, paper or other scrap materials, used lumber, household appliances or furniture, salvaged house wrecking and structural steel materials and equipment or for the dismantling, demolition or abandonment of automobiles or other vehicles or machinery or parts thereof.

Kennel, Commercial. Any premises at which three (3) or more dogs, cats, or other domestic or non-domestic animals, four (4) months old or older, are kept either permanently or temporarily for the purpose of sale, care, breeding, or training, and for which a fee is incurred by the owner of such animal(s).

Livestock. The term "livestock" as used herein shall mean and include cattle, horses, goats, sheep, ducks, geese, and other fowl; and rabbits, minks, foxes and other fur or hide-bearing animals customarily bred or raised in captivity for the harvesting of their skins; whether owned or kept for pleasure, utility or sale. It excludes Swine or commercial poultry.

Lot: Land occupied or intended for occupancy by a use including the yards and parking spaces required herein, and having its principal frontage upon a street.

Lot Area. The gross area of any lot shall be the area bounded by the lot lines, the right-of-way line of any road adjoining the lot, and the centerline of the right-of-way of any private access easement adjoining the lot.

Lot Area Requirement. For the purpose of determining the lot area per dwelling unit, the total lot area shall be measured with the exclusion of land in the public or private road right-of-way/easement and land dedicated for park or school purposes or common purposes.

Lot Area, Floor Area, Setback, Yard, and Height Requirements are set forth in chart herein below.

AREA, FLOOR, SETBACK, YARD AND HEIGHT REQUIREMENTS-CHART

DISTRICT ⁴	MINIMUM LOT AREA IN SQUARE FEET		MIN. SITE AREA	ADDIT' NL REQ'M NTS	MIN ² LOT WIDTH	MIN. FLOOR AREA	FRONT YARD ³ SETBACK		SIDE ¹ YARD	REAR YARD	MAXIMUM BUILDING HEIGHT
							MAJ. OR COLLECTOR Streets	Smaller Streets			
RA	All Uses	---	5 acre		100	1500	50	25	25	25	35
R-1	Single-Family Detached	---	1 acre			1500 s.f.	50	25	25	25	35
R-2	Single-Family Detached		---			1500 s.f.	40	25	10	15	35
PUD	Planned Unit Development Condo and Town houses		15 acre		To be Determined after hearing						
C-1	All uses per approved plan	TBD			To be Determined after hearing						
C-2	All uses per approved plan	TBD			To be Determined after hearing						
M-1	All uses per approved plan	TBD			To be Determined after hearing						

FOOTNOTES

1. Side setbacks apply to buildings;
2. Required only outside fire limit.
3. Measured at the building line.
4. Site plans approved by the Zoning and Appeals Board are required for all condo, townhouse, commercial and industrial developments unless expressly waived.

Lot, Corner. A lot or parcel of land abutting upon two (2) or more roads at their intersection and having two (2) front setbacks and two (2) side lines.

Lot Depth. The mean horizontal distance between the front and rear lot lines measured within the lot boundaries.

Lot, Double Corner. A corner lot which has frontage on three or more roads.

Lot, Flag. Lots or parcels where the panhandle is an access corridor to a lot located behind lots or parcels with normal street frontage.

Lot Frontage. The width of a lot in linear feet where it abuts the right-of-way of any public or private street.

Lot Line. The boundary dividing a given lot from the street or adjacent lots; the boundary defining the limit of ownership of a property.

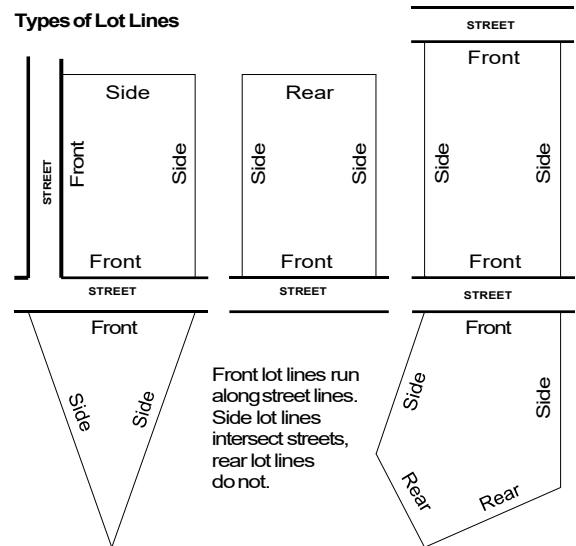
1. **Front lot line:** Any boundary line of a lot that abuts a street. A lot adjacent to more than one street will have more than one front lot line.
2. **Rear lot line:** Any boundary line of a lot that does not intersect with a street right-of-way line and is not a front lot line.
3. **Side lot line:** Any boundary line of a lot that intersects with a street right-of-way line and is not a front lot line.

Lot of Record. A lot which lawfully existed prior to the adoption or subsequent amendment of this Code, as shown or described on a plat or deed in the records of the Whitfield County Superior Court Clerk.

Lot, Through (Also known as Double Frontage Lot). A lot which fronts upon two (2) parallel roads, or which fronts upon two roads which do not intersect at the boundaries of the lot.

Lot Width. The distance between the side lot lines, measured at right angles to the lot depth at the established front building line.

Lot Width, curvilinear road. For a lot or parcel having frontage upon a curvilinear road, the lot width shall be the distance between the side lines of the lot or parcel where the minimum lot width is obtained, measured parallel to the chord formed by the two



(2) outermost points of intersection of such lot or parcel with the road right-of-way line. The lot width line is synonymous with the building line in this circumstance.

Manufactured Home. A building, transportable in one or more sections, built on a permanent chassis and designed to be used with or without a permanent foundation when connected to the required utilities. Such Buildings shall be constructed in accordance with the Federal Manufactured Home Construction and Safety Standard, which came into effect June 15, 1976, and shall bear an insignia issued by the U. S. Department of Housing and Urban Development (HUD).

Manufactured Home Park. A parcel of land which has been planned and improved for the placement of three or more manufactured homes for non-transient use. Synonymous with “Mobile Home Park.”

Mausoleum. A building where bodies are interred above ground in stacked vaults.

Mini-Warehouse. A building in a controlled access and fenced compound that contains varying sizes of individual, compartmentalized and controlled-access stalls or lockers for storing the excess personal property of an individual or family when such is not with their residence, such as a passenger motor vehicle, house trailer, motorcycle, boat, camper, furniture, limited commercial storage (items of local retail merchants, small contractors, and professionals), and other items of personal property generally stored in residential accessory structures. No business activities other than the rental of storage units shall be conducted on the premises.

Mobile Home. A structure, transportable in one or more sections, which, in the traveling mode, is eight (8) body feet or more in width or forty (40) body feet or more in length or, when erected on site, is three hundred twenty (320) or more square feet and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities and includes the plumbing, heating, air-conditioning, and electrical systems contained therein and manufactured prior to June 15, 1976. In contrast, see the definition of “Manufactured Home.”

Mobile Home: A detached, single family dwelling unit designed for long-term occupancy; containing sleeping and living areas, a flush toilet and tub or shower bath, and kitchen facilities; equipped with plumbing connections; and designed for transportation after fabrication on streets or highways on its own wheels or on detachable wheels, arriving at the site as a complete dwelling unit and ready for occupancy after minor or incidental unpacking, assembly operations, connection of utilities, and the like. Removal of wheels and placement on a foundation does not change its classification. A travel trailer is not a mobile home.

Mobile Home Park: An area containing two or more mobile homes or spaces for mobile homes and the necessary community and utility areas for extended occupancy or residence.

Modular Home. See “Industrialized Building.”

Motel. A permanent building or group of permanent buildings in which overnight sleeping accommodations are provided for travelers and having a parking space near or adjacent to the entrance of the room. Such use has eighty (80%) percent of the rooms occupied by a different registered guest every five (5) days, provides patrons with daily maid service, twenty-four (24) hour desk/counter clerk service, and a telephone switchboard service to receive incoming/outgoing messages, and shall comply with the applicable requirements of the Health Department and *OCGA §31-28-1 et.seq.*, and may provide additional services such as restaurants, retail gift shops, meeting rooms, swimming pools, and exercise facilities.

Motor Lodge. Synonymous with “Motel.”

Non-Conforming Use. A use or activity that was lawfully established prior to the adoption or amendment of this Unified Zoning Code, but which, by reason of such adoption or amendment, is no longer a use or activity permitted by right or no longer meets or conforms to the use regulations of this Code.

Non-Conforming Structure. A structure or building whose size, dimensions, location on a property or other features were lawful prior to the adoption or amendment of this Unified Zoning Code, but which, by reason of such adoption or amendment, no longer meets or conforms to one or more such requirements of this Code.

Non-Conforming Lot. A lot of record whose area, frontage, width or other dimensions, or location were lawful prior to the adoption or amendment of this Code, and which, by reason of such adoption or amendment, no longer meets or exceeds one or more such requirements of the applicable zoning district.

Nuisance. An interference with the enjoyment and use of real property.

Nursing Home. An extended or intermediate care facility licensed or approved to provide full-time convalescent or chronic care to individuals who, by reason of advanced age, chronic illness, or infirmity, are unable to care for themselves. A twenty-four (24) hour facility providing skilled nursing care.

Nursery School- *See Day Care*

Office, Professional. Includes offices for professionals such as accountants, architects, attorneys, chiropractors, dentists, doctors, engineers, etc.

Office, Business. Includes offices for general business, insurance, real estate, etc.

Off-Street Parking Space. The area required to park one motor vehicle.

Off-Street Loading Space. The area designated for the loading or unloading of goods or other material.

Open Space. [Synonymous with “Greenspace,” as defined at **OCGA §36-22-3(3)**] shall mean permanently protected land and water, including agricultural and forestry land, that is in its undeveloped, natural state or that has been developed only to the extent consistent with, or is restored to be consistent with, one or more of the following goals:

- (a) Water quality protection for rivers, streams, and lakes;
- (b) Flood protection;
- (c) Wetlands protection;
- (d) Reduction of erosion through protection of steep slopes, areas with erodible soils, and stream banks;
- (e) Protection of riparian buffers and other areas that serve as natural habitat and corridors for native plant and animal species;
- (f) Scenic Protection;
- (g) Protection of archaeological and historic resources;
- (h) Provision of recreation in the form of boating, hiking, camping, fishing, hunting, running, jogging, biking, walking, and similar outdoor activities; and
- (i) Connection of existing or planned areas contributing to the goals set out in **OCGA §36-22- et seq.**

Organic Farming and Processing. A unique farm environment often holding State or National certifications regarding the natural purity of grown or raised farm products free from typical agricultural chemicals or vaccines. Such farms, an integral part of the agritourism business, can process some of those same agricultural products for retail purchase or public consumption on-site, or for off-site wholesale or retail marketing.

Parking Lot. An off-street, ground level area, usually surfaced and improved for the temporary storage of motor vehicles.

Personal Care Home. An intermediate care facility licensed or approved to provide full-time assistance as necessary, including, but not limited to rooms, meals, and attention to personal needs, to non-family ambulatory individuals who, by reason of advanced age or infirmity, are unable to care completely for themselves, but who remain largely self sufficient. Synonymous with “Assisted Living Home.” For purposes of this Code, Personal Care Homes are sub-classified, as follows:

Family Personal Care Home. A home for adults in a family type residence, non-institutional in character, which offers care to two (2) to six (6) persons.

Group Personal Care Home. A home for adults in a residential setting, non-institutional in character, which offers care to seven (7) to fifteen (15) persons.

Congregate Personal Care Home. A home for adults which offers care to sixteen (16) or more persons.

Planning Board. The Cohutta Zoning and Appeals Board or any successor entity.

Premises. A lot, parcel, tract or plot of land together with all buildings and structures existing thereon.

Principal Use. The primary and/or predominant reason for which a lot or parcel is occupied and/or used.

Putrescible Wastes. Wastes that are capable of being quickly decomposed by microorganisms. Examples of putrescible wastes includes, but are not necessarily limited to, kitchen wastes, animal manure, offal, hatcher and poultry processing plant wastes, and garbage.

Recreational Facilities, Indoor. Any commercial or non-commercial indoor facility such as bowling alley, shooting gallery, video game center etc.

Recreational Facilities, Outdoor. Any commercial or non-commercial outdoor facility such as a miniature golf course, a golf or baseball driving range, tennis courts, swimming pools, drive-in theater, etc.

Recreational Vehicles. A vehicular type portable structure without permanent foundation, which can be towed, hauled or driven and primarily designed as temporary living accommodation for recreational, camping and travel use and including but not limited to travel trailers, truck campers, camping trailers and self-propelled motor homes.

Recycling Center. A non-governmental facility in which recoverable resources, such as paper, glass, plastics, and metal cans are stored, flattened, crushed or bundled by hand or machines. Vehicles, internal combustion engines, vehicle parts, tires, and the like shall not be considered recoverable resources within the meaning of Recycling Center for the purposes of this Code.

Recycling Collection Station. An incidental use which serves as a neighborhood drop off point for temporary storage of recoverable resources. No processing of such items shall be allowed. Such facility would generally be located in a commercial parking lot, or at other public/quasi-public areas, such as churches or schools.

Rest Home- *See Nursing Home*

Right-of-way. A strip of land occupied or intended to be occupied by a road, crosswalk, railroad, electric transmission line, gas pipeline, water main, sanitary or storm sewer main, shade trees, or other special use.

Rooming House (or “Boarding House” or “Boarding Home.”) A dwelling, not a hotel, where for a fee and by prearrangement for definite periods of time, either meals or meals and lodging are provided for three (3) or more persons, who are unrelated to the residents of the dwelling.

Salvage Yard. Synonymous with “Junk Yard.”

Screening. A method of visually shielding or obscuring one abutting or nearby structure or use from another by fencing, walls, berms or densely planted vegetation.

Service Buildings. A building, housing facilities such as recreational, maintenance, laundry, and offices necessary to the successful management of a manufactured home park.

Service Station: Any building, structure, or land used primarily for the dispensing, sale or offering for sale at retail of any motor-vehicle fuels, oils, or accessories but not including major repair work such as motor overhaul, body and fender repair or spray painting.

Setback Line. That line that is the required minimum distance from the road right-of-way line or any other lot line that establishes the area within which the principal structure(s) and accessory structure(s) must be erected or placed.

Sewage Management System, Central On-Site. An on-site sewage management system serving more than one building, business, residence, or other facility designed or used for human occupation or congregation.

Sewage Management System, On-Site. A sewage management system other than a public or community sewage treatment system, whether serving single or multiple buildings, mobile homes or manufactured homes, recreational vehicles, residences or other facilities designed or used for human occupancy or congregation. Included are conventional septic tank systems, chamber septic tank systems privies, experimental and alternative on-site sewage management systems that may be approved by the Health Department.

Sewage Treatment System, Public or Community. Any sewage treatment system, including pipe lines or conduits, pumping stations, force mains and all other construction, devices, and appliances appurtenant thereto, designed for treating or conducting sewage for treatment and disposal into lakes, streams, or other bodies of surface water.

Shopping Center. A group of commercial establishments planned, constructed and managed as a total entity with customer and employee parking provided on-site, and including provision for goods delivery separated from customer access.

Solid Waste. Putrescible and non-putrescible wastes, except water-carried body waste, but shall include garbage, rubbish, ashes, road refuse, dead animals, sewage sludge, animal manures, industrial wastes, abandoned automobiles, dredging wastes, construction wastes, hazardous wastes and other waste material in a solid or semi-solid state not otherwise defined in these regulations.

Solid Waste Handling Facility. Any facility, the primary purpose of which is the storage, collection, transportation, treatment, utilization, processing, or disposal, or any combination thereof, of solid waste. This term encompasses the terms *Solid Waste Landfill*, *Inert Waste Landfill* and *Transfer Station*.

Solid Waste Landfill. A disposal site where putrescible wastes are disposed of using solid waste landfilling techniques.

Solid Waste Landfilling. An engineered method of disposing of putrescible wastes on land by spreading them in thin layers, compacting them to the smallest practical volume, placing an earthen cover thereon, and such other measures as are necessary to protect human health and the environment.

Specialty Food Stores. A retail store specializing in a specific type or class of foods such as an appetizer store, bakery, butcher, delicatessen, fish, gourmet and similar foods.

Structure. Anything constructed or erected with a fixed location on or in the ground, or attached to something having a fixed location on the ground. Structures include, but are not limited to the following: site built buildings, industrialized buildings, manufactured homes, mobile homes, billboards, swimming pools, advertising signs, fall-out shelters, stadiums, reviewing stands, platforms, staging, observation towers, radio and television towers, trestles, and open sheds, garages, carports, and shelters, any of which have a floor area over one hundred forty-four (144) square feet.

Structural Alterations: Any change in the supporting members of a building. such as bearing walls, columns, beams or girders.

Swimming Pool. A body of water in an artificial or semi-artificial receptacle or other container intended for swimming, which has a minimum depth of eighteen inches of water.

Temporary Structure. A structure with neither foundation nor footings which is removed, when either the designated time period or activity or use for which the temporary structure was erected has ceased.

Tourist Home: See

Townhouse. A type of dwelling unit that is one or more stories in height which has outside, individual, front and rear entrances, is separated from other dwelling units by common party walls that are four hour fire-rated masonry construction extending from the foundation through the roof line for a minimum of three feet, occupies its own lot and is part of a contiguous group of at least three such townhouses. Each group of dwelling units shall be staggered at least three feet or the firewall shall extend front and rear for a distance of three feet. The fire wall separating single story units and units of two or more stories must extend only to the roof decking of the two-story unit.

Townhouses and Condominiums. Townhouses and condominiums shall comply with the following requirements:

- 1 **Separation between buildings.** The front or rear face of a building shall be not less than fifty (50) feet from the front or rear face of another building. The unattached side of a building shall be not less than twenty feet from the side face of another such building. The unattached side of a building shall be not less than forty (40) feet from the front or rear face of another such building.
- 2 **Alignment.** No dwelling unit shall be situated so as to face the rear of another dwelling unit unless terrain differences or vegetation will provide effective visual separation, as determined by the Zoning Administrator.
- 3 **Public Sewerage.** Townhouse and condominium developments shall be served with public sewer or approved package system and a public water system.
- 4 **Common Open Space.** If a portion of the land is set aside for common open space to be developed for recreational use, such areas shall be developed in accordance with the approved site development plan. Common open space shall be preserved and maintained by a Homeowners Association created by the developer in accordance with the *Georgia Condominium Act*.
- 5 **Subdivision Rules.** The development of townhouses involves a subdivision of land and all applicable rules of the Cohutta Subdivision Code shall apply unless waived after hearing.
- 6 **Contiguous Dwelling Units.** No more than four (4) contiguous townhouses and/or condominiums shall be built in a single building in the R-6 district. No more than eight (8) contiguous townhouses and/or condominiums shall be built in a single building in the R-7 district.
- 7 **Minimum Width.** The minimum allowed width for the portion of the lot upon which a townhouse is to be constructed shall be sixteen (16) feet, but

the average width of units in a contiguous group of three (3) or more units shall be twenty (20) feet.

Trailer: A motorized camper, converted bus, tent-trailer, or other similar vehicular or portable structure used or designed for temporary portable housing or occupancy while on vacation, recreational, or other trip and provided with sleeping accommodations

Transfer Station. A facility used to transfer solid waste from one (1) transportation vehicle to another for transportation to a solid waste handling facility.

Utility Facilities. Structures that provide for the distribution of services of public or private utilities, such as electrical transformer stations, gas regulator stations, telephone exchanges, water pump stations, and sewer lift stations, etc.

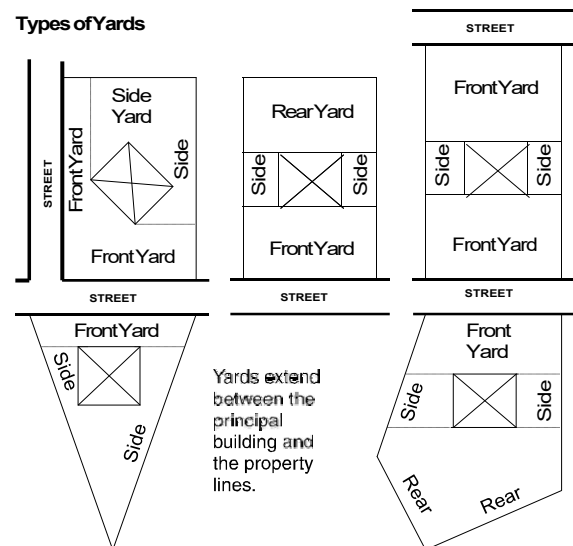
Vendor Stands. Any cart, table, equipment, or apparatus which is not a structure, which is designed and intended so as to not be a permanent fixture on a lot, and which is used for the retail sale, display, and accessory advertising of merchandise or food.

Working Day. Monday through Friday of any week, exclusive of official holidays established by the federal, state or local government during which the local government is not open for business.

Yard. An area that lies between the principal building on a lot and the nearest lot line.

1. **Front yard:** a yard extending the full width of the lot, located between the street line and the front line of a principal building, projected to the side lines of the lot.
2. **Rear yard:** a yard extending the full width of the lot and situated between the rear lot line of the lot and the rear of a principal building projected to the side lines of the lot.
3. **Side yard:** a yard located between the side of a principal building and the side line of the lot and extending from the rear line of the front yard to the front line of the rear yard.

Zoning. The power of local governments and local governing authorities within Whitfield County to provide within its territorial boundaries for the zoning of property for various uses and the prohibition of other or different uses within



such zones or districts and for the regulation or development and the improvement of real estate within such zones or districts in accordance with the uses of property for which said zones or districts were established.

Zoning Administrator: The Chairman of the Cohutta Zoning and Appeals Board or designated representative.

Zoning Board: The Cohutta Zoning and Appeals Board.

Zoning Board of Appeals: The Cohutta Zoning and Appeals Board.

ARTICLE 5.3

GENERAL PROVISIONS

USE OF LAND: No land shall be used except for a purpose permitted in the district in which it is located.

USE OF BUILDING: No building shall be erected, converted, enlarged, reconstructed, moved or structurally altered or used, except for a use permitted in the district in which the building is located.

REQUIREMENT FOR BUILDING PERMIT: No building shall be erected, converted, enlarged, reconstructed, moved or structurally altered except upon application for and Issuance of a building permit by the Building Inspector.

ARTICLE 5.4

ZONING DISTRICTS AND BOUNDARIES

A. **ESTABLISHMENT OF DISTRICTS:** In order to carry out the intent and purpose of this Code, the City is hereby divided into the following districts:

- R-A Very Low Density Residential-Agricultural
- R-1 Low Density Residential
- R-1A Low Density Residential with horses
- R- IM Low Density Residential with manufactured and used housing
- R-2 Medium Density Residential
- C-1 Light Commercial
- C-2 General Commercial
- M- I Light Industry

B. **ZONING DISTRICT MAP:** The boundaries of zoning districts are shown upon the map designated 'Zoning District Map'. The Zoning District Map and all notations, references and other information shown thereon are a part of this Code and have the same force and

effect as if the zoning district map and all notations, references and other information shown thereon were fully set forth and described herein, which Zoning District Map is properly attested and is on file with the Mayor of the Town of Cohutta.

- C. **DISTRICT BOUNDARIES:** The district boundaries shown on the zoning district map are generally intended to follow streets, alleys, city boundaries or lot lines; where the districts designated on said map are bounded by such street, alley, city boundary, or lot line, the center line of the street or alley, the boundary line of the city, or the lot line shall be the boundary of the district unless such boundary is otherwise indicated on the map. In all other cases, the district boundary lines shall be determined by use of the scale appearing on the Zoning District Map.

ARTICLE 5.50

R-A

RESIDENTIAL-AGRICULTURAL DISTRICT REGULATIONS

- A. **PURPOSE:** This district is created to encourage a compatible relationship between permitted mixed uses within the undeveloped or sparsely developed areas of Cohutta where growth patterns are not evident. Manufactured housing, mobile homes, open storage or use of travel trailers or similar residences is not allowed. Use of an R-A lot as an easement or roadway to reach points beyond the lot has never been allowed.
- B. **PERMITTED USES:**
- I. Residential (single-family)
 2. Agricultural (The raising of swine or poultry is not included in the definition of agriculture for the purpose of the Cohutta Zoning Code, except that hens may be kept for personal use)
 3. Home Occupation pursuant to the definition in this Code
- C. **ACREAGE LIMITATIONS.** This district requires that any development of or subdivision of land in the R-A district be made in tracts of 5 acres or more to preserve the rural characteristics of the land.

ARTICLE 5.51

R-1

LOW DENSITY RESIDENTIAL DISTRICT REGULATIONS

- A. **PURPOSE:** The purpose of this district is to encourage low density residential development and to protect such development from unrelated and incompatible uses. Manufactured housing, mobile homes, open storage or use of travel trailers or similar residences is not allowed. Use of an R-1 lot as an easement or roadway to reach points

beyond the lot has never been allowed. R-1 is not characterized by heavy truck movements, extensive open storage or the nuisance factors such as smoke, dust, fumes, gas, heat, glare, noise and vibrations.

B. PERMITTED USES:

- I. One Single family dwelling per lot (Consistent with other Cohutta housing Codes)
2. Governmental facilities or institutions
3. Churches
4. Private schools, excluding professional or vocational schools, kindergarten and day care facilities
5. Recreation areas - public only
6. Home Occupation
7. Public utilities substations when necessary to serve the district
8. The keeping of hens for personal use
9. Bed& Breakfast Homes

**ARTICLE 5.52-- ZONE RI-A
HORSE RESIDENTIAL**

A. PURPOSE The purpose of this sub-zone is to permit the same uses as in R-I above with the addition of the non-business boarding and pasturing of horses or ponies.

