

CHAPTER ONE

COHUTTA ANIMAL CONTROL ORDINANCE

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“COHUTTA ANIMAL CONTROL ORDINANCE”**

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 ordinance be adopted;

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

COHUTTA ANIMAL CONTROL ORDINANCE

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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 ordinance 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 ordinance 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;
- c. 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 Ordinance to Domestic Animals Only.

Unless this ordinance shall specifically state otherwise or unless the context shall clearly provide otherwise, this ordinance 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 ordinance 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, ordinances, 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 ordinance shall be in the incorporated portion of Cohutta. However, it is expressly authorized under the terms of this ordinance 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 ordinance with review by certiorari to the Superior Court of Whitfield County.

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

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 as follows:

- (1) If the animal is reclaimed within the five-day waiting period as set forth herein, the penalty shall be a certificate for \$55.00, redeemable by any participating veterinarian, from the city clerk for the sum of \$50.00 once the animal has been sterilized by the veterinarian or a fine of \$55.00 to be determined at the discretion of the animal control officer or the municipal court judge.
- (2) If the animal is not reclaimed, the owner shall be fined not less than \$100.00 for the first offense.
- (3) Except for a first-time offense under subsection 1-32, other violations of this article shall be subject to a fine of not less than \$100.00 and/or community service of up to 40 hours. Convictions under the Responsible Dog Owner provisions shall have penalties as provided for in the statute.

Sec. 1-7. Impoundment.

- (a) Any animal which is in violation of any portion of this ordinance 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 ordinance.
- (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.

Sec. 1-8. Detention Periods Following Impoundment.

Any detention of animals pursuant to this ordinance shall be contracted or by agreement provided by Whitfield County.

Sec. 1-9. Owner Reclaims.

An owner of an impounded animal may reclaim animal pursuant to Whitfield County policy.

Sec. 1-10. Interpretation of Ordinance.

- (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, ordinance, 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 ordinance.

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

This ordinance 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 ordinance 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 ordinance.

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 ordinance.

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 ordinance.

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.

Amended this 24th Day of October, after first reading, hearing and second reading as part of the Cohutta Revised Code.

Originally Adopted the 1st day of May, 2001.

CHAPTER TWO

COHUTTA ALCOHOLIC BEVERAGES ORDINANCE

- **NOTE: “ALCOHOLIC BEVERAGES” IN THIS ORDINANCE SHALL CONSIST OF MALT BEVERAGES AND WINE AND VARIANTS OF EACH. SALE OF DISTILLED SPIRITS IS NOT LEGAL IN COHUTTA.**
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- **Sec. 2-20.** - Reserved.
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- **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 ordinances 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, 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 and 2) beer and wine sales by the drink. The initial license fees shall be \$750.00 per license.

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 or Craft-brewery means a facility using traditional brewing practices to produce less than 5,000 barrels of malt beverage 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;

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 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.

- **ec. 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 mayor or the mayor’s designee 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 Mayor or his designee 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 ordinances 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 alcoholic beverage 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 an alcoholic beverage in an unsealed container on the premises licensed for the sale of alcoholic beverages by the package.

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

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.

- **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 or wine 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 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 9:00 p.m..

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 11:00 p.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 alcoholic beverages 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 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 alcoholic beverages 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 ordinance 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.

COHUTTA BEER AND WINE ORDINANCE READOPTED AND RENAMED AFTER NOTICE AND HEARING BY THE COHUTTA TOWN COUNCIL ON MARCH 4, 2014.

REVISED and READOPTED on December 5, 2017.

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CHAPTER THREE

FINE AND FEE ORDINANCE

COHUTTA FINE, FEE AND OFFENSE ORDINANCE

To Provide For An Administrative Fee In Certain Municipal Court Cases; To provide for Property and Zoning Violation and sanctions, Traffic and License violations and sanction, and Miscellaneous violations and sanctions; To Provide For An Effective Date; To Provide For The Repeal Of Conflicting Ordinances; 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 3.00 JURISDICTION, FINES AND BANISHMENT

3.01 Municipal Court Jurisdiction

The Municipal Court of the Town of Cohutta shall have the jurisdiction to hear all misdemeanor offenses, all zoning and property maintenance offenses, and all traffic offenses and other Town Code violations.

3.02 Community Service

The Municipal Court of the Town of Cohutta shall have the authority to order such terms of Community Service reasonably commensurate with the offense.

3.03 Banishment

Where circumstances are appropriate, the Municipal Court of the Town of Cohutta shall have the authority to order the Defendant or Probationer to such period of Banishment outside the town limit as is reasonably commensurate with their offense.

3.04 Fines.

The Municipal Court of the Town of Cohutta shall have the authority to order such misdemeanor and civil fines as are reasonably commensurate with the offense or offenses.

SECTION 3.1 FEE and EFFECTIVENESS

3. 1 Municipal Court Fees

In every case in Municipal Court of the Town of Cohutta involving the violation of a city ordinance 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 in the amount of \$45.00 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 and may be changed from time to time by the Mayor or his designee as costs change.

SECTION 3.2 PROPERTY AND ZONING OFFENSES

3.2 ZONING VIOLATION

3.2.1.1 Penalties for the Violation of the Cohutta Planning and Land Use Ordinance.

A violation of the Cohutta Planning and Land Use Ordinance may be punished by a fine up to \$1,000.00 or substituted hours of community service including those hours used to resolve the violation at the property. An illegal condition creates a separate violation each day it exists. Community service may be substituted at the minimum wage for any fine.

3.2.1.2 Common Violations of the Ordinance

- a) Production of excess heavy truck movement, too much smoke, too much noise, too much smell or too much vibration in a commercial, light industrial or residential zone is a violation.
- b) A use not allowed in the zone is a violation of the ordinance.
In example, No more than one “yard” or “garage” sale shall be held per quarter in a residential zone.

3.2.2 PROPERTY MAINTENANCE VIOLATION

3.2.2.1 Fine or Community/Property Service A violation of the Property Maintenance Ordinance may be punished by a fine up to \$1,000.00 or substituted hours of community service including those hours used to resolve the violation at the property. An illegal condition creates a separate violation each day it exists after notice. Community service may be substituted at the minimum wage for any fine.

3.2.2.2 Acceptable Community Service at the Property may include:

- a. Disconnecting utilities;
- b. Closing the structure to avoid access by others;
- c. Abating or correcting the unsafe condition by
 - i. Repair
 - ii. Rehabilitation
 - iii. Demolition
 - iv. Other corrective action

3.2.2.3 Waiver of Further Penalty

Should remedial action cure the violation, the defendant may move to have the Court waive further fine or community service, and the Municipal Court may so waive those punishments.

3.2.2.4 Court review.

The Defendant shall have the right to apply to the appropriate court for certiorari to correct errors of law. Application for review shall be made in the manner and time required by law following the filing of the decision in the office of the Municipal Court.

SECTIONS 3.3 et seq COHUTTA ALTERNATIVE OFFENSES

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 Ordinance 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 ordinance is punishable by up to a year of Home Confinement, 30 days on community service and a One-Thousand Dollar Fine.

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 Ordinance. . A violation of this ordinance is punishable by up to one year of Home Confinement, 30 days on community service and a One-Thousand Dollar Fine.

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 ordinance is punishable by up to one year of Home Confinement, 30 days on community service and a One-Thousand Dollar Fine.

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 ordinance is punishable by up to one year of Home Confinement, 30 days on community service and a One-Thousand Dollar Fine.

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 by up to 30 days on community service and a One-Thousand Dollar Fine.

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 ordinance is punishable by up to one year of Home Confinement, 30 days on community service and a One-Thousand Dollar Fine

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 the Cohutta Trespass ordinance is punishable by up to one year of Home Confinement, 30 days on community service and a One-Thousand Dollar Fine.

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 ordinance is punishable by up to one year of Home Confinement, 30 days on community service and a One-Thousand Dollar Fine.

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 ordinance is punishable by up to a year of Home Confinement, 30 days on community service and a One-Thousand Dollar Fine.

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 ordinance is punishable by up to a year of Home Confinement, 30 days on community service and a One-Thousand Dollar Fine.

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 ordinance is punishable by up to one year of Home Confinement, 30 days on community service and a One-Thousand Dollar Fine.

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 ordinance is punishable by up to a year of Home Confinement, 30 days on community service and a One-Thousand Dollar Fine.

3.16.10.24 OBSTRUCTION A person who knowingly and willfully obstructs or hinders any law enforcement officer, Emergency Response Worker or Fireman in the lawful discharge of his official duties in Cohutta is guilty of this ordinance. A violation of this ordinance is punishable by up to a year of Home Confinement, 30 days on community service and a One-Thousand Dollar Fine.

3.16.11.32 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 ordinance is punishable by up to a year of Home Confinement, 30 days on community service and a One-Thousand Dollar Fine.

3.16.11.33 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 ordinance is punishable by up to one year of Home Confinement, 30 days on community service and a One-Thousand Dollar Fine.

3.16.11.36 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 ordinance is punishable by up to a year of Home Confinement, 30 days on community service and a One-Thousand Dollar Fine.

3.16.11.39 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 ordinance is punishable by up to one year of Home Confinement, 30 days on community service and a One-Thousand Dollar Fine.

3.16.11.39.1 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 ordinance is punishable by up to a year of Home Confinement, 30 days on community service and a One-Thousand Dollar Fine.

3.16.11.41 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 ordinance is punishable by up to a year of Home Confinement, 30 days on community service and a One-Thousand Dollar Fine.

3.16.11.43 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 ordinance is punishable by up to a year of Home Confinement, 30 days on community service and a One-Thousand Dollar Fine.

3.16.11.44 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 ordinance is punishable by up to a year of Home Confinement, 30 days on community service and a One-Thousand Dollar Fine.

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. A

violation of this ordinance 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 ordinance is punishable by up to one year of Home Confinement, 30 days on community service and a One-Thousand Dollar Fine.

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 Ordinance 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 Ordinance is punishable by up to a One-Thousand Dollar Fine and up to 30 days of Community Service.

3.36.9.11 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 ordinance is punishable by up to one year of Home Confinement, 30 days on community service and a One-Thousand Dollar Fine.

3.40.1.3 ALLOWING ILLEGAL OPERATION It is unlawful for the owner or any other person employing or otherwise directing the driver of any vehicle to require or knowingly permit the operation of such vehicle upon a highway in any manner contrary to law. A Violation of this Ordinance 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 Ordinance 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 Ordinance is punishable by up to a One-Thousand Dollar Fine and up to 30 days of Community Service.

3.40.5.29 DRIVING W/O 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 Ordinance 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 Ordinance 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 Ordinance 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 Ordinance 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 Ordinance 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 Ordinance 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, or other mechanical sound-making device or instrument from within 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 Ordinance 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 Ordinance 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 Ordinance 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 Ordinance 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 Ordinance 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 Ordinance 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.

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 Ordinance is punishable by up to a One-Thousand Dollar Fine and up to 30 days of Community Service.

3.40.6.56 OVERTAKING A BIKE The operator of a motor vehicle, 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 Ordinance 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 Ordinance 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 Ordinance 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 Ordinance 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 Ordinance 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 Ordinance 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 Ordinance 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 Ordinance 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 Ordinance 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 Ordinance 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 Ordinance 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 Ordinance 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 Ordinance 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 Ordinance 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 Ordinance 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 Ordinance 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 Ordinance 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 Ordinance 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 Ordinance 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 Ordinance 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 Ordinance 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 Ordinance 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 Ordinance 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 Ordinance 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 Ordinance 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 Ordinance 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 Ordinance 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 Ordinance 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 Ordinance 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 No horn or other warning device shall emit an unreasonably loud or harsh sound or a whistle. Violation of this Ordinance is punishable by up to a One-Thousand Dollar Fine and up to 30 days of Community Service.

3.40.9.8 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 Ordinance 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 Ordinance 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 maintain 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. An illegal condition creates a separate violation each day it exists after notice. Violation of this Ordinance is punishable by up to a One-Thousand Dollar Fine 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. In addition to all other remedies, the Court may banish the Probationer from entering or being in the Town Limits of Cohutta.

3.5 Repeal of Conflicting Ordinances

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

3.6 Effective Date

This ordinance shall be effective upon the first day of the first month after its passage by the Mayor and Council and 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.

3.7 Severability

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 Ordinance are severable and if any phrase, clause, sentence, paragraph or section of this Ordinance 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 Ordinance.

SO ORDAINED this 1st day of September, 2009.
Upon reading a motion for passage of this ordinance was made by Councilmember Shinnick, seconded by Councilmember Manis and upon the question the vote is 3 ayes, no nays and the Ordinance is adopted. (Sections 3.11-3.14)

Don Henderson
Mayor

ATTEST: Ben Manis

Adopted after public hearing and two readings on December 5, 2017.

CHAPTER FOUR

COHUTTA NUISANCE ORDINANCE

**TOWN OF COHUTTA
NUISANCE ORDINANCE**

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 Ordinance; 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 Ordinance; 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 Ordinance; To Provide That Powers and Procedures Set Forth In This Ordinance 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 Appropriations
- 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 ordinance 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 ordinance 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 Ordinance as hereinafter set forth as “Hearing Officer” in the matter.

4.3. Definitions

As used in this Ordinance, 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 Cohutta 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 Planning and Land Use Commission 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 Planning and Land Use Commission 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 Planning and Land Use Commission of Cohutta 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 Ordinance, 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 ordinance.

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 ordinance ordered the Hearing Officer to proceed to effectuate the purposes of this ordinance 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 ordinance.

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 the mayor or the mayor’s designee 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. See Exhibit “A” with Cohutta Labor Rate for any work done on the property.

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 Ordinance 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 ordinances. In addition, nothing in this Ordinance shall cause the Town of Cohutta, the Chairman of the Cohutta Planning and Land Use Commission or the Cohutta Building Inspector to be under a duty to enforce the provisions of this Ordinance 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 Ordinance 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 Ordinance; and

(d) To delegate any of his functions and powers under the Ordinance to such officers as he may designate.

4.7. Service of Process

a) Complaints or orders issued by the Hearing Officer pursuant to this Ordinance 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 Ordinance and this is authorized pursuant to O.C.G.A. Section 41-2-15.

4.9 Supplemental in Effect

Nothing in this Ordinance shall be construed to abrogate or impair the powers of the Cohutta Recorders 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 Ordinances or regulations on the same subject matter nor to prevent or punish violations thereof; and the powers conferred by this Ordinance shall be in addition to and supplemental to the powers conferred by another law.

4.10 Severability

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

So Ordained this 3rd day of June, 1991.

BY: Don Henderson Mayor

ATTEST: Steve Henderson City Clerk date: 6-13-91 This effective Ordinance has been published according to the Charter.

Re-adopted and Revised after notice and hearing by the Cohutta Council at second reading on March 4, 2014 as part of the Cohutta Code, Effective upon Re- Publication.

Re-Adopted With the 2017 Code.

COHUTTA LABOR RATE ORDINANCE

Whereas, the Property Maintenance Ordinance and the Nuisance Ordinance 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:

- 1) All 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) Under the Cohutta Nuisance Ordinance and the Property Maintenance Ordinance, the labor and expense charges shall become a lien against the improved real property.

Passed at second reading this 7th day of June, 2016 with a 4 to 0 vote of the Cohutta Town Council.


Ron Shinnick, Mayor

ATTEST:

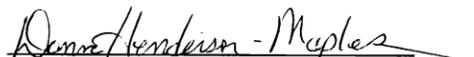

Donna Henderson Maples, Clerk

EXHIBIT "A" TO NUISANCE ORDINANCE

CHAPTER FIVE

COHUTTA PLANNING & LAND USE ORDINANCE

TOWN OF COHUTTA GEORGIA
PLANNING AND LAND
USE ORDINANCE

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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 Planning and Land Use Commission is also created in this ordinance 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 ordinance, 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. Any words not herein defined shall be construed as defined in other ordinances and codes and where definitions in other ordinances 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 Ordinance.

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. The Board authorized to hear and decide appeals relating to the enforcement of this Ordinance.

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.

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

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 Ordinance. 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 Commissioners.

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 stormwater 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 Ordinance, 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.

CHART

AREA, FLOOR, SETBACK, YARD AND HEIGHT REQUIREMENTS

DISTRICT ⁵	MINIMUM LOT AREA ⁶ IN SQUARE FEET		MIN. SITE AREA	ADDIT'NL REQ'MNTS	MIN ² LOT WIDTH	MIN. FLOOR AREA	FRONT YARD ³ SETBACK		SIDE ¹ YARD	REAR YARD	MAXIMUM BUILDING HEIGHT
							MAJ. & COLLECTOR STREETS	LOCAL STREET			
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	27,500 (on-site) 15,000 (sewer)	---			1500 s.f.	40	25	10	15	35
R-7 ⁴	Multi-Family/ Condominiums	7,500 s.f. for 1 st unit, 1,000 s.f. for 2 nd unit, plus 1,945 s.f. for units thereafter/acre	---	See Townhouse Condo Rules below		---	40	25	10	15	35
PUD	Planned Unit Development (PUD)		15acre		To Be Determined after hearing						
MU	All Uses	TBD	---		To Be Determined after hearing						
C-1	All Uses	No minimum required			---	---	25	15	10	20	40
C-2	All Uses	No minimum required			---	---	25	25	15	20	40
M-1	All Uses	No minimum required			---	---	25	15	15	25	75

FOOTNOTES

1. Side setbacks apply to buildings; for zero lot line dwellings the side yard is waived on one side of the lot.
2. Required only outside fire limit.
3. Measured at the building line.
4. The maximum allowed density shall not exceed 20 dwelling units per gross acre; the formula within the table is used to compute density for areas less than one (1) acre. (For example: A site containing 2.3 acres allows 40 units + 4 = 44 units)
5. Site plans 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.

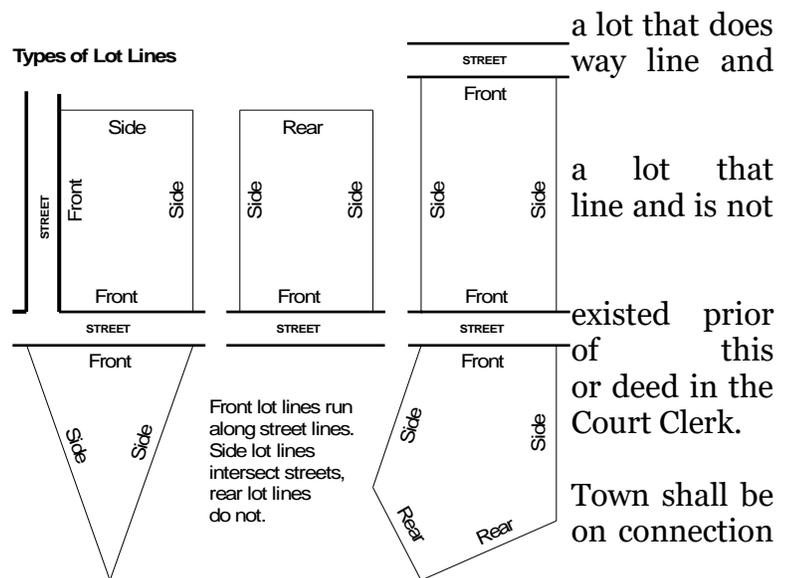
Lot, Double Corner. A corner lot which has frontage on three or more roads.

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 not intersect with a street right-of-way is not a front lot line.
3. **Side lot line:** Any boundary line of intersects with a street right-of-way a front lot line.



Lot of Record. A lot which lawfully to the adoption or subsequent amendment Ordinance, as shown or described on a plat records of the Whitfield County Superior

Lot Sewage Connection. All lots in the subject to Appendix “C” of this Ordinance and use of sewage service.

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.

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

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 Ordinance, 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 Ordinance.

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 Ordinance, but which, by reason of such adoption or amendment, no longer meets or conforms to one or more such requirements of this Ordinance.

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 Ordinance, 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 Ordinance, 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 Commission. The Cohutta Planning and Land Use Commission 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 Ordinance.

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 The mayor or the mayor's designee.
- 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 Ordinance 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.

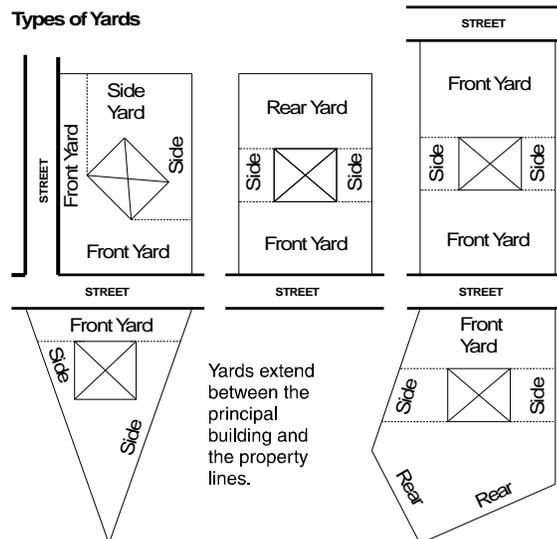
Utility Facilities. Structures that provide for the distribution of services of public or private utilities, such as electrical transformer stations, gas regulator stations, telephone exchanges, water pump stations, and sewer lift stations, etc.

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.

The Zoning Administrator: The Chairman of the Cohutta Planning and Land Use Commission or the mayor’s designated representative.

Zoning Board: The Cohutta Planning and Land Use Commission.

Zoning Board of Appeals: The Cohutta Planning and Land Use Commission.

**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 mayor or the mayor’s designee.

**ARTICLE 5.4
ZONING DISTRICTS AND BOUNDARIES**

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

- R-A Very Low Density Residential-Agricultural
- R-1 Low Density Residential
- 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 ordinance 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 Ordinance, except that hens may be kept for personal use)
 3. Home Occupation pursuant to the definition in this ordinance
- 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:**
1. One Single family dwelling per lot (Consistent with other Cohutta housing ordinances)
 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 5.53--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 open storage or the nuisance factors such as smoke, dust, fumes, gas, heat, glare, noise and vibrations.

B. PERMITTED USES:

1. 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-I
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, or use of travel trailers or similar commercial structures is not allowed. C-1 is not characterized by heavy truck movements, open storage or the nuisance factors such as smoke, dust, fumes, gas, heat, glare, noise and vibrations. All Commercial Uses must present a plan to the Council prior to opening which comports with Article 5.6. Plans must conform to the historic character of the city.

B. PERMITTED USES:

1. Barber and beauty shops
2. Banks

3. Health Clinics and Professional Offices
4. Auto Repair
5. Grocery store
6. Governmental facilities and institutions
7. Hardware store
8. Offices
9. Parks
10. Restaurants
11. Bicycle shop
12. Bed & Breakfast Inns
13. Micro-brewery or Craft Brewery
14. Information Systems/Computer sales and service
15. Cellular Telephone store
16. Coffee Shop/Cafe
17. Bakeries, retail
18. Candy, ice cream, and confectionery store
19. Garden supplies store
20. Music store, including and phonographic record store
21. Stamp, Comic Book, Train and other Hobby Store
22. Leather Goods and Shoe Repair
23. Fly Shop
24. Toy, Pottery and Craft Store
25. Antique Store and Auction
26. Churches and other Places of Worship

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 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. All Commercial Uses must present a plan to the Council prior to opening which comports with Article 5.6. Plans must conform to the historic character of the city.

B. **PERMITTED USES:**

1. All uses permitted in C-I
2. Drug Store
3. Auto Repair

4. Apparel and accessory store
5. Apartments located above the ground floor
6. Appliance store
7. Art Supply Store
9. Book store
10. Bowling alley
12. Club or lodge
13. Delicatessen
14. Tailor, Dressmaking, seamstress
15. Floral sales
16. Furniture store
17. Garage - general service
18. Garden supplies store
19. Gifts, novelties, and souvenir store
20. Gunsmith
21. Health club
22. Hobby store
23. Interior decorator
24. Jewelry store
25. Laboratory - dental or medical
26. Locksmith
27. Luggage store
28. Mortuary
29. Motels and hotels
30. Music store
31. Newsstand
32. Eye Glass/Contacts and other Optical goods
33. Photo studio and picture processing
34. Rental and servicing of any article, the sale of which is allowed in this district
35. Sporting goods store
36. Toy store
37. Schools - private
38. Theater
39. Variety store
40. Convenience Store
41. Cultural Facility
42. Golf Cart Repair and Sales

ARTICLE 5.57
M-1
LIGHT INDUSTRIAL DISTRICT REGULATION

A. PURPOSE: The M-1 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.

B. PERMITTED USES:

1. Art equipment supplies - manufacturer
2. Bottling establishments
3. Blank books, loose leaf binders - fabrication and assembly
4. Books and bookbinding
5. Cabinet and woodworking establishments
6. Clothing manufacturer
7. Camera and photographic manufacturer
8. Cold open storage plant
9. Commercial printing, publishing, engraving, and reproduction firms
10. Confectionery and related products - manufacturer and packaging
11. Dental instruments and supplies
12. Dry cleaning establishments
13. Electric lighting and wiring equipment - manufacturer
14. Electric measuring and testing equipment - manufacturer
15. Electrical products and appliances - manufacturer and assembly
16. Electronic tubes and other components - manufacturer and assembly
17. Footwear - manufacturer and fabrication
18. Hand and edge tools
19. Hardware warehousing and distribution operations
20. Hatchery
21. Ice cream plants
22. Ice plants
23. Laboratory instruments and associated equipment, scientific and testing
24. Lumber yards
25. Luggage, handbags and similar items - manufacturer and assembly

26. Mail order houses
27. Optical instruments and lenses - manufacturer and assembly
28. Patterns - design and manufacturer
29. Pottery shops
30. Precision instruments
31. Plastic extrusion, molding and fixture
32. Plumbing fixtures and equipment - wholesale
33. Radio and television - assembly and parts fabrication
34. Scientific and research instruments and equipment manufacturer and assembly
35. Signs and advertising display materials
36. Sports equipment - manufacturer and assembly
37. Telephone and telegraph technical apparatus manufacturer and assembly
38. Temperature controls - fabrication and assembly
39. Textile manufacturer - excluding dye operations
40. Welding supply
41. Micro-brewery or Craft-brewery

ARTICLE
ARTICLE 5.58
ADULT BUSINESS REGULATION

The following uses, as set forth in the Dalton Georgia Adult business ordinance §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 Ordinance 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, 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.

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 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;
- 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

2. Review and Approval

The plan of the proposed development with the required supplementary information shall be referred to the Cohutta Planning and Land Use Commission. Additional requirements may be recommended by the Commission for the protection of adjoining property or for the benefit and enhancement of the development. The Commission 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 Commission 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.

1. 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 M-1 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 ordinance 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 Planning and Land Use Ordinance, 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 ordinance
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 ordinance 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 ordinance.

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 ordinance, which this ordinance amends or replaces, shall not be validated by the adoption of this ordinance.

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 Planning and Land Use Commission 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 5.70
PLANNING AND LAND USE COMMISSION

A. CREATION AND MEMBERSHIP: The Cohutta Planning and Land Use Commission is hereby established. The words “Commission,” Board,’ ‘Zoning Board,” or ‘Zoning Board of Appeals” when used in this ordinance shall be construed to mean the Cohutta Planning and Land Use Commission. The Commission shall consist of five members, appointed by the Cohutta Town Council for overlapping terms of three years. The Commission shall elect its own Chairman and shall adopt such rules or procedures as necessary, subject to approval of the Town Council. Where there is no operating Commission, the Town Council shall act as the Cohutta Planning and Land Use Commission.

B. MEETINGS. PROCEDURES. AND RECORDS: Meetings of the Commission shall be held at such times as the Commission 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 Commission or the Council acting as the Commission shall be open to the public.

C. APPEALS: An appeal from the decision of the mayor or the mayor’s designee may be taken to the Commission by any person aggrieved, or by any officer, department, board or agency of the Town affected by such decision. Such appeal shall be taken within a reasonable time, as provided by the rules of the Commission, by filing with the mayor or the mayor’s designee and with the Commission a notice of appeals specifying the grounds thereof.

The mayor or the mayor’s designee shall forthwith transmit to the Commission all the papers constituting the record upon which the action appealed from, unless the mayor or the mayor’s designee certifies to the Commission, 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 Commission or by a court of record on application or notice to the mayor or the mayor’s designee and on due cause shown.

D. HEARING: The Commission 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 Commission 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 mayor or the mayor's designee in the enforcement or application of this ordinance.
2. To authorize upon appeal in specific case a variance from the terms of this ordinance such as will not be contrary to the public interest, where owing to special conditions a literal enforcement of the provisions of this ordinance will result in unnecessary hardship, but where the spirit of the ordinance 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 ordinance, 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 Commission 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 Ordinance 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 ordinance.
 - b. The interpretation of the provisions of this ordinance, 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 Ordinance.
 - 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 ordinance 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 Commission may in conformity with the provisions of this Ordinance, 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 mayor or the mayor's designee, 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 Ordinance.

To defray a portion of the costs occasioned thereby, no appeal from the decision of the mayor or the mayor's designee 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 Commission until there has been paid to the office of the Commission by the appellant or applicant a fee of \$50.00 which fee shall be remitted to the city clerk with waiver authorized by the Town Council, and such fee may be changed from time to time by the Mayor or his designee as costs change.