B. PERMITTED USES. The permitted uses are the same as those in R-1 except as noted above in A.

**ARTICLE 5.53--ZONE RI-M
MANUFACTURED and MODULAR HOUSING**

A. PURPOSE The purpose of this sub-zone is to permit the same uses as in R-1 above with the addition of the placement of modular, manufactured pre-built and some used housing stock subject to restrictions listed in B below.

B. RESTRICTIONS

- a) No homes manufactured prior to 1972 shall be placed;
- b) The Town must receive a qualified post installation inspection report with correction of all findings made prior to utility turn-ons;
- c) A stable and secure tie down or foundation is required for any installed structure;
- d) Underpinning or a foundation is required for any installed structure.

ARTICLE 5.54
ZONE R-2
MEDIUM DENSITY RESIDENTIAL DISTRICT REGULATIONS

A. PURPOSE: This district is designed to permit mixed residential and other related compatible uses characteristic of a medium density development. Manufactured housing, mobile homes, open storage or use of travel trailers or similar residences is not allowed. R-2 is not characterized by heavy truck movements, extensive open storage or the nuisance factors such as smoke, dust, fumes, gas, heat, glare, noise and vibrations.

B. PERMITTED USES:

- I. Single family dwelling units (including the keeping of hens for personal use)
2. Duplexes
3. Four-plexes
4. Governmental facilities and institutions
5. Churches
6. Rest Homes
7. Private schools and nurseries
8. Recreation area (public and private, but not camping)
9. Home occupation
10. Public utility substations necessary to serve the district
11. Bed & Breakfast Inns
12. Event Centers

ARTICLE 5.55---C-1
LIGHT COMMERCIAL DISTRICT REGULATIONS

A. PURPOSE: The purpose of this district is to provide for the retail commercial sales and services necessary to a residential neighborhood. Development of commercial uses is regulated for compatibility with the surrounding residential areas. Districts are located to create commercial centers or clusters and to discourage commercial strip development. Manufactured housing, mobile homes, open storage or use of travel trailers or similar commercial structures is not allowed. C-1 is not characterized by heavy truck movements, extensive open storage or the nuisance factors such as smoke, dust, fumes, gas, heat, glare, noise and vibrations. C-1 requires businesses to have significantly reduced sound and movement between the hours of 11:00 p.m. and 6:00 a.m. to enhance adjoining residential use.

B. PERMITTED USES:

1. Antique store
2. Art Supply Store

3. Apparel and accessory store
4. Bakeries-retail
5. Barber and beauty shops
6. Banks
7. Bed & Breakfast Inns
8. Book Store
9. Business machine store
10. Candy, ice cream and confectionery store
11. Cellular telephone sales and repair
12. Clinics
13. Club or lodge
14. Computer systems installation and repair
15. Craft brewery
16. Cultural Facility
17. Drug Store
18. Flower Shop
19. General Store
20. Gifts, novelties and souvenir store
21. Grocery Store
22. Gunsmith and Gun stores
23. Governmental facilities and institutions
24. Hardware store
25. Health Club
26. Hobby and craft store
27. Interior Decorator-Home decorating
28. Locksmith
29. Music Store
30. Newsstand
31. Optical goods
32. Photo and Framing
33. Restaurant and Coffee Shop
34. Shoe Repair Store
35. Tailoring and clothing repair
36. Theater, excluding drive in
37. Toy store
38. Travel bureau or ticket agency
39. Dry Cleaning drop off and pick up

ARTICLE 5.56

C-2

GENERAL COMMERCIAL DISTRICT REGULATIONS

A. **PURPOSE:** The purpose of this district is to provide sufficient space in appropriate locations for a wide variety of commercial sales and service activities which generally serve a wide area. The permitted uses are limited to those which are not characterized by heavy truck movements, extensive open storage or the nuisance factors such as smoke, dust, fumes, gas, heat, glare, noise and vibrations. Districts are located to create centers or concentrations of commercial activities and to discourage commercial strip development. Manufactured housing, mobile homes, open storage or use of travel trailers or similar commercial structures is not allowed absent express variance for use. Uses are subject to approved commercial development plans under Article 5.6. Any C-2 uses shall require stone or brick facades with landscaping features approved by the Cohutta Zoning and Appeals Board.

B. **C-2 PERMITTED USES:**

1. All uses permitted in C-I
2. Apartments located above the ground floor
3. Appliance store-sales and open storage
4. Beer and Wine store
5. Convenience Store with fuel
6. Convenience center
7. Department Store
8. Discount Store
9. Distribution Center
10. Dry Cleaning
11. Furniture Store
12. Garage General Service
13. Garage - open storage and parking
14. Garden supplies store
15. Health equipment store
16. Laboratory - dental or medical
17. Laundromat
18. Luggage store
19. Mortuary
20. Motels and hotels
21. Offices of any type
22. Paint and Wall paper stores
23. Painting and decorating contractor
24. Repair, rental or servicing of any article, where the district allows sale of the item
25. Shipping and Supply Centers
26. Sporting goods store
27. Shipping and open storage of goods retailed by the principal permitted use
28. Schools-Private

29. Theatre-Drive in

ARTICLE 5.57
M-I
LIGHT INDUSTRIAL DISTRICT REGULATION

A. PURPOSE: The M-I Light Industrial District is intended to be located in those areas of the City which may be in close proximity to existing or estimated future residential concentrations. It is recognized that industrial uses are an important part of Cohutta's land use patterns. The regulations for this district are intended to encourage industrial development that is compatible with surrounding or abutting districts. The permitted uses are limited to those which are not characterized by heavy truck movements, extensive open storage , or the nuisance factors such as smoke, dust fumes, gas, heat, glare, noise and vibration. Uses subject to approved light industrial development plan under Article 5.6.

B. M-I PERMITTED USES:

1. Animal Care Where Noise Is Restricted:
 - a. Animal Hospital
 - b. Veterinary Clinic
 - c. Animal boarding place
 - d. Animal grooming place
 - e. Animal Day Care
2. Art equipment supplies - manufacturer
3. Bottling Plants
4. Brew Pubs , Distilleries
5. Blank books, loose leaf binders - fabrication and assembly
6. Books and bookbinding
7. Cabinet and woodworking establishments
8. Climate Control Warehouse
9. Clothing manufacturer
10. Camera and photographic manufacturer
11. Commercial printing, publishing, engraving, and reproduction firms
12. Confectionery and related products - manufacturer and packaging
13. Dental instruments and supplies
14. Electric lighting and wiring equipment - manufacturer
15. Electric measuring and testing equipment - manufacturer
16. Electrical products and appliances - manufacturer and assembly
17. Electric Vehicle Charging Station
18. Footwear - manufacturer and fabrication
19. Graphics, signs, printing
20. Greenhouse and Plant Nursery
21. Hand and edge tools

22. Hardware warehousing and distribution operations
23. Hatchery
24. Heliport
25. Ice cream plants
26. Ice plants
27. Internet Hub, Broadband Center
28. Laboratory instruments and associated equipment, scientific and testing
29. Landscaping Service and Supplies
30. Luggage, handbags and similar items - manufacturer and assembly
31. Machine Shop
32. Fed Ex, UPS and Delivery Hub
33. Mini-Warehouse
34. Office
35. Optical instruments and lenses - manufacturer and assembly
36. Patterns - design and manufacturer
37. Pottery shops
38. Precision instruments
39. Pressure Washing Service
40. Plastic extrusion, molding and fixture
41. Plumbing fixtures and equipment - wholesale
42. Radio and television - assembly and parts fabrication
43. Rail Park, Model Railway facilities
44. Recreation
 - a. Mini Golf
 - b. Batting cages
 - c. Driving Range
 - d. Theater, Dance Hall
 - e. Sports entertainment
 - f. Aerobics, Judo. Karate
 - g. Gym and Workout facility
45. Restaurant, Food Service, Vending
46. R.V. Storage, Covered
47. Scientific and research instruments and equipment manufacturer and assembly
48. Sign Making and advertising display materials
49. Sports equipment - manufacturer and assembly
50. Telephone and telegraph technical apparatus manufacturer and assembly
51. Temperature controls - fabrication and assembly
52. Textile manufacturer - excluding dye operations
53. Welding supply

ARTICLE 5.58

ADULT BUSINESS REGULATION

The following uses, as set forth in the Dalton Georgia Adult business Code §12-141, shall not be permitted in any zone in Cohutta, absent express special purpose use or conditional use permit granted after public notice and hearing:

Adult bookstore
Adult business
Exposure of anatomical areas
Adult dancing establishment
Adult hotel or motel
Adult mini-motion picture theater
Adult motion picture arcade
Adult motion picture theater
Adult video store
Encounter center or rap establishment
Erotic dance establishment
Escort bureau; introduction services
Lingerie modeling studio
Massage parlor

The Cohutta Council upon reading of the provisions of the Dalton Code find that expressive rights under the Constitution are granted in much more appropriate zones a short distance from Cohutta, and no express need for such business is found without a special showing.

ARTICLE 5.59

SMOKE AND FIRE DETECTION REQUIREMENT

Commercial and industrial buildings over 1500 square feet shall have installed audible or outside communicating smoke or fire detection systems.

ARTICLE 5.60

COMMERCIAL DEVELOPMENTS, LIGHT INDUSTRIAL DEVELOPMENTS, CONDITIONAL USE, MIXED USE, HIGH DENSITY, CONDOMINIUM, TOWN HOUSES REGULATIONS

- A. PURPOSE: The purpose of these regulations is to permit and encourage coordinated developments. Residential and commercial uses may be permitted with public and recreational uses necessary to serve the developments. The emphasis of the regulation is on the compatibility of overall design rather than individual minimum specifications. Innovation and ingenuity in design are encouraged. All C-2 construction shall require stone or brick facades and a landscaping plan approved by the Zoning and Appeals Board.

Commercial developments, Conditional Uses and plans with mixed use, high density housing, condominiums or town houses shall be laid out, developed and used according to a plan prepared in accordance with the provisions of this section.

B. PROCEDURES:

1. Application

For all parcels which involve planned Commercial Developments, Conditional Uses, mixed uses, condominiums or town houses, unless waived by the Cohutta City Council, the owner(s) shall submit to the City Council a site plan for the development and use of a tract meeting the requirements set forth in this section.

The site plan shall include the following:

- a) Name of proposed development; name(s) address(es), and telephone/fax/email contact numbers of the owners of the property and developer(s) of the plan;
- b) Date, North Arrow and graphic scale;
- c) Survey Boundaries of the entire tract and their relationship to adjoining properties, public rights of way and easements;
- d) Location Map at a scale of one inch equals two-thousand feet indicating existing zoning on or adjacent to the site, adjoining roads and the adjacent areas;
- e) Sewage Management System described with a written statement from Whitfield County Environmental Health or from an environmental engineer indicating the optimum number of units the property will accommodate; Should the development abut a sewage line, sewage hookup will be required upon the completion of any reimbursement period.
- f) Septic Absorption field and replacement area in relation to proposed and present building locations, shape, size and set back in appropriate scale;
- g) Streets, roads, alleys, railroads, public crosswalks, and

other rights of way with lengths and widths, road names or designations;

- h) Buffer and vegetation placement, existing and proposed to shield the proposed use appropriately;
- i) 100 year flood plain boundary and elevation and locations of all rivers, creeks, wetlands, and groundwater recharge areas;
- j) Proposed improvements. The names, locations and dimensions of proposed roads, alleys, sidewalks, and easements, and location and uses of buildings, parking and loading, dumpsters, recreation areas and facilities, yards and other open spaces;
- k) Topography, not more than 5-foot intervals;
- l) Points of access and egress;
- m) Utility services supplied;
- n) Planned site run off protections and any information required under any other state or federal land use or soil control rules or regulations
- o) A copy of any deed restrictions to be recorded
- p) historic façade compliance
- r) Audible Fire alarm compliance

2. Review and Approval

The plan of the proposed development with the required supplementary information shall be referred to the Cohutta Zoning and Appeals Board. Additional requirements may be recommended by the Board for the protection of adjoining property or for the benefit and enhancement of the development. The Board shall report its recommendation for approval or disapproval with reasons and any additional requirements to the Town Council for action. If no report is submitted by the Board within 30 days of referral, the Town Council may take action without such a report.

3. Delay in Construction: In the event that construction is not begun within two years from the date of approval by the Town Council, or is begun but is halted for a period of more than one year, said approval shall be void. Re-approval must follow the procedure set forth in Section B. I and B.2 of this article.

4. Phased Plans or Amendments to the Plan

Should the project be phased or should some amendment be requested, each phase or amendment should be submitted in accordance with the procedures set forth In Sections B.1 and B.2 of this article.

ARTICLE 5.61

HOUSING RESTRICTIONS

A. **PURPOSES AND EFFECT.** The purposes in regulating housing stock in Cohutta are to ensure aesthetic complement, structural integrity, health and safety of citizens and retention of value of surrounding housing. The following provisions will be effective upon hearing, approval and notice under the charter and state law:

B. **USED HOMES.** Due to the danger of deterioration and structural unsoundness, the likelihood of aesthetic blight, and the devaluation of surrounding housing stock, any used homes of any type moved into the Town of Cohutta shall be excluded from any land use category and an express variance for use shall be required prior to placement of a used home in Cohutta. A used home is one which has been lived in or has been used commercially prior to its move to Cohutta.

C. **SMALL OR OVERCROWDED HOMES.** Overcrowding and health concerns, haphazard addition to smaller dwellings, devaluation of existing housing stock and the aesthetic contrast created with other dwellings by placement of extremely small homes make their placement in Cohutta a matter of concern. In order to protect the market value of other dwellings in Cohutta and any significant aesthetic concerns as well as the health and welfare of citizens, no home of less than **1,500 interior square feet of living space** shall be constructed or placed in Cohutta absent an express variance for use.

D. **NARROW HOMES.** Narrow homes cause concern for the aesthetic impact they may have on neighboring dwellings. Any home built or moved into Cohutta with a width which is no more than one-fourth the length of the home must be approved by an express use variance prior to the building or set up of the home

E. **PREBUILT and MODULAR HOMES.** Apart from those homes in the R1-M district, due to the likelihood of negative aesthetic impact in the placement of prebuilt or modular homes in Cohutta and the relatively high rate of depreciation and deterioration of such housing stock leading to sub-standard conditions, placement of any such home must be approved by an express variance for use. “Modular” and “prebuilt” includes but is not limited to so-called “double wides”.

F. **LANDING. FOUNDATION.** Homes built or moved into Cohutta shall within a period of 60 days of completion or arrival be completed with a secure foundation underpinning the dwelling. In addition, within the same period, each such home shall be provided with a suitable covered step and landing unless expressly exempted.

G. **USE VARIANCE** for used homes, small homes, pre-built and narrowly proportioned homes as in other matters in this land use Code shall whenever possible take into account the following considerations:

- i) Conditions in any variances granted shall ensure that aesthetic, structural, health and safety concerns are protected
- ii) Adjoining neighbors who will be affected by the proposed use variance shall have a forum in the variance hearing to object or consent to the placement of the used, small, narrow or modular home. Should an adjoining neighbor object to the proposed use variance, the use will be disallowed absent extraordinary circumstances.
- iii) Use variances will be allowed more liberally when the owner of the dwelling will reside in the dwelling and will be able to ensure that the conditions for any variance are met.
- iv) Temporary use variances for the period of a condition or for a set period of time shall be considered, and notice of each such temporary use variance granted will be filed in the deed records of Whitfield County, and purchasers shall have full notice that such use variances may not be transferable.
- v) No homes which do not meet the Southern Standard Building Code or the standards established under the National Manufactured Housing Construction and Safety Standards Act of 1974, 42 U.S.C. Section 5401. et seq. shall be considered for a use variance absent extraordinary circumstances.

ARTICLE 5.62

NON-CONFORMING USES

Pursuant to the purposes of the Cohutta Zoning Code, the restrictions on non-conforming uses are placed to give priority to preservation and enjoyment of property now used, but to avoid extensions of non-conforming present uses and additions of other nonconforming uses.

A. Continuances: A non-conforming use of building shall not be:

- 1. Changed to another non-conforming use
- 2. Extended except in conformity with this Code
- 3. Retained with transfer of property except where the use is important to the value of the property or helps retain open spaces (e.g. horse pasture).
- 4) Reestablished after discontinuance of such use for a period of six (6) months.

- B. Intermittent or Illegal Use: The casual, intermittent, or temporary use of land or buildings sufficient to establish the existence of a non-conforming use on the part of a lot or tract shall not establish a non-conforming use on the entire lot or tract. Illegal use prior to the Code change shall never ripen into non-conforming use after such amendment, since no reasonable expectation of such illegal use existed prior to the amendment of this Code.
- C. Existence of a Non-Conforming Use: In case of doubt, and on a specific question raised, whether a non-conforming use exists shall be a question of fact and shall be decided by the Zoning Board of Appeals after public notice and hearing and in accordance with the rules of the Board.
- D. Buildings Non-Conforming in Height, Area or Bulk: A building non-conforming only as to height, area or bulk requirements may be altered or extended, provided such alteration or extension does not increase the degree of nonconformity in any respect.
- E. Non-Conforming Uses Not Validated: A non-conforming use in violation of a provision of the Code, which this Code amends or replaces, shall not be validated by the adoption of this Code.
- F. Residential Tracts along Wolfe Street where zoning was changed from Residential to C-1 are allowed to be continued as residential in the tract and retained with transfer of the property as if the tract remained residential. In addition, building or renovation shall allow the use to be suspended for more than six months without losing non-conforming use status.

ARTICLE 5.63

BUFFERS

BUFFER REQUIREMENT. A buffer shall be required when a proposed development abuts property in a less intense zone district, unless the adjacent zone district is already developed with uses similar to the proposed uses. Width of buffers between zones is depended upon the use and zone and shall be set forth by the Zoning Board or Town Council upon review.

- A. No building permit shall issue for any lot or parcel development requiring a buffer until such time as that buffer or surety therefore shall be provided, surety in an amount no less than \$25.00 per linear foot or area to be buffered and delivered to the Town of Cohutta.
- B. Buffers shall normally be located within and along the outer perimeter of a lot or parcel along the side and/or rear lot lines and not upon dedicated or existing rights of way, but shall be allowed between the use and the adjoining use at other points on the tract as topography allows.

- C. Should the required buffer not be placed, the Town of Cohutta shall have authority to build a buffer from the surety provided and shall not be liable for such reasonably undertaken action.
- D. More intense uses must provide the buffer.
- E. Buffer Design. Prior to development, a buffer plan shall be required to show the types and locations of all screening devices within a required buffer. Such a plan may be incorporated into any required site plan.
- F. Objectionable views or nuisances such as parking and service areas, refuse containers, air conditioner units and transformers shall be buffered.
- G. Berms, Privacy Fencing, and evergreen growth achieving a minimum six foot height shall be used to provide through a minimum of twelve feet and maximum of thirty feet, ninety percent (90%) visual blockage. Allowable Evergreens include 5 gallon Leland Cypress or Cryptomeria. Allowable fencing shall include commercially available privacy fencing in wood or composite.
- H. Maintenance responsibility shall remain with the owner of the property and shall ensure the view screen remains effective
- I. Variances. The requirements of this section may be altered, amended or waived by the Cohutta Town Council, depending on the circumstances, if it is shown that a lesser screening is sufficient for the purpose, that no screening is required or that no screening could effectively screen the use.

ARTICLE 5.64

COHUTTA HISTORIC DISTRICT

Overlaid upon the existing zones, the Town Council has set forth regulations for the Cohutta Historic District.

- 1. Location of District.** The overlay zone includes all parcels which abut Red Clay Road in Cohutta from The south line of the .37 acre tract shown at Whitfield Deed Book 3026, page 224 continuing across the road to the tract on the east side of Red Clay Road, going to the house owned until recently by Steve Swift and the Block Plant tract entrance on the west side of Red Clay Road. In addition, all the Cohutta Property abutting and off of Wolfe Street now shown as C-1 on the zoning map.
- 2. Restrictions.** All new construction and renovation occurring on structures in the historic zone shall fit in with existing housing styles in the area. Bungalow styles are prevalent in the historic district, but other examples of historic building styles occur.
- 3. Review.** All planned new construction and renovation occurring on structures in the historic zone shall be submitted for review by the Cohutta Zoning and Appeals Board and approval by the Town Council.

ARTICLE 5.70
ZONING AND APPEALS BOARD

- A. CREATION AND MEMBERSHIP: The Cohutta Zoning and Appeals Board is hereby established. The words “Board,” Board,’ ‘Zoning Board,” or ‘Zoning Board of Appeals” when used in this Code shall be construed to mean the Cohutta Zoning and Appeals Board. The Board shall consist of up to five members, appointed by the Cohutta Town Council for overlapping terms of three years. The Board shall elect its own Chairman and shall adopt such rules or procedures s necessary, subject to approval of the Town Council.
- B. MEETINGS. PROCEDURES. AND RECORDS: Meetings of the Board shall be held at such times as the Board may determine, or upon call of the Chairman. Such Chairman, or in his absence, the acting chairman, may administer oaths and compel the attendance of witnesses. All meetings of the Board shall be open to the public.
- C. APPEALS: An appeal from the decision of the Zoning Administrator may be taken to the Board by any person aggrieved, or by any officer, department, board of agency of the Town affected by such decision.

Such appeal shall be taken within a reasonable time, as provided by the rules of the Board, by filing with the Zoning Administrator and with the Board a notice of appeals specifying the grounds thereof.

The Zoning Administrator shall forthwith transmit to the Board all the papers constituting the record upon which the action appealed from, unless the Zoning Administrator certifies to the Board, after the notice of appeal shall have been filed with him, that by reason of facts stated in the certificate, a stay would, in his opinion, cause imminent peril to life or property. In such case, proceedings shall not be stayed otherwise than by a restraining order which may be granted by the Board or by a court of record on application or notice to the Zoning Administrator and on due cause shown.

- D. HEARING: The Board shall fix a reasonable time for the hearing of an appeal taken with the time specified by its rules, give notice thereof, as well as due notice to all adjacent property owners, and decide the same within a reasonable time. Upon the hearing of such appeal, any party may appear in person, or by agent or attorney.
- E. POWERS AND DUTIES: The Board in appropriate cases and subject to appropriate conditions and safeguards shall have the following powers:
1. To hear and decide appeals where it is alleged there is error in any order,

requirement, decision or determination made by the Zoning Administrator in the enforcement or application of this Code.

2. To authorize upon appeal in specific case a variance from the terms of this Code such as will not be contrary to the public interest, where owing to special conditions a literal enforcement of the provisions of this Code will result in unnecessary hardship, but where the spirit of the Code shall be observed and substantial justice done. Such special conditions shall be limited to exceptional narrowness, shallowness or shape of a specific piece of property existing at the time of the enactment of this Code, or exceptional topographic conditions or other extraordinary and exceptional situation or condition of such piece of property as would result in peculiar, extraordinary and practical difficulties. However, the granting of the variance shall not allow a structure or use in a district restricted against such structure or use, except as specifically provided for in this Article. No variance shall be authorized unless the Board finds all of the following conditions exist:
 - a. That the special circumstances or conditions applying to the building or land in question are peculiar to such premises and do not apply generally to other land or buildings in the vicinity.
 - b. That the granting of the application is necessary for the preservation and enjoyment of a property right and not merely to serve as a convenience to the applicant.
 - c. That the condition from which relief or a variance is sought did not result from action by the applicant.
 - d. That the authorizing of the variance will not impair an adequate supply of light and air to adjacent property, unreasonably increase the congestion in public streets, increase the danger of fire, imperil the public safety, unreasonably diminish or impair established property values within the surrounding areas or in any other respect impair the health, safety, comfort, morals, or general welfare of the inhabitants of the Town.
3. To hear and decide the following exceptions to the terms of this Code provided that such exceptions shall impose appropriate conditions and safeguards:
 - a. The extension of a district for a distance of not more than 50 feet where the boundary line of a district divided a lot or tract held in single

ownership at the time of passage of this Code.

- b. The interpretation of the provisions of this Code, where there is a difference between the street layout actually on the ground and the street layout as shown on the Zoning District Map made a part of this Code.
- c. The extension of a non-conforming use beyond its operations or size prior to any destruction by fire or other natural causes.
- d. The erection, extension and use of a structure, or the use of premises, in any location for a public service corporation for public utility purposes which is deemed reasonable and necessary for the public convenience or welfare.
- e. Reduction in the parking and loading requirements of this Code whenever the character or use of a building or premises is such as to make unnecessary the full provision of parking or loading facilities, or where such regulations would impose an unreasonable hardship upon the use of the lot, as contrasted with merely granting an advantage or a convenience.
- f. The erection of a temporary building for commerce or industry in the 'R' districts which is incidental to the residential development, such permit to be issued for a period of not more than one year.
- g. The location, construction, extension, structural alteration and operation of any of the following uses, in the district or districts listed and under conditions specified:

4. To Approve Special Uses Determined For Zones.

- a. Hospital or institution in an R-1 District provided that all principal and accessory buildings shall be located on a site of not less than five acres, and shall be set back from all required yard lines at least two feet for each foot of building height.
- b. Radio or television broadcasting towers, station, studio or office except in residential districts.
- c. Extraction of natural resources except in residential districts and subject to submission of evidence that operations will not be objectionable to or endanger adjacent structures and rises by reason of excessive dust, noise, or surface or subterranean vibration.
- d. Sanitary land fill operations in other than residential districts and subject to approval of the State of Georgia as to location and method of operations.

- e. Public building owned or constructed for permanent occupancy by a governmental agency in any zoning district.
- f. Privately owned community building, recreation field or amphitheater in any district provided adequate space if available for service, parking and for adequate buffer areas between the activity and any adjoining residential district
- g. Off-street parking area in a residential district within 300 feet of a commercial or industrial district and owned and operated by a business, public or semi-private organization for sole use of employer or members.

In exercising the above mentioned powers, the Board may in conformity with the provisions of this Code, reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination appealed from and may make such order, requirement or decision or determination as ought to be made and to that end shall have all the powers of the Zoning Administrator, to decide in favor of the appellant or applicant on any matter upon which it is required to pass or to effect any variation from the strict application of the provisions of this Code.

To defray a portion of the costs occasioned thereby, no appeal from the decision of the Zoning Administrator and no application for an exception, variance or other matter, shall be entered on the docket of, or heard by or ruled on by the Board until there has been paid to the office of the Board by the appellant or applicant a fee of \$75.00 which fee shall be remitted to the city clerk with waiver authorized by the Town Council.

No fee shall be required for an interpretation of this Code when there is a variance between the street layout on the ground and the street layout as shown on the District Zoning Map

Neither the Town nor any officer, agent or employee of the Town, the County or the State, acting in his official capacity shall be required to pay a fee under this section.

ARTICLE 5.71 ADMINISTRATION

- A. **ENFORCEMENT:** The duty of administering and enforcing the provisions of this Code is hereby conferred upon the Zoning Administrator. It shall also be the duty of all officers and employees of the Town to assist the Zoning Administrator by reporting to him new construction, reconstruction, new land uses and apparent violations of this Code.

- B. BUILDING PERMITS: All applications for building permits for the construction of any building or for the alteration of any land coverage of such building, shall be accompanied by an acceptable drawing or plat in duplicate drawn to scale showing constructed or altered, accurate dimensions of the building and lot and such other information as may be necessary to enable the Zoning Administrator to determine that the proposed structure and use of land will conform to the provisions of this Code. All dimensions shown on these drawings or plats relating to the location and site of the lot to be built upon shall be in a form acceptable to the Zoning Administrator. The original copy of such applications and plats shall be kept in the office of the Zoning Administrator and the duplicate copy shall be kept with the building permit at the building at all times during construction.

ARTICLE 5.80 REMEDIES AND ENFORCEMENT

- A. VIOLATION: Any firm, person or corporation who shall do anything prohibited by these regulations as the same exist or as they may hereafter be amended or who shall fail to do anything required by these regulations as they now exist or as they may hereafter be amended is hereby declared to be guilty of a misdemeanor and shall be punished as provided by law. Each day of prohibited use shall constitute a separate offense.
- B. REMEDIES: In case any building or structure is or is proposed to be erected, constructed, reconstructed, altered, converted, or maintained, or any building, structure, or land is or is proposed to be in violation of any provision of this Code, the Zoning Administrator, City Attorney or other appropriate authority of the Town or any adjacent or neighboring property owner who would be especially damaged by such violation may, in addition to other remedy, institute injunction, mandamus or other appropriate action or proceeding to prevent such unlawful erection, construction, reconstruction, alteration, conversion, maintenance or use or to correct or abate such violation, or to prevent the occupancy of such building, structure or land.

Where a violation of these regulations exists with respect to a structure or land, the Zoning Administrator may, in addition to other remedies, notify all public utilities and city service departments of such violation and request that service be withheld therefrom until such time as the structure or premises are not longer in violation of these regulations.

- C. CUMULATIVE REMEDY: The remedies herein provided shall not be deemed to be exclusive but shall be cumulative of all other remedies provided by law.

ARTICLE 5.81
AMENDMENT AND CHANGES

- A. **INITIATION:** Amendments to the Zoning District Map may be proposed by the Town Council, the Cohutta Zoning and Appeals Board, or the owner or authorized agent of property within the area proposed for change. Amendments to the text of the Code may be initiated by any citizen of the Town, the Cohutta Zoning and Appeals Board, or the Town Council. When amendment is initiated by the Board or the Council, the required fee shall be waived.
- B. **PROCEDURE:** An application for an amendment to this Code shall be filed with the Zoning Administrator at least 30 days prior to the date on which it is to be heard by the Zoning Board. Each application shall be accompanied by a plat containing the following information:
1. All property lines with dimensions
 2. Location of buildings or other structures, creeks, and easements referenced to the property lines of the tract or lot.
 3. Comprehensive site plan, with landscaping plan, if application is for commercial, industrial, multiple-family or institutional use. For campus, hospital or other institutional development, this plan shall show existing and proposed buildings and parking areas, each clearly marked or titled to indicate specific uses.
 4. Proposed street right-of-way lines showing property, if any, to be dedicated to street widening.
 5. North arrow, scale, block and lot numbers and land lot.
 6. Campus, hospital or other institutional development plans shall include a summary of future expansion needs and recommendations for necessary rezoning of adjacent private property to provide for such needs.
- C. **RECOMMENDATION OF ZONING BOARD:** After reviewing the submissions, the Board shall schedule a public hearing. After the hearing, the Board shall make a recommendation to the Town Council to amend, deny, delay or accept the proposal as submitted. Hearings shall be held within the time prescribed by law.

‘The Zoning Administrator shall publish notices of the time and place of the public hearing in a newspaper of general circulation or by other means as provided by law. In

cases involving revision of the Zoning District Map, the Zoning Administrator shall post conspicuous notice by placard on or within 300 feet as measured along the street right-of-way line of properties affected by the revision. For multiple amendments, posting of the properties shall not be required.

- D. ACTION BY TOWN COUNCIL: The Town Council, after receiving the recommendation of the Zoning Board, shall take appropriate action on the application and shall notify the applicant of the action taken.
- E. FEE: Each application submitted shall be accompanied by a fee of Seventy-five dollars (\$75.00) to partially cover the cost of advertising, field investigations and other expenses involved in processing such application, and under no condition shall said sum or any pan thereof be refunded for failure of such proposed amendment to be enacted into law. An application for a zoning amendment affecting the same land shall not be accepted more often than once every twelve months. The Town Council may waive any fees associated with variances and amendments.
- F. The erection of a temporary building for commerce or industry in the “R” districts which is incidental to the residential development, such permit to be issued for a period of not more than one year.
- C. The location, construction, extension, structural alteration and operation of any uses, in the district or districts listed and under conditions specified:

ARTICLE 5.82 VALIDITY

Should any article, section of provision of this Code be declared by a court of competent jurisdiction to be invalid, such action shall not affect the validity of the Code as a whole or any part thereof other than the part so declared to be invalid, each article, clause and provision hereof being declared severable.

ARTICLE 5.83 CONFLICT WITH OTHER RULES REGULATIONS, AND PRIVATE AGREEMENTS

In interpreting and applying the provisions of this Code, they shall be considered as the minimum requirements for the promotion of public safety, health, morals and general welfare. It is not intended by this Code to interfere with or abrogate or annul any easements, covenants or other agreements between parties; provided however, that where this Code imposes a greater restriction upon the use of property or premises or upon the height of buildings, or requires

greater space than is imposed or required by other resolutions, rules or regulations, or by easements, covenants or agreements, the provision of this Code shall govern.

ARTICLE 5.84 CONFLICTING CODES

This is intended to be the comprehensive Zoning Code for the entire incorporated area of the Town of Cohutta and all other Codes duplicating or in conflict with its provisions are hereby repealed, provided that nothing herein shall be construed as repealing or modifying the conditions of operation conditions of site development accompanying approvals or use permits issued under previous Codes; provided, however, that such uses and conditions to the extent that they do not conform to the requirements of this Code shall be considered under the non-conforming provisions hereof.

ARTICLE 5.85 ADOPTION AND EFFECTIVE DATE

The effective date of this Code shall be the date of passage by the Town Council of the Town of Cohutta, Georgia.

Initially Adopted 4/11/1986
Substantially amended 12-2009
adding site spec requirements
Amended in 3/4/2014 Code
9/10/15 min Sq. Ft. now 1500
Audible comm. fire alarms .
Site plans for Historic façade and
fire alarm
M-1 zone changes 10/5/21
Zoning and Appeals Board 4/12/22
Historic District 4/12/22
Amended in 8/1/2023 Code

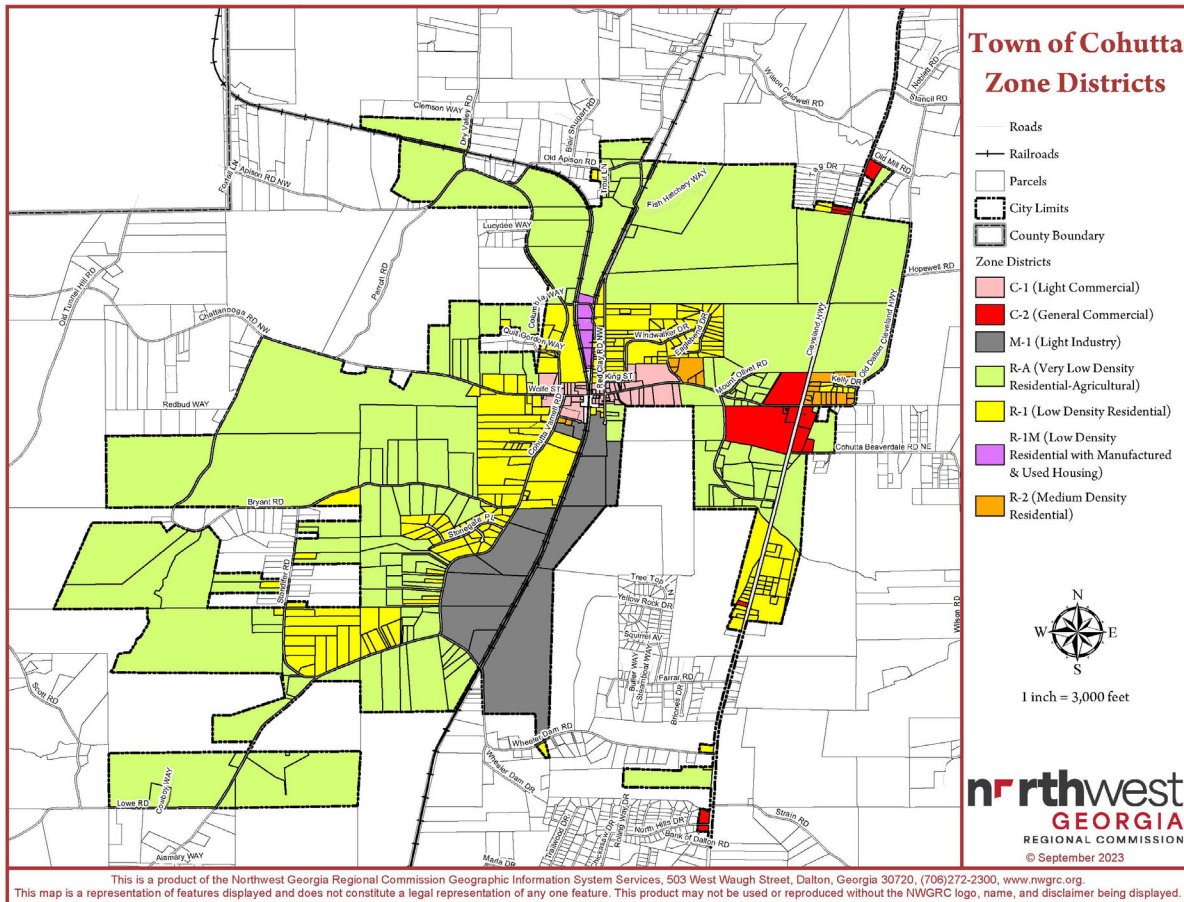


EXHIBIT “A” ZONING MAP

Town of Cohutta
REQUEST FOR VARIANCE OR ZONING MAP CHANGE

1. Name of Landowner(s):
Address/Location of parcel:
County Tax Parcel
2. Occupiers of parcel for which a request is made (if not same as owner).
3. Circle current zoning classification of parcel:
R-1 R-2 R-A R-1A R-1M C-1 C-2 M-1
4. For map change, what is desired zone? (Please circle one)
R-1 R-2 R-A R-1A R-1M C-1 C-2 M-1
5. For Use Variance, describe (or attach description of) your planned use for the property.
6. For housing, subdivision, or lot size variance, describe or attach plat of suggested variance including size, age, construction, and other specifications of planned dwelling unit.
7. For Mobile homes, double-wides, manufactured homes or other pre-built dwellings, attach full description of dwelling specifications and photograph of home.
8. For commercial or light industrial variance, describe planned use.
9. What is time length of desired use variance?
_____ months/years
_____ only for length of ownership (non-transferable)
_____ permanent change

Signature: _____ Date: _____

Mailing Address of Owner(s)
Cell Phone Contact:

By Law, Zoning changes must be advertised 15 days prior to a zoning hearing. The Town Council must approve any change at a meeting set by the Council after the zoning hearing. Send your request via the Town Clerk or email it to Cohutta Zoning Administrator, rfowler@townofcohutta.com. Call (706) 694-3330 with any questions you may have. Most variances depend heavily on consent by neighboring landowners. You are encouraged to attend and explain your request at the zoning hearing.

EXHIBIT "B" Variance or Map Change Request Form

COHUTTA SPEED LIMIT CODE

Pursuant to the Georgia Uniform Rules of the Road, as amended, Title 40, Chapter 6, Code Sections 40-6-181 through 40-6-183 and Code Sections 40-6-370 through 40-6-376, and Chapter 14, Code Sections 40-A-1 through 40-A-16 where applicable, are hereby adopted as and for the traffic regulations of this municipality with like effect as if recited herein.

Subject to proper speed studies, and barring such contemporary studies, posted speed signs are used as a means of giving notice that speed in excess of that posted will be deemed presumptively too fast for conditions, this to avoid harm to those on bicycles, farm vehicles and carts routinely transiting roads in Cohutta at slow speeds and to patrons of the Cohutta downtown commercial district crossing the road.

Be it ordained that the following speed zones are established:

6.10 On System

6.11 State Route 71 (Cleveland Highway)

From the South right of way of Bank of Dalton Drive (South City Limits) to the Tennessee State Line, the speed limit shall be 55 miles per hour.

Signs to be erected by the Georgia Department of Transportation.

6.20 Off System

6.21. Apison Road (201)

From Wolfe Street to the North City Limits, a distance of 0.48 mile, the speed limit shall be 45 miles per hour.

6.22. Cohutta-Varnell Road (206) (208)

From Lowe Road at the South City Limits to 600 feet south of Wheeler Dam Road No. 209, the speed limit shall be 45 miles per hour.

From 600 feet south of Wheeler Dam Road No. 209 to Wolfe Street, a distance of 1.46 miles, the speed limit shall be 35 miles per hour.

6.23. Mount Olivet Road (251)

From State Route 71 (Cleveland Highway) to the south right of way of Wolfe Street, a distance of 0.70 mile, the speed limit shall be 35 miles per hour. From the north right of way of Wolfe Street north, the speed limit shall be 15 miles per hour.

6.24. Red Clay Road (203)

From the south right of way of Wolfe Street south a distance of 780 feet, the speed limit shall be 25 miles per hour.

From the north right of way of Wolfe Street to the Town limits, the speed limit shall be 35 miles per hour.

6.25. Wheeler Dam Road (209)

From the South City Limits to Cohutta-Varnell Road, a distance of 0.25 mile, the speed limit shall be 35 miles per hour.

6.26 Wolfe Street/Chattanooga Road (19 and S-1553)

From the West City Limits to 1056 feet (0.2 mile) west of Apison Road, a distance of 0.27 mile, the speed limit shall be 45 miles per hour.

Except for the school zone, from 0.20 mile (1056 feet) west of Apison Road to State Route 71 (Cleveland Highway), a distance of 1.21 miles, the speed limit shall be 35 miles per hour.

6.27. School Speed Zone (Wolfe Street)

From 500 feet east of Red Clay Road to 150 feet east of Peach Orchard Road, a distance of 0.25 mile, the school speed limit shall be 30 miles per hour during the hours from 7:30 to 8:30 a.m. and 2:30 to 3:30 p.m. on school days.

6.28. Lowe Road

From 2285 feet west of the intersection of Lowe Road and Cohutta Varnell Road to the intersection of Cohutta Varnell Road, the speed limit shall be 45 miles per hour.

6.29 Bryant Road

From the west right of way of Cohutta-Varnell Road to the east right of way of Standifer Road, the speed limit shall be 40 miles per hour.

6.30 Old Apison Road

From the west right of way of Red Clay Road a distance of 545 feet to the Town Limits, the speed limit shall be 35 miles per hour.

Signs to be erected by the City of Cohutta.

Be it resolved that any person convicted of a violation of this Ordinance shall be punished as provided for by law.

All Ordinances and parts of Ordinances in conflict with this Ordinance are herewith repealed.

This Ordinance shall become effective when appropriate signs are erected.
Initially Adopted

Amended in 3/4/2014 Code
Amended in 8/1/2023 Code

CHAPTER SEVEN

COHUTTA SUBDIVISION CODE

ARTICLE I. - IN GENERAL

Sec. 7-1. - Short title. This chapter shall hereafter be known, cited, and referred to as the Cohutta Subdivision Code.

Sec. 7-2. - Authority and purposes.

(1) **Authority.** This chapter is adopted pursuant to the authority delegated to The Town of Cohutta pursuant to the Georgia Constitution of 1983, as amended, and the Georgia Planning Act of 1989, as amended.

(2) **Purposes.** The standards contained herein are enacted for the following purposes:

- (a) To encourage economically sound and stable land development;
- (b) To assure the adequate provision of required roads, parking, utilities, and other facilities and services to land developments;
- (c) To assure the adequate provision of safe and convenient traffic access and circulation, both vehicular and pedestrian, within land developments;
- (d) To assure the provision of public open space and building sites in land developments through the dedication or reservation of land for recreational, educational, and other public purposes;
- (e) To prevent the pollution of air, land, streams, and ponds, as well as encourage the wise use and management of natural resources throughout the county, and preserve the topography and beauty of the community and the value of land;
- (f) To assist the general public, who generally lacks the specialized knowledge needed to evaluate subdivision improvements and design;
- (g) To promote the goals, objectives, and policies of the Joint Comprehensive Plan for Whitfield County and the Cities of Cohutta, Dalton, Tunnel Hill and Vamell.

Sec. 7-3. - **Jurisdiction.**

- (1) The provisions in this chapter shall be applicable within the Town Limits of Cohutta, Georgia.
- (2) This chapter shall become effective immediately upon its adoption by the Cohutta Town Council.
- (3) When necessary to further its purposes, this chapter may be amended from time to time by the Cohutta Town Council.

Sec. 7-4. - **Use of plat.**

Any transfer, sale, agreement to sell, or negotiation to sell any lot or parcel by reference to, by exhibition of, or by other use of a plat or survey of a subdivision which has not been granted

final approval by the Town of Cohutta and recorded in the office of the Clerk of the Superior Court of Whitfield County shall be prohibited. A description by metes and bounds in an instrument of transfer or other document shall not exempt any such transaction from this provision.

Sec. 7-5. - Platting authority.

The Cohutta Zoning and Appeals Board shall hereby exercise the power and authority to review and to approve all plats, as set forth hereinbelow. The Cohutta Zoning and Appeals Board shall have the power and authority to review, comment upon, and to approve preliminary major subdivision plat submittals, as set forth below. However, the Mayor of Cohutta may waive other review and sign off on Plats.

Sec. 7-6. - Fees.

A schedule of permit, application, and/or use fees, as adopted from time to time by the Cohutta Town Council, is incorporated herein by reference.

Sec. 7-7. - Enforcement and penalties.

The Mayor of Cohutta, the Cohutta Code Officer or the Mayor's designee shall be the general administrative and enforcement officer of this chapter. In the enforcement of this chapter:

(1) Pursuant to O.C.G.A. § 36-1-20(b), any person violating any provision of this chapter shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine not to exceed \$1,000.00, or by imprisonment in the county jail for not more than 60 days, or both.

(2) The Cohutta Municipal Court shall have original jurisdiction upon any offense charged pursuant to this chapter unless removed to the Whitfield County Superior Court for a jury trial pursuant to O.C.G.A. § 7-A-4-61.

(3) In any circumstance in which any lot or parcel is, or is proposed to be, utilized in violation of this chapter, The Town of Cohutta may, in addition to other remedies provided by law, seek equitable relief, injunction, abatement, or any appropriate action or actions, or proceeding to prevent, to enjoin or to abate such use.

Sec. 7-8. - Interpretation, conflict, and severability.

(1) In their interpretation and application, the provisions of this chapter shall be held to be minimum requirements.

(2) Where the conditions imposed by any provision of this chapter are either more restrictive or less restrictive than comparable conditions imposed by any other provisions of this chapter or of any other applicable federal, state, or local law, Code, resolution, rule, or regulation, the regulation which is more restrictive and which imposes higher standards or requirements shall govern.

- (3) If any section, subsection, sentence, clause, or phrase of this chapter is, for any reason, held by any court of competent jurisdiction to be unconstitutional or void, the validity of the remaining portions of this chapter shall not be affected thereby. The intent of the Cohutta Town Council in adopting this chapter is that no portion hereof or provision of the regulations contained herein shall become inoperative or fail by reason of the unconstitutionality or invalidity of any section, subsection, sentence, clause, phrase, or provision of this chapter.

Sec. 7-9. - Variance/appeals.

All appeals from any decision of the Mayor or the Code Officer or the Mayor's designee relating to any requirement of this chapter shall be heard by the Cohutta Zoning and Appeals Board. Said board of zoning appeals shall be empowered to recommend grants of variances where appropriate, upon the conditions set forth in the Zoning Procedures Code.

Sec. 7-10. - Recording of plats.

No plat of any subdivision of lots or parcels shall be recorded by the Clerk of Superior Court of Whitfield County unless the plat has received final approval, as evidenced by the signature of an authorized representative of the Cohutta Zoning and Appeals Board. The developer/sub-divider shall be responsible for the timely recording of all approved subdivision plats.

Sec. 7-11. - Road access.

Required. No building permit shall be issued for and no structure or accessory structure shall be erected upon any lot or parcel within Whitfield County unless the road giving access thereto has been accepted into the Whitfield County Road System as a public road.

Sec. 7-12. - Issuance of building permits.

No building permit shall be issued for any proposed structure or building upon any lot or parcel within any proposed subdivision which does not meet the regulations set forth herein.

Sec. 7-13. - Definitions.

For the purpose of this chapter and in order to carry out the provisions and intentions as set forth herein, certain words, terms, and phrases are to be used and interpreted as defined in the Cohutta Zoning Code.

Sec. 7-14. - Interpretation.

Words used in the present tense shall include the future tense; words used in the singular number shall include the plural, and words in the plural number shall include the singular; the word "person" shall include a firm, partnership, or corporation as well as an individual; the term

"shall" is always mandatory and not discretionary; the word "may" is permissive. The word "used" or "occupied" as applied to any land or building shall be construed to include the words "intended," "arranged," or "designed to be used or occupied."

ARTICLE II. - PROCEDURE FOR PLAT SUBMITTAL AND APPROVAL

Sec. 7-21. – Required subdivision submittals exemption.

Any division of a lot or parcel into two or more lots, building sites, parcels, or other divisions which has the characteristics in a-e below is exempt from the requirements of this chapter (though such divisions may be subject to certain regulations contained within this and other Codes, such as minimum lot size requirements, etc.):

- a. The division of land between or among heirs or beneficiaries in accordance with the Georgia Probate Code and in connection with a pending estate administration in the Whitfield County Probate Court, as evidenced by valid letters of testamentary or letters of administration;
- b. The sale of all portions of an existing lot or parcel to one or more adjoining landowners for recombination into one or more adjacent lots or parcels;
- c. The sale of a portion of an existing lot or parcel to an adjoining landowner for combination therein, provided that the donor lot retains sufficient acreage for its zone.
- d. The acquisition of rights-of-way by any governmental unit, municipality, the Georgia Regional Transportation Authority (GRTA), or the Georgia Department of Transportation (GDOT);
- e. The division of a portion of a lot or parcel by the owner thereof solely for the purpose of placing said divided portion as collateral for a security instrument, provided the division meets at least one of the above described exemption requirements.

Sec. 7-22. - Conformance to applicable rules and regulations.

In addition to the requirements established in this chapter, all subdivision plats shall comply with all applicable federal, state, and/or local laws, resolutions, rules, or regulations.

Sec. 7-23. – Pre-submittal conference.

A pre-submittal conference, while not required, serves as an informal plan review involving a developer and the Mayor or his or her designee(s). The purpose is to allow a developer/sub-divider to discuss his or her concept and proposed design. The Cohutta Mayor or designee, during such meeting, may raise factors which may impact upon a proposed development and advise a developer/sub-divider of various possibilities before he or she has expended substantial amounts of time and/or money in a very detailed proposal which may contain elements contrary to this chapter.

Sec. 7-24. - Submittal, review and approval procedure for a subdivision.

(1) Submit final plat. Any person seeking approval of a proposed subdivision plat shall submit such plat directly to the Cohutta Zoning and Appeals Board a final plat which has been prepared in accordance with subsection (3) of this section, together with the prescribed fee.

(2) Approval procedures.

(a) As soon as practicable after a proper showing that a proposed subdivision shall be considered, but in no event more than ten working days after submission, an authorized representative of the Town of Cohutta shall sign the proposed plat for recording by the Clerk of Superior Court of Whitfield County, as requested, or return same for correction or amendment, as specifically noted in writing.

(b) Subdivisions require waiver by the Cohutta Mayor or review by the Cohutta Zoning and Appeals Board.

(c) If a subdivision proposes access to a state highway, the Georgia Department of Transportation (GDOT) shall determine the feasibility of such access pursuant to O.C.G.A. § 32-6-151. The sub-divider/developer shall produce permits and/or written permission from the Georgia Department of Transportation (GDOT) for the proposed access.

(3) Final plat. A developer/sub-divider shall submit a final plat to the Cohutta Zoning and Appeals Board pursuant to the following sequence of submittal, review, and approval:

(a) A minimum of five copies of the final plat shall be submitted.