No fee shall be required for an interpretation of this ordinance 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 ordinance is hereby conferred upon the mayor or the mayor's designee. It shall also be the duty of all officers and employees of the Town to assist the mayor or the mayor's designee by reporting to him new construction, reconstruction, new land uses and apparent violations of this ordinance.
- 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 mayor or the mayor's designee to determine that the proposed structure and use of land will conform to the provisions of this ordinance. 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 mayor or the mayor's designee. The original copy of such applications and plats shall be kept in the office of the mayor or the mayor's designee and the duplicate copy shall be kept with the building permit at the building at all times during construction. The Mayor or the Mayor's designee shall provide an appropriate form and may charge a reasonable fee for the provision, filing and checking of zoning, size and set back for building permits. Initial fee shall be One-Hundred-Twenty-Five Dollars (\$125.00).

**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. Violations of this zoning ordinance is set forth in section 3.2.21 above.
- 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 ordinance, the mayor or the mayor's designee, 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 mayor or the mayor's designee 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 Planning and Land Use Commission, or the owner or authorized agent of property within the area proposed for change. Amendments to the text of the ordinance may be initiated by any citizen of the Town, the Cohutta Planning and Land Use Commission, or the Town Council. When amendment is initiated by the Commission or the Council, the required fee shall be waived. Private amendments shall be accompanied by a payment of Seventy-Five Dollars (\$75.00) or such other fee set out by the Mayor or the Mayor's designee.
- B. PROCEDURE: An application for an amendment to this ordinance shall be filed with the mayor or the mayor's designee at least 30 days prior to the date on which it is to be heard by the Planning and Land Use Commission. 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 PLANNING AND LAND USE COMMISSION: After reviewing the submissions, the Commission shall schedule a public hearing. After the hearing, the Commission 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 mayor or the mayor’s designee 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 mayor or the mayor’s designee 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 Planning and Land Use Commission, 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 part 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, and the fee may be changed from time to time by the Mayor or his designee as costs change.

- 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 or provision of this ordinance be declared by a court of competent jurisdiction to be invalid, such action shall not affect the validity of the ordinance 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 ordinance, 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 ordinance to interfere with or abrogate or annul any easements, covenants or other agreements between parties; provided however, that where this Ordinance 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 ordinance shall govern.

ARTICLE 5.84
CONFLICTING ORDINANCES

This is intended to be the comprehensive Zoning Ordinance for the entire incorporated area of the Town of Cohutta and all other ordinances 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 ordinances; provided, however, that such uses and conditions to the extent that they do not conform to the requirements of this ordinance shall be considered under the non-conforming provisions hereof.

ARTICLE 5.85
ADOPTION AND EFFECTIVE DATE

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

Adopted this 11th day of April 1986.

Don Henderson
Mayor, Town of Cohutta, Georgia

Steve Henderson

Attest: Clerk, Town of Cohutta, Georgia.

Re-adopted after notice and hearing by the Cohutta Council at second reading on
March 4, 2014 as part of the Cohutta Code.

EXHIBIT “A”

See table at Lot Area Chart in 5.2

APPENDIX “B”

:

APPENDIX “C”

BUILDING AND USING SEWERS AND CONNECTIONS

Sec.1. - Required connection to public sewer for new construction.

The owner of any dwelling or real property otherwise used for human occupancy constructed (or renovated in such a manner that the square footage is increased by more than 50 percent) after January 1, 2018, situated within the Town of Cohutta and abutting on any road or right-of-way in which there is now located or may in the future be located a public sanitary or combined sewer within the Town Limits, shall be required, at such person's expense, to connect such dwelling directly with the proper public sewer in accordance with the provisions of this article, provided that the public sewer is available within 200 feet of the nearest property line or within 400 feet of the nearest building corner, whichever is greater.

Sec. 2. Permit to make connection, etc.—Required.

No unauthorized person shall uncover, make any connection with or opening into, use, alter or disturb any public sewer or appurtenance thereof without first obtaining written permission from the applicable sewer service provider.

Sec. 3. - Same—Classes; application; addenda; fee.

There shall be two classes of building sewer applications: (1) For residential and commercial service, and (2) for service to establishments producing industrial wastes. In either case, the owner or the owner's agent shall make application to the applicable sewer service provider and pay any applicable fees. The applicable sewer service provider will evaluate the available capacity, cost, and technical requirements for connection to the public sewer and provide that information to the owner or owner's agent. The application shall be supplemented by any plans, specifications or other information required by the county engineer and/or the applicable sewer service provider.

Sec. 4. - Responsibility for costs and expenses; indemnification of Town of Cohutta

(a) All costs and expenses incident to the installation and connection of the building sewer shall be borne by the owner.

(b) The owner shall indemnify The Town of Cohutta from any loss or damage that may directly or indirectly be occasioned by the installation of the building sewer.

Sec. 5. - Separate building sewer for each building.

A separate and independent building sewer shall be provided for every building; except that where one building stands at the rear of another on an interior lot and no private sewer is available or can be constructed to the rear building through an adjoining alley, courtyard, or driveway, the building sewer from the front building may be extended to the rear building and the whole considered as one building sewer if approved by the county engineer or his or her designee.

Sec. 6. - Use of old building sewers.

Pre-existing building sewers may be used in connection with new buildings only when found, upon examination and testing by the county engineer or his or her designee, to meet all requirements of this article.

Sec. 7. - Building sewer installation specifications.

The size, slope, alignment, materials of construction of a building sewer, and the methods to be used in excavating, placing the pipe, jointing, testing, the backfilling of the trench, shall all conform to the requirements of all applicable codes or other applicable rules and regulations of The Town of Cohutta..

Sec. 8. - Building sewer elevation; sewage lift.

Whenever practicable, the building sewer shall be brought to a building at an elevation below the basement floor. In all buildings in which any building drain is too low to permit gravity flow to the public sewer, sanitary sewage carried by such building drain shall be lifted by an approved means and discharged to the building sewer.

Sec. 9. - Connection of roof downspout, etc.

No person shall make connection of roof downspouts, exterior foundation drains, sump pumps, areaway drains, or other sources of surface runoff or groundwater to a building sewer or building drain which in turn is connected directly or indirectly to a public sanitary sewer.

Sec. 10. - Connection specifications.

The connection of the building sewer into the public sewer shall conform to the requirements of all applicable codes or other applicable rules and regulations of The Town of Cohutta. All such connections shall be made gas-tight and water-tight. Any deviation from the prescribed procedures and materials shall be approved in advance by a licensed Civil Engineer.

Sec. 11. - Notice of readiness for inspection and connection; supervision.

An applicant for sewer service shall notify The Town of Cohutta when a building is ready for inspection and connection to the public sewer. The connection shall be made under the supervision of the Mayor or his or her designee.

Sec. 12. - Guarding excavations; permission to cut surface; restoration.

(a) All excavations for building sewer installations shall be adequately guarded with barricades and lights so as to protect the public from hazard.

(b) Prior to excavation, blockage, disruption, or any disturbance of any public road, sidewalk, or other public right-of-way, notification must be made to and approval obtained from the county engineer not less than five days in advance of such excavation, blockage, disruption or disturbance.

(c) Roads and/or other county public property disturbed in the course of the work shall be restored in a manner satisfactory to the county engineer.

Sec. 13. - Sewer use. Use of the public sewer shall be in conformance with the applicable sewer use rules and regulations of the applicable sewer service provider.

CHAPTER SIX

COHUTTA SPEED LIMIT ORDINANCE

COHUTTA SPEED LIMIT ORDINANCE

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 40-14-1 through 40-14-16 where applicable, are hereby adopted as and for the traffic regulations of this municipality with like effect as if recited herein.

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 mile point 11.21 (200 feet south of Cohutta-Beaverdale Road No. 183), the speed limit shall be 55 miles per hour.

From mile point 11.21 (200 feet south of Cohutta-Beaverdale Road No. 183) to mile point 11.74, a distance of 0.53 mile, the speed limit shall be 50 miles per hour. From mile point 11.74 to the Tennessee line, the speed limit shall be 55 miles per hour.

Signs to be erected by the Georgia Department of Transportation (GDOT).

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 35 miles per hour subject to GDOT review

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 35 miles per hour subject to GDOT review.

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 Wolfe Street, a distance of 0.70 mile, the speed limit shall be 35 miles per hour.

6.24. Red Clay Road (203)

From Wolfe Street to 1200 feet (0.23 mile) north of Pleasant Valley Road, a distance of 0.52 mile, the speed limit shall be 35 miles per hour.

From 1200 feet (0.23 mile) north of Pleasant Valley Road to the North City Limits, a distance of 0.73 mile, the speed limit shall be 35 miles per hour subject to GDOT review.

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 35 miles per hour, subject to GDOT review.

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.

Amended and Adopted after public hearing and first and second readings on December 5, 2017.

CHAPTER SEVEN

COHUTTA SUBDIVISION ORDINANCE

SUBDIVISION AND BUILDING ORDINANCE
COHUTTA, GEORGIA

7.I. PURPOSE, AUTHORITY, AND JURISDICTION

7.1-1 Purpose

The public health, safety morals and general welfare require the harmonious, orderly, and progressive development of land within Cohutta, Georgia. In furtherance of this purpose these regulations are adopted to:

- (a) Encourage the development of economically sound and stable communities;
- (b) Assure the provision of required streets, and where practical, utilities and other facilities and services to new land developments;
- (c) Assure the adequate provision of safe and convenient traffic access and circulation, both vehicular and pedestrian, in new developments;
- (d) Assure the provision of needed public open spaces and building sites in new land developments through the dedication or reservation of land for recreation, educational, and other public purposes; and
- (e) Assure, in general, the wise development of new areas in harmony with the Master Plan of the community as it now exists or may be established.

7.1-2 Authority

These subdivision regulations are adopted under the authority by the Georgia Act of 1969 incorporating Cohutta, as amended (House Bill No. 645).

7.1-3 Jurisdiction

These regulations shall govern all subdivision of land within the incorporated area of Cohutta, Georgia.

7.1-4 Use of Plat

The transfer of, sale of, agreement to sell, or negotiation to sell land by reference to or exhibition of, or other use of plat of subdivision that has not been given Final Approval by the Cohutta Planning and Land Use Commission and recorded in the office of the Clerk of Superior Court of Whitfield County is prohibited, and the description by metes and bounds in the instrument of transfer or other document shall not exempt the transaction from such penalties.

7.1-5 Erection of Building

No building permit shall be issued and no building shall be erected on any lot in the town unless the street giving access thereto has been accepted as a public street in accordance with Whitfield County Regulations or unless such street has attained the status of a public street prior to the effective date of this ordinance or on a street accepted by the governing body. All lots shall be subject to the sewage connection regulations appended at Exhibit "A".

7. II. DEFINITIONS

For the purpose of these regulations the following words and terms are defined as follows:

7. 2-1 Words used in the present tense include the future tense.

7. 2-2 Words used in the singular number include the plural and words used in the plural include the singular. He includes she and his includes hers.

7.2-3 The Word "shall" is mandatory and not merely discretionary.

7.2-4 Building Line - A line beyond which no foundation wall or part of the structure of any building shall project, with the exception of roof overhang and the sub-surface projection of footings.

7.2-5 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.

7.2-6 Cul-De-Sac - A street having one end open to traffic and the other end terminated in a minimum right-of-way and paved turn-around with a minimum outside diameter of eighty (80) feet.

7.2-7 Lot - A portion of a subdivision intended as a unit for transfer of ownership or for development or both. The word "lot" includes the words "plot" or "parcel".

7.2-8 Lot Width - The width of the lot at the building line measured parallel to the street right-of-way line or in the case of a curvilinear street parallel to the chord of the arc between the intersection of the side lot lines and the street right-of-way line.

7.2-9 Planning Commission - The Cohutta Planning and Land Use Commission.

7.2-10 Town - The Town of Cohutta, Georgia.

7.2-11 County - Whitfield County, Georgia.

7.2-12 Street - The word "street" means, relates to, and includes streets, avenues, boulevards, roads, highways, expressways, lanes, alleys, courts, and other ways.

7.2-13 Sub-divider - The word "sub-divider" includes any person, firm, corporation or agent who undertakes the subdivision of land as defined herein.

7.2-14 Subdivision - The division of a tract or parcel of land into more than one lot, building site, or other divisions for the purpose, whether immediate or future, of sale legacy, or building development, and includes all division of land involving a new street or a change in existing streets, and includes re-subdivision and, where appropriate to the context, relates to the process of subdividing or to the land or area subdivided; provided, however, that the following are not included within this definition;

- (a) The combination or recombination of portions of previously platted lots where the total number of lots is not increased and the resultant lots are equal to the standards set forth in these regulations.
- (b) The division of land into parcels of five (5) acres or more where no new street is involved.
- (c) The transfer of un-subdivided land or the transfer of a lot or parcel of land established by deed or plat recorded in the office of the Clerk of Superior Court prior to the effective date of these regulations.
- (d) The division of land among heirs by judicial decree.

The Planning Commission shall have the authority to waive the design criteria of these regulations in the case of subdivisions substantially developed prior to the adoption of these regulations and where notification that the subdivision has been started is made to the Planning Commission within ten (10) days of date of adoption.

7-III. PROCEDURE FOR PLAT APPROVAL

7.3-1 The procedure for formal review and approval of the subdivision plat consist of three separate steps. These are approval of Preliminary and Final Plat, and Recording and Dedication.

7.3-11 Prior to making any street improvements or installing any utilities or selling any lots the developer shall submit to the Planning Commission a Preliminary Plat of the proposed subdivision prepared in accordance with the provision of these regulations.

7.3-12 After completion of the physical development, or proper arrangements for same, of all or part of the area shown on the Preliminary Plat as approved by the Planning Commission, a Final Plat together with the required certificates shall be submitted to the planning Commission for approval. This Final Plat, when approved by the Planning Commission and duly signed, becomes the instrument to be recorded in the office of the Clerk of the Superior Court of Whitfield County, Georgia.

(In the event the sub-divider plans to secure approval of his subdivision layout by the Federal Housing Administration, it is suggested that such approval be secured prior to the submission of a Preliminary Plat to the Planning Commission.)

7.3-13 After Final Plat is approved by the Planning Commission, the Final Plat shall be recorded in the office of the Clerk of Superior Court and all dedications shall be appropriately executed. Road Deeds shall be made to Whitfield County Board of Commissioners, stipulating name of streets and length.

7.3-14 Subdivisions which do not involve the platting, construction or opening of new streets, sewer, or water facilities, or improvements to existing streets, shall be accepted by the Planning Commission in the form of a Final Plat. the Final Plat shall comply in all respects to these regulations.

7.3-20 Preliminary Plat

On or before the twentieth (20th) day of the month prior to the month in which the sub-divider desires Planning Commission action, six (6) copies of the Preliminary Plat and supporting data shall be submitted to the Chairman of the Planning Commission or the Chairman's designee.