(b) If the developer/sub-divider places restrictions upon any of the lots or parcels contained in the subdivision greater than those required by this chapter, such restrictions or reference thereto shall be identified upon the plat by the following statement: Restrictions apply to the subdivision of lots shown hereon.

(c) Approval procedures. Within ten working days after submittal of the final plat and all supporting documentation, data, and certifications, the final plat shall be approved or disapproved by the Cohutta Code Officer or Mayor or the parties may agree upon a longer period for review and submission with review by the Cohutta Zoning and Appeals Board. With larger plats and complexity, longer periods should be presumed. If no action is taken within the period set by the parties or 10 days whichever longer, the plat shall stand as disapproved. The Cohutta Code Officer or Mayor may disapprove any such final plat if any portion of the proposed subdivision is in violation of any applicable Code, law, rule, or regulation of any governmental unit having jurisdiction.

(d) Completeness. If any of the specifications or facts required herein are omitted or misrepresented, the Cohutta Code Officer or Mayor may refuse to review such plat and may return such submittal to the developer/sub-divider for completion or revision.

(e) Final plat specifications. The final plat shall be prepared by a Georgia Registered Land Surveyor. If a professional engineer, licensed to practice in Georgia, shall contribute to the plat, then appropriate seals shall be shown. The plat shall be drawn at a scale appropriate to show details but no smaller than 200 feet to one inch. The plat shall be drawn in permanent ink on reproducible material upon a sheet or sheets not exceeding 17 by 22 inches, in compliance with Georgia law, and unless specifically waived, in whole or in part Cohutta Code Officer or Mayor, shall include:

1. The name of the subdivision and road names;
2. The name, address, and telephone number of the person to be notified of action;
3. The name, address, seal, and license number of the registered land surveyor; the original signature of the surveyor shall be across the seal for the plat to be valid; also, if a professional engineer participated in the development of the plat, the name, address, seal, and license number of such professional engineer shall be placed thereon;
4. The date of the plat drawing, graphic scale, north point, notation as to the reference of bearings to magnetic, true north, or grid north and indication whether bearings shown are calculated from angles turned or taken from compass readings;
5. The location of the parcel (land district and land lot) giving total acreage being subdivided, total number of lots created and total length of new roads within the development;
6. A general location map at a scale not less than one inch equals 1,000 feet, showing the relationship of the plat to other existing roads and properties in Whitfield County;
7. The index map where more than one sheet is required to present the plat; [Note: multiple sheets shall each be named to conform with the title sheet and designated for example: one of three, two of three, and three of three];
8. Identify the point of beginning (POB) tied to the nearest existing road intersection or nearest land lot line or district line;
9. Exact boundary lines and zoning classification(s) of the parcel shall be in compliance with the Georgia Plat Act, O.C.G.A. § 7-6-67;
10. City, county or land lot lines accurately tied to the lines of the subdivision by distance and angles when such lines traverse the subdivision;
11. Road centerlines, showing angles of deflection and standard curve data of intersection, radii, length of tangents and arcs, and degree of curvature;
12. Lot lines with dimensions to the nearest 1/100 foot, and bearings to the nearest minute, arcs, and chords and tangent to radii of rounded corners;
13. The location and dimension of all approved exempted access easements;
14. Front and rear structure or building setback lines; side setback lines may be noted upon the survey, but shall not be required to be shown upon each lot;
15. Lots or parcels numbered in numerical order or numbered in relationship to each phase of development; phase development lines;
16. Locations of monuments and markers to the degree of accuracy required of professional engineers and/or registered land surveyors pursuant to Georgia law;
17. The boundary and elevation of the 100-year floodplain as determined by F.I.R.M. and/or best available data, as determined by The Cohutta Zoning and Appeals Board;
18. Applicable certificates and statements as specified in this chapter;
19. If restrictions apply to the subdivision, then such restrictions shall be shown or noted on the final plat;

20. The location and dimension of all areas proposed to be set aside for recreational use, open space, green space, or other public use, with designation of the purpose thereof, and conditions, if any, of the dedication or reservation;

21. The Whitfield County Tax Assessor's map and existing parcel numbers for G.I.S. purposes.

(f) Final plat certificates of approval. Each final plat submitted shall carry the following certificates of approval:

1. Final Accuracy and Design Certificate

It is hereby certified that this plat is true and correct and was prepared from an actual survey of the property made by me or under my supervision: that all monuments shown hereon actually exist and their location, size, type, and material are correctly shown; and that all requirements of the Cohutta Subdivision Code have been substantially complied with, and approval hereof does not relieve me of any liability associated with inaccuracies or improper design.

By Registered Georgia Land Surveyor No. and Seal

Date _____

2. Certificate of Approval for Recording

The Cohutta Code Officer or Mayor certifies that this plat complies with the subdivision provisions of the Cohutta Subdivision Code, [with the exception of such variances, if any, as are noted upon the plat], and that it has been approved for recording in the Office of the Clerk of the Superior Court of Whitfield County, Georgia. No determination has been made with regard to the suitability of any lot either for use with the existing on-site/public sewage management or water supply system or for the installation of a new on-site/public sewage management or water supply system.

Date _____

Authorized Representative

3. Reserved.

(4) Reliance upon recorded plat. A developer/sub-divider may rely upon the provisions set forth in any plat approved and recorded pursuant to this Code to the extent that any such conditions constitute vested rights pursuant to Georgia law.

ARTICLE III. - DESIGN STANDARDS

Sec. 7-31. - Purposes.

The purposes of appropriate subdivision and site design is to promote the health, welfare, and safety of the public; to create a functional and aesthetically pleasing development; to minimize adverse impacts; and to ensure that projects will be designed to result in a well-planned community without adding unnecessarily to development costs.

Sec. 7-32. - General design principles.

(1) Land suitability. Land which is unsuitable for subdivision or development due to flooding, wetlands, improper drainage, steep slopes, rock formations, adverse earth formations or topography, utility easements, or other features which would be harmful to the safety, health, and general welfare of inhabitants of the land and/or the general public and surrounding areas shall not be subdivided or developed unless adequate methods are designed by the developer/sub-divider to solve the problems created by the unstable land conditions. Said design methods shall include but not be limited to Georgia Department of Transportation Standard Manuals and Specifications for the Construction of Roads and Bridges and the Utility Accommodations Policy

and Standards, current editions, and supplements thereto; American Association of State Highway and Transportation Officials (AASHTO) Manuals for Arterial Streets, Rural, Urban, and Interstate Highways, current editions; American Water Works Association (AWWA) standards, current editions, Georgia State Department of Natural Resources (DNR), Environmental Protection Division (EPD), Rules for Safe Drinking Water, Rules and Regulations for Water Quality Control, latest editions; American National Standards Institute (ANSI) Standards, latest editions; and American Society for Testing and Materials (ASTM) Standards, latest editions. Any such design(s) shall be subject to review and approval by experts chosen by the Cohutta Council and Mayor. The Council shall provide a written statement justifying the denial of the final plat based on land suitability.

Sec. 7-33. - General subdivision design standards.

(1) Monuments. The developer/sub-divider shall place permanent reference monuments in the subdivision as required herein and as approved by a Georgia Registered Land Surveyor.

Monuments shall be located and set as follows:

(a) Monuments shall be located upon road right-of-way lines, at road intersections and at the beginning and ending points of curves.

(b) All lot corners shall be marked by iron rods, pipe, or pins at least 18 inches long and one-half inch in diameter.

(c) Lot lines which extend to any state waters shall be monumented in the field by iron pins at least 18 inches long and one-half inch in diameter or by round or square iron bars at least 18 inches long. Such pins shall be placed at the point of intersection of the state waters and lot line, with a meander line established not less than 20 feet back from the bank of the state waters.

(d) All monuments and pins shall be properly set in the ground and approved by a registered surveyor prior to the submittal of any plat.

(2) Name of subdivision. The name of the subdivision shall be approved by the Cohutta Zoning and Appeals Board and shall neither duplicate nor closely approximate the name of any existing subdivision. Whitfield County may regularly maintain a register of such names, accessible to the public, updated not less than monthly.

(3) Residential development design.

(a) The Cohutta Zoning and Appeals Board may require additional lot area and/or setbacks provided that lots conform to the minimum requirements of this chapter and the Cohutta Zoning Code.

(b) Each lot or parcel shall have sufficient access to it for emergency vehicles as well as for those requiring access to the property for its intended use.

(c) The design of lots in residential developments shall take into consideration topography, privacy, orientation, drainage, and aesthetics.

(4) Manufacturing and commercial development design. Manufacturing and commercial development shall be designed according to similar principles governing the design of residential developments. Buildings shall be located according to topography, with environmentally sensitive areas avoided to the maximum extent practicable. Factors such as drainage, noise, odor, surrounding land uses and sufficient access shall be considered.

(5) Circulation system design. Road systems shall be designed to permit the safe, efficient and orderly movement of traffic; to meet the needs of the present and future population served; to have a simple and logical pattern; to respect natural features and topography; and to present an attractive roadscape.

(6) The plat review process shall also include evidence of the legal formation of a property owners association to be charged with the minimum responsibility for maintenance of the private road. Such legal documentation shall be recorded and referenced as an attachment to the final plat.

Sec. 7-34. - Lot design standards.

All lots hereafter established in connection with the development of a subdivision shall comply with the following design standards:

(1) Lot lines. Insofar as practicable, side lot lines shall be perpendicular to or radial to roadways.

(2) Jurisdictional limits and lot lines. Lots shall not be divided by preexisting city or county boundary lines.

(3) Lot access. Each lot or parcel created shall have direct abutting access to an approved public or private road. Each lot must front for at least 50 feet upon an approved road. Construction and/or maintenance of driveways connecting to the public road right-of-way or to the private road shall be the sole responsibility of the lot or parcel owner.

(4) Building setback lines. Refer to the lot definition in the Cohutta Zoning Code

(5) Adequate building sites. Each lot shall contain an adequate building site not subject to flooding and outside the limits of any existing easements or building setback lines required by this chapter and any existing Code, as is appropriate.

(7) Double and/or reverse frontage lots. Double and reverse frontage lots shall be prohibited except where essential to provide separation of residential development from traffic arteries or to overcome specific disadvantages of topography, orientation, and property size. A planted screen reservation of at least five feet, and across which there shall be no right of access, may be required along the line of lots abutting such traffic arterials or other disadvantageous use.

(8) Corner lots. Corner lots shall be sufficiently large to permit the location of structures so as to conform to the minimum setback requirement upon both roads. Corner lot lines at road intersections shall have a minimum radii of 20 feet.

(9) Lot remnants. Lot remnants, except those in excess of three acres created in connection with a subdivision, shall be prohibited. Such remnant areas shall be added to adjacent lots or shall be set aside as green space with permanent conservation easements, rather than to remain as unusable parcels.

(10) Easements. Easements shall be provided in subdivisions for the following purposes:

a. Utility easements. When necessary and desirable to locate public utility lines in other than road rights-of-way, easements shall be shown upon the plat for such purposes. Such easements shall be not less than 15 feet in width and, where possible, shall be centered upon rear or side lot lines.

b. Watercourse and drainage easements. Where a proposed subdivision is traversed by a watercourse, drainage way, or stream, appropriate provisions shall be made to accommodate stormwater and drainage through and from the proposed subdivision. Such easement shall conform substantially with the lines of said watercourse and be of sufficient width or construction.

(11) Lot depth. Residential lot depth shall not be less than 120 feet or more than four times the lot width at the building line, unless approved by the planning commission after considering topographic circumstances or environmental factors.

(12)—(14) Reserved.

(15)

Minimum lot dimensions and area. The minimum lot area and the minimum lot width are set forth in Lot definition in the Cohutta Zoning Code.

All roads, whether public or private, which shall hereafter be established in connection with the development of a major subdivision shall comply with the Whitfield County Site Design Code.

(1) Access to arterials and collectors. Where a subdivision borders upon or contains an existing or proposed arterial or collector route, as defined upon the Georgia Department of Transportation Functional Classification Map, it may be required that access to such road be limited by:

- a. The subdivision of lots so as to back on the arterial or collector road and front on a parallel local road;
- b. A series of cul-de-sacs, U-shaped roads, or short loops entered from and designed generally at right angles to such a parallel road, with the rear lines of their terminal lots backing onto the arterial or collector road; or
- c. A frontage road.

(2) Reserve strips. The creation of reserve strips adjacent to a proposed road in such a manner as to deny access from adjacent property to such road shall generally not be permitted. However, in extraordinary circumstances, The Cohutta Zoning and Appeals Board may allow creation of a reserve strip to enable a more appropriate pattern of lots or roads. A notation to this effect shall be entered upon the final plat or approved as an auxiliary instrument attached thereto.

(3) Arrangement of continuing and dead-end roads. Temporary or permanent dead-end roads shall be designed as follows:

a. Arrangement of continuing roads. The arrangement of roads shall provide for the continuation of arterial and/or collector roads between adjacent properties when such continuation is necessary for convenient movements of traffic, effective fire protection, efficient provision of utilities, and when such continuation is in accordance with the arterial and/or collector road or road plan. If the adjacent property is undeveloped and the road must be a dead-end road temporarily, the right-of-way shall be extended to the property line. A temporary cul-de-sac, temporary "T", or "Y"-shaped turnabout shall be provided on all temporary dead-end roads as required in the following turnabout standards, with a notation on the subdivision plat that land outside the normal road right-of-way shall revert to abutting property owners whenever the road is continued.

b. Dead-end roads. Where a road does not extend beyond the boundary of the subdivision and its continuation is not required by The Cohutta Zoning and Appeals Board for access to adjoining property, its terminus shall normally not be nearer to such boundary than 50 feet. However, The Cohutta Zoning and Appeals Board may require the reservation of an appropriate easement to accommodate drainage facilities, pedestrian traffic, or utilities. A cul-de-sac turnabout shall be provided at the end of a dead-end road in accordance with the Whitfield County Site Design Code.

(4) Intersections. Intersections of new roads in a subdivision shall comply with the following standards:

a. Roads shall intersect as nearly as possible at right angles. A proposed intersection of two roads at an angle of less than 75 degrees shall not be permitted. An oblique road should be curved approaching an intersection and should be approximately at right angles for at least 100 feet therefrom. Not more than two roads shall intersect at any one point unless approved by The Cohutta Zoning and Appeals Board.

- b. Proposed new intersections along one side of an existing road shall coincide, wherever practicable, with any existing intersections on the opposite side of such road. Where roads intersect arterial or collector routes, their alignment shall be continuous as specified in the Whitfield County Site Design Code.
 - c. Minimum curve radius at the intersection of two local roads shall be specified as indicated in the Whitfield County Site Design Code. Alley intersections and abrupt changes in alignment within a block shall have the corners cut off in accordance with standard engineering practice to permit safe vehicular movement.
 - d. Intersections shall be designed with flat grade wherever practical. In rolling areas, at the approach to an intersection, a leveling area shall be provided as specified in the Whitfield County Site Design Code.
- (5) Additional width on existing roads. In subdivisions which adjoin existing roads, the subdivider shall dedicate additional right-of-way to meet the minimum road width requirements as follows:
- a. The entire right-of-way shall be provided where any part of the subdivision is on both sides of the road.
 - b. When the subdivision is located on one side of an existing road, one-half of the required right-of-way measured from the center line of the existing roadway, shall be provided.
- (6) Road names. Roads which are extensions of or in alignment with existing named roads shall bear that name. The names of new roads shall be subject to the approval of the Cohutta Zoning and Appeals Board and shall not duplicate or be similar in sound to existing names irrespective of the use of the suffix road, avenue, circle, way, boulevard, drive, place, or court, etc.
- (7) Railroads and limited access highways. Railroad rights-of-way and limited access highways, where located so as to affect the subdivision of adjoining lands, shall be treated as follows:
- a. In residential areas, a buffer strip at least 25 feet in depth in addition to the normally required depth of the lot may be required adjacent to a railroad right-of-way or limited access highway. This strip shall be part of the platted lots and shall be designated upon the plat: "This strip is reserved for buffers; the placement of structures hereon is prohibited."
 - b. In manufacturing or commercial areas, the nearest road extending parallel or approximately parallel to the railroad or limited access highway shall, wherever practical, be at a sufficient distance therefrom to ensure suitable depth of manufacturing or commercial sites.
 - c. Roads parallel to a railroad or limited access highway, when intersecting a road which crosses the railroad at grade, shall, to the extent practical, be at a distance of at least feet from the railroad right-of-way. Such distance shall be determined with due consideration of the minimum distance required for future separation of grades by means of appropriate approach gradients.
- (8) Bridges. The sharing of expenses for the construction of bridges not of primary benefit to the developer/sub-divider, as determined by the Town Council, may be fixed by special agreement between Whitfield County and the developer/sub-divider. The cost shall be prorated to the developer/sub-divider as to the percentage of his development so served. The engineering design of all bridges shall be reviewed and approved by The Cohutta Zoning and Appeals Board and the Whitfield County Engineer.
- (9) Special purpose roads.
- a. Half roads. Half roads are prohibited. Whenever a road is planned adjacent to the proposed lot or parcel boundary, the entire road right-of-way shall be platted within the proposed subdivision.
 - b. Split-level roads. Roads, which are constructed so as to have two traffic ways, each at a different level within the same right-of-way, shall provide a minimum right-of-way of 25 feet per

traffic way and such additional right-of-way as necessary to meet the requirements of subsection [7-36\(5\)](#), and a minimum paved traffic surface of 15 feet. The slope between the two traffic ways shall be not less than two to one.

(10) Road name signs. The developer shall be fully responsible for payment to Whitfield County for the installation of all road name signs, traffic control signs and any other signs as specified in the Whitfield County Site Design Code.

Sec. 7-36. - Stormwater drainage.

(1) The sub-divider/developer shall provide adequate stormwater drainage in accordance with these regulations. The sub-divider/developer shall also provide for adequate drainage all surface water drainage.

(2) The drainage system for a subdivision, residential, commercial, or manufacturing, shall be designed in accordance with sound engineering principles and procedures such that all marketable lots or parcels upon the plat are positively drained.

(3) The drainage system shall be designed to accommodate drainage from adjacent lots or parcels which naturally drain to or through the lands being subdivided. The drainage system shall be designed such that it does not affect the natural drainage onto adjacent parcels unless an agreement is obtained by the developer/sub-divider from the owner of such adjacent parcels. A copy of any such agreement shall be submitted to The Cohutta Zoning and Appeals Board.

(4) Drainage facilities which are designed to accommodate flowing waters shall be hydraulically designed to function when subjected to the maximum flow rate which may be expected to occur no more often than once in ten years.

(5) Drainage facilities which are designed to handle water accumulations shall be designed to accommodate the maximum water level which may be expected to occur no more often than once in 25 years. Necessary drainage facilities including, but not limited to, culverts, rights-of-way, and easements, shall be offered for dedication to Whitfield County.

(6) All drainage systems discharging into any state waters, including but not limited to wetlands, as determined by the U.S. Army Corps of Engineers, shall pass through an approved sedimentation and detention pond prior to such discharge.

(7) A master drainage plan shall be submitted to The Cohutta Zoning and Appeals Board simultaneously with the submittal of a preliminary plat.

Sec. 7-37. - Utilities.

(1) Water supply and sanitary sewer. The public-governmental water system and sanitary sewer design, materials and construction methods shall be approved by Dalton Utilities, or other applicable governmental authority having jurisdiction. Where a public-governmental water supply and/or sanitary sewer system is available within 200 feet of any portion of any lot or parcel within the subdivision, all subdivisions and/or developments shall connect to such systems and shall provide every lot or parcel therein with public water and/or sewer as available.

(2) Water mains. When a water main is to be located in a road right-of-way and it will be necessary to cut into the road surface to serve the abutting lots, a connection shall be stubbed out to the property line to serve each lot before the road base is applied.

(3) Natural gas. When natural gas lines are located in a road right-of-way and it will be necessary to cut into the road surface to serve the abutting lots, a connection shall be stubbed out to the property line to serve each lot prior to applying the road base.

Sec. 7-38. - **Improvement maintenance security.** Developers shall submit necessary security to Whitfield County to properly secure the road improvements going to Whitfield County.

Sec. 7-39. - **Soil erosion and sedimentation control.**

- (1) Prior to any land disturbance activities which require a land-disturbance permit, a Master Erosion Control Plan for the entire subdivision must be submitted to the Erosion Control Party designated by the Town (Town or EPD or Whitfield County).
- (2) The Designated Erosion Control Party, prior to the initial disturbance, must approve any land disturbance activities.
- (3) Best Management Practices (or Erosion and Sediment Control Measures and Practices) shall be implemented prior to, or concurrent with, any land disturbance activity.

Sec. 7-40-**Subdivision Covenants**

- (1) Each subdivision shall have filed covenants which bind lot purchases.
- (2) Each subdivision covenant shall name an architectural control committee to monitor development in the subdivision, unless waived by the Town.
- (3) Each Architectural Control Committee shall, upon failure of other appointment, designate The Cohutta Zoning and Appeals Board as the Architectural Control Committee and give it power to designate subdivision owners as substitute members.

Initially Adopted
Amended in 3/4/2014 Code
Amended in 8/1/2023 Code

CHAPTER EIGHT

ZONING PROCEDURES AND STANDARDS CODE

An Code of the Town of Cohutta, Georgia establishing minimum procedural regulations, notice of public hearings, conduct of public hearings, standards, and factors, governing the zoning power of the Town of Cohutta, Georgia, and substituting this Code in lieu of the limited instructions in the Cohutta Planning and Land Use Code, as of the effective date hereof, and for other purposes.

8.1.0 Preamble and Enactment Clause. For the purpose of insuring that due process is afforded to the general public when the Town of Cohutta, Georgia regulates the use of property through the exercise of zoning power, and pursuant to the authority and mandates of the Constitution of the State of Georgia of 1983, Article IX, Section II, Paragraph IV and Chapter Sixty-Six of Title Thirty-Six of the Official Code of Georgia Annotated (O.C.G.A. Section 36-66-1 et. seq.), the Town of Cohutta, Georgia does hereby adopt, order, and enact into law this Code. Procedures may be simplified by agreement of the parties.

8.2.0 Definitions. When used in this Article, the following terms shall have the definitions and meaning hereafter set forth, alphabetically:

Planning Commission. The Cohutta Zoning and Appeals Board or any other agency hereafter designated by the governing authority of the Town of Cohutta which is authorized to investigate any proposal for a zoning decision properly coming before it, to conduct any public hearings necessary for the exercise of any zoning power, and to provide an advisory recommendation to the governing authority concerning the proposed zoning decision.

Territorial Boundaries. The incorporated areas of the Town of Cohutta, State of Georgia.

Variance (A Conditional Use). A use not otherwise approved within a zone district which after hearing and general consideration of its compatibility with the other uses allowed in the district is allowed conditionally.

Zoning. The power of the Town of Cohutta to provide within its territorial boundaries for the zoning and districting of property for various uses and the prohibition of other or different uses within such zones or districts and for the regulation of development and the improvement of real estate within such zones or districts in accordance with the uses of property for which said zones or districts were established.

Zoning Decision. The final legislative action by the Town of Cohutta which results in:

- a) the adoption of a Zoning Code;
- b) the adoption of an amendment to a Zoning Code which changes the text of the Zoning Code;
- c) the adoption of an amendment to a Zoning Code which rezones property from one zoning classification to another;
- d) the adoption of an amendment to a Zoning Code which zones property that is annexed to the territorial boundaries of the Town of Cohutta, State of Georgia; or
- e) the approval of a variance (conditional use of property).

Zoning Code. An Code for the Town of Cohutta establishing procedures and zones or districts within its territorial boundaries which regulate the uses and development standards of property within such zones or districts. The term also includes the Zoning Map (as hereinafter amended) adopted in conjunction with the Zoning Code of the Town of Cohutta, which shows the zones and districts and zoning classification of property herein.

8.3.0 Adoption of the Zoning Code. Initial adoption of the Zoning Code by the Town of Cohutta, State of Georgia shall comply with the following Sections of this Code:

Section 8.5.1 regarding written notice;
 Section 8.6.0 regarding a public hearing;
 Section 8.7.0 regarding conduct of hearings;
 Section 8.8.0 regarding zoning standards; and
 Section 8.9.0 regarding official action.

8.4.0 Amendment. This Code and the Zoning Code of Cohutta, Georgia may be amended from time to time subject to the following conditions:

8.4.1 No Amendment shall become effective unless it shall have been initiated by either the Mayor and Council of the Town of Cohutta, the Cohutta Zoning and Appeals Board, the property owner(s) or an individual who has the owner(s)' power of attorney authorizing him/her to act, or a request signed by sixty (60) percent of the property owners who hold not less than sixty (60) percent of the affected land; or valid annexation procedures as defined by Chapter 36 of Title 36 of the Official Code of Georgia Annotated. (O.C.G.A. 36-36-1 et. seq.).

8.4.2 All proposed amendments or conditional use reviews shall be initiated by an application filed with the Zoning Administrator on forms provided by the Town of Cohutta.

8.5.0 Public Notice. Notice of the public hearing on a proposed amendment to this Code or for a proposed zoning decision shall be given as hereinafter set forth:

8.5.1 At least fifteen (15), but not more than forty-five (45) days prior to the date set for the public hearing, a written notice shall be published by the Town of Cohutta setting forth the time, place, and purpose of the hearing.

8.5.2 In addition to the requirements of subsection 5.1, if the proposed amendment calls for a zoning decision for the 1) rezoning of property; 2) annexation to the territorial boundaries of the Town of Cohutta; or 3) approval of a variance (conditional use permit), and the proposed amendment is initiated by a person other than the Mayor and Council of the Town of Cohutta, thirty (30) day notice under state law shall be given prior to any hearing.

8.5.2-1 The published notice shall include the location of the property and state the present zoning classification of the property (if applicable) and the proposed zoning classification of the property (if applicable); and the proposed use requiring a variance (conditional use) review (if applicable); and

8.5.2-2 A sign shall be posted in a conspicuous location on the property that is the subject of the zoning decision setting forth the time, place and purpose of the public hearing, the present zoning classification of the property, and the proposed zoning classification of the property (if applicable), and (if applicable) the proposed use requiring a special use (conditional use) review. Acts of vandalism or natural occurrences limiting the effectiveness of notice by a sign posted on the property shall not invalidate any proceedings or action taken on the proposed amendment.

8.5.3 If the zoning decision is for property to be annexed into the Town of Cohutta, then:

8.5.3-1 The Town of Cohutta shall complete the procedures required by this chapter for such zoning, except for the final vote of the municipal governing authority, prior to adoption of the annexation Code or resolution or the effective date of any local Act but no sooner than the date the notice of the proposed annexation is provided to the governing authority of the county as required under O.C.G.A. 36-36-6;

8.5.3-2 In addition to the notice requirements of Section 5.3-1, the Town of Cohutta shall provide notice of the hearing as required under the provisions of Section 5.0, herein; and

8.5.3-3 The hearing required by Section 3.0 of this Code shall be conducted prior to the annexation of the subject property into the Town of Cohutta;

8.5.3-4 The zoning classification approved by the Town of Cohutta following the hearing required herein, shall become effective on the later of: a) the date the zoning is approved by the Town of Cohutta; or b) the date that the annexation becomes effective pursuant to O.C.G.A. 36-36-2.

8.6.0 Public Hearing.

A public hearing on any proposed amendment to this Code or the Zoning Code of Cohutta shall be held before the Cohutta Zoning and Appeals Board on behalf of the Mayor and Council of Cohutta. A public hearing shall be conducted at the time and place specified by the Planning Commission and as set forth in the public notice described in Section 5.0 of this Article. The purpose of such hearing shall be to present to the public the proposed zoning amendment, and to receive comments thereon from the public. The Cohutta Zoning and Appeals Board shall consider the proceedings and comments of such hearing in making any zoning recommendation on the proposed zoning amendment. The Cohutta Zoning and Appeals Board shall prescribe the rules of order for its deliberations on matters with which it is charged under this Code, and said rules of order shall be consistent with the general requirements and purposes set forth in this Code and other laws of the State of Georgia concerning conduct of proceedings of public commissions, bodies, and governmental units.

8.7.0 Conduct of Hearings. If reasonably possible, the Chairman of the Cohutta Zoning and Appeals Board shall offer as much presentation time as is deemed necessary by the proponents or opponents of any matter. The following policies and procedures shall govern the conduct of public hearings under this Code:

8.7.1 The Chairman shall allow a minimum time period to be no less than ten (10) minutes per side (proponents and opponents) for the presentation of data, evidence, and opinion under state law, but may conclude earlier by agreement. The purpose is for all sides to be heard.

8.7.2 The Chairman or his/her delegate shall determine whether any application for zoning amendment is properly filed and the type of zoning decision for which the proposed amendment calls. The Chairman or his/her delegate shall confirm the giving of proper public notice of the hearing on the proposed zoning amendment in accordance with this Code.

8.7.3 A failure of the applicant or his/her representative holding power-of-attorney to be present for the hearing shall allow termination of any proceedings on the amendment upon vote of the Cohutta Zoning and Appeals Board and an adverse recommendation on the proposed amendment shall be forwarded to the Mayor and Council of the Town of Cohutta, unless the applicant can show just cause by reason of health emergency, in which case the application may be reopened by the Town without waiting six months.

8.7.4 The Chairman or his/her delegate shall enter into the record after the presentation of the applicant or his/her/its representative any written comment, petition, or similar written statement received by the Zoning and Appeals Board prior to the hearing and the same shall be considered by the Mayor and Council with comments and proceedings of the hearing in making any zoning decision concerning the proposed zoning amendment.

8.7.5 Any remark amounting to attack on the character or personal integrity of another individual, or comment not factually supportable, or comment in the form of an emotional outburst, shall be non-germane to the purpose of any hearing and may be ruled out of order.

8.7.6 When proponents and opponents of the proposed zoning amendment or conditional use have been heard in accordance with the foregoing procedures, the Chairman or his/her delegate shall declare the public hearing closed. No further public hearing on the proposed zoning amendment shall be required prior to the final zoning decision.

8.8.0 Zoning Standards. Exercise of the zoning power of the Town of Cohutta shall constitute an effort to balance the interest of the community in promoting the public health, safety, morality, or general welfare against the right of property owners to the unrestricted use of their property. The following standards are determined to be relevant in balancing the interest in promoting the public health, safety, morality, or general welfare against the right to unrestricted use of the property.

8.8.1 Standards:

8.8.1-1 Whether the proposed amendment would allow a use that is generally suitable for the site compared to other possible uses and the uses and zoning of adjacent and nearby properties;

8.8.1-2 Whether the proposed amendment would adversely affect the economic value or the uses of adjacent and nearby properties;

8.8.1-3 Whether the property to be affected by the proposed amendment can be used as currently zoned;

8.8.1-4 Whether the proposed amendment, if adopted, would result in a use which would or could cause an excessive or burdensome use of existing streets, schools, sewers, water resources, police and fire protection, or other utilities;

8.8.1-5 Whether the subject property under the proposed amendment is in conformity with the policies and intent of the adopted Joint Comprehensive Plan for Whitfield County, and the Cities of Cohutta, Tunnel Hill, and Dalton as amended.

8.8.1-6 Whether there are other conditions or transitional patterns affecting the use and development of the subject property, if applicable, which give grounds for either approval or disapproval of the proposed amendment.

8.8.2 The Town of Cohutta shall consider any proposed zoning amendment properly initiated in light of the standards set forth in Section 8.1. In evaluating the standards set forth in Section 8.1, it shall be the policy of the Town of Cohutta to exercise its zoning power in conformity with

the policy and intent of the Joint Comprehensive Plan for Whitfield County, and the Cities of Cohutta, Tunnel Hill, and Dalton as amended insofar as that plan is current in its application to the specific property that is the subject of the proposed amendment. It is further the policy of the Town of Cohutta to exercise the zoning power for purposes of assuring the compatibility of the use of adjacent and nearby properties and the preservation of the economic value of adjacent and nearby properties while enabling a reasonable use of all property.

8.8.3 Variance (Conditional Use). The granting of a variance or conditional use does not constitute a permanent change in zoning or use. The conditional use can be forfeited if it does not meet the review criteria. To ameliorate the impact of a conditional use on surrounding property, no conditional use may be granted without special provisions for conditions, criteria, standards, and/or requirements as to the particular use. An applicant shall have the burden of meeting the conditional use criteria. A permit for a conditional use (special use) shall be approved or denied, provided that due consideration is given to the following objective criteria as applicable to the specific use proposed at the specific site requested:

8.8.3.1 Whether the proposed conditional use, if adopted, would result in a use which would or could cause an excessive or burdensome use of existing streets, schools, sewers, water resources, police and fire protection, or other utilities;

;

8.8.3-2 Whether the conditional use would be generally suitable for the site compared to other possible uses and the uses and zoning of adjacent and nearby properties.;

8.8.3-3 Whether refuse areas, parking, or loading/service areas on the property will be located or screened to protect other properties in the vicinity from noise, light, glare, or odors; and

8.8.3-4 Whether the height, size, or location on the building or other structures on the property are compatible with the height, size, or location of buildings or other structures on neighboring properties.

8.8.3-5 Whether the size of the lot is sufficient for the proposed use, accounting for growth opportunity that will not infringe upon the requirements of the Zoning Code nor infringe upon the relationship to surrounding land.

8.8.3-6 And satisfying the foregoing criteria, whether the benefits of and need for the proposed use are greater than any possible depreciating effects and damages to the neighboring properties.

8.9.0 Official Action. Consideration of any proposed zoning decision properly initiated and subsequent to the public hearing shall be as follows:

8.9.1 The Cohutta Zoning and Appeals Board shall provide an evaluation of the impacted standards set forth in Section 8.1 (or Section 8.3, as applicable) and describe how the recommendation is considered to be consistent with the exercise of zoning power set forth in Section 8.2. A summary of the proceedings of the public hearing shall accompany the Planning Commission's written recommendation to the Mayor and Council.

8.9.2 Upon conclusion of the public hearing, the The Cohutta Zoning and Appeals Board may approve, disapprove, or table the proposed recommended zoning decision. The Zoning and Appeals Board may recommend and/or the Mayor and Council may amend an application prior to acting thereon: 1) to reduce the size of the area affected by the amendment; 2) to change the requested zone district to a less intensive or lower density district than the requested zone; 3) to change a map change to a variance request or to make conditional or temporary any use; 4) to specify conditions that are deemed relevant to the public interest regarding site plans, ingress/egress, buffers, and infrastructure related to drainage, utilities, traffic, and other matters. The foregoing powers are not in limitation of any other zoning powers accorded the Town of Cohutta under the laws of the State of Georgia. If the Cohutta Zoning and Appeals Board fails to recommend action on the zoning decision in writing within forty-five (45) days of the close of the public hearing and the applicant does not agree in writing to an extension of the time limit, the applicant may take the proposed zoning decision to the Mayor and Council without a Planning Commission recommendation.

If consideration of the proposed zoning amendment is tabled, it shall be reconsidered by the Planning Commission not later than 30 days from the tabling. In any event, the Commission shall have forty-five (45) days from the date of the close of the public hearing before the Planning Commission to review and submit its written recommendation to the Mayor and Council of Cohutta.. Once an application for a zoning decision has been filed and the Planning Commission holds the public hearing, the Planning Commission shall make a recommendation on the proposed zoning decision and the Mayor and Council shall take a final action, regardless of whether or not the applicant withdraws his/her/its application for the proposed amendment.

8.9.3 The authority of the Zoning and Appeals Board in any zoning decision shall be advisory only. Any zoning decision shall be made by the Mayor and Council of the Town of Cohutta, who shall either approve or disapprove the proposed zoning amendment and who shall be entitled to participate in any zoning hearing. Any approval of a proposed zoning decision may be subject to any and all lawful conditions determined by the governing authority that are attached to the Code approving the proposed zoning decision.

8.9.4 If the Mayor and Council of the Town of Cohutta shall take official action defeating a proposed zoning amendment which seeks to rezone property or approve a conditional (special) use, the same property may not be considered again for rezoning or conditional (special) use until the expiration of twelve (12) months from the date of the official action of the Mayor and Council.

8.10.0 Distribution. Copies of this Zoning Procedures and Standards Code, as amended, shall be printed and copies thereof made available for distribution to the general public in the offices of the Zoning Administrator of the Town of Cohutta, Georgia. Distribution to the general public shall be upon request of a member of the general public who shall be entitled to one copy. The Zoning Administrator of the Town of Cohutta, Georgia, is authorized to print copies of this Code and any amendments thereto from time to time for purposes of meeting distribution

requirements of "The Zoning Procedures Law" (Title 36, Chapter 66 of the Official Code of Georgia Annotated).

8.11.0 Legal Status.

8.11.1 Severability. Should any section or provision of this/her Code be declared by a court of competent jurisdiction to be unconstitutional or invalid, such declaration shall not affect the validity of the Code as a whole or any part thereof other than the part so declared to be unconstitutional or invalid.

8.11.2 Repeal of Conflicting Resolutions and Codes. All resolutions and Codes and parts of resolutions and Codes in conflict herewith are repealed.

8.11.3

8.11.3 Effective Date. This Code shall take effect and be enforced from and after its adoption, the public welfare of the Town of Cohutta requiring it.

Initially Adopted 11/12/2002
Amended in 3/4/2014 Code
Amended 4/12/22
Amended in 8/1/2023 Code

CHAPTER NINE

COHUTTA SIGN CODE

This article sets forth the standards which shall control the number, type, and placement of signs within the Town of Cohutta, upon individual lots, parcels, structures, or accessory structures.

9--1 The Purposes of such standards set forth in this article include the following:

9--1-1 To maintain and to enhance the aesthetic environment and natural beauty of the Town of Cohutta, while balancing those interests with support for positive economic development of the Town of Cohutta;

9--1-2 To maintain and to improve traffic safety;

9--1-3 To minimize potential confusion created as a result of size, location, construction, or manner of display of signs;

9--1-4 To minimize potential adverse effects of signs upon neighboring properties;

9--1-5 To maintain and to enhance the tranquility and compatibility of uses within low density residential areas, while balancing those interests with the rights of such homeowners to communicate freely; and

9--1-6 To encourage the necessary and proper use of signs as a means of effective and constitutionally protected communication.

9--1-7 Exemptions from and applicability of Chapter.

Nothing in this Chapter shall apply to any notice required by this Code or other Codes of the City or legal notices of public officers and attorneys, posted in the manner and places provided by law, or to the right of any newspaper to distribute its paper throughout the City.

Nothing in this Chapter shall affect the provisions of the Planning and Land Use Code, as amended or the Subdivision Code as amended, and the provisions of said Codes shall have priority over the provisions of this Chapter.

9--2 Definitions.

For purposes of this article, the following terms shall be defined as follows:

Abandoned sign: A sign which previously served a business or operation which is dilapidated or in such condition as to create a hazard, nuisance, or to be unsafe, as determined by the Mayor of the Town of Cohutta or designee.

Awning: A roof-like cover which projects from the wall of a structure for the purpose of shielding a doorway, walkway, or window from the elements. Awnings are often made of fabric or flexible plastic supported by a rigid frame, and may be retracted into the face of the structure.

Awning or canopy sign: See building sign.

Banner: A sign other than an official flag, made of paper, cloth, thin plastic, or similar lightweight material and usually containing a message or logo.

Billboard: Due to the close proximity to residential areas in Cohutta, Billboards are not allowed for any use. A Billboard is a single or multi-faced pole sign, with total sign face area with outside measurements of no more than 14 feet in height by 48 feet in length, with or without trim, which is visible or is intended to be visible from vehicular traffic. Billboards may also be referred to as outdoor advertising signs or off-premises advertising synonymously as set forth in the Georgia Outdoor Advertising Act, OCGA § 32-6-70, et seq.

Building sign: A sign which, in any manner, is fastened to, projects from, or is placed or painted upon the exterior wall, window, door, or roof of a building. The term "building sign" includes, but is not limited to, the following:

(a) ***Awning or canopy sign:*** A sign imposed or painted upon or suspended beneath any awning or canopy.

(b) ***Facade or wall sign:*** A sign which is fastened directly to or is placed or painted directly upon the exterior wall of a building and extends from the surface of the wall no more than 18 inches.

(c) ***Incidental sign:*** An announcement or other display providing information about the occupancy or conduct of business permitted on a premises, such as logos of credit cards accepted on the premises, hours of operation, a "closed" or "open" sign, emergency contact person name and telephone number, street address, "help wanted," "no loitering or solicitations," security system notices, notices required by law, and similar information.

(d) ***Projecting sign:*** A sign affixed to a wall and extending more than 18 inches from the surface of such wall, usually perpendicular to the wall surface.

(e) ***Roof sign:*** A sign that is mounted on, applied to, or otherwise structurally supported by the roof of a building.

(f) ***Window sign:*** A sign that is placed on or behind a window pane and intended to be viewed from outside the building.

Construction sign: A sign identifying the contractors, engineers, architects or financial institutions involved in the building, construction, or development of a lot or parcel.

Electronic message board: A type of sign which presents its message through illumination of flashing, intermittent, or moving lights forming the letter, numbers, or symbols of the message, whether or not the message appears to move across the sign face.

Facade sign: See building sign.

Freestanding sign: A sign permanently attached to the ground which is wholly independent of any other structure. The term freestanding sign shall not include billboard. The term freestanding sign shall include, but is not limited to, the following:

(a) **Pole sign** (also referred to synonymously as *pylon sign*): A sign mounted on a freestanding pole or similar support with the bottom of the sign over three feet above the ground.

(b) **Ground sign:** A sign, other than a pole sign, for which the bottom of the sign face is not more than three feet above ground.

(c) **Inflatable sign:** A sign which is intended to be expanded by air or other gas for its proper display or support.

Ground sign: See freestanding sign.

Holiday decorations: Signs and/or displays erected on a seasonal basis in observance of religious, national, state, or local holidays, and which are not intended to be permanent in nature.

Incidental sign: See building sign.

Inflatable sign: See freestanding sign.

Multi-faced sign: A sign structure which contains two or more sign face surfaces located on different sides of the structure and are separated from each other at their nearest point by an angle not greater than 45 degrees. No side by side sign faces are permitted hereunder.

Official signs: Signs placed by a governmental body, governmental agency, or public authority having jurisdiction to do so, such as traffic signs, signals, or regulatory devices or warnings; official emblems, public notices, or official instruments; signs of historical interest; signs designating special events or areas of architectural or historic significance. Such signs are authorized within all rights-of-way or other properties controlled by such governmental body, agency, or authority.

Pennant: Any lightweight plastic, fabric, or similar material suspended from a rope, wire, or string, designed to move in the wind. The term pennant shall not include a banner or an official or personal flag, as regulated herein below.

Pole sign: See freestanding sign.

Portable sign: Any sign designed and conceived to be easily moveable by not more than two persons from location to location, including, but not limited to, AA frame@ signs, AT@ signs, and signs on wheels.

Projecting sign: See building sign.

Property address sign: A sign limited in content to the owner's name, road name, and address number of the lot or parcel to which it is affixed, provided that such sign shall consist of lettering not larger than four inches in height on a building or two inches on a mailbox.

Roof sign: See building sign.

Sign: The term "sign" shall mean any structure, display, or device used to advertise, identify, direct, or attract attention to a business, institution, organization, person, idea, product, service.

Sign face: That portion of the surface of a sign structure where words, letters, figures, symbols, logos, fixtures, colors, or other design elements, including, but not limited to, trim or borders, are or may be located in order to convey the message, idea, or intent for which the sign has been erected or placed. The sign face may be composed of two or more modules on the same surface which are separated or surrounded by portions of a sign structure not intended to contain any advertising message or idea and are purely structural or decorative in nature. No side-by-side sign faces shall be permitted.

Sign face module: Each portion or unit of a sign face which is clearly separable from other such units by virtue of the expression of a complete thought, message, logo, or idea.

Sign height: The vertical distance to the highest point of a sign structure, as measured from the average grade at the base of the structure or directly below a projecting structure. If the base of the sign is below the grade of the nearest adjacent roadway, the sign height shall be measured from the grade of the nearest adjacent roadway.

Sound or smoke emitting sign: A sign that emits or utilizes in any manner any sound capable of being detected on any public road way by a person with normal hearing; or a sign which emits smoke, vapor, particles, or odors.

Streamer: See pennant.

Subdivision entrance sign: A sign located at a discernible entrance into a particular residential subdivision, apartment or condominium development, or other multi-family residential development.

Tenant: One who possesses or occupies land or buildings by title, pursuant to a lease, or through payment of rent; or, an occupant, inhabitant, or dweller of a place.

Wall sign: See building sign.

Window sign: See building sign.

9--3 Prohibited signs and activities regarding signage. The following types of signs and activities shall be prohibited:

- (a) No sign shall be erected or maintained where, by reason of its position, illumination, size, shape or color, it may obstruct the view of oncoming vehicles or impair, obscure, interfere with the view of, or be confused with any authorized traffic control sign, signal, or device.
- (b) No sign, including an electronic message board, shall flash in any manner, except to the extent an electronic message changes messages.
- (c) No sign shall contain any imitation of any official governmental traffic control sign, signal, or emergency vehicle device.
- (d) No part of any sign shall be located in, over, or project into a public right-of-way, except after notice, public hearing and granted Town Council variance.
- (e) No sign shall be erected, located, or maintained in such a manner as to interfere with safe and free ingress and egress of any door, fire escape, emergency exit, driveway, street, or roadway.
- (f) No sign shall interfere with governmental utilities, such as water lines, mains and hydrants, electricity, and communications equipment or lines, nor interfere with natural or manmade storm water drainage facilities, if any.
- (g) No sign shall be painted on or attached to any tree, utility pole, utility post, retaining wall, rock, vehicle or other natural or similar manmade feature except after notice, public hearing and granted Town Council variance.
- (h) No sign shall be erected upon any lot or parcel without the express permission of the owner to do so.
- (i) No internally illuminated freestanding sign shall be erected within 200 feet of any dwelling located in a residential area except after notice, public hearing and granted Town Council variance.
- (j) No sign shall be erected which advertises or promotes any unlawful activity or product except to the extent the sign primarily seeks a change in the law.
- (k) No electronic message board shall be erected in residential districts except after notice, public hearing and granted Town Council variance.
- (l) Abandoned signs are prohibited.
- (m) Signs within 300 feet of any officially designated historical site or monument, except signs pertaining to that particular site or monument, are prohibited.

- (n) Pennants or streamers are prohibited.
- (o) Sound or smoke emitting signs are prohibited.
- (p) Signs which contain words, pictures, or statements which are obscene, as defined by the Official Code of Georgia Annotated § 16-12-80;
- (q) Billboards are prohibited.

9--4 *Exempt signs.* The following types of signs shall be exempt from the restrictions imposed by this article:

- (a) Official signs.
- (b) Property address signs no larger than 2 square feet without notice, public hearing and variance.
- (c) Holiday decorations in season.
- (d) Signs upon private property which prohibit trespassing, hunting, and/or fishing; which provide warnings to employees; or which prohibit smoking.
- (e) Subdivision entrance signs.

9--5 *Variance requirements:*

- (a) Except for banners, no sign over 16 square feet is permitted, absent notice, submission of site plans, public hearing and a granted Town Council variance.
- (b) All signs for which a Sign Variance is permitted shall be constructed and maintained in conformance with any other applicable federal, state, or local law or Code.
- (c) Site plans shall be required for the issuance of a variance for a sign, and unless expressly relieved by the Cohutta Town Council, the plans shall be certified as to conformance with all applicable structural and wind-load resistance standards.
- (d) All signs involving internal lighting or other electrical devices or circuits shall display a label certifying it as being approved by the Underwriter's Laboratories, Inc. No electric sign may be installed which is not approved by Underwriters Laboratories, Inc.
- e) Variances from sign regulations.* Variances from the restrictions upon signage for larger signs or signs of a nature requiring special hearing shall be considered by the Cohutta Town Council alone upon such forms as they deem appropriate. Using the policies and goals set forth in the preamble to this Code.

2--6 Sign maintenance. All signs, together with all supports, braces, guys, and anchors shall be kept in good repair and, unless constructed of galvanized or non-corroding metal, shall be given a protective coating as necessary to maintain a clean appearance and safe condition.

2--7 Computation of sign area. In order to determine compliance with the maximum allowable sign areas permitted under this article, the computation of the area of a sign face shall not include the structure, supports or uprights on which the sign face is placed or any portions of a sign structure which are not intended to contain any message or idea and are purely structural in nature.

2--8 Signs not to extend into buffer area. No sign, sign face, nor sign structure shall extend into or over any buffer required by article IX of this Code.

2--9 RESTRICTED SIGNS The following types of signs shall be permitted, pursuant to the restrictions set forth hereunder:

A-Freestanding signs shall be permitted, subject to the following:

General restrictions upon all freestanding signs:

- (a) Freestanding signs shall be located at least ten feet from a side or rear lot line.
- (b) Freestanding sign bases shall be located at least ten feet from any right-of-way line.
- (c) No sign face less than ten feet above the grade of the nearest publicly maintained roadway or in any way obstructing the view of motorists may abut the right-of-way line.

In Residential zoning districts, the following additional restrictions shall apply:

- (1) The sign face area of any freestanding sign within such zoning districts shall not exceed 6 square feet absent variance. However, nothing herein shall restrict or limit the sign face area of a subdivision entrance sign.
- (2) The maximum height of any freestanding sign within such zoning districts shall not exceed four feet.
- (3) Only one freestanding sign per lot or parcel within such zoning districts shall be allowed.

In C-1, C-2 and M-1 districts, only one free standing sign is allowed per lot.

B- Billboards (outdoor advertising signs) Due to the close proximity of residential housing in Cohutta, no Commercial area is suitable for erection of billboards. Any Billboard would reduce property values and livability of the Town. As a result, no Billboards of any type are permissible in the Town.

C- Banners may be attached securely as temporary signs for no more than 15 days.

D- Real estate signs. One real estate sign per lot or parcel or per 500 linear feet of total road frontage (whether a corner lot or not), whichever is greater, may be placed upon a lot or parcel until the property or premises to which the sign refers is sold or leased. Real estate signs shall not exceed six square feet in area in residential zones.

E- Political signs and Special event signs are generally allowed in all zoning districts, subject to the following:

(a) Political signs or special events which are solely intended to influence participation in a particular election or at a particular event or which promote a particular candidate during the pendency of an election season may be placed upon a lot or parcel as of the date of qualification of such candidate or the 30 days prior to an event. Such signs become surplus 24 hours after the event or election in question.

(b) Political signs or signs conveying a particular public point of view which are intended to convey a general political message not specifically related to a particular election may be placed and maintained upon any lot or parcel for as long as the owner thereof desires to express such message; however, such signs remain subject to the size limitations set forth herein.

(c) Political signs or signs conveying a particular public point of view shall not exceed six square feet in area in the residential zones and 16 square feet in the C-1, C-2, and M-1 zones. This does not apply to banners.

(d) Political or Special Event signs for the same business or organization shall not be placed on a property more often than three times per calendar year, nor within 30 days of when the last temporary sign was placed upon the property.

F- Construction signs. One non-illuminated construction sign per road frontage may be placed upon a lot or parcel upon the commencement of construction and shall be removed upon substantial completion of the construction or development project to which it refers.