7.3-21 The Preliminary Plat shall meet the minimum standards of design set forth in these regulations and shall include the following information:

7.3-22 General

1. Proposed name of subdivision.
2. Name and address of person to be notified of action
3. Graphic scale, north point, and date. The north point shall be identified as magnetic, true, or grid north.
4. Location sketch map showing relationship of the subdivision of the surrounding area.
5. Acreage to be subdivided.
6. The sub-divider may, and is encouraged to, submit a Preliminary Plat of his entire tract even though his present plans call for the actual development of only a small part of the property.
7. The plat shall be drawn to scale of not less than one (1) inch equals one hundred (100) feet.

7.3-23 Existing Conditions

1. Topography by contours at vertical intervals of not more than five (5) feet; provided, however, the requirement shall be mandatory in the case of suburban subdivisions of less than twenty (20) lots. (May be waived if not needed for public and private roads and sanitary sewerage system design.)
2. Zoning district classification of land to be subdivided and adjoining lands.
3. Deed record names of adjoining property owners or subdivisions.
4. In case of re-subdivision, a copy of existing plat with proposed re-subdivision superimposed thereon.
5. Location of streams, lake, swamps, and land subject to flood as determined from past history of flooding or hydraulic engineering calculations of existing conditions.
6. Location of existing adjoining property lines and buildings on property to be subdivided.
7. Location and right-of-way of streets, roads, railroads, and utility lines either on or adjacent to the property to be subdivided. Specify whether utility lines are in easements or right-of-ways and show location of poles or towers.

8. Size and location of existing sewers, water mains, drains, culverts or other underground facilities, within the tract or within the right-of way of streets or roads adjoining the tract. Grades and elevation of sewers shall be shown.
9. The acreage of each drain area effecting the proposed subdivision.
10. All elevation shall refer to the Mean Sea Level Datum where public water and/or public sewers are to be installed.

7. 3-24 Proposed Conditions

1. Layout of streets, roads, alleys, public crosswalks, with widths, road names or designations, grades and cross sections.
2. Profile of proposed streets showing natural and finished grades.
3. Layout of all lots including building setback lines; scaled dimensions on lots; utility easements with width and use.
4. Preliminary plan of sanitary sewers (if applicable) with grade, pipe size, and points of discharge; or percolation test as specified by the Health Department.
5. Preliminary plan of storm sewer system with grade, pipe sizes, and location of outlet.
6. Preliminary plan of water supply system (if applicable) with pipe sizes and location of hydrants compatible with fire-line regulations set by Insurance Service Office (ISO).
7. Designation of all land to be reserved or dedicated for public use.
8. Building permits cannot be issued until money is in escrow for improvements of streets.

7. 3-25 Review

Within thirty (30) days after the submission of the preliminary plat, the Planning Commission shall review and approve or disapprove the plat.

7.3-26 Approval

Failure of the Planning Commission to act within thirty (30) days shall be deemed approval of such plat and a certificate to that effect shall be issued by the Planning Commission on demand; provided, however, that the applicant for the Planning Commission's approval may waive this requirement and consent in writing to the extension of such period. The ground of disapproval of any plat shall be stated in writing upon the records of the Planning Commission and a cop of such ground provided to the sub-divider. Approval of the preliminary

plat shall lapse unless a Final Plat of all or part of the area shown on the Preliminary Plat is submitted within five (5) years from the date of such approval, unless an extension of time is requested by the sub-divider.

7.3-27 Hearing

No plat shall be acted upon by the Planning Commission without affording a hearing thereon, notice of the time and place of which shall be sent by registered or certified mail not less than (5) days before the date fixed therefore to the address shown on the Plat.

7.3-30 Final Plat

On or before the twentieth day of the month prior to the month in which the developer desires Planning Commission action, the original and six (6) copies of the Final Plat and supporting data shall be submitted to the Chairman of the Cohutta Land Use and Planning Commission or his designee.

7.3-31 The Final Plat

The Final Plat shall conform substantially to the Preliminary Plat as approved and shall meet all requirements set forth in these regulations. The Final Plat shall be drawn lightly in permanent ink on reproducible material (tracing cloth) to a scale of not less than one (1) inch equals 100 feet on a sheet or sheets not exceeding 17 x 20 inches and shall include the following information:

1. Name of subdivision.
2. Name and address of person to be notified of action.
3. Graphic scale, north point and date. The North point shall be identified as magnetic, true, or grid North.
4. Location sketch map showing relationship of the subdivision to the surrounding area.
5. Total number of lots, total acreage, total length of streets.
6. Street Names.
7. Sufficient data to determine readily and reproduce on the ground the location, bearing and length of every road line, boundary line, block line and building line whether curved or straight. This shall include the radius, central angle, and tangent distance for center lines of curved streets. Curved property lines shall show arc or chord distance and radii.
8. All dimension to the nearest one hundredth (100th) of a foot and angles to the nearest minute.
9. Location and description of monuments.

10. Computations showing closure of tract boundary which closure shall be one (1) foot in two thousand five hundred (2500) feet or better.
11. Final plan of storm sewer system with grade, pipe sizes and location of outlets.
12. Final plan of water supply system (if applicable) with pipe sizes and location of hydrants and valves.
13. Certification by registered engineer or surveyor attesting to the accuracy of survey, plat, and placement of monuments.
14. Certification showing the land owner dedicates roads, right-of-ways and designated sites for public use.
15. Certification by the Health Department that the water supply and sewerage systems installed or proposed to the installed fully meet the requirements of the Health Department regulations.
16. Certification by County Engineer that all improvements have been installed in accordance with the specifications of the County or Certification by the Clerk of the Whitfield County Board of Commissioners of Roads and Revenue that surety in an amount sufficient to assure the completion of all required improvements has been received.
17. Certification of Public or Community Water Supply installed or to be installed meets the requirements of the Dalton Water, Light, and Sinking Fund Commission.
18. Certification of approval for recording to be signed by the Secretary of the Planning Commission.

7.3-32 Review

Within thirty (30) days after the submission of the Final Plat together with all required supporting data and certifications, the Planning Commission shall review and approve or disapprove the Plat.

7.3-33 Approval

Failure of the Planning Commission to act within thirty (30) days after the submission of the Final Plat shall be deemed approval of such Plat and a certificate to that effect shall be issued by the Planning Commission on demand, provided however, that the applicant for the Planning Commission's approval may waive this requirement and consent to the extension of such period. The ground of disapproval of any Plat shall be stated upon the records of the Planning Commission and a copy of such grounds provided to the sub-divider. Approval of the Final Plat by the Planning Commission shall not be deemed to constitute or

effect an acceptance by Whitfield County or the public of the dedication of any street or other ground shown upon the Plat.

7.3-34 Hearing

No Plat shall be acted upon by the Planning Commission without affording a hearing thereon, notice of the time and place of which shall be sent by registered or certified mail to the address shown on the plat not less than five (5) days before the date fixed thereon.

7.3-4 Recording and Dedication Procedures

7.3-41 Recording of Final Plat

Upon approval of a Final Plat, the sub-divider shall have the Final Plat recorded in the office of the Clerk of Superior Court of Whitfield County. The sub-divider shall be responsible for the payment of the recording fee at the time of recording the Final Plat.

7.3-42 Dedication of Platted Streets, Other Public Spaces and Utilities

Final Plat approval by the Planning Commission shall not be deemed acceptance of any dedications to the public. After Final Plat is approved by the Planning Commission, the sub-divider shall prepare appropriate documents and plans as constructed, if required, and request the County and other appropriate authorities to accept dedicated streets, other public spaces, and utilities. (See Appendix).

The County Building Inspector shall notice Plat book and page on file copy of Plat approval by Planning Commission.

The County Building Inspector shall also obtain evidence of the dedication and acceptance of any proposed public facilities and areas on the approved Final Plat.

7.4. MINIMUM DESIGN STANDARDS

7.4-1 General

In considering any Preliminary Plat or Final Plat, the Planning Commission shall give consideration to any master plan, or segments thereof, affecting the area in which the subdivision is located.

7.4-2 Streets

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

7.4-21 Continuation of Existing Street Pattern

Wherever topography will permit, the arrangement of streets in a subdivision shall provide for the alignment and continuation or projection of existing streets in adjoining areas.

7.4-22 Cul-de-sacs shall terminate in a circular turn around have a minimum right-of-way of at least one hundred (100) feet in diameter and a paved turn around with a minimum outside diameter of eighty (80) feet, or other suitable turn around.

7.4-23 Temporary Dead-End Streets

Temporary dead-end streets which extend for a distance greater than the depth of one abutting lot shall be provided with a temporary turn around having a diameter of eight (80) feet, or other suitable turn around.

7.4-24 Half Streets

Half streets are prohibited. Whenever a street is planned adjacent to the proposed subdivision tract boundary, the entire street right-of-way shall be platted within the proposed subdivision.

7.4-25 Intersection

The center lines of no more than two (2) streets shall intersect at any one point. Streets shall be laid out so as to intersect as nearly as possible at right angles and no street shall intersect any other street at an angle of less than sixty (60) degrees. The angle of intersection to be measured at the intersection of the street center lines. Curved streets shall have a minimum tangent of one hundred (100) feet at intersections.

7.4-26 Reverse Curve

A tangent of at least one hundred (100) feet shall be provided between reverse curves.

7.4-27 Street Access

Where, in the opinion of the Planning Commission, it is essential to provide for street access to an adjoining tract, street right-of way shall be extended to the boundary of such property.

7. 4-28 Street Jogs

Street Jogs at intersections shall have a center line off-set of not less than one hundred and fifty (150) feet.

7.4-29 Street Names

Streets or roads that are extensions of, or obviously in alignment with, existing named streets, shall bear that name. The names of new streets and roads shall be subject to the approval of the Building Inspector and shall not duplicate or be similar in sound to existing names, irrespective of the use of the suffix street, avenue, circle, way, boulevard, drive, place or court.

7.4-210 Additional Right-Of-Way

Subdivisions which include an existing platted street or road that does not conform to the minimum right-of-way requirements of these regulations shall provide additional width along one or both sides of such street or road so that the minimum right-of-way required by these regulations is established. Subdivisions abutting only one side of such a street or road shall provide a minimum of one-half, measured from the center of the existing right-of-way, of the right-of-way required by these regulations.

7.4-211 Right-Of-Way and Pavement Widths

Street Classifications	Minimum Right-of-way (Feet)	Minimum Pavement Width (feet)	
		with curb	without curb
Marginal Access	50	26*	22
Minor Residential	50	26*	22
Collector	60	30*	24
Major Thoroughfare	**	**	**
* Measured from back of curb to back of curb.			
** As shown on the major thoroughfare plan. Right-of-way usually reserved or dedicated by developer and improved by other.			

7-4-212 Right-Of Way and Pavement Widths

Street rights-of way and pavement widths for marginal access, collector and major thoroughfares shall comply with the minimum requirements of Section 4-211 except that curbs and gutters are not required. Pavement widths for minor residential streets shall be a minimum of twenty-two (22) feet. The street shall be graded to provide at least a six (6) foot shoulder on each side of the pavement. Such shoulders shall have a two (2) percent slop away from the edge of the pavement.

7. 4-213 Street Grades

Grades on major thoroughfares shall be established by the State Highway Department or County Engineers. Grades on Collector Streets shall not exceed ten (10) percent unless topographic conditions make this impractical. Grades on minor residential streets shall not exceed eighteen (18) percent.

7.4-214 Horizontal Curves

Where a deflection angle of more than ten (10) degrees occurs in the alignment of a street or road, a curve of reasonable radius shall be introduced. On major thoroughfares the center line radius of curvature shall not be less than four hundred (400) feet. On Collector streets the center line radius of curvature shall not be less than three hundred (300) feet. On minor streets the center line radius of curvature shall not be less than one hundred (100) feet.

7. 4-215 Vertical Curves

Minimum sight distance on major thoroughfares shall be five hundred (500) feet; on Collector streets, three hundred (300) feet; and on minor residential streets, two hundred (200) feet. Said distances shall be measured between points four (4) feet above the center line of the street or road.

7. 4-216 Alleys

Alleys with a minimum right-of-way of twenty (20) feet shall be provided in the rear of all lots to be used for business purposes. Alleys shall not be provided in residential blocks except where the sub-divider produces evidence satisfactory to the Planning Commission of the need for alleys. Where alleys are permitted shall be graded and surfaced to specifications approved by the County Engineer.

7.4-217 Split Level Streets

Streets which are constructed so as to have two traffic ways, each at a different level within the same right-of-way shall provide a paved traffic surface of at least twenty (20) feet on each level and a slope between the two traffic ways not less than 3.1.

7.4-30 Blocks

The Planning Commission shall examine every proposed subdivision as to its compliance with the following provisions:

7.4-31 Non-Residential Blocks

Blocks for other than residential use shall be of such length and width as may be suitable for their prospective use.

7.4-32 Residential Block Length

In order that there may be convenient access between various parts of a subdivision and between the subdivision and surrounding areas; and in order to help prevent traffic congestion and undue inconvenience, the length of blocks hereafter established shall not exceed eighteen hundred (1800) feet or be less than six hundred (600) feet. Provided, however, such length requirements may be modified when such shall be appropriate due to the topography or physical shape of the property being sub-divided.

7.4-33 Residential Block Width

The width of any residential block shall be sufficient to permit two (2) tiers of lots, where topography and land ownership permits, except as otherwise provided in these regulations.

7.4-34 Crosswalks

Right-of-ways for pedestrian crosswalks shall be provided when in the opinion of the Planning Commission crosswalks are necessary for the convenience of pedestrians. Such right-of-ways shall not be less than ten (10) feet wide.

7.4-40 Lots

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

7.4-41 Authority of Health Department

Nothing contained in these regulations shall be construed as preventing the Health Department, after study of the conditions existing in a proposed subdivision, from requiring that

all or any portion of the area of such subdivision shall not be built upon or that the minimum lot sizes set forth in these regulations are inadequate and must be increased to insure the protection of the public health.

7.4-42 Building Lines

Residential building set-back lines shall be as stated in section 4-47. Residential lots shall not be platted to front directly on the right-of-way of a major highway unless such right-of-way contains a marginal access street.

7.4-43 Town Limit and Lot lines

Lots shall not be divided by corporate boundary lines.

7.4-44 Corner Lots

Corner lots shall be sufficiently large to permit the location of buildings so as to conform with the building lines on both streets.

7.4-45 Double Frontage

Double frontage lots (i.e., lots having street frontage both in front and rear) shall be avoided except where essential to provide separation of residential development from railroad or major street right-of-ways or where necessary due to topography. Where a railroad of major thoroughfares plan, abuts or runs through any portion for either a marginal access or lots backing onto said right-of-way having a minimum depth of two hundred (200) feet.