G- Official or personal flag. Any cloth, nylon, paper, thin plastic, or similar material which is displayed by hanging or flying, representing in whole the officially adopted symbol or emblem of a government, political subdivision, institution, organization, or corporation; or, a flag adopted or flown by a person as a symbol or statement, is permitted.

H- Semi-public use directional sign. A sign erected by a governmental unit or by a private entity which conveys directions to a specific use owned or operated by a non-profit, religious or other institution for the purpose of providing educational, cultural, recreational, religious or social services to the general public is permitted provided that that such signs not be illuminated. All such signs may be erected upon a lot or parcel only with the express permission of the owner of the lot or parcel.

I-Garage sale sign A sign advertising a garage sale (or yard sale) may be erected no more than two days prior to such sale, shall be removed and becomes surplus no later than the day after the last day of the sale, and shall not exceed four square feet in area.

J-Portable sign A sign which is portable is permitted only in the C-1, C-2 or M-1 zoning districts and only if there is no freestanding sign placed upon such lot or parcel. Such signs shall not be allowed to be placed within 100 yards of any road which has been designated as a "State Designated Scenic By-Way". Such sign shall not remain upon the same lot or parcel for more than ten consecutive days.

9-10 Removal of Abandoned and Illegal Signs: Enforcement.

Abandoned signs.

(a) Any sign which provides notice of a special event or of any other temporary purpose which has since occurred or activity or business or service which has ceased operations shall be deemed to have been abandoned and may be removed by The Town of Cohutta.

(b) Any sign which fails to meet the maintenance requirements of this article shall be deemed to be abandoned and subject to removal.

Removal of abandoned signs Any signs abandoned more than 30 days or deemed unsafe may be removed by The Town of Cohutta and all costs charged to the owner of the lot or parcel upon which such sign was located, or the owner of the sign itself.

Violations Any firm, person or corporation who shall do anything prohibited by these regulations as the same exist or as they may hereafter be amended or who shall fail to do anything required by these regulations as they now exist or as they may hereafter be amended is hereby declared to be guilty of a misdemeanor and shall be punished as provided by law. Each day of prohibited use shall constitute a separate offense.

9--11 Unconstitutionality

If any section, subsection, sentence, clause or phrase of this legislation is, for any reason, held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this Code. The Mayor and Council of Cohutta hereby declares that it would have passed this law, and each section, subsection, clause or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses and phrases be declared unconstitutional. To the extent the remaining provisions can by interpretation be legal, the Mayor and Council of Cohutta intend such a legalizing interpretation.

Initially Adopted 3/16/2012
Amended in 3/4/2014 Code
Amended in 8/1/2023 Code

CHAPTER ELEVEN

MT. OLIVET CEMETERY CODE

State law references: Criminal trespass and damage to property, O.C.G.A. §16-7-20 et seq.; permit for disturbing burial place in land development, O.C.G.A. §36-60-6; preservation and protection of abandoned or unmaintained cemeteries, O.C.G.A. §36-60-6.1.

Sec. 10-1. Definitions

Sec. 10-2. Intent; scope.

Sec. 10-3. Description of cemetery boundaries; dedication of land for cemetery use; markers authorized; Mayor's authority.

Sec. 10-4. Plots, lots.

Sec. 10-5. Grave site openings—Permit required.

Sec. 10-6. Same—Specifications.

Sec. 10-7. Plot and/or lot corner markings.

Sec. 10-8. Monuments.

Sec. 10-9. Number of burials per lot.

Sec. 10-10. Plantings.

Sec. 10-11. Desecration of burial site.

Sec. 10-12. Hours open.

Sec. 10-13. Burial of animals prohibited.

Sec. 10-14. Penalty.

Sec. 10-1. Definitions.

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

Bronze marker means a memorial bronze or other cast metal projecting above ground level no more than one-half inch.

Corner marker means a marker buried flush with the ground at the inside corners of plots or lots, the maximum dimension of which is six inches by six inches.

Funeral home means an establishment in which the dead are prepared for burial or cremation and in which wakes and funerals may be held.

Ground cover means the number, in inches, of soil material to be deposited over the burial vault and/or casket at ground level.

Lot means that tract of land capable of accommodating the burial of two individual outer burial containers.

Maintenance fee means that fee charged the owners of cemetery plots, lots or mausoleums for maintenance and upkeep of such plots, lots or mausoleums throughout the year.

Mausoleum means an aboveground structure erected for the purpose of the interment of deceased bodies.

Monument means a memorial structure consisting of granite, stone, marble or other designated manmade material marking the plot or lot in which a burial has or will take place.

Mt. Olivet Cemetery means the town cemetery.

Notification of burial means that notice requested to be given the city representative by the mortician or other responsible party of date and time of burial.

Outer burial containers means any container designed for the placement in the grave around the casket including, but not limited to, such containers commonly known as burial vaults, grave boxes and grave liners.

Permanent marker means a marker made of a permanent material such as concrete, marble, masonry, iron, steel, or metal and identifying the name of the individual with date buried and the name of the funeral home carved, etched, sandblasted or stamped into the marker.

Permit means that document allowing burial in the Mt. Olivet Cemetery. The permit shall be obtained prior to burial from a designated city department.

Plantings means any growth of herbaceous, annual and perennial flowers permitted to be planted on a plot or lot within the cemetery as designated by the city's representatives.

Plot means that tract of land located within the cemetery containing one or more cemetery lots.

Section means that area of the cemetery containing a number of plots and/or lots.

Town cemetery means that tract of land located with the town currently utilized for the burial of the dead and designated as Mt. Olivet Cemetery.

Sec. 10-2. Intent; scope.

It is hereby the intent of the mayor and town council, in order to promote the orderly development and maintenance of the Mt. Olivet Cemetery, that the following

rules, regulations and requirements shall be adopted and shall govern all interments within the cemetery.

Sec. 10-3. Description of cemetery boundaries; dedication of land for cemetery use; markers authorized; Mayor's authority.

(a) Description of Cemetery Boundaries

A legal description containing the location, dimensions, courses, distances, metes, bounds and deed references for Mt. Olivet Cemetery shall be shown on a map or plat retained permanently by the city to be designated as "Official Description and Plat of the Mt. Olivet Cemetery."

(b) Dedication of Land For Cemetery Use

Such land is hereby dedicated to cemetery use, and it shall be used for cemetery purposes only.

(c) Markers Authorized

There shall be placed on such cemetery property only graves with bronze grave markers, and such bronze grave markers shall not project or protrude above ground level.

(d) Authority of Mayor

The Mayor is hereby authorized and directed to do any and all acts and things necessary to manage and control the use of the above-described land for the purposes herein stated.

Sec.10-4. Plots, lots.

- (a) *Purchase of lot.* Any person desiring to purchase a plot or lot within Mt. Olivet Cemetery may do so by depositing with the town the full cost of the plot or lot selected. At the time of purchase, the purchaser shall be issued a receipt upon which is noted the plot and/or lot number, as well as the cemetery section designation, the purchase price, name and address of purchaser, and any other necessary information required by the town.
- (b) *Purchase price.* The purchase price of any lot within Mt. Olivet Cemetery shall be as set forth in the schedule of fees and charges. The purchaser shall waive any or all air rights over the lot purchased.
- (c) *Lot size.* All lots sold within Mt. Olivet Cemetery shall measure a minimum of four feet by eight feet.
- (d) *Plot size.* A plot shall consist of any number of lots having a common boundary line on at least one side or end.

Sec. 10-5. Grave site openings—Permit required.

- (a) *Permit required.* There shall be required by any party responsible for opening any grave site located on any lot within the cemetery a permit issued by a representative of the town. The permit shall be obtained a minimum of 24 hours in advance of the site opening. The notice may be waived by the town in extenuating circumstances.
- (b) *Permit fee.* The fee charged by the town for the issuance of a permit to open a grave site shall be as set forth in the schedule of fees and charges. There shall be no fees in the old section of the cemetery, for grave openings, markers or monuments, however nothing contained herein waives any requirement for a person burying someone in the old section of the cemetery from applying for and receiving a permit for the grave opening and/or marker, however no fee will be charged for a permit.
- (c) *Town responsibility.* It shall be the responsibility of the town's representative upon receipt of the permit fee to locate the grave site and to mark same in such manner as to be clearly identifiable to the party responsible for opening the grave site. In not event shall any party attempt to open a grave site prior to identification of the site by the city.
- (d) *Opening of grave.* The opening of a grave in Mt. Olivet Cemetery without a required permit shall be an offense punishable as a misdemeanor.

Sec. 10-6. Same—Specifications.

- (a) *Dimensions.* All grave sites shall have an opening sufficient in size to accommodate the casket and outer burial container.
- (b) *Ground cover.* All graves shall be dug to a depth sufficient to allow a minimum ground cover of 18 inches.
- (c) *Material disposal.* All excess soil removed from a grave site shall be deposited at a site designated by the town representative.
- (d) *Soil removal methods.* In no event shall the removal of excess material result in the damage to surrounding plots and/or lots, cause ruts to develop, cause damage to surrounding trees, shrubbery, flowers, monuments, etc. In the event of such damage, the person responsible shall pay to the town its cost of repair of such damage.
- (e) *Soil compaction.* All grave sites opened shall have the soil returned to the site fully compacted to prevent the settling of such soil after completion of the burial. The costs of any settling at the grave site that takes place

within one year of the burial which requires town personnel to correct shall be charged to the party responsible for the original grave site opening.

- (f) *Outer burial container required.* For all burials in Mt. Olivet Cemetery, the town will require, in addition to a casket, an outer burial container approved by town officials that is made of such material and of such thickness as to render the grave site impervious to eventual cave-ins (materials such as concrete, 1 ½ inches thick, coated metals of 12 gauge or thicker, or manmade materials impervious to decay). Wooden boxes do not comply with this requirement.
- (g) *Permanent marker.* The funeral home shall at the time of burial affix to the ground, displayed in a position as to be read, a permanent marker identifying the name of the individual, the date buried, and the funeral home's name carved, etched, sandblasted or stamped into the marker. The marker must be permanently affixed in such a way that the marker would not hinder maintenance of the plot.

Sec. 10-7. Plot and/or lot corner markings.

- (a) *Permit required.* If the owner and/or heirs wish to designate the location of any plot or lot within Mt. Olivet Cemetery with the installation of corner markers, a permit to do so shall be obtained from the designated town department. All corner markers shall be a maximum of six inches by six inches in size and shall be set flush with surrounding ground level on the inside corner of the plot or lot so marked. There shall be no fees in the old section of the cemetery, for grave openings, markers or monuments, however, nothing contained herein waives any requirement for a person burying someone in the old section of the cemetery from applying for and receiving a permit for the grave opening and/or marker, however, no fee will be charged for a permit.
- (b) *Permit fee.* A fee as set forth in the schedule of fees and charges shall be charged the applicant for a corner marking installation to assist in defraying the cost to the town for location of corner marking sites on behalf of the applicant.
- (c) *Debris removal.* It shall be the responsibility of the party installing corner markers to remove from the cemetery all excess soil, etc., resulting from installation of the corner markers. If such debris, soil, etc. is not removed within five working days from the installation of same, the town shall remove such material at the expense of the responsible party.

Sec. 10-8. Monuments.

- (a) *Installation permit required, fee.* There is hereby required a permit for the installation of any monument and/or bronze marker within Mt. Olivet Cemetery. The party responsible for installation of such monument and/or marker, prior to such installation, shall make application for a permit to install same to the designated town department and pay the designated department fee as set forth in the schedule of fees and charges. Such fee is established for the purpose of helping in defraying cost to the town in locating on behalf of the applicant the plot/lot which such monument/marker shall be installed.
- (b) *Monument base.* The base on which all monuments and/or markers are to be located shall consist of poured concrete to a depth and size sufficient to support the monument/marker without cracking. All such bases shall not protrude above surrounding ground level in excess of one inch.
- (c) *Material disposal.* The removal of all excess material resulting from the installation of a monument and/or marker base shall be the responsibility of the person making such installation. If all such removal is not completed within five working days from the date of installation, the town may remove same and charge all costs therefore to the party obtaining the installation permit.
- (d) *Damage to property.* The party responsible for the installation of the monument/marker base or the monument/marker shall be responsible for the cost of report of any damage to property incurred within the cemetery as a result of such installation.
- (e) *Bronze markers.* The city may, in its discretion, designate specific locations within the cemetery wherein only bronze plaques or other similar type markers will be permitted. When so done, the owners of plots/lots within the designated area shall not be permitted to erect monuments/markers, etc. other than those so designated.

Sec. 10-9. Number of burials per lot.

There shall be no more than two burials per lot within Mt. Olivet Cemetery, except in the case of cremated remains or infant burials wherein four burials per grave site will be permitted. Each such burial shall be considered a separate burial unless accomplished at the same time. A town cremation depository will not be so limited as to the number of remains.

Sec. 10-10. Plantings.

- (a) The owners of plots or lots within Mt. Olivet Cemetery shall be restricted to planting only herbaceous, annual and perennial flowers on such plots or lots.
- (b) No trees or woody plants shall be planted on any lot in Mt. Olivet Cemetery.
- (c) Cohutta public works by direction of the Mayor, shall have the right and power to have removed from any owner's lot any tree, shrub or plant deemed unsafe and likely to injure any of the improvements in the cemetery.

Sec. 10-11. Desecration of burial site.

The destruction, theft or disturbance of any monument, marker or mausoleum, or their defacement in any manner, shall constitute a desecration of the grave site and shall be punishable by applicable law.

Sec. 10-12. Hours open.

The hours during which Mt. Olivet Cemetery shall be open to the public are hereby established as 8:00 a.m. to 30 minutes after sunset. Any person apprehended within the confines of the cemetery at any time other than the hours herein designated without approval of the town shall be deemed guilty of a misdemeanor.

Sec. 10-13. Burial of animals prohibited.

The burial of animals of any nature shall not be permitted within Mt. Olivet Cemetery.

Sec. 10-14 Violations

Any firm, person or corporation who shall do anything prohibited by these regulations as the same exist or as they may hereafter be amended or who shall fail to do anything required by these regulations as they now exist or as they may hereafter be amended is hereby declared to be guilty of a misdemeanor and shall be punished as provided by law. Each day of prohibited use shall constitute a separate offense.

Adopted by the Cohutta Council at second reading on March 4, 2014 as part of the Cohutta Code and effective upon publication.

AMENDED and READOPTED with the Cohutta Code at second reading on August 1, 2023 after notice and an earlier hearing.

CHAPTER 12

PROPERTY MAINTENANCE CODE OF COHUTTA

The Town of Cohutta implements Georgia State Law and the International Property Maintenance Code required by Georgia State Law through the Mayor's designated agent or the Cohutta Code Officer when Cohutta has a Code Officer, or the Police Department..

The following are express violations of the Cohutta Property Maintenance Code:

1. No property in Residential, Commercial or Light Industrial zones shall have grass or weeds growing over 11 inches tall. Allowing taller grass and weeds is a violation.
2. No household appliances of any sort are allowed in the yard or on the porch unless designed for outdoor use. Storing appliances in the yard or porch is a violation.
3. No trash or garbage shall be visible from the street except on collection day; Keeping garbage or trash in public view except on trash days is a violation.
4. No use in a condemned structure or a structure notified as unfit for such use. Using a condemned or unfit structure is a violation of the Code
5. No living in Travel Trailers RVs or Campers. Allowing a person to reside in a travel trailer, RV or camper on your property is a violation.
6. No use of storage buildings for residence. Allowing someone to live in your storage building is a violation of the code.
7. Apart from repair shops, no vehicles shall be stored in open without current tag. Keeping non-operable vehicles or those with no current tag is an offense.
8. No violations of the International Property Maintenance Code as adopted in Georgia State law.

Adopted on 7/11/2014
Amended 9/6/22
Amended in 8/1/2023 Code

CHAPTER THIRTEEN

THE COHUTTA MOTORIZED CART CODE

AN CODE ESTABLISHING REGULATIONS FOR THE USE OF MOTORIZED CARTS WITHIN THE CITY OF COHUTTA; TO PROVIDE FOR CODIFICATION; TO PROVIDE FOR SEVERABILITY; TO REPEAL CONFLICTING CODES; TO PROVIDE AN ADOPTION DATE; TO PROVIDE AN EFFECT DATE; AND FOR OTHER PURPOSES ALLOWED BY LAW.

WHEREAS, the duly elected governing authority of the City of Cohutta, Georgia is authorized under Section IX, Section II, Paragraph III of the Constitution of the State of Georgia to adopt reasonable Codes to protect and improve the public health, safety, welfare, and aesthetics of the citizens of the City of Cohutta, Georgia;

WHEREAS, the duly elected governing authority of the City of Cohutta, Georgia is the Mayor and Town Council, thereof;

WHEREAS, the governing authority of the City of Cohutta, Georgia desires to enact provisions regulating the use of motorized carts within the City of Cohutta;

NOW, THEREFORE, IT IS HEREBY ORDAINED BY THE GOVERNING AUTHORITY OF THE CITY OF COHUTTA, GEORGIA, AS FOLLOWS:

Sec.13- 1 Findings; definition.

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

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

All-terrain vehicle means any motorized vehicle designed for off-road use that is equipped with three or more low-pressure tires and with a set to be straddled by the operator and with handlebars for steering control.

Bicycle means every devise propelled by human power upon which any person may ride, having only two wheels which are in tandem and either of which is more than thirteen inches in diameter.

Dealer means a person engaged in the business of buying, selling, or exchanging vehicles who has an established place of business in this state.

Electric bicycle means a devise with two or three wheels that has a saddle and fully operative pedals for human propulsion and also has an electric motor. For such a devise to be

considered an electric assisted bicycle, it shall meet the requirements of the Federal Motor Vehicle Safety Standards, as set forth in 49 C.F.R. Section 571, set seq., and shall operate in such a manner that the electric motor disengages or ceases to function when the brakes are applied. The electric motor in an electric assisted bicycle shall:

- (1) Have a power output of not more than 1,000 watts;
- (2) Be incapable of propelling the device at a speed of more than 20 miles per hour on level ground; and
- (3) Be incapable of further increasing the speed of the device when human power alone is used to propel the device at or more than 20 miles per hour.

Electric personal assistive mobility device or EPAMD means a self-balancing, two non-tandem wheeled device designed to transport only one person and having an electric propulsion system with average power of 750 watts (one horsepower) and a maximum speed of less than 20 miles per hour on a paved level surface when powered solely by such propulsion system and ridden by an operator who weighs 170 pounds.

Gross weight means the weight of a vehicle without the load, plus the weight of any load thereon.

Low-speed motor vehicle or LSMV means any four-wheeled electric vehicle whose speed attainable in one mile is greater than 20 miles per hour, but not greater than 25 miles per hour on a paved level surface and which is manufactured in compliance with those federal motor vehicle safety standards for low-speed vehicles set forth in 49 C.F.R. Section 571.500 and in effect on January 1, 2001.

Moped means a motor driven cycle equipped with two or three wheels, with or without foot pedals to permit muscular propulsion, and an independent power source providing a maximum of two break horsepower. If a combustion engine is used, the maximum piston or rotor displacement shall be 3.05 cubic inches (50 cubic centimeters) regardless of the number of chambers in such power source. The power source shall be capable of propelling the vehicle, unassisted, at a speed not to exceed 30 miles per hour (48.28 kilometers per hour) on level road surface and shall be equipped with a power drive system that functions directly or automatically only, not requiring clutching or shifting by the operator after the drive system is engaged.

Motorcycle means every motor vehicle having a seat or saddle for the use of the rider and designed to travel on not more than three wheels in contact with the ground, but excluding a tractor, all-terrain vehicle, dirt bike, and moped.

Motor driven cycle means every motorcycle, including every motor scooter, with a motor which produces not to exceed five break horsepower, every bicycle with a motor attached, and every moped.

Motorized play vehicle means a coaster, scooter, pocket bike, any other alternatively fueled device, or other motorized vehicle that is self-propelled by a motor engine, gas or electric, and is not otherwise defined in this code as a “motorized cart”, “low speed motor vehicle (LSMV)”, “motor vehicle”, “motorcycle”, “electric bicycle”, “motorized skateboard”, “electric personal assistive mobility device” or “motorized wheelchair”.

Motorized skateboard or motorized scooter means a self-propelled device that has a motor, gas or electric, a deck upon which a person may ride, not equipped with a seat, and at least two tandem wheels in contact with the ground and which is not otherwise defined in this Code as a “motor vehicle”, “motorcycle”, “motorized play vehicle”, “electric personal assistive mobility device” or “motorized wheelchair”.

Motorized wheelchair means a self-propelled wheelchair that is used by a physically disabled person for mobility.

Pocket motorcycle or pocket bike means a two-wheeled vehicle other than a motor vehicle, bicycle with helper motor or a motorized scooter and which is propelled by an internal combustion engine, electric motor or other mechanical means, is capable of carrying a rider and/or passenger at a speed in excess of 20 miles per hour, and is designed to replicate the general appearance of a motorcycle, regardless of the scale of the replication.

Sec. 13-2: Registration/transfer requirements.

(a) **Motorized carts.** It shall be the duty of every owner of an electric or gasoline-powered motorized cart that is operated over the recreation paths and streets and those areas accessible by the public to register the cart with the city within ten (10) business days of the date of purchase. Two numerical decals shall be issued upon registration; and a record of each motorized cart number, along with the name and address of the owner, shall be maintained by the city manager’s office. The decals must be affixed to the sides of the cart in such a manner as to be fully visible at all times. The failure to have a current registration decal on a motorized cart shall be a violation of this section and subject the owner of such cart to the penalties set forth in Section 1-11 of this Code.

- (1) **Resident fee.** The registration fee for motorized carts owned by city residents shall be \$30.00, and the registration shall be effective until the next regular registration period. Registration periods shall occur every five years, beginning in 2009.
- (2) **Non-resident fee.** In addition to the initial \$12.00 fee for the registration and decal, an annual registration/user fee of \$60.00 shall be charged to non-residents of the city. The non-resident fee is due by January 31 each year until such time as the cart is sold or otherwise disposed of. The non-resident registration/user fee shall be prorated for carts purchased after January 31 of the first calendar year of ownership, unless the non-resident had previously paid the registration/user fee the same calendar year, in which case the \$12.00

registration fee would be required to register and obtain decals for the new cart.

- (3) Registration deadline. If the cart is not registered within ten (10) business days of purchase, a \$20.00 penalty will be applied in addition to the registration fee; and the cart shall be considered an unregistered cart after the ten (10) business day period.
- (4) Transfers. Upon occurrence of a sale of the cart to another person who shall operate the cart over the recreation paths and streets of the city, the registration must be transferred to the new owner within ten (10) business days of the change in ownership at a cost of \$5.00, and if the new owner is not a city resident, the non-resident registration/user fee for the balance of the year shall be due from the new owner. If the registration is not transferred within ten (10) business days, a \$20.00 penalty will be applied in addition to the \$5.00 transfer charge; and the cart shall be considered an unregistered cart after the ten (10) business day period. Dealers acquiring a registered cart exclusively for resale (non-rental) shall not be required to pay the transfer charge, but shall notify the city of the transfer within ten (10) business days of receiving the cart, and the ultimate disposition of the cart within ten (10) business days of sale.
- (5) Special tourism events. The Mayor and Council may, at its discretion, waive registration requirements for special events of a limited duration to which out-of-city residents may bring carts as participants.

(b) Gasoline carts.

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

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

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

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

(2) It shall be unlawful for the owner of any gasoline powered motorized cart to operate or permit the operation of such cart which any device controlling or abating atmospheric emissions, which is placed on a cart by

the manufacturer, to render the device unserviceable by removal, alteration or which interferes with its operator.

(3) An exhaust system producing excessive fumes or noise is a nuisance under this Code.

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

(d) **Electric personal assistive mobility device (EPAMD).** EPAMDs shall be subject to the same registration requirements outlined above in subsections (a) and (c).

(e) **Age, number of registrants limited.** Only those persons eighteen (18) years of age or older may register a motorized cart. Cart registration may be in one person's name only, and the registration form must be signed by that person.

(f) **LSMV.** No LSMV shall be operated on the paved recreational paths or streets located within the territorial boundaries of the city unless it is legally registered and insured according to the laws of the state.

Sec. 13-3: Operation regulations.

(a) Those persons who are sixteen (16) years of age and older may drive a motorized cart on the recreation paths and/or streets and those areas accessible by the public of the city unless such person has had his or her license to operator a motor vehicle suspended or revoked by the state which issued said license, in which case such person shall not be permitted to operate a motorized cart on the recreation paths and/or streets and those areas accessible by the public of the city during the time of suspension or revocation.

(b) Those persons who are fifteen (15) years of age, but are not yet sixteen (16) years of age, may drive a motorized cart on the recreation paths and/or streets and those areas accessible by the public of the city:

If he or she has in his or her possession a valid instructional permit issued by the state pursuant to O.C.G.A. §40-5-24, as may be amended, and is unaccompanied by a licensed driver as provided in subsection (b)(1), or is unaccompanied by a parent, grandparent, or legal guardian as provided in subsection (b)(1), then he or she may be accompanied in the vehicle by up to one other person who must be at least eighteen (18) years of age, or he or she may be accompanied by up to three immediate adult family

members.

(c) All operators shall abide by all traffic regulations applicable to vehicular traffic when using the recreation paths, streets and those areas accessible by the public in the city. Where cart paths exist, they must be used in preference to parallel city streets.

(d) Motorized carts shall be operated on specific sidewalks at any time.

(e) Motorized carts may be operated over those authorized streets, recreational paths, and those areas accessible by the public only during daylight hours unless such motorized carts are equipped with functional headlights and taillights.

(f) No motorized cart shall be permitted to operate over, along, or across Highway 71 within the boundaries of the city, except where authorized crossing are provided.

(g) It shall be unlawful for the owner of any motorized cart or LSMV or any other person operating, employing, permitting the use of or otherwise directing the use of such motorized cart or LSMV to operate or permit the operator of any motorized cart or LSMV to drive over the recreational paths, streets or those areas accessible by the public in the city in violation of this article.

(h) LSMV. Only persons possessing a valid license issued by the state, other state of the United States of America, or international agency that permits such person to operate a motor vehicle on the highways of the state may operate a LSMV on the paved recreational paths or streets located within the territorial boundaries of the city.

(i) No LSMV shall be permitted to operate over, along, or across Highway 71 within the boundaries of the city, except where authorized crossing are provided.

(j) EPAMD. Only persons possession a valid driver's license, or in lieu of a driver's license persons who are at least eighteen (18) years of age and older, may operate an EPAMD on the paved recreational paths or streets located within the territorial boundaries of the city.

(k) No EPAMD shall be permitted to operate over, along, or across Highway 71 within the boundaries of the city, except where authorized crossing are provided.

(n) EPAMDs shall be equipped with the following: front, rear, and side reflectors which shall be visible from a distance of 300 feet when directly in front of lawful upper beams of headlights on a motor vehicle; a system that when employed will enable the operator to bring the device to a controlled stop; and, if the device is operated between one-half hour after sunset and one-half before sunrise, a lamp emitting a white light which, while the device is in motion, illuminates the area in front of the operator for a distance of 300 feet.

(o) No person shall operate an EPAMD at a speed greater than 7 miles per hour when traveling on any path or sidewalk, or 15 miles per hour on any other city right-of-way. (This again is limited by state law, see O.C.G.A. §40-6-322).

(p) No person shall operate an EPAMD with more than a single user at any time.

Sec. 13-4: Recreation path users—Authorized.

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

- (1) Pedestrians;
- (2) Non-motorized vehicles;
- (3) Roller skates, roller blades and skateboarders (daylight only);
- (4) Registered electric-powered golf carts;
- (5) Registered gasoline-powered golf carts;
- (6) Emergency and authorized maintenance vehicles;
- (7) Bicycles, traditional and electric (as defined in Section 66-4);
- (8) Electric and conventional wheelchairs; and
- (9) Electric vehicles designed to carry one person at a speed not to exceed 20 miles per hour, except as prohibited in Section 66-8.
- (10) LSMV vehicles provided that the vehicle is operated only in a mode or other restriction that does not allow the vehicle to exceed 20 miles per hour.
- (11) Registered EPAMDs.

Sec. 13-5: Same—Prohibited uses.

Prohibited uses of recreation paths are as follows:

- (1) Automobiles and trucks (except authorized maintenance vehicles);
- (2) Motorcycles;
- (3) Street and trail motorized bikes or vehicles (not to include electric bicycles);
- (4) Mini-bikes and mopeds;
- (5) Horses;
- (6) Go-carts;

- (7) Unregistered electric-powered golf carts or motorized carts;
- (8) Unregistered gasoline-powered golf carts or motorized carts;
- (9) Motorized skateboards or motorized scooters;
- (10) Motorized play vehicles;
- (11) Unregistered LSMVs;
- (12) Except as permitted in Section 66-7, any vehicle designed by the manufacturer to be able to travel at speeds in excess of 20 miles per hour under its own power on a flat surface; and
- (13) Unregistered EPAMDs.

Sec.13- 6: Motorized play vehicle; authorizations; prohibitions; disclosure requirements.

(a) No authorized play vehicle may be operated on any public street, public roadway, public sidewalk, public park, public or private parking lot, public trail, public shared multi-use path, public bicycle path, and all other public property.

(b) Motorized play vehicles are permitted on private residential property with the permission of the property owner. In the case of residential property commonly owned by a homeowner association, the homeowner association may regulate such usage.

(c) No motorized play vehicle may be operated on any private commercial/industrial property unless the location where the vehicles are to be operated is inaccessible to normal pedestrian or vehicular traffic (such as an enclosed warehouse or fenced parking lot with a locked gate). Motorized play vehicles may be operated on private commercial/industrial property meeting these restrictions with the written permission of the owner, the person entitled to immediate possession of the property, or the authorized agent of either.

(d) No person shall operate a motorized play vehicle on any private property in a manner causing excessive, unnecessary, or offensive noise which disturbs the peace and quiet of any neighborhood, or which causes discomfort or annoyance to a reasonable person of normal sensitivity.

(e) The parent, guardian, or legal custodian of any minor shall not authorize or knowingly permit such minor violate any of the provisions of this section.

(f) It is unlawful for any vendor or merchant to sell motorized play vehicles without making disclosures required by this section. Any merchant or vendor who sells motorized play vehicles within the city shall:

(1) Post in prominent place at each location where motorized play vehicles are on display, a notice, on a sign not less than 96 square inches and visible to the public, stating that operation of motorized play vehicles:

a. Are prohibited on any public street, public roadway, public sidewalk, public park, public parking lot, public trail, public shared multi-use path, public highway or any part of a highway, public bicycle path and all other public property in the city.

b. Are allowed to be used on private residential property with owner's written permission.

c. Are allowed to be used on private commercial/industrial property only in areas inaccessible to normal pedestrian or vehicular traffic and only with the written permission of the owner/agent.

(2) Provide a copy of such notice to each purchaser of a motorized play vehicle, either before or in connection with the purchase of a motorized play vehicle. If the purchaser is a minor, the minor's parent or legal guardian must sign a receipt of said notice.

(3) Any motorized play vehicle, owned by a governmental entity and which is operated in the performance of authorized duties or activities, is not exempt from the provision of this section.

(g) Temporary suspension of all or part of this section may be granted by the Mayor & Council for special events.

Sec. 13-7: Liability.

Each person using the recreation paths is liable for his own actions. Liability insurance coverage varies, and each person operating a golf cart on the recreation paths and public should verify their coverage.

Sec 13- 8: Penalties.

(a) An violation of the Code shall be charged against the registered owner of the motorized cart, and all fines and penalties shall be levied against the registered owner of the motorized cart as follows:

(1) For the first offense, a fine of up to \$250.00;

(2) For the second offense, a fine of up to \$500.00;

(3) For a third offense committed within one (1) year of conviction for a second offense for a motorized cart, a fine of up to \$1,000.00, and the

registered owner's motorized cart registration shall be revoked. The registered owner or family member cannot thereafter register a motorized cart for use in the city for a period of two (2) years following the third conviction.

(b) Any violation by an operator of a LSMV shall be charged against the operator according to the provisions of Title 40 of the Official Code of Georgia and this Code. Any violation by an owner of a LSMV shall be charged against the owner according to the provisions of Title 40 of the Official Code of Georgia and this Code.

SECTION 2

If the provisions of any section, subsection, paragraph, sentence, clause or phrase shall be adjudged invalid by a court of competent jurisdiction, such judgment shall not affect or invalidate the remainder of any section, subsection, paragraph, sentence, clause or phrase of this Code.

SECTION 3

All other Codes, which are in any way inconsistent with this Code, are hereby repealed.

SECTION 4

The effective date of this Code is the 1st day after the month of publication of the enactment.

Adopted in 2017.

AMENDED and READOPTED with the Cohutta Code at second reading on August 1, 2023 after notice and an earlier hearing.

COHUTTA SOIL EROSION, SEDIMENTATION AND POLLUTION CONTROL CODE

• **14-1 Title.** This article shall be known as the "Cohutta Soil Erosion, Sedimentation and Pollution Control Code."

• **14-2. - Definitions.**

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

Best management practices (BMPs): These include sound conservation and engineering practices to prevent and minimize erosion and resultant sedimentation, which are consistent with, and no less stringent than, those practices contained in the 'Manual for Erosion and Sediment Control in Georgia' published by the commission as of January 1st of the year in which the land-disturbing activity was permitted.

Board: The board of natural resources.

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.

Certified personnel: A person who has successfully completed the appropriate certification course approved by the Georgia Soil and Water Conservation Commission.

Coastal marshlands: Shall have the same meaning as in O.C.G.A. § 12-5-282.

Commission: The Georgia Soil and Water Conservation Commission (GSWCC).

CPESC: Certified professional in erosion and sediment control with current certification by EnviroCert, Inc., a corporation registered in North Carolina, which is also referred to as CPESC or CPESC, Inc.

Cut: A portion of land surface or area from which earth has been removed or will be removed by excavation; the depth below original ground surface to the excavated surface. Also known as excavation.

Department: The Georgia Department of Natural Resources (DNR).

Design professional: A professional licensed by the State of Georgia in the field of: engineering, architecture, landscape architecture, forestry, geology, or land surveying; or a person that is a certified professional in erosion and sediment control (CPESC) with a current certification by EnviroCert, Inc. Design professionals shall practice in a manner that complies with applicable Georgia law governing professional licensure.

Director: The director of the environmental protection division or an authorized representative.

District: The Limestone Valley Soil and Water Conservation District.

Division: The environmental protection division (EPD) of the department of natural resources.

Drainage structure: A device composed of a virtually non-erodible material such as concrete, steel, plastic or other such material that conveys water from one place to another by intercepting the flow and carrying it to a release point for storm water management, drainage control, or flood control purposes.

Erosion: The process by which land surface is worn away by the action of wind, water, ice or gravity.

Erosion, sedimentation and pollution control plan: A plan required by the Erosion and Sedimentation Act, O.C.G.A. Chapter 12-7, that includes, as a minimum protections at least as stringent as the state general permit, best management practices, and requirements in this chapter.

Fill: A portion of land surface to which soil or other solid material has been added; the depth above the original ground surface or an excavation.

Final stabilization: All soil disturbing activities at the site have been completed, and that for unpaved areas and areas not covered by permanent structures and areas located outside the waste disposal limits of a landfill cell that has been certified by EPD for waste disposal, 100 percent of the soil surface is uniformly covered in permanent vegetation with a density of 70 percent or greater, or landscaped according to the Plan (uniformly covered with landscaping materials in planned landscape areas), or equivalent permanent stabilization measures as defined in the manual (excluding a crop of annual vegetation and seeding of target crop perennials appropriate for the region). Final stabilization applies to each phase of construction.

Finished grade: The final elevation and contour of the ground after cutting or filling and conforming to the proposed design.

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.

Ground elevation: The original elevation of the ground surface prior to cutting or filling.

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 this Code.

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.

Local issuing authority: The governing authority of any county or municipality which is certified pursuant to O.C.G.A. § 12-7-8.

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.

Natural ground surface: The ground surface in its original state before any grading, excavation or filling.

Nephelometric turbidity units (NTU): Numerical units of measure based upon photometric analytical techniques for measuring the light scattered by finely divided particles of a substance in suspension. This technique is used to estimate the extent of turbidity in water in which colloiddally dispersed or suspended particles are present.

NOI: A notice of intent form provided by EPD for coverage under the state general permit.

NOT: A notice of termination form provided by EPD to terminate coverage under the state general permit.

Operator: The party or parties that have:

(a) Operational control of construction project plans and specifications, including the ability to make modifications to those plans and specifications; or

(b) Day-to-day operational control of those activities that are necessary to ensure compliance with an erosion, sedimentation and pollution control plan for the site or other permit conditions, such as a person authorized to direct workers at a site to carry out activities required by the erosion, sedimentation and pollution control plan or to comply with other permit conditions.

Outfall: The location where storm water in a discernible, confined and discrete conveyance, leaves a facility or site or, if there is a receiving water on site, becomes a point source discharging into that receiving water.

Permit: The authorization necessary to conduct a land-disturbing activity under the provisions of this article.

Person: Any individual, partnership, firm, association, joint venture, public or private corporation, trust, estate, commission, board, public or private institution, utility, cooperative, state agency, municipality or other political subdivision of the State of Georgia, any interstate body or any other legal entity.

Phase or Phased: Sub-parts or segments of construction projects where the sub-part or segment is constructed and stabilized prior to completing construction activities on the entire construction site.

Project: The entire proposed development project regardless of the size of the area of land to be disturbed.

Properly designed: Designed in accordance with the design requirements and specifications contained in the "Manual for Erosion and Sediment Control in Georgia" (manual) published by the Georgia Soil and Water Conservation Commission as of January 1 of the year in which the land-disturbing activity was permitted and amendments to the Manual as approved by the commission up until the date of NOI submittal.

Roadway drainage structure: A device such as a bridge, culvert, or ditch, composed of a virtually non-erodible material such as concrete, steel, plastic, or other such material that conveys water under a roadway by intercepting the flow on one side of a traveled roadway consisting of one or more defined lanes, with or without shoulder areas, and carrying water to a release point on the other side.

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

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

Soil and water conservation district approved plan: An erosion, sedimentation and pollution control plan approved in writing by the Limestone Valley Soil and Water Conservation District.

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.

State general permit: The National Pollution Discharge Elimination System (NPDES) general permit or permits for storm water runoff from construction activities as is now in effect or as may be amended or reissued in the future pursuant to the state's authority to implement the same through federal delegation under the Federal Water Pollution Control Act, as amended, 33 U.S.C. Section 1251, et seq.

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

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

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

Vegetative erosion and sedimentation control measures: Measures for the stabilization of erodible or sediment-producing areas by covering the soil with:

- (1) Permanent seeding, sprigging or planting, producing long-term vegetative cover, or
- (2) Temporary seeding, producing short-term vegetative cover; or
- (3) 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.

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.

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.

• 14-3. - Exemptions.

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

(1) Surface mining, as the same is defined in O.C.G.A. § 12-4-72, "The Georgia Surface Mining Act of 1968."

(2) Granite quarrying and land clearing for such quarrying;

(3) Such minor land-disturbing activities as home gardens and individual home landscaping, repairs, maintenance work, fences, and other related activities which result in minor soil erosion;

(4) The construction of single-family residences, when such construction disturbs less than one 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 acre and not otherwise exempted under this paragraph; provided, however, that construction of any such residence shall conform to the minimum requirements as set forth in O.C.G.A. § 12-7-6 and this paragraph. For single-family residence construction covered by the provisions of this paragraph, there shall be a buffer zone between the residence and any state waters classified as trout streams pursuant to Article 2 of [Chapter 5](#) of the Georgia Water Quality Control Act. In any such buffer zone, no land-disturbing activity shall be constructed between the residence and the point where vegetation has been wrested by normal stream flow or wave action from the banks of the trout waters. For primary trout waters, the buffer zone shall be at least 50 horizontal feet, and no variance to a smaller buffer shall be granted. For secondary trout waters, the buffer zone shall be at least 50 horizontal feet, but the Director may grant variances to no less than 25 feet. Regardless of whether a trout stream is primary or secondary, for first order trout waters, which are streams into which no other streams flow except for springs, the buffer shall be at least 25 horizontal feet, and no variance to a smaller buffer shall be granted. The minimum requirements of subsection (b) of O.C.G.A. § 12-7-6 and the buffer zones provided by this section shall be enforced by the local issuing authority;

(5) Agricultural operations as defined in O.C.G.A. § 1-3-3, "definitions", to include raising, harvesting or storing of products of the field or orchard; feeding, breeding or managing livestock or poultry; producing or storing feed for use in the production of livestock, including but not limited to cattle, calves, swine, hogs, goats, sheep, and rabbits or for use in the production of poultry, including but not limited to chickens, hens and turkeys; producing plants, trees, fowl, or animals; the production of aqua culture, horticultural, dairy, livestock, poultry, eggs and apiarian products; farm buildings and farm ponds;

(6) Forestry land management practices, including harvesting; provided, however, that when such exempt forestry practices cause or result in land-disturbing or other activities otherwise prohibited in a buffer, as

established in paragraphs (15) and (16) of [section 5-73\(c\)](#), 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 years after completion of such forestry practices;

(7) Any project carried out under the technical supervision of the Natural Resources Conservation Service (NRCS) of the United States Department of Agriculture;

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

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

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

(11) Any public water system reservoir.

- 14-4. - Minimum requirements for erosion, sedimentation and pollution control using best

management practices.

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

(b) Minimum requirements/BMPs.

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

(2) A discharge of 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 O.C.G.A. § 12-5-30(f), 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 25 nephelometric turbidity units for waters supporting warm water fisheries or by more than ten nephelometric turbidity units for waters classified as trout waters. The turbidity of the receiving waters shall be measured in accordance with guidelines to be issued by the director. This paragraph shall not apply to any land disturbance associated with the construction of single family homes which are not part of a larger common plan of development or sale unless the planned disturbance for such construction is equal to or greater than five acres.

(3) Failure to properly design, install, or maintain best management practices shall constitute a violation of any land-disturbing permit issued by a local issuing authority or of any state general permit issued by the division pursuant to O.C.G.A. § 12-5-30(f), the "Georgia Water Quality Control Act", for each day on which such failure occurs.

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

(5) The LIA may set more stringent buffer requirements than stated in subsection c (15), (16) and (17), in light of O.C.G.A. § 12-7-6(c).

(6) Construction site operators must control waste at the construction site, such as discarded building materials,

concrete washout, chemicals, litter and sanitary waste.

(c) The rules and regulations, ordinances, or resolutions adopted pursuant to O.C.G.A. § 12-7-1 et seq. for the purpose of governing land-disturbing activities shall require, as a minimum, protections at least as stringent as the state general permit; and best management practices, including sound conservation and engineering practices to prevent and minimize erosion and resultant sedimentation, which are consistent with, and no less stringent than, those practices contained in the Manual for Erosion and Sediment Control in Georgia published by the Georgia Soil and Water Conservation Commission as of January 1 of the year in which the land-disturbing activity was permitted, as well as the following:

- (1) Stripping of vegetation, regrading and other development activities shall be conducted in a manner so as to minimize erosion;
- (2) Cut-fill operations must be kept to a minimum;
- (3) Development plans must conform to topography and soil type so as to create the lowest practicable erosion potential;
- (4) Whenever feasible, natural vegetation shall be retained, protected and supplemented;
- (5) The disturbed area and the duration of exposure to erosive elements shall be kept to a practicable minimum;
- (6) Disturbed soil shall be stabilized as quickly as practicable;
- (7) Temporary vegetation or mulching shall be employed to protect exposed critical areas during development;
- (8) Permanent vegetation and structural erosion control practices shall be installed as soon as practicable;
- (9) To the extent necessary, sediment in run-off water must be trapped by the use of debris basins, sediment basins, silt traps, or similar measures until the disturbed area is stabilized. As used in this paragraph, a disturbed area is stabilized when it is brought to a condition of continuous compliance with the requirements of O.C.G.A. § 12-7-1, et seq.;
- (10) Adequate provisions must be provided to minimize damage from surface water to the cut face of excavations or the sloping of fills;
- (11) Cuts and fills may not endanger adjoining property;
- (12) Fills may not encroach upon natural watercourses or constructed channels in a manner so as to adversely affect other property owners;
- (13) Grading equipment must cross flowing streams by means of bridges or culverts except when such methods are not feasible, provided, in any case, that such crossings are kept to a minimum;
- (14) Land-disturbing activity plans for erosion, sedimentation and pollution control shall include provisions for treatment or control of any source of sediments and adequate sedimentation control facilities to retain sediments on-site or preclude sedimentation of adjacent waters beyond the levels specified in subsection (b)(2) of this

section;

(15) Except as provided in paragraph (16) and (17) of this subsection, there is established a 25-foot buffer along the banks of all state waters, as measured horizontally from the point where vegetation has been wrested by normal stream flow or wave action, except where the director determines to allow a variance that is at least as protective of natural resources and the environment, where otherwise allowed by the director pursuant to O.C.G.A. § 12-2-8, where a drainage structure or a roadway drainage structure must be constructed, provided that adequate erosion control measures are incorporated in the project plans and specifications, and are implemented; or where bulkheads and sea walls are installed to prevent shoreline erosion on Lake Oconee and Lake Sinclair; or along any ephemeral stream. As used in this provision, the term 'ephemeral stream' means a stream: that under normal circumstances has water flowing only during and for a short duration after precipitation events; that has the channel located above the groundwater table year round; for which ground water is not a source of water; and for which runoff from precipitation is the primary source of water flow, unless exempted as along an ephemeral stream, the buffers of at least 25 feet established 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:

a. No land-disturbing activities shall be conducted within a buffer and a buffer shall remain in its natural, undisturbed state of vegetation until all land-disturbing activities on the construction site are completed. Once the final stabilization of the site is achieved, a buffer may be thinned or trimmed of vegetation as long as a protective vegetative cover remains to protect water quality and aquatic habitat and a natural canopy is left in sufficient quantity to keep shade on the stream bed; provided, however, that any person constructing a single-family residence, when such residence is constructed by or under contract with the owner for his or her own occupancy, may thin or trim vegetation in a buffer at any time as long as protective vegetative cover remains to protect water quality and aquatic habitat and a natural canopy is left in sufficient quantity to keep shade on the stream bed; and

b. The buffer shall not apply to the following land-disturbing activities, provided that they occur at an angle, as measured from the point of crossing, within 25 degrees of perpendicular to the stream; cause a width of disturbance of not more than 50 feet within the buffer; and adequate erosion control measures are incorporated into the project plans and specifications and are implemented:

(i) Stream crossings for water lines; or

(ii) Stream crossings for sewer lines; and

(16) There is established a 50 foot buffer as measured horizontally from the point where vegetation has been wrested by normal stream flow or wave action, along the banks of any state waters classified as "trout streams" 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 25 gallons per minute or less shall have a 25 foot buffer or they may be piped, at the discretion of the landowner, pursuant to the terms of a rule providing for a general variance promulgated by the board, so long as any such pipe stops short of the downstream landowner's property and the landowner complies with the buffer requirement for any adjacent trout streams. The director may grant a variance from such buffer to allow land-disturbing activity, provided that adequate erosion control measures are incorporated in the project plans and specifications and are implemented. The following requirements shall apply to such buffer:

a. No land-disturbing activities shall be conducted within a buffer and a buffer shall remain in its natural, undisturbed, state of vegetation until all land-disturbing activities on the construction site are completed. Once the final stabilization of the site is achieved, a buffer may be thinned or trimmed of vegetation as long as a protective vegetative cover remains to protect water quality and aquatic habitat and a natural canopy is left in sufficient quantity to keep shade on the stream bed: provided, however, that any person constructing a single-family residence, when such residence is constructed by or under contract with the owner for his or her own occupancy, may thin or trim vegetation in a buffer at any time as long as protective vegetative cover remains to protect water quality and aquatic habitat and a natural canopy is left in sufficient quantity to keep shade on the stream bed; and

b. The buffer shall not apply to the following land-disturbing activities, provided that they occur at an angle, as measured from the point of crossing, within 25 degrees of perpendicular to the stream; cause a width of disturbance of not more than 50 feet within the buffer; and adequate erosion control measures are incorporated into the project plans and specifications and are implemented:

(i) Stream crossings for water lines; or

(ii) Stream crossings for sewer lines; and

(17) There is established a 25 foot buffer along coastal marshlands, as measured horizontally from the coastal marshland-upland interface, as determined in accordance with [Chapter 5](#) of [Title 12](#) of this title, the "Coastal Marshlands Protection Act of 1970." And the rules and regulations promulgated thereunder, except where the director determines to allow a variance that is at least as protective of natural resources and the environment, where otherwise allowed by the director pursuant to Code Section 12-2-8, where an alteration within the buffer area has been authorized pursuant to Code section 12-5-286, for maintenance of any currently serviceable structure, landscaping, or hardscaping, including bridges, roads, parking lots, golf courses, golf cart paths, retaining walls, bulkheads, and patios; provided, however, that if such maintenance requires any land-disturbing activity, adequate erosion control measures are incorporated into the project plans and specifications and such measures are fully implemented, where a drainage structure or roadway drainage structure is constructed or maintained; provided, however, that if such maintenance requires any land-disturbing activity, adequate erosion control measures are incorporated into the project plans and specifications and such measures are fully implemented, on the landward side of any currently serviceable shoreline stabilization structure, or for the maintenance of any manmade storm-water detention basin, golf course pond, or impoundment that is located entirely within the property of a single individual, partnership, or corporation; provided, however, that adequate erosion control measures are incorporated into the project plans and specifications and such measures are fully implemented. For the purposes of this paragraph maintenance shall be defined as actions necessary or

appropriate for retaining or restoring a currently serviceable improvement to the specified operable condition to achieve its maximum useful life. Maintenance includes emergency reconstruction of recently damaged parts of a currently serviceable structure so long as it occurs within a reasonable period of time after damage occurs. Maintenance does not include any modification that changes the character, scope or size of the original design and serviceable shall be defined as usable in its current state or with minor maintenance but not so degraded as to essentially require reconstruction.

a. No land-disturbing activities shall be conducted within a buffer and a buffer shall remain in its natural, undisturbed, state of vegetation until all land-disturbing activities on the construction site are completed. Once the final stabilization of the site is achieved, a buffer may be thinned or trimmed of vegetation as long as a protective vegetative cover remains to protect water quality and aquatic habitat; 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

b. The buffer shall not apply to crossings for utility lines that cause a width of disturbance of not more than 50 feet within the buffer, provided, however, that adequate erosion control measures are incorporated into the project plans and specifications and such measures are fully implemented.

c. The buffer shall not apply to any land-disturbing activity conducted pursuant to and in compliance with a valid and effective land-disturbing permit issued subsequent to April 22, 2014, and prior to December 31, 2015; provided, however, that adequate erosion control measures are incorporated into the project plans and specifications and such measures are fully implemented or any lot for which the preliminary plat has been approved prior to December 31, 2015 if roadways, bridges, or water and sewer lines have been extended to such lot prior to the effective date of this act and if the requirement to maintain a 25 foot buffer would consume at least 18 percent of the high ground of the platted lot otherwise available for development; provided, however, that adequate erosion control measures are incorporated into the project plans and specifications and such measures are fully implemented.

d. Activities where the area within the buffer is not more than 500 square feet or that have a "minor buffer impact" as defined in 391-3-7-.01(r), provided that the total area of buffer impacts is less than 5,000 square feet are deemed to have an approved buffer variance by rule. Bank stabilization structures are not eligible for coverage under the variance by rule and notification shall be made to the division at least 14 days prior to the commencement of land disturbing activities.