7.4-46 Lot Lines

Insofar as practical, side lot lines shall be at right angles to straight street lines and radical to curved street lines.

7.4-47 Minimum Lot Dimensions and Areas

The minimum lot width at the front building line, minimum set-backs and minimum lot area shall be as shown in the following schedule:

Dwelling Type	Water/ Sewer	Minimum Width at Front Building Line	Front Set Back	Side/Back Set Back	Minimum Lot Size
One unit	Private water & sewer	100 feet	60 feet	20 ft./20ft. (5ft. outbldg.)	2 acres
One unit	Public Water Private Sewer	100 feet	60 feet	20 ft./20 ft. (5 ft. outbldg.)	1/2 acre
Duplex	Private Water	100 feet	60 feet	20 ft./20 ft.	2 1/2 acres

	& Sewer			(5 ft. outbldg.)	
Duplex	Public Water Private Sewer	100 feet	60 feet	20 ft./20 ft. (5 ft. outbldg.)	3/4 acre
Fourplex	Private Water & Sewer	150 ft.	60 feet	40 ft./30 ft. (5ft. outbldg.)	3 acres
Fourplex	Public Water Private Sewer	150 ft.	60 feet	40 ft./30 ft. (5ft. outbldg.)	1 acre
All private sewer shall be contingent upon percolation test approval by the Whitfield County Health Department.					

7.4-48 Street Access

Every lot hereafter established shall front or abut on a street is to be dedicated to the public and conforms to the requirements of these regulations.

7.4-49 Lot Depth

Except in instances of extreme topography or other unusual physical conditions, lot depth shall not be more than four (4) times the lot width at the building line.

7.4-5 Easements

Easements shall be required in subdivisions for the following purposes:

7.4-51 Utility Easement

When it is found to be necessary and desirable to locate public utility lines in other than street right-of way, easements shall be shown on the plat for such purposes. Such easements shall not be less than twelve (12) feet in width and where possible, shall be centered on rear or side lot lines.

7.4-52 Water Course and Drainage Easements

Where a proposed subdivision is traversed by a water course, drainage way, or stream, appropriate provisions shall be made to accommodate storm water and drainage through and from the proposed subdivision. Such easement shall conform substantially with the lines or said water course and be of sufficient width or construction, of both, as to be adequate for the purpose.

7.4-6 Variances

When due to the peculiar shape or the topography of a tract of land or other unusual condition, it is impractical for a developer to comply with the literal interpretations of the design requirements of these regulations, the Planning Commission shall be authorized to vary such requirements provided the intent and purposes of these regulations are not violated.

7.5. REQUIRED IMPROVEMENTS

A well-designed subdivision means little to a prospective lot buyer until he can see actual physical transformation of raw land into lots with all necessary improvements provided. Likewise, a well-designed subdivision is not an asset to the community until the necessary improvements have been installed. In order that prospective lot purchasers may be usable products and new subdivisions may be an asset rather than a liability to the community, the subdivider shall install and/or pay for the improvements required by these regulations necessary to serve his subdivision.

7.5-1 Monuments

All lot corners shall be marked with an iron pipe at least twenty-four (24) inches long and driven flush or up to six (6) inches above the finished grade.

7.5-2 Natural Gas

When gas lines are located in a street right-of-way and it will be necessary to cut into the street surface to serve the abutting lots, a connection shall be stubbed out to the property line to serve each lot prior to surfacing the street.

7.5-3 Water Supply

Where public water is available adjacent to the property being subdivided, the subdivider shall install water mains and fire hydrants according to plans and specifications approved by the appropriate town officials and approved by the Health Department. When the water main is located in the street right-of-way and it will be necessary to cut into the street surface to serve the abutting lots, a connection shall be stubbed out to the property line to serve each lot before the street is surfaced.

7.5-4 Sanitary Sewerage

Where public sewerage is available adjacent to the property being subdivided and the topography is such that extension is feasible, the subdivider shall install public sanitary sewers to plans and specification approved by the Health Department. When the sewer is

located in a street surface to serve the abutting lots, a connection shall be stubbed out to the property line to serve each lot prior to surfacing the street. See Exhibit “A”.

7.5-5 Sewage Disposal Systems

Prior to the construction of any community sewerage disposal systems such as an oxidation pond, septic tank or other facility, the location, size plans and specifications of such a facility shall be approved by the appropriate town officials and the Health Department.

7.5-6 Curbs and Gutters

Curbs, gutters, or curbs and gutters shall be installed at the discretion of the developer unless the topography of the land, to be determined by the Planning Commission in consultation with the county engineer, requires that curbs and gutters be installed. Such installation shall be according to plans and specifications approved by the appropriate town officials.

7.5-7 Street Grading and Surfacing

Streets shall be graded and surfaced according to plans and specifications of the appropriate Whitfield County official and approved by the appropriate town official.

7.5-8 Storm Drainage

An adequate drainage system including necessary open ditches, pipes, culverts, storm sewers, intersectional drains, drop inlets, bridges, and other necessary appurtenances shall be installed by the sub-divider according to plans and specifications approved by the appropriate town official.

7.5-9 Street Name Signs

Street name signs shall be installed at all intersections within a subdivision. The location and design of such signs shall be approved the appropriate town official.

7.5-10 The street right-of-way shall be graded at least six (6) feet, measured from the back of the curb or edge of the pavement on both sides of the street, to provide space for installation of utilities, to prevent the encroachment of driveways into the street surface, to provide walkway off the paved vehicular surface, and to provided space for the future installation of sidewalks; provided, however, the Planning Commission may waive this requirement in cases where the sub-divider can demonstrate that the topography of the land subdivided is such that compliance with this provision would be impractical.

7.5-11 Street Trees

The planting of trees is not required, however, if the sub-divider chooses to plant trees along the street to enhance the appearance of a subdivision, such trees shall not be planted on any street right-of-way to insure that there will be no future conflict with the utility lines either above or below the ground surface.

7.5-12 Fifteen (15) foot right-of-way Radius at corners of all street intersections shall define the tree and shrubbery planting line limit.

7.6. SURETY FOR COMPLETION OF IMPROVEMENTS

In lieu of the completion of the required improvements previous to the final approval of a plat, the town council may accept a bond, in an amount and with surety and conditions satisfactory to it, providing for securing to the town the actual construction and installation such improvements and utilities within a period specified by the Planning Commission and expressed in the bond.

7.7. VIOLATIONS AND PENALTIES

7.7-1 Any violation of any provision of these subdivision regulations shall constitute a misdemeanor and be punishable as provided by law. Each day in violation this ordinance shall constitute a separate offense.

7.7-2 Whenever it shall come to the attention of the town that any provision of these regulations have been or are being violated within its jurisdictions, the town may immediately institute suit and prosecute the same to final judgement.

7.8. LEGAL STATUS

7.8-1 Conflict with other laws - Whenever the provisions of these regulation impose more restrictive standards than are required in or under any other statute, ordinance or resolution, the regulations herein shall prevail. Whenever the provisions of any other statute, ordinance or regulation require more restrictive standards than are required herein the requirements of such regulations shall prevail.

7.8-2 Repeal of Conflicting Regulations - All ordinances and resolutions regulating the subdivision of land adopted prior to and in conflict with these regulations are hereby repealed.

7.8-3 Severability Clause - If any section, clause or portion of these regulations shall be held by a court of competent jurisdiction to be invalid or unconstitutional, such findings shall not affect any other section, clause or portion of these regulations.

7.8-4 Effective Date - These regulations shall take effect and be enforced from and after their adoption, the public welfare demanding it.

ADOPTED BY THE
TOWN COUNCIL OF THE TOWN OF COHUTTA, GEORGIA.

/s/ Don Henderson, Mayor

APPENDIX “A”

- BUILDING SEWERS AND CONNECTIONS

Sec.1. - Required connection to public sewer for new construction.

The owner of any dwelling or real property otherwise used for human occupancy constructed (or renovated in such a manner that the square footage is increased by more than 50 percent) after January 1, 2018, situated within the Town of Cohutta and abutting on any road or right-of-way in which there is now located or may in the future be located a public sanitary or combined sewer within the Town Limits, shall be required, at such person's expense, to connect such dwelling directly with the proper public sewer in accordance with the provisions of this article, provided that the public sewer is available within 200 feet of the nearest property line or within 400 feet of the nearest building corner, whichever is greater.

Sec. 2. Permit to make connection, etc.—Required.

No unauthorized person shall uncover, make any connection with or opening into, use, alter or disturb any public sewer or appurtenance thereof without first obtaining written permission from the applicable sewer service provider.

Sec. 3. - Same—Classes; application; addenda; fee.

There shall be two classes of building sewer applications: (1) For residential and commercial service, and (2) for service to establishments producing industrial wastes. In either case, the owner or the owner's agent shall make application to the applicable sewer service provider and pay any applicable fees. The applicable sewer service provider will evaluate the available capacity, cost, and technical requirements for connection to the public sewer and provide that information to the owner or owner's agent. The application shall be supplemented by any plans, specifications or other information required by the county engineer and/or the applicable sewer service provider.

Sec. 4. - Responsibility for costs and expenses; indemnification of Town of Cohutta

(a) All costs and expenses incident to the installation and connection of the building sewer shall be borne by the owner.

(b) The owner shall indemnify The Town of Cohutta from any loss or damage that may directly or indirectly be occasioned by the installation of the building sewer.

Sec. 5. - Separate building sewer for each building.

A separate and independent building sewer shall be provided for every building; except that where one building stands at the rear of another on an interior lot and no private sewer is available or can be constructed to the rear building through an adjoining alley, courtyard, or driveway, the building sewer from the front building may be extended to the rear building and the whole considered as one building sewer if approved by the county engineer or his or her designee.

Sec. 6. - Use of old building sewers.

Pre-existing building sewers may be used in connection with new buildings only when found, upon examination and testing by the county engineer or his or her designee, to meet all requirements of this article.

Sec. 7. - Building sewer installation specifications.

The size, slope, alignment, materials of construction of a building sewer, and the methods to be used in excavating, placing the pipe, jointing, testing, the backfilling of the trench, shall all conform to the requirements of all applicable codes or other applicable rules and regulations of The Town of Cohutta..

Sec. 8. - Building sewer elevation; sewage lift.

Whenever practicable, the building sewer shall be brought to a building at an elevation below the basement floor. In all buildings in which any building drain is too low to permit gravity flow to the public sewer, sanitary sewage carried by such building drain shall be lifted by an approved means and discharged to the building sewer.

Sec. 9. - Connection of roof downspout, etc.

No person shall make connection of roof downspouts, exterior foundation drains, sump pumps, areaway drains, or other sources of surface runoff or groundwater to a building sewer or building drain which in turn is connected directly or indirectly to a public sanitary sewer.

Sec. 10. - Connection specifications.

The connection of the building sewer into the public sewer shall conform to the requirements of all applicable codes or other applicable rules and regulations of The Town of Cohutta. All such connections shall be made gas-tight and water-tight. Any deviation from the prescribed procedures and materials shall be approved in advance by a licensed Civil Engineer.

Sec. 11. - Notice of readiness for inspection and connection; supervision.

An applicant for sewer service shall notify The Town of Cohutta when a building is ready for inspection and connection to the public sewer. The connection shall be made under the supervision of the Mayor or his or her designee.

Sec. 12. - Guarding excavations; permission to cut surface; restoration.

- (a) All excavations for building sewer installations shall be adequately guarded with barricades and lights so as to protect the public from hazard.
- (b) Prior to excavation, blockage, disruption, or any disturbance of any public road, sidewalk, or other public right-of-way, notification must be made to and approval obtained from the county engineer not less than five days in advance of such excavation, blockage, disruption or disturbance.
- (c) Roads and/or other county public property disturbed in the course of the work shall be restored in a manner satisfactory to the county engineer.

Sec. 13. - Sewer use.

Use of the public sewer shall be in conformance with the applicable sewer use rules and regulations of the applicable sewer service provider.

APPENDIX
FORMS FOR PLAT CERTIFICATION

CERTIFICATION OF OWNERSHIP AND DEDICATION:

I (we) hereby certify that I am (we are) the owner(s) of the property shown and described hereon, that I (we) hereby adopt this plan of subdivision, establish the minimum building set-back lines, and that I (we) hereby guarantee satisfactory clear title as appropriately requires of all streets, alleys, walkways, and other open spaces proposed for public dedication.

Owner

Date

Owner

Date

Owner

Date

CERTIFICATION OF ACCURACY

I hereby certify that the plan shown and described hereon is a true and correct survey to the accuracy required by the Subdivision Regulations of Whitfield County, Georgia, and that the monuments shown have been placed to the specifications set forth in said regulations.

Registered Land Surveyor

Date

CERTIFICATION OF APPROVAL OF WATER SYSTEM

I hereby certify that the community or public water supply and distribution system installed or to be installed in the subdivision shown meets the requirements of the Dalton Water, Light and Sinking Fund Commission.

Signature

Title

Date

CERTIFICATION OF SEWER SYSTEM

I hereby certify that the community or public sewerage disposal and distribution system installed or to be installed, and/or the plans for private sewage disposal system in the subdivision shown meets the requirements of the Health Department.

Lot Number(s): _____

Are not approved for private sewage disposal system.

Health Officer

Date

CERTIFICATION OF APPROVAL OF STREETS AND UTILITIES

I hereby certify that the streets, utilities, and other required improvements in this subdivision have been installed in an acceptable manner and meet all the requirements of the Subdivision and Building Regulations of Cohutta, Georgia.

Signature

Title

Date

CERTIFICATION OF APPROVAL FOR RECORDING

I hereby certify that the subdivision plat shown hereon has been found to comply with the Subdivision and Building Regulations of Cohutta, Georgia, and that it has been approved by the Planning and Land Use Commission for recording in the Office of the Clerk of Superior Court of Whitfield County, Georgia.

Chairman, Planning Commission

Date

Re-adopted after notice and hearing by the Cohutta Council at second reading on
March 4, 2014 as part of the Cohutta Code.

Renewed and Adopted after public Hearing and first and second readings on
December 5, 2017.

CHAPTER
EIGHT
*COHUTTA ZONING
PROCEDURES
& STANDARDS
ORDINANCE*

ZONING PROCEDURES AND STANDARDS ORDINANCE

TOWN OF COHUTTA, GEORGIA

An Ordinance 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 Ordinance in lieu of the limited instructions in the Cohutta Planning and Land Use Ordinance, 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 Ordinance.

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 Planning and Land Use Commission 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 and due consideration of objective criteria as applicable to the proposed conditional use 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 ordinance;

- b) the adoption of an amendment to a zoning ordinance which changes the text of the zoning ordinance;
- c) the adoption of an amendment to a zoning ordinance which rezones property from one zoning classification to another;
- d) the adoption of an amendment to a zoning ordinance 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 Ordinance. An Ordinance 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 Ordinance of the Town of Cohutta, which shows the zones and districts and zoning classification of property herein.