(d) Nothing contained in O.C.G.A. § 12-7-1 et seq. shall prevent any local issuing authority from adopting rules and regulations, ordinances, or resolutions which contain stream buffer requirements that exceed the minimum requirements in subsections (b) and (c) of this section.

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

• **14-5. - Application/permit process.**

• (a) General. The property owner, developer and designated planners and engineers shall design and review before submittal the general development plans. The local issuing authority shall review the tract to be

developed and the area surrounding it. They shall consult the zoning ordinance, storm water management ordinance, subdivision ordinance, flood damage prevention ordinance, this chapter, and any other ordinances, rules, regulations or permits, which regulate the development of land within the jurisdictional boundaries of the local issuing authority. However, the owner and/or operator are the only parties who may obtain a permit.

(b) Application requirements.

(1) No person shall conduct any land-disturbing activity within the jurisdictional boundaries of Cohutta without first obtaining a permit from the county engineer (erosion/stormwater inspections) office to perform such activity and providing a copy of notice of intent submitted to EPD if applicable.

(2) The application for a permit shall be submitted to county engineer (erosion/stormwater inspections office) and must include the applicant's erosion, sedimentation and pollution control plan with supporting data, as necessary. Said plans shall include, as a minimum, the data specified in subsection (c) of this section. Erosion, sedimentation and pollution control plans, together with supporting data, must demonstrate affirmatively that the land disturbing activity proposed will be carried out in such a manner that the provisions of [section 5-73](#)(b) and (c) of this article will be met. Applications for a permit will not be accepted unless accompanied by three copies of the applicant's erosion, sedimentation and pollution control plans. All applications shall contain a certification stating that the plan preparer or the designee thereof visited the site prior to creation of the plan in accordance with EPD Rule 391-3-7-.10.

(3) In addition [to] local permitting fees, fees will also be assessed pursuant to O.C.G.A. § 12-5-23(a)(5), provided that such fees shall not exceed \$80.00 per acre of land-disturbing activity, and these fees shall be calculated and paid by the primary permittee as defined in the state general permit for each acre of land-disturbing activity included in the planned development or each phase of development. All applicable fees shall be paid prior to issuance of the land disturbance permit. In a jurisdiction that is certified pursuant to O.C.G.A. § 12-7-8 (a), 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. A copy of the notice of intent submitted to the State of Georgia shall also be submitted the local issuing authority. Secondary permittees shall provide to Cohutta a copy of any such notice of intent submitted to the State of Georgia when applying for a building permit.

(4) Immediately upon receipt of an application and plan for a permit, the local issuing authority shall refer the application and plan to the district for its review and approval or disapproval concerning the adequacy of the erosion, sedimentation and pollution control plan. The district shall approve or disapprove a plan within 35 days of receipt. Failure of the district to act within 35 days shall be considered an approval of the pending plan. The results of the district review shall be forwarded to the local issuing authority. No permit will be issued unless the plan has been approved by the district, and any variances required by [section 5-73](#)(15), (16) and (17), has been obtained, all fees have been paid, and bonding, if required as per subsection [5-74](#) (b)(6) have been obtained. Such review will not be required if the local issuing authority and the district have entered into an agreement which allows the local issuing authority to conduct such review and approval of the plan without referring the application and plan to the district. The local issuing authority with plan review authority shall approve or disapprove a revised plan submittal within 35 days of receipt. Failure of the local issuing authority with plan review authority to act within 35 days shall be considered an approval of the revised plan submittal.

(5) If a permit applicant has had two or more violations of previous permits, this chapter, or the Erosion and Sedimentation Act, as amended, within three years prior to the date of filing the application under consideration,

the local issuing authority may deny the permit application.

(6) The local issuing authority may require the permit applicant to post a bond in the form of government security, cash, irrevocable letter of credit, or any combination thereof up to, but not exceeding, \$3,000.00 per acre or fraction thereof of the proposed land-disturbing activity, prior to issuing the permit. If the applicant does not comply with this chapter or with the conditions of the permit after issuance, the local issuing authority may call the bond or any part thereof to be forfeited and may use the proceeds to hire a contractor to stabilize the site of the land-disturbing activity and bring it into compliance. These provisions shall not apply unless there is in effect an ordinance or statute specifically providing for hearing and judicial review of any determination or order of the local issuing authority with respect to alleged permit violations.

(c) Plan requirements.

(1) Plans must be prepared to meet the minimum requirements as contained in [section 5-73](#)(b) and (c) of this chapter, or through the use of more stringent, alternate design criteria which conform to sound conservation and engineering practices. The Manual for Erosion and Sediment Control in Georgia is hereby incorporated by reference into this chapter. The plan for the land-disturbing activity shall consider the interrelationship of the soil types, geological and hydrological characteristics, topography, watershed, vegetation, proposed permanent structures including roadways, constructed waterways, sediment control and storm water management facilities, local ordinances and state laws. Maps, drawings and supportive computations shall bear the signature and seal of the certified design professional. Persons involved in land development design, review, permitting, construction, monitoring, or inspections or any land disturbing activity shall meet the education and training certification requirements, dependent on his or her level of involvement with the process, as developed by the commission and in consultation with the division and the stakeholder advisory board created pursuant to O.C.G.A. § 12-7-20.

(2) Data required for site plan shall include all the information required from the appropriate erosion, sedimentation and pollution control plan review checklist established by the commission as of January 1 of the year in which the land disturbing activity was permitted.

(d) Permits.

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

(2) No permit shall be issued by the local issuing authority unless the erosion, sedimentation and pollution control plan has been approved by the district and the local issuing authority has affirmatively determined that the plan is in compliance with this chapter, any variances required by [section 5-73](#)(c)(15), (16) and (17) are obtained, bonding requirements, if necessary, as per [section 5-74](#)(b)(6) are met and all ordinances and rules and regulations in effect within the jurisdictional boundaries of the local issuing authority are met. If the permit is denied, the reason for denial shall be furnished to the applicant.

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

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

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

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

• **14-6. - Inspection and enforcement.**

• (a) The Whitfield County certified inspector will periodically inspect the sites of land-disturbing activities for which permits have been issued to determine if the activities are being conducted in accordance with the plan and if the measures required in the plan are effective in controlling erosion and sedimentation. Also, the local issuing authority shall regulate primary, secondary and tertiary permittees as such terms are defined in the state general permit. Primary permittees shall be responsible for installation and maintenance of best management practices where the primary permittee is conducting land-disturbing activities. Secondary permittees shall be responsible for installation and maintenance of best management practices where the secondary permittee is conducting land-disturbing activities. Tertiary permittees shall be responsible for installation and maintenance where the tertiary permittee is conducting land-disturbing activities. If, through inspection, it is deemed that a person engaged in land-disturbing activities as defined herein has failed to comply with the approved plan, with permit conditions, or with the provisions of this chapter, 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 chapter.

(b) The local issuing authority must amend its ordinances to the extent appropriate within 12 months of any amendments to the Erosion and Sedimentation Act of 1975.

(c) The Whitfield County certified inspector shall have the power to conduct such investigations as it may reasonably deem necessary to carry out duties as prescribed in this chapter, and for this purpose to enter at reasonable times upon any property, public or private, for the purpose of investigation and inspecting the sites of land-disturbing activities.

(d) No person shall refuse entry or access to any authorized representative or agent of the local issuing authority, the commission, the district, or division who requests entry for the purposes of inspection, and who presents appropriate credentials, nor shall any person obstruct, hamper or interfere with any such representative while in the process of carrying out his official duties.

(e) The district or the commission or both shall semi-annually review the actions of counties and municipalities which have been certified as local issuing authorities pursuant to O.C.G.A. § 12-7-8(a). The district or the commission or both may provide technical assistance to any county or municipality for the purpose of improving the effectiveness of the county's or municipality's erosion, sedimentation and pollution control program.

(f) The district or the commission shall notify the division and request investigation by the division if any deficient or ineffective local program is found. The division may 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). 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 90 days within which to take the necessary corrective action to retain certification as a local issuing authority. If the county or municipality does not take necessary corrective action within 90 days after notification by the division, the division shall revoke the certification of the county or municipality as a local issuing authority.

• 14-7. - Penalties and incentives.

(a) Failure to obtain a permit for land-disturbing activity. If any person commences any land-disturbing activity requiring a land-disturbing permit as prescribed in this chapter without first obtaining said permit, the person shall be subject to revocation of his business license, work permit or other authorization for the conduct of a business and associated work activities within the jurisdictional boundaries of the local issuing authority.

(b) Stop-work orders.

(1) For the first and second violations of the provisions of this chapter, the director or the local issuing authority shall issue a written warning to the violator. The violator shall have five days to correct the violation. If the violation is not corrected within five days, the director or the local issuing authority shall issue a stop-work order requiring that land-disturbing activities be stopped until necessary corrective action or mitigation has occurred; provided, however, that, if the violation presents an imminent threat to public health or waters of the state or if the land-disturbing activities are conducted without obtaining the necessary permit, the director or the local issuing authority shall issue an immediate stop-work order in lieu of a warning;

(2) For a third and each subsequent violation, the director or the local issuing authority shall issue an immediate stop-work order; and

(3) All stop-work orders shall be effective immediately upon issuance and shall be in effect until the necessary corrective action or mitigation has occurred.

(4) When a violation in the form of taking action without a permit, failure to maintain a stream buffer, or significant amounts of sediment, as determined by the local issuing authority or by the director or his or her designee, have been or are being discharged into state waters and where best management practices have not been properly designed, installed, and maintained, a stop work order shall be issued by the local issuing authority or by the director or his or her designee. All such stop work orders shall be effective immediately upon issuance and shall be in effect until the necessary corrective action or mitigation has occurred. Such stop work orders shall apply to all land-disturbing activity on the site with the exception of the installation and maintenance of temporary or permanent erosion and sediment controls.

(c) Bond forfeiture. If, through inspection, it is determined that a person engaged in land-disturbing activities has

failed to comply with the approved plan, a written notice to comply shall be served upon that person. The notice shall set forth the measures necessary to achieve compliance with the plan and shall state the time within which such measures must be completed. If the person engaged in the land-disturbing activity fails to comply within the time specified, he shall be deemed in violation of this chapter 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 5-74\(b\)\(6\)](#). The local issuing authority may call the bond or any part thereof to be forfeited and may use the proceeds to hire a contractor to stabilize the site of the land-disturbing activity and bring it into compliance.

(d) Monetary penalties. Any person who violates any provisions of this chapter, or any permit condition or limitation established pursuant to this chapter or who negligently or intentionally fails or refuses to comply with any final or emergency order of the director issued as provided in this chapter shall be liable for a civil penalty not to exceed \$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 \$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 chapter under county ordinances approved under this chapter shall be authorized to impose penalties for such violations not to exceed \$2,500.00 for each violation. Each day during which violation or failure or refusal to comply continues shall be a separate violation.

• **14-8. - Education and certification.**

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

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

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

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

• **14-9. - Administrative appeal/judicial review.**

(a) Administrative remedies. The suspension, revocation, modification or grant with condition of a permit by the local issuing authority upon finding that the holder is not in compliance with the approved erosion, sediment and

pollution control plan; or that the holder is in violation of permit conditions; or that the holder is in violation of any ordinance; shall entitle the person submitting the plan or holding the permit to a hearing before the Cohutta Zoning and Appeals Board within 30 days after receipt by the issuing authority of written notice of appeal.

(b) Judicial review. Any person, aggrieved by a decision or order of the local issuing authority, after exhausting his administrative remedies, shall have the right to appeal de novo to the superior court of Whitfield County.

- **14-10. - Effectivity, validity, and liability.**

- (a) Effectivity. This chapter shall become effective on the 1st day of November, 2023.

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

(c) Liability.

(1) Neither the approval of a plan under the provisions of this chapter, nor the compliance with provisions of this chapter shall relieve any person from the responsibility for damage to any person or property otherwise imposed by law nor impose any liability upon the local issuing authority or district for damage to any person or property.

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

(3) No provision of this chapter 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.

APPENDIX- MISCELLANEOUS CODES

A-1 GEORGIA POWER FRANCHISE

ORDINANCE GRANTING FRANCHISE

To

GEORGIA POWER COMPANY

By

CITY OF COHUTTA

On

April 17th, 2014

The within franchise accepted on

_____, 2014.

GEORGIA POWER COMPANY

By: _____
President

A-2 COHUTTA LABOR RATE CODE

Whereas, the Property Maintenance Code and the Nuisance Code each envision using Town workers or hiring work to remedy matters, and

Whereas, the Town Council of Cohutta, Georgia considers the time taken away from normal tasks to be a costly matter;

Therefore, the Town of Cohutta sets out the following compensation rules for the work of the Town under proper authority on private property or in response to open records requests:

- 1) All labor work shall be paid at Fifty-Dollars (\$50.00) per hour for each worker and machine;
- 2) Any expense required for repair of machines or hire of outside materials, equipment or labor incurred while working on private property by order of public authority shall be charged to the job;
- 3) Any expense for legal work or accounting work shall be passed through at the fee charged by the attorney or the accountant.
- 4) Under the Cohutta Nuisance Code and the Property Maintenance Code, the labor and expense charges shall become a lien against the improved real property.

Passed at second reading this _____ day of March, 2023 with a ___ to _____ vote of the Cohutta Town Council.

Ron Shinnick, Mayor

ATTEST:

Clerk

A-3 INSURER LICENSE FEE ORDINANCE

To impose license fees on insurers conducting business within the City of Cohutta, Georgia; to impose a gross premiums tax on insurers operating within the State of Georgia; to provide an effective date; to repeal conflicting ordinances; and other purposes.

Be it ordained by the Mayor and council of the City of Cohutta, Georgia; and it is hereby ordained by authority thereof:

Section 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 Cohutta, Georgia in the amount of fifteen dollars (\$15.00). For each separate business location in excess of one not covered by Section 2, which is operating on behalf of such insurers within the City of Cohutta, 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. Sec. 33-3-5.

Section 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.

Section 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. sec.33-8-8.1. Gross direct premiums as used in this section shall mean gross direct premiums as used in O.C.G.A. Sec.33-8-4. The premium tax levied by this section is in addition to the license fees imposed by section 1 of this ordinance.

Section 4. Gross Premiums Tax, All Other Insurers

There is hereby levied for the year 1999 and for each year thereafter an annual tax based solely upon gross direct premiums upon each insurer, other than an insurer transacting business in the class of insurance designated in subsection 1 of O.C.G.A. Sec. 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. Sec. 33-8-8.2. Gross direct premiums as used in this section shall mean gross direct premiums as used in O.C.G.A. Sec. 33-8-4. The premium tax levied by this section is in addition to the license fees imposed by section 1 of this ordinance.

Section 5. Due Date For License Fees

License fees imposed in Sections 1 and 2 of this ordinance shall be due and payable on the first day of 1999 and on the first date of each subsequent year.

Section 6. Administrative Provisions

The City Clerk is hereby directed to forward a duly certified copy of this ordinance to the Insurance commissioner of the State of Georgia within 45 days of its enactment.

Section 7. Effective Date

This ordinance shall become effective January 1, 1999.

Section 8. Severability

In the event any portion of this ordinance shall be declared or adjudged invalid or unconstitutional, it is the intention of the City Council of the City of Cohutta, Georgia, that such adjudication shall in no manner affect the other sections, sentences, clauses or phrases of this ordinance which shall remain in full force and effect, as if the invalid or unconstitutional section, sentence, clause or phrase were not originally a part of the ordinance.

Section 9- Repealer

All ordinances and parts of ordinances in conflict with this ordinance are hereby repealed.

Ordained on the 2nd day of June, 1998 by the Mayor and Council of the City of Cohutta, Georgia. Attested to by Don Henderson, Mayor and Leo Whaley acting as Clerk.

A-4 COHUTTA VACANT AND FORECLOSED PROPERTY REGISTRY CODE

Code No. 2013-Vacant and Foreclosed Property Registry Code

TO CREATE A VACANT AND FORECLOSED PROPERTY REGISTRATION SYSTEM
IN ACCORDANCE WITH O.C.G.A. § 44-A-14

CHAPTER AND PURPOSE. , Building and Building Regulations

ENACTING CLAUSE. The Cohutta, Georgia Town Council, Hereby ordains that its existing Code of Codes is hereby amended by adding a new section. It is the intention of the Mayor and the Council, and it is hereby ordained that the following provisions shall become and be made a part of the Code of the Town of Cohutta, which shall read as follows:

SECTION A-4-- VACANT AND FORECLOSED REAL PROPERTY REGISTRATION SYSTEM

A-4-01 Title

This Article shall be known as the “Cohutta Vacant and Foreclosed Property Code.”

A-4-02 Findings and Intent.

1. The purpose of this article is to establish minimum requirements and standards for registration of vacant and/or foreclosed property in order to promote and protect the public health, safety, convenience, order and general welfare of the citizens of the city.

2. The Cohutta Town Council finds that:

a. There is a need to establish a registration system for vacant and foreclosed property in order to protect the health, welfare and safety of all citizens, to protect property values for all property owners and to encourage proper upkeep and maintenance of such properties.

b. The lack of adequate maintenance and security of vacant and foreclosed properties have an adverse affect on the property values and quality of life of neighboring properties and are detrimental to the health, welfare and safety of all citizens.

c. Improperly maintained and secured properties can become a hazard to the health and safety all citizens and the owners of neighboring properties.

d. Difficulties often arise in locating the person responsible for the condition of vacant and foreclosed property. This registration system will require owners and agents to provide the City with official information for contacting the party responsible for bringing the property into compliance with applicable provisions of state and local laws and regulations. -

A-4-03 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:

Agent means an individual with a place of business in this state at which he or she is authorized to accept inquires, notices, and service of process on behalf of a vacant or foreclosed real property Owner, as that term is defined below.

City means the Town of Cohutta, Georgia.

Department means the Cohutta Land Use Planning Board

Director means the Cohutta Zoning Administrator or his designee.

Foreclosed real property means improved or unimproved real property for which a land disturbance permit has been issued by a county or municipal corporation and is held pursuant to a judicial or non-judicial foreclosure of a mortgage, deed of trust, security deed, deed to secure debt, or other security instrument securing a debt or obligation owed to a creditor or a deed in lieu of foreclosure in full or partial satisfaction of a debt or obligation owed to a creditor.

Owner means any person, agent, operator, firm, partnership, corporation, limited liability company, or trust that has a legal or equitable interest in a parcel of real property, and/or the improvements thereon.

Street address means the street or route address. Such term shall not mean or include a post office box.

Vacant real property means real property that:

1. Is intended for habitation, has not been lawfully inhabited for at least sixty (60) days, and has no evidence of utility usage within the past sixty (60) days; or
2. is partially constructed or incomplete, without a valid building permit.

This term shall not include a building or structure containing multiple units with common ownership that has at least one (1) unit occupied with evidence of utility usage.

A-4-04 Registration of Vacant or Foreclosed Property

1. The Owner or Agent of any vacant real property or foreclosed real property shall maintain an agent for said property in the State of Georgia and shall register the property and the name of the agent with the Director within thirty (30) days of the property becoming vacant or foreclosed, as defined in this article, unless otherwise exempted by this article or state law.
2. Any such owner or agent of foreclosed real property or vacant real property located within the jurisdiction of the City is required to file with the Department a registration

form that shall be on the form developed by the Georgia Department of Community Affairs, or, if no form has been developed by the Georgia Department of Community Affairs, on a form provided by the City. Said form shall require submission of only the following information:

- (a) The real property owner's name, street address, mailing address, phone number, facsimile number, and e-mail address;
- (b) The agent's name, street address, mailing address, phone number, facsimile number, and e-mail address;
- (c) The real property's street address and tax parcel number;
- (d) The transfer date of the instrument conveying the real property to the owner; and
- (e) At such time as it becomes available, recording information, including deed book and page numbers, of the instrument conveying the real property to the owner.

3. Registration is required for all vacant or foreclosed real property unless otherwise exempted pursuant to this article or Georgia Law, but is not required for vacant or foreclosed real property within ninety (90) days of such real property's transfer:

- (a) Pursuant to a deed under power of sale or deed in lieu of foreclosure; or
- (b) To the first subsequent transferee after the vacant real property has been acquired by foreclosure under power of sale pursuant to O.C.G.A. § 44-A-160, or acquired pursuant to a deed in lieu of foreclosure.

4. Any owner or agent required to register any vacant or foreclosed real property pursuant to this article or to Georgia law shall also be required to update the information specified in subsection 2 of this section within thirty (30) days after any change in such required information regardless of whether the information provided to the registry was in the deed under power of sale or deed in lieu of foreclosure.

5. Any owner or agent required to register any vacant or foreclosed real property pursuant to this article or to Georgia law shall also be required to update the information specified in subsection (a) of this section within thirty (30) days after any change in such required information regardless of whether the information provided to the registry was in the deed under power of sale or deed in lieu of foreclosure.

6. Vacant properties subject to this article shall remain under the registration requirement of this article as long as they remain vacant.

7. If pursuant to the terms and definitions of this article a property is determined to have multiple owners, each owner, as defined by this article shall be jointly and severally liable for the property and compliance with this article. - 4 -

8. Any owner or agent of a vacant or foreclosed real property which is required to be registered with the City under this Code shall be required to make a payment for administrative fees that reasonably approximate the cost to the City of the establishment, maintenance, operation, and administration of the registry. Such fees shall not exceed \$100.00 per registration and shall be established by resolution of Mayor and City Council.

9. The submittals required by this Code shall be submitted in paper format until such time as the Director develops a method for electronic submissions. If the Director develops a system for electronic registration under this article, the Director shall determine whether to continue to accept registrations in paper format.

10. Except for the forms created by the Georgia Department of Community Affairs, the Director shall create the forms necessary to carry out the provisions of this article. The owner shall be required to utilize the forms created by the Director.

A-4-05 Removal from registry

A vacant or foreclosed real property owner, or the agent of such owner, may apply to remove such vacant or foreclosed real property from the registry at such time as the real property no longer constitutes vacant or foreclosed real property. The City shall grant or deny such application within 30 days, and if no such determination is made within 30 days, the application shall be deemed granted.

A-4-06 Violation and Penalties

1. An owner or agent required to register a vacant or foreclosed real property under this article will be in violation this article by:

- (a) Failing to register a vacant or foreclosed real property with the Department;
- (b) Failing to update any changes in registration information provided to the City; or
- (c) Failing to pay any fees required herein.

2. Should the owner violate this article, the City may issue a citation setting a hearing in municipal court.

3. Any person who is found guilty of violating this article shall be subject to a fine that shall not exceed one thousand dollars (\$1,000.00). If an owner has multiple vacant real properties that are not registered with the City, each property not registered shall be a separate violation of this article.

A-4-07 Appeal Procedure

1. Any owner or agent aggrieved of any determination or decision of the department, or the city, in the administration of this article may appeal to the municipal court of the city. All appeals hereunder must be taken within thirty (30) days of the decision in question by filing with the Clerk of Court of the Municipal Court of the City of Cohutta ("Clerk of Court"), a notice of appeal specifying the grounds thereof.
2. Upon receipt of the written appeal, the Clerk of Court shall notify the Director of the appeal and the Director shall, within ten (10) days, transmit all papers constituting the record to the Clerk of Court. The Clerk of Court shall schedule a hearing on the appeal within sixty (60) days following the date the appealing party submits its completed written appeal to the Clerk of Court.
3. The municipal court judge may call for further information to be provided following the hearing, and may continue the hearing for the purpose of receiving such information or for such other proceedings and reasons as the municipal court judge deems appropriate.
4. An appeal shall stay all proceedings in furtherance of the action appealed unless the Director, or his/her designee, certifies to the municipal court, after the notice of appeal has been filed with it, that by reason of the facts stated in the certificate a stay would, in his or her opinion, cause imminent peril to life or property. In such case, the proceedings shall not be stayed except by order of the municipal court judge on notice to the Department, and on due cause shown.
5. The Municipal Court's review shall be limited to determining whether the decision of the Director constitutes a manifest abuse of his or her discretion in his or her application and enforcement of this article.
6. The municipal court judge may, in conformity with the provisions of this article, reverse or affirm, in whole or in part, or modify the decision, requirement, or determination of the department appealed by the owner or agent and may make such decision, requirement, or determination, as may be appropriate under the circumstances.

A-4-08 Administration

1. The foreclosure and vacant real property registry is subject to the Open Records Act of the State of Georgia and the city may make such registry information available online.
2. Registration information shall be deemed prima facie proof of the statements contained therein in any court proceeding or administrative enforcement proceeding in connection with the enforcement of this chapter.

A-4-09 Nuisances and Code Enforcement

Nothing in this article shall be construed to impair, limit, or preempt in any way the power of the city to enforce any applicable codes, as defined in state law, or to define or declare nuisances and to cause their removal or abatement by summary proceedings or otherwise.

A-4-10 Conflicts, Severability and Effective Date

1. All Codes or parts of Codes in conflict with this Code are hereby repealed.
2. If any section, clause, sentence or phrase of this Code is held to be invalid or unconstitutional by any court of competent jurisdiction, then said holding shall in no way effect the validity of the remaining portions of this Code.

3. This Code shall become effective immediately upon its adoption by the City Council.

A-4-11 Reserved

IN WITNESS WHEREOF, I have hereunto set my hand and caused this seal to be affixed, this the ____ day of _____, 2013.

Don Henderson, Mayor

Attest: Ben Manis, Council Clerk

Re-adopted after notice and hearing by the Cohutta Council at second reading on March 4, 2014 as part of the Cohutta Code.