8.3.0 Adoption of the Zoning Ordinance. Initial adoption of the Zoning Ordinance by the Town of Cohutta, State of Georgia shall comply with the following Sections of this Ordinance:

- 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 Ordinance and the Zoning Ordinance 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 Planning and Land Use Commission, 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 mayor or the mayor's designee on forms provided by the Town of Cohutta.

8.5.0 Public Notice. Notice of the public hearing on a proposed amendment to this Ordinance 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 in a newspaper of general circulation in 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:

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 at the Cohutta Post Office, the Cohutta Town Hall, and placed 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 ordinance 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 Ordinance 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 for the initial adoption of this Ordinance or the Zoning Ordinance of Cohutta shall be held before the Cohutta Planning and Land Use Commission and the Mayor and Council. Public notice shall apply as set forth in Section 5.1 and the public hearing shall be conducted as set forth in Section 7.0 with the Mayor or his/her delegate conducting the public hearing before the Mayor and Council as would the Chairman of the Planning Commission or his/her delegate.

Thereafter, a public hearing on any proposed amendment to this Ordinance or the Zoning Ordinance of Cohutta shall be held before the Cohutta Planning and Land Use Commission 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 Planning and Land Use Commission shall consider the proceedings and comments of such hearing in making any zoning recommendation on the proposed zoning amendment. The Cohutta Planning and Land Use Commission shall prescribe the rules of order for its deliberations on matters with which it is charged under this Ordinance, and said rules of order shall be consistent with the general requirements and purposes set forth in this Ordinance 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 Planning and Land Use Commission 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 Ordinance:

8.7.1 The Chairman of the Planning Commission or his/her delegate on the Commission shall open any hearing with an explanation of the purpose of the hearing and a description of the general rules for the conduct of the hearing. The Chairman or his/her delegate may describe the authority and role of the Planning Commission in any zoning decision. An individual requesting to be heard on a matter germane to the purpose of the hearing must be recognized by the Chairman or his/her delegate before addressing the Planning Commission. The Chairman or his/her delegate shall chair the hearing and shall determine germaneness of any proposed comment or presentation to the Planning Commission in the hearing and is authorized to rule any individual or a portion of any presentation out of order if not germane to the published purpose of the hearing. Any person requesting to address the Planning Commission upon being recognized by the Chairman or his/her delegate shall state his name and residence address before proceeding with any comment, remarks, or presentation. Any person addressing the Planning Commission shall respond to questions of the Chairman or any member of the Commission. Should the docket not allow full presentation times due to time constraints or other hearings, the Chairman or his/her delegate may continue the meeting upon the consent of the proponent or may pre-determine the length of any hearing allotting equal time to proponents and opponents of any proposed zoning amendment to the extent that there are both proponents and opponents who desire to be heard. The Chairman or his/her delegate shall only be required to offer equal time to both proponents and opponents of any proposed zoning amendment and the fact that equal time is not in fact utilized by either position shall not invalidate any proceedings or action taken on the proposed amendment. The Chairman, however, shall allow a minimum time period to be no less than ten (10) minutes per side for the presentation of data, evidence, and opinion.

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 Ordinance.

8.7.3 The Chairman or his/her delegate shall allow the person initiating the proposed zoning amendment or his/her/its designee to present a description of the proposed zoning amendment and the reason(s) for initiating the proposed zoning amendment. 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 Planning and Land Use Commission 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 Planning Commission 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 The Chairman or his/her delegate shall give persons opposed to the proposed amendment the opportunity to address the Planning Commission.

8.7.6 The Chairman or his/her delegate may alternate the presentations of persons speaking in favor of and opposed to the proposed zoning amendment beginning with the presentation of the applicant or his/her/its representative, or the Chairman or his/her delegate may divide such presentations into blocks of time beginning with proponents of the proposed zoning amendment, and thereafter moving to the presentations of opponents of the proposed zoning amendment. Further, the Chairman or his/her delegate may direct that proponents and opponents designate one or more spokesperson(s) for presentations of favorable and opposing views of the proposed zoning amendment. The Chairman or his/her delegate may poll the public assemblage at the hearing concerning their concurrence in the remarks of any speaker.

8.7.7 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.

8.7.8 Upon conclusion of the presentation of persons opposing the proposed zoning amendment, the Chairman or his/her delegate shall afford the person initiating the petition an allotted time to address the Planning Commission in rebuttal of any issue(s) raised by persons addressing the Planning Commission in opposition to the proposed zoning amendment. The Chairman or his/her delegate may rule out of order the raising of any new issue(s) in rebuttal unless he deems the raising of such new issues useful to the purposes of the hearing, in which case those persons present and opposing the proposed zoning amendment shall be allocated an equal amount of time through a spokesperson or otherwise to address such new issue(s).

8.7.9 When proponents and opponents of the proposed zoning amendment 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. 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 use impacts negatively or positively the anticipated volume of traffic flow or pedestrian safety in the vicinity;

8.8.3-2 Whether the hours and manner of operation of the variance (conditional use) have no adverse effects on other properties/uses in the vicinity;

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 ordinance 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 Planning and Land Use Commission 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 Cohutta Planning and Land Use Commission may approve, disapprove, or table the proposed zoning decision. The Planning Commission 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 Planning and Land Use

Commission 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 Planning Commission 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 ordinance 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 Ordinance, as amended, shall be printed and copies thereof made available for distribution to the general public in the offices of the The mayor or the mayor's designee 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 mayor or the mayor's designee of the Town of Cohutta, Georgia, is authorized to print copies of this Ordinance 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 Ordinance be declared by a court of competent jurisdiction to be unconstitutional or invalid, such declaration shall not affect the validity of the Ordinance 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 Ordinances. All resolutions and Ordinances and parts of resolutions and Ordinances in conflict herewith are repealed.

8.11.3 Effective Date. This Ordinance shall take effect and be enforced from and after its adoption, the public welfare of the Town of Cohutta requiring it.

READOPTED AND APPROVED on the 12th day of November, 2002, at a regular meeting of the Mayor and Council of the Town of Cohutta.

APPROVED:

Don Henderson

DON HENDERSON, MAYOR
TOWN OF COHUTTA, GEORGIA

ATTEST:

Ben Manis

TOWN OF COHUTTA, 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.

Re-Adopted after hearing, notice and two readings on December 5, 2017.

CHAPTER NINE

COHUTTA VACANT AND FORECLOSED PROPERTY REGISTRY ORDINANCE

Ordinance No. 2013-Vacant and Foreclosed Property Registry Ordinance

TO CREATE A VACANT AND FORECLOSED PROPERTY REGISTRATION SYSTEM IN ACCORDANCE WITH O.C.G.A. § 44-14-14

CHAPTER AND PURPOSE. , Building and Building Regulations

ENACTING CLAUSE. The Cohutta, Georgia Town Council, Hereby ordains that its existing Code of Ordinances 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 9-- VACANT AND FORECLOSED REAL PROPERTY REGISTRATION SYSTEM

9-01 Title

This Article shall be known as the "Cohutta Vacant and Foreclosed Property Ordinance."

9-02 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. -

9-03 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 The mayor or the mayor's designee 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.

9-04 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. § 44-14-160, 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 Ordinance 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 ordinance 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.

9-05 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.

9-06 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.

9-07 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.

9-08 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.

9-09 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.

9-10 Conflicts, Severability and Effective Date

1. All ordinances or parts of ordinances in conflict with this ordinance are hereby repealed.
2. If any section, clause, sentence or phrase of this Ordinance 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 ordinance.
3. This ordinance shall become effective immediately upon its adoption by the City Council.

9-11 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.

CHAPTER TEN

COHUTTA SIGN ORDINANCE

COHUTTA SIGN ORDINANCE

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.

10-1 The Purposes of such standards set forth in this article include the following:

10-1-1 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;

10-1-2 To maintain and to improve traffic safety;

10-1-3 To minimize potential confusion created as a result of size, location, construction, or manner of display of signs;

10-1-4 To minimize potential adverse effects of signs upon neighboring properties;

10-1-5 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

10-1-6 To encourage the necessary and proper use of signs as a means of effective and constitutionally protected communication.

10-1-7 Exemptions from and applicability of Chapter.

Nothing in this Chapter shall apply to any notice required by this Code or other ordinances 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 Ordinance, as amended or the Subdivision ordinance as amended, and the provisions of said ordinances shall have priority over the provisions of this Chapter.

10-2 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.

10-3 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.

10-4 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.

10-5 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 ordinance.

(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 ordinance.

10-6 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.

10-7 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.

10-8 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 ordinance.

10-9 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.

10-10 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.

10-11 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 ordinance. 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.

Subject to renumbering for the Cohutta Code, Adopted by the Cohutta Council on Second Reading this 6th day of March, 2012, effective this 16th Day of March, 2012.

Don Henderson, Mayor

Re-adopted by the Cohutta Council at second reading on March 4, 2014 as part of the Cohutta Code.

Re-Adopted after notice, hearing, two readings on October 24, 2017.

CHAPTER ELEVEN

MT.OLIVET CEMETERY ORDINANCE

MT. OLIVET CEMETERY ORDINANCE

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. 11-1. Definitions

Sec. 11-2. Intent; scope.

Sec. 11-3. Description of cemetery boundaries; dedication of land for cemetery use; markers authorized; Mayor's authority.

Sec. 11-4. Plots, lots.

Sec. 11-5. Grave site openings—Permit required.

Sec. 11-6. Same—Specifications.

Sec. 11-7. Plot and/or lot corner markings.

Sec. 11-8. Monuments.

Sec. 11-9. Number of burials per lot.

Sec. 11-10. Plantings.

Sec. 11-11. Desecration of burial site.

Sec. 11-12. Hours open.

Sec. 11-13. Burial of animals prohibited.

Sec. 11-14. Penalty.

Sec. __11-1. 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. 11-2. 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. 11-3. 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.11-4. 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. 11-5. 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 set by the Mayor or his designee from time to time. 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. 11-6. 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. 11-7. 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 by the Mayor or his designee 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. 11-8. 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. 11-9. 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. 11-10. 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. 11-11. 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. 11-12. 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. 11-13. Burial of animals prohibited.

The burial of animals of any nature shall not be permitted within Mt. Olivet Cemetery.

Sec. 11-14 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.

After notice, public hearing and two readings, readopted in the revised code this 24th day of October, 2017.

CHAPTER TWELVE

PROPERTY MAINTENANCE ORDINANCE OF COHUTTA

CHAPTER 12- PROPERTY MAINTENANCE ORDINANCE ORDINANCE

12- THE PROPERTY MAINTENANCE ORDINANCE OF COHUTTA

The Town hereby adopts the Property Maintenance Ordinance of the Town of Cohutta in the State of Georgia for regulating and governing the conditions and maintenance of all property, buildings and structures; by providing the standards for supplied utilities and facilities and other physical things and conditions essential to ensure that structures are safe, sanitary and fit for occupation and use; and with the Nuisance Ordinance of the Town of Cohutta, the condemnation of buildings and structures unfit for human occupancy and use, and the demolition of such existing structures in the Town of Cohutta: providing for the issuance of permits and collection of fees therefore; and each and all of the regulations, provisions, penalties, conditions and terms of said Property Maintenance Ordinance, repealing those provisions of all other ordinances or parts of laws in conflict therewith.. The Town Council of the Town of Cohutta does ordain as follows:

SECTION 12-101 GENERAL

12-101.1 Title.

These regulations shall be known as the ***Property Maintenance Ordinance of Cohutta Georgia***, hereinafter referred to as "this code."

12-101.2 Scope.

The provisions of this code shall apply to all existing residential and nonresidential structures and all existing *premises* and constitute minimum requirements and standards for *premises*, structures, equipment and facilities for light, *ventilation*, space, heating, sanitation, protection from the elements, life safety, safety from fire and other hazards, and for safe and sanitary maintenance; the responsibility of *owners*, *operators* and *occupants*; the *occupancy* of existing structures and *premises*, and for enforcement and penalties.

12-101.3 Intent.

This code shall be construed to secure its expressed intent, which is to ensure public health, safety and welfare insofar as they are affected by the continued *occupancy* and maintenance of structures and *premises*. Existing structures and *premises* that do not comply with these provisions shall be altered or repaired to provide a minimum level of health and safety as required herein.

12-101.4 Severability.

If a section, subsection, sentence, clause or phrase of this code is, for any reason, held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this code.

SECTION 12-103 LIABILITY and FEES

12-103.1-103.3 Reserved.

12-103.4 Liability.

The Police Officers or employees charged with the enforcement of this code, while acting for the jurisdiction, in good faith and without malice in the discharge of the duties required by this code or other pertinent law or

ordinance, shall not thereby be rendered liable personally, and are hereby relieved from all personal liability for any damage accruing to persons or property as a result of an act or by reason of an act or omission in the discharge of official duties. Any suit instituted against any officer or employee because of an act performed by that officer or employee in the lawful discharge of duties and under the provisions of this code shall be defended by the legal representative of the jurisdiction until the final termination of the proceedings. Such designees of the Mayor shall not be liable for costs in an action, suit or proceeding that is instituted in pursuance of the provisions of this code.

SECTION 12-104 DUTIES AND POWERS OF COHUTTA POLICE DEPARTMENT

12-104.1 General.

The Cohutta Police Department is hereby authorized and directed to enforce the provisions of this code. The Officers of the Cohutta Police Department shall have the authority to render interpretations of this code in order to clarify the application of its provisions. Such interpretations shall be in compliance with the intent and purpose of this code. Such interpretations shall not have the effect of waiving requirements specifically provided for in this code.

12-104.2 Inspections. Conditions requiring entry or inspection must be identified prior to such entry or inspection.

12-104.3 Right of entry.

Whenever the Cohutta Police Department has reasonable cause to believe that there exists in a *structure* or upon a *premises* a condition in violation of this code, the Officers of the Cohutta Police Department shall have recourse to the remedies provided by law to secure entry.

12-104.4 Identification.

The Cohutta Police Department shall carry proper identification when inspecting *structures* or *premises* in the performance of duties under this code.

12-104.5 Department records.

The Cohutta Police Department and Municipal Court shall keep official records of all business and activities of the department specified in the provisions of this code. Such records shall be retained in the official records for the period required for retention of public records.

SECTION 105 APPROVAL

12-105.1 Warnings

Whenever there are practical difficulties involved in carrying out the provisions of this code, the Cohutta Police Department shall have the authority to give warnings which note those difficulties and suspend prosecution.

12-105.2- Code Enforcement. The Town of Cohutta may require that a property owner obtain a building inspection which verifies compliance with the codes in this ordinance.
Any probation or suspension of fine may also require such an inspection.

SECTION 106 VIOLATIONS

12-106.1 Unlawful acts.

It shall be unlawful for a person, firm or corporation to be in conflict with or in violation of any of the provisions of this code.

12-106.2 Citation and Warning for Violations.

Officers of the Cohutta Police Department shall give warnings and citations for remedy of violations of this Ordinance, personally delivering those citations or warnings to property owners and residents or posting and sending certified mail to the tax address of the parcel when personal delivery is not possible.

12-106.3 Prosecution of violation.

Any person failing to comply with a provision of this ordinance, duly cited by an officer of the Cohutta Police Department shall be deemed guilty of a civil infraction, a *strict liability offense*. Any property owner or resident affected by the citation may contest the citation and have the matter heard in Municipal Court of Cohutta.

12-106.4 Violation penalties.

Any person who shall violate a provision of this code, or fail to comply therewith, or with any of the requirements thereof, shall be prosecuted under the provision of Section 3-2.2 and found to be within the limits provided by state or local laws. Each day that a violation continues after due notice has been served shall be deemed a separate offense.

12-106.5 Abatement of violation.

The imposition of the penalties herein prescribed shall not preclude the legal officer of the jurisdiction from instituting appropriate action to restrain, correct or abate a violation, or to prevent illegal *occupancy* of a building, structure or *premises*, or to stop an illegal act, conduct, business or utilization of the building, structure or *premises*.

SECTION 12-107 CITATIONS

12-107.1 FORM OF CITATION

Whenever the Mayor and Council's designee determines that there has been a violation of this code or has grounds to believe that a violation has occurred, notice shall be given in writing specifying the violation as follows:

12-107.2 Form.

Such notice prescribed in Section 12-107.1 shall be in accordance with all of the following:

1. Be in writing.
2. Include a description of the real estate sufficient for identification.

3. Include a statement of the violation or violations and why the Citation is being issued.
4. In any warning include a correction order allowing a reasonable time to make the repairs and improvements required to bring the *dwelling unit* or structure into compliance with the provisions of this code.
5. Inform the property *owner* of the right to a hearing in Municipal Court..

12-107.3 Method of service.

Such notice shall be deemed to be properly served if a copy thereof is:

1. Delivered personally;
2. Sent by certified or first-class mail addressed to the last known address; or
3. If the notice is returned showing that the letter was not delivered, a copy thereof shall be posted in a conspicuous place in or about the structure affected by such notice.

12-107.4 Unauthorized tampering.

Signs, tags or seals posted or affixed by the Mayor and Council's designee shall not be mutilated, destroyed or tampered with, or removed without authorization from the Mayor and Council's designee.

12-107.5 Transfer of ownership.

It shall be unlawful for the *owner* of any *dwelling unit* or structure who has been served a Citation to sell, transfer, mortgage, lease or otherwise dispose of such *dwelling unit* or structure to another until the Municipal Court hearing or other resolution of the Citation has first occurred or until such *owner* shall first furnish the grantee, transferee, mortgagee or lessee a true copy of any Citation issued by the Cohutta Police Department and shall furnish to the Town Clerk a signed and notarized statement from the grantee, transferee, mortgagee or lessee, acknowledging the receipt of such Citation and fully accepting the responsibility without condition for making the corrections or repairs for violations giving rise to the Citation.

SECTION 12-108 UNSAFE STRUCTURES AND EQUIPMENT

12-108.1 General. Maintaining unsafe equipment, unsafe structures or those structures unfit for human habitation is a violation of this ordinance subject to Citation by the Cohutta Police Department.

12- 108.1.1 Unsafe structures.

An unsafe structure is one that is found to be dangerous to the life, health, property or safety of the public or the *occupants* of the structure by not providing minimum safeguards to protect or warn *occupants* in the event of fire, or because such structure contains unsafe equipment or is so damaged, decayed, dilapidated, structurally unsafe or of such faulty construction or unstable foundation, that partial or complete collapse is possible.

12- 108.1.2 Unsafe equipment.

Unsafe equipment includes any boiler, heating equipment, elevator, moving stairway, electrical wiring or device, flammable liquid containers or other equipment on the *premises* or within the structure which is in such disrepair or condition that such equipment is a hazard to life, health, property or safety of the public or *occupants* of the *premises* or structure.

12- 108.1.3 Structure unfit for human occupancy.

A structure is unfit for human *occupancy* whenever the Mayor and Council's designee finds that such

structure is unsafe, unlawful or, because of the degree to which the structure is in disrepair or lacks maintenance, is insanitary, vermin or rat infested, contains filth and contamination, or lacks *ventilation*, illumination, sanitary or heating facilities or other essential equipment required by this code, or because the location of the structure constitutes a hazard to the *occupants* of the structure or to the public.

12- 108.1.4 Unlawful structure.

An unlawful structure is one found in whole or in part to be occupied by more persons than permitted under this code, or was erected, altered or occupied contrary to law.

12-108.1.5 Dangerous structure or premises.

For the purpose of this code, any structure or *premises* that has any or all of the conditions or defects described below shall be considered dangerous:

1. Any door, aisle, passageway, stairway, exit or other means of egress that does not conform to the *approved* building or fire code of the jurisdiction as related to the requirements for existing buildings.
2. The walking surface of any aisle, passageway, stairway, exit or other means of egress is so warped, worn loose, torn or otherwise unsafe as to not provide safe and adequate means of egress.
3. Any portion of a building, structure or appurtenance that has been damaged by fire, earthquake, wind, flood, *deterioration*, *neglect*, abandonment, vandalism or by any other cause to such an extent that it is likely to partially or completely collapse, or to become *detached* or dislodged.
4. Any portion of a building, or any member, appurtenance or ornamentation on the exterior thereof that is not of sufficient strength or stability, or is not so *anchored*, attached or fastened in place so as to be capable of resisting natural or artificial loads of one and one-half the original designed value.
5. The building or structure, or part of the building or structure, because of dilapidation, *deterioration*, decay, faulty construction, the removal or movement of some portion of the ground necessary for the support, or for any other reason, is likely to partially or completely collapse, or some portion of the foundation or underpinning of the building or structure is likely to fail or give way.
6. The building or structure, or any portion thereof, is clearly unsafe for its use and *occupancy*.
7. The building or structure is *neglected*, damaged, dilapidated, unsecured or abandoned so as to become an attractive nuisance to children who might play in the building or structure to their danger, becomes a harbor for vagrants, criminals or immoral persons, or enables persons to resort to the building or structure for committing a nuisance or an unlawful act.
8. Any building or structure has been constructed, exists or is maintained in violation of any specific requirement or prohibition applicable to such building or structure provided by the *approved* building or fire code of the jurisdiction, or of any law or ordinance to such an extent as to present either a substantial risk of fire, building collapse or any other threat to life and safety.
9. A building or structure, used or intended to be used for dwelling purposes, because of inadequate maintenance, dilapidation, decay, damage, faulty construction or arrangement, inadequate light, *ventilation*, mechanical or plumbing system, or otherwise, is determined by the Mayor and Council's designee to be insanitary, unfit for human habitation or in such a condition that is likely to cause sickness or disease.
10. Any building or structure, because of a lack of sufficient or proper fire-resistance-rated construction, fire protection systems, electrical system, fuel connections, mechanical system, plumbing system or other cause, is determined by the Mayor and Council's designee to be a threat to life or health.
11. Any portion of a building remains on a site after the demolition or destruction of the building or structure or whenever any building or structure is abandoned so as to constitute such building or portion thereof as an attractive nuisance or hazard to the public.

SECTION 12-201 GENERAL

12-201.1 Scope.

Unless otherwise expressly stated, the following terms shall, for the purposes of this code, have the meanings shown in this chapter.

12-201.2 Interchangeability.

Words stated in the present tense include the future; words stated in the masculine gender include the feminine and neuter; the singular number includes the plural and the plural, the singular.

12-201.3 Terms defined in other codes.

Where terms are not defined in this code and are defined in the *International Building Code*, *International Existing Building Code*, *International Fire Code*, *International Fuel Gas Code*, *International Mechanical Code*, *International Plumbing Code*, *International Residential Code*, *International Zoning Code* or NFPA 12-70, such terms shall have the meanings ascribed to them as stated in those codes.

12-201.4 Terms not defined.

Where terms are not defined through the methods authorized by this section, such terms shall have ordinarily accepted meanings such as the context implies.

12-201.5 Parts.

Whenever the words "*dwelling unit*," "*dwelling*," "*premises*," "*building*," "*rooming house*," "*rooming unit*," "*housekeeping unit*" or "*story*" are stated in this code, they shall be construed as though they were followed by the words "or any part thereof."

SECTION 202 GENERAL DEFINITIONS

ANCHORED. Secured in a manner that provides positive connection.

APPROVED. *Approved* by the Mayor and Council's designee.

BASEMENT. That portion of a building which is partly or completely below grade.

BATHROOM. A room containing plumbing fixtures including a bathtub or shower.

BEDROOM. Any room or space used or intended to be used for sleeping purposes in either a dwelling or *sleeping unit*.

CONDEMN. To adjudge unfit for *occupancy*.

DETACHED. When a structural element is physically disconnected from another and that connection is necessary to provide a positive connection.

DETERIORATION. To weaken, disintegrate, corrode, rust or decay and lose effectiveness.

DWELLING UNIT. A single unit providing complete, independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking and sanitation.

EASEMENT. That portion of land or property reserved for present or future use by a person or agency other than the legal fee *owner(s)* of the property. The *easement* shall be permitted to be for use under, on or above a said lot or lots.

EQUIPMENT SUPPORT. Those structural members or assemblies of members or manufactured elements, including braces, frames, lugs, snuggers, hangers or saddles, that transmit gravity load, lateral load and operating load between the equipment and the structure.

EXTERIOR PROPERTY. The open space on the *premises* and on adjoining property under the control of *owners* or *operators* of such *premises*.

GARBAGE. The animal or vegetable waste resulting from the handling, preparation, cooking and consumption of food.

GUARD. A building component or a system of building components located at or near the open sides of elevated walking surfaces that minimizes the possibility of a fall from the walking surface to a lower level.

HABITABLE SPACE. Space in a structure for living, sleeping, eating or cooking. *Bathrooms, toilet rooms, closets, halls, storage or utility spaces, and similar areas* are not considered *habitable spaces*.

HOUSEKEEPING UNIT. A room or group of rooms forming a single *habitable space* equipped and intended to be used for living, sleeping, cooking and eating which does not contain, within such a unit, a toilet, lavatory and bathtub or shower.

IMMINENT DANGER. A condition which could cause serious or life-threatening injury or death at any time.

INFESTATION. The presence, within or contiguous to, a structure or *premises* of insects, rats, vermin or other pests.

INOPERABLE MOTOR VEHICLE. A vehicle which cannot be driven upon the public streets for reason including but not limited to being unlicensed, wrecked, abandoned, in a state of disrepair, or incapable of being moved under its own power.

LABELED. Equipment, materials or products to which have been affixed a label, seal, symbol or other identifying mark of a nationally recognized testing laboratory, inspection agency or other organization concerned with product evaluation that maintains periodic inspection of the production of the above-*labeled* items and whose labeling indicates either that the equipment, material or product meets identified standards or has been tested and found suitable for a specified purpose.

LET FOR OCCUPANCY or LET. To permit, provide or offer possession or *occupancy* of a dwelling, *dwelling unit, rooming unit, building, premise or structure* by a person who is or is not the legal *owner* of record thereof, pursuant to a written or unwritten lease, agreement or license, or pursuant to a recorded or unrecorded agreement of contract for the sale of land.

MAYOR AND COUNCIL'S DESIGNEE. The official who is charged with the administration and enforcement of this code, or any duly authorized representative.

NEGLECT. The lack of proper maintenance for a building or *structure*.

OCCUPANCY. The purpose for which a building or portion thereof is utilized or occupied.

OCCUPANT. Any individual living or sleeping in a building, or having possession of a space within a building.

OPENABLE AREA. That part of a window, skylight or door which is available for unobstructed *ventilation* and which opens directly to the outdoors.

OPERATOR. Any person who has charge, care or control of a structure or *premises* which is let or offered for *occupancy*.

OWNER. Any person, agent, *operator*, firm or corporation having a legal or equitable interest in the property; or recorded in the official records of the state, county or municipality as holding title to the property; or otherwise having control of the property, including the guardian of the estate of any such person, and the executor or administrator of the estate of such person if ordered to take possession of real property by a court.

PERSON. An individual, corporation, partnership or any other group acting as a unit.

PEST ELIMINATION. The control and elimination of insects, rodents or other pests by eliminating their harborage places; by removing or making inaccessible materials that serve as their food or water; by other *approved pest elimination* methods.

PREMISES. A lot, plot or parcel of land, *easement* or *public way*, including any structures thereon.

PUBLIC WAY. Any street, alley or similar parcel of land essentially unobstructed from the ground to the sky, which is deeded, dedicated or otherwise permanently appropriated to the public for public use.

ROOMING HOUSE. A building arranged or occupied for lodging, with or without meals, for compensation and not occupied as a one- or two-family dwelling.

ROOMING UNIT. Any room or group of rooms forming a single habitable unit occupied or intended to be occupied for sleeping or living, but not for cooking purposes.

RUBBISH. Combustible and noncombustible waste materials, except garbage; the term shall include the residue from the burning of wood, coal, coke and other combustible materials, paper, rags, cartons, boxes, wood, excelsior, rubber, leather, tree branches, *yard* trimmings, tin cans, metals, mineral matter, glass, crockery and dust and other similar materials.

SLEEPING UNIT. A room or space in which people sleep, which can also include permanent provisions for living, eating and either sanitation or kitchen facilities, but not both. Such rooms and spaces that are also part of a *dwelling unit* are not *sleeping units*.

STRICT LIABILITY OFFENSE. An offense in which the prosecution in a legal proceeding is not required to prove criminal intent as a part of its case. It is enough to prove that the defendant either did an act which was prohibited, or failed to do an act which the defendant was legally required to do.

STRUCTURE. That which is built or constructed or a portion thereof.

TENANT. A person, corporation, partnership or group, whether or not the legal *owner* of record, occupying a building or portion thereof as a unit.

TOILET ROOM. A room containing a water closet or urinal but not a bathtub or shower.

ULTIMATE DEFORMATION. The deformation at which failure occurs and which shall be deemed to occur if the sustainable load reduces to 80 percent or less of the maximum strength.

VENTILATION. The natural or mechanical process of supplying conditioned or unconditioned air to, or removing such air from, any space.

WORKMANLIKE. Executed in a skilled manner; e.g., generally plumb, level, square, in line, undamaged and without marring adjacent work.

YARD. An open space on the same lot with a structure.

SECTION 12-301 MINIMUM EXTERIOR PROPERTY CONDITIONS

12-301.1 Scope.

The provisions of this chapter shall govern the minimum conditions and the responsibilities of persons for maintenance of structures, equipment and *exterior property*.

12-301.2 Responsibility.

The *owner* of the *premises* shall maintain the structures and *exterior property* in compliance with these requirements, except as otherwise provided for in this code. A person shall not occupy as owner-occupant or permit another person to occupy *premises* which are not in a sanitary and safe condition and which do not comply with the requirements of this chapter. *Occupants* of a *dwelling unit, rooming unit or housekeeping unit* are responsible for keeping in a clean, sanitary and safe condition that part of the *dwelling unit, rooming unit, housekeeping unit or premises* which they occupy and control.

12-301.3 Vacant structures and land.

All vacant structures and *premises* thereof or vacant land shall be maintained in a clean, safe, secure and sanitary condition as provided herein so as not to cause a blighting problem or adversely affect the public health or safety.

SECTION 12-302 EXTERIOR PROPERTY AREAS

12-302.1 Sanitation.

All *exterior property* and *premises* shall be maintained in a clean, safe and sanitary condition. The *occupant* shall keep that part of the *exterior property* which such *occupant* occupies or controls in a clean and sanitary condition.

12-302.2 Grading and drainage.

All *premises* shall be graded and maintained to prevent the erosion of soil and to prevent the accumulation of stagnant water thereon, or within any structure located thereon.

Exception: *Approved* retention areas and reservoirs.

12-302.3 Sidewalks and driveways.

All sidewalks, walkways, stairs, driveways, parking spaces and similar areas shall be kept in a proper state of repair, and maintained free from hazardous conditions.

12-302.4 Weeds and Grass. All premises or exterior property in C-1, C-2, R-1, R-2, and R-M1, zones and the curtilage of property in every other zone shall be maintained free from weeds or plant growth in excess of 11 inches". All noxious weeds shall be prohibited. Weeds shall be defined as all grasses, annual plants and vegetation, other than trees or shrubs provided; however, this term shall not include cultivated flowers and gardens.

Upon failure of the *owner* or agent having charge of a property to cut and destroy weeds after service of a notice of violation, they shall be subject to prosecution in accordance with Section 12-106.3 and as prescribed by the authority having jurisdiction. Upon failure to comply with the notice of violation, any duly authorized employee of the jurisdiction or contractor hired by the jurisdiction shall be authorized to enter upon the property in violation and cut and destroy the weeds growing thereon, and the costs of such removal shall be paid by the *owner* or agent responsible for the property.

12-302.5 Rodent harborage.

All structures and *exterior property* shall be kept free from rodent harborage and *infestation*. Where rodents are found, they shall be promptly exterminated by *approved* processes which will not be injurious to human health. After pest elimination, proper precautions shall be taken to eliminate rodent harborage and prevent re-infestation.

12-302.6 Exhaust vents.

Pipes, ducts, conductors, fans or blowers shall not discharge gases, steam, vapor, hot air, grease, smoke, odors or other gaseous or particulate wastes directly upon abutting or adjacent public or private property or that of another *tenant*.

12-302.7 Accessory structures.

All accessory structures, including *detached* garages, fences and walls, shall be maintained structurally sound and in good repair.

12-302.8 Motor vehicles.

Except as provided for in other regulations, no inoperative or unlicensed motor vehicle shall be parked, kept or stored on any *premises*, and no vehicle shall at any time be in a state of major disassembly, disrepair, or in the process of being stripped or dismantled. Painting of vehicles is prohibited unless conducted inside an *approved* spray booth.

Exception: A vehicle of any type is permitted to undergo major overhaul, including body work, provided that such work is performed inside a structure or similarly enclosed area designed and *approved* for such

purposes.

12-302.9 Defacement of property.

No person shall willfully or wantonly damage, mutilate or deface any exterior surface of any structure or building on any private or public property by placing thereon any marking, carving or graffiti.

It shall be the responsibility of the *owner* to restore said surface to an *approved* state of maintenance and repair.

SECTION 12-303 SWIMMING POOLS, SPAS AND HOT TUBS

12-303.1 Swimming pools.

Swimming pools shall be maintained in a clean and sanitary condition, and in good repair.

12-303.2 Enclosures.

Private swimming pools, hot tubs and spas, containing water more than 24 inches (610 mm) in depth shall be completely surrounded by a fence or barrier at least 48 inches (1219 mm) in height above the finished ground level measured on the side of the barrier away from the pool. Gates and doors in such barriers shall be self-closing and self-latching. Where the self-latching device is a minimum of 54 inches (1372 mm) above the bottom of the gate, the release mechanism shall be located on the pool side of the gate. Self-closing and self-latching gates shall be maintained such that the gate will positively close and latch when released from an open position of 6 inches (152 mm) from the gatepost. No existing pool enclosure shall be removed, replaced or changed in a manner that reduces its effectiveness as a safety barrier.

Exception: Spas or hot tubs with a safety cover that complies with ASTM F 1346 shall be exempt from the provisions of this section.

SECTION 12-304 EXTERIOR STRUCTURE

12-304.1 General.

The exterior of a structure shall be maintained in good repair, structurally sound and sanitary so as not to pose a threat to the public health, safety or welfare.

12-304.1.1 Unsafe conditions.

The following conditions shall be determined as unsafe and shall be repaired or replaced to comply with the *International Building Code* or the *International Existing Building Code* as required for existing buildings:

1. The nominal strength of any structural member is exceeded by nominal loads, the load effects or the required strength;
2. The *anchorage* of the floor or roof to walls or columns, and of walls and columns to foundations is not capable of resisting all nominal loads or load effects;
3. Structures or components thereof that have reached their limit state;
4. Siding and masonry joints including joints between the building envelope and the perimeter of windows, doors and skylights are not maintained, weather resistant or water tight;
5. Structural members that have evidence of *deterioration* or that are not capable of safely supporting all nominal loads and load effects;

6. Foundation systems that are not firmly supported by footings, are not plumb and free from open cracks and breaks, are not properly *anchored* or are not capable of supporting all nominal loads and resisting all load effects;
7. Exterior walls that are not *anchored* to supporting and supported elements or are not plumb and free of holes, cracks or breaks and loose or rotting materials, are not properly *anchored* or are not capable of supporting all nominal loads and resisting all load effects;
8. Roofing or roofing components that have defects that admit rain, roof surfaces with inadequate drainage, or any portion of the roof framing that is not in good repair with signs of *deterioration*, fatigue or without proper anchorage and incapable of supporting all nominal loads and resisting all load effects;
9. Flooring and flooring components with defects that affect serviceability or flooring components that show signs of *deterioration* or fatigue, are not properly *anchored* or are incapable of supporting all nominal loads and resisting all load effects;
10. Veneer, cornices, belt courses, corbels, trim, wall facings and similar decorative features not properly anchored or that are anchored with connections not capable of supporting all nominal loads and resisting all load effects;
11. Overhang extensions or projections including, but not limited to, trash chutes, canopies, marquees, signs, awnings, fire escapes, standpipes and exhaust ducts not properly *anchored* or that are *anchored* with connections not capable of supporting all nominal loads and resisting all load effects;
12. Exterior stairs, decks, porches, balconies and all similar appurtenances attached thereto, including *guards* and handrails, are not structurally sound, not properly *anchored* or that are *anchored* with connections not capable of supporting all nominal loads and resisting all load effects; or
13. Chimneys, cooling towers, smokestacks and similar appurtenances not structurally sound or not properly *anchored*, or that are anchored with connections not capable of supporting all nominal loads and resisting all load effects.

Exceptions:

1. When substantiated otherwise by an *approved* method.
2. Demolition of unsafe conditions shall be permitted when *approved* by the Mayor and Council's designee.

12-304.2 Protective treatment.

All exterior surfaces, including but not limited to, doors, door and window frames, cornices, porches, trim, balconies, decks and fences, shall be maintained in good condition. Exterior wood surfaces, other than decay-resistant woods, shall be protected from the elements and decay by painting or other protective covering or treatment. Peeling, flaking and chipped paint shall be eliminated and surfaces repainted. All siding and masonry joints, as well as those between the building envelope and the perimeter of windows, doors and skylights, shall be maintained weather resistant and water tight. All metal surfaces subject to rust or corrosion shall be coated to inhibit such rust and corrosion, and all surfaces with rust or corrosion shall be stabilized and coated to inhibit future rust and corrosion. Oxidation stains shall be removed from exterior surfaces. Surfaces designed for stabilization by oxidation are exempt from this requirement.

12-304.3 Premises identification.

Buildings shall have *approved* address numbers placed in a position to be plainly legible and visible from the street or road fronting the property. These numbers shall contrast with their background. Address numbers shall be Arabic numerals or alphabet letters. Numbers shall be a minimum of 4 inches (102 mm) in height with a minimum stroke width of 0.5 inch (12.7 mm).

12-304.4 Structural members.

All structural members shall be maintained free from *deterioration*, and shall be capable of safely supporting the imposed dead and live loads.

12-304.5 Foundation walls.

All foundation walls shall be maintained plumb and free from open cracks and breaks and shall be kept in such condition so as to prevent the entry of rodents and other pests.

12-304.6 Exterior walls.

All exterior walls shall be free from holes, breaks, and loose or rotting materials; and maintained weatherproof and properly surface coated where required to prevent *deterioration*.

12-304.7 Roofs and drainage.

The roof and flashing shall be sound, tight and not have defects that admit rain. Roof drainage shall be adequate to prevent dampness or *deterioration* in the walls or interior portion of the structure. Roof drains, gutters and downspouts shall be maintained in good repair and free from obstructions. Roof water shall not be discharged in a manner that creates a public nuisance.

12-304.8 Decorative features.

All cornices, belt courses, corbels, terra cotta trim, wall facings and similar decorative features shall be maintained in good repair with proper anchorage and in a safe condition.

12-304.9 Overhang extensions.

All overhang extensions including, but not limited to canopies, marquees, signs, metal awnings, fire escapes, standpipes and exhaust ducts shall be maintained in good repair and be properly *anchored* so as to be kept in a sound condition. When required, all exposed surfaces of metal or wood shall be protected from the elements and against decay or rust by periodic application of weather-coating materials, such as paint or similar surface treatment.

12-304.10 Stairways, decks, porches and balconies.

Every exterior stairway, deck, porch and balcony, and all appurtenances attached thereto, shall be maintained structurally sound, in good repair, with proper anchorage and capable of supporting the imposed loads.

12-304.11 Chimneys and towers.

All chimneys, cooling towers, smoke stacks, and similar appurtenances shall be maintained structurally safe and sound, and in good repair. All exposed surfaces of metal or wood shall be protected from the elements and against decay or rust by periodic application of weather-coating materials, such as paint or similar surface treatment.

12-304.12 Handrails and guards.

Every handrail and *guard* shall be firmly fastened and capable of supporting normally imposed loads and shall be maintained in good condition.

12-304.13 Window, skylight and door frames.

Every window, skylight, door and frame shall be kept in sound condition, good repair and weather tight.

12-304.13.1 Glazing.

All glazing materials shall be maintained free from cracks and holes.

12-304.13.2 Openable windows.

Every window, other than a fixed window, shall be easily openable and capable of being held in position by window hardware.

12-304.14 Insect screens.

During the period from March 1st and October 1st, every door, window and other outside opening required for *ventilation* of habitable rooms, food preparation areas, food service areas or any areas where products to be included or utilized in food for human consumption are processed, manufactured, packaged or stored shall be supplied with *approved* tightly fitting screens of minimum 16 mesh per inch (16 mesh per 25 mm), and every screen door used for insect control shall have a self-closing device in good working condition.

Exception: Screens shall not be required where other *approved* means, such as air curtains or insect repellent fans, are employed.

12-304.15 Doors.

All exterior doors, door assemblies, operator systems if provided, and hardware shall be maintained in good condition. Locks at all entrances to dwelling units and sleeping units shall tightly secure the door. Locks on means of egress doors shall be in accordance with Section 12-702.3.

12-304.16 Basement hatchways.

Every *basement* hatchway shall be maintained to prevent the entrance of rodents, rain and surface drainage water.

12-304.17 Guards for basement windows.

Every *basement* window that is openable shall be supplied with rodent shields, storm windows or other *approved* protection against the entry of rodents.

12-304.18 Building security.

Doors, windows or hatchways for *dwelling units*, room units or *housekeeping units* shall be provided with devices designed to provide security for the *occupants* and property within.

12-304.18.1 Doors.

Doors providing access to a *dwelling unit*, *rooming unit* or *housekeeping unit* that is rented, leased or let shall be equipped with a deadbolt lock designed to be readily openable from the side from which egress is to be made without the need for keys, special knowledge or effort and shall have a minimum lock throw of 1 inch (25 mm). Such deadbolt locks shall be installed according to the manufacturer's specifications and maintained in good working order. For the purpose of this section, a sliding bolt shall not be considered an acceptable deadbolt lock.

12-304.18.2 Windows.

Operable windows located in whole or in part within 6 feet (1828 mm) above ground level or a walking surface below that provide access to a *dwelling unit*, *rooming unit* or *housekeeping unit* that is rented, leased or let shall be equipped with a window sash locking device.

12-304.18.3 Basement hatchways.

Basement hatchways that provide access to a dwelling unit, rooming unit or housekeeping unit that is rented, leased or let shall be equipped with devices that secure the units from unauthorized entry.

12-304.19 Gates.

All exterior gates, gate assemblies, operator systems if provided, and hardware shall be maintained in good condition. Latches at all entrances shall tightly secure the gates.

SECTION 12-305 INTERIOR STRUCTURE

12-305.1 General.

The interior of a structure and equipment therein shall be maintained in good repair, structurally sound and in a sanitary condition. *Occupants* shall keep that part of the structure which they occupy or control in a clean and sanitary condition. Every *owner* of a structure containing a *rooming house, housekeeping units, a hotel, a dormitory, two or more dwelling units or two or more nonresidential occupancies*, shall maintain, in a clean and sanitary condition, the shared or public areas of the structure and *exterior property*.

12-305.1.1 Unsafe conditions.

The following conditions shall be determined as unsafe and shall be repaired or replaced to comply with the *International Building Code* or the *International Existing Building Code* as required for existing buildings:

1. The nominal strength of any structural member is exceeded by nominal loads, the load effects or the required strength;
2. The anchorage of the floor or roof to walls or columns, and of walls and columns to foundations is not capable of resisting all nominal loads or load effects;
3. Structures or components thereof that have reached their limit state;
4. Structural members are incapable of supporting nominal loads and load effects;
5. Stairs, landings, balconies and all similar walking surfaces, including *guards* and handrails, are not structurally sound, not properly *anchored* or are *anchored* with connections not capable of supporting all nominal loads and resisting all load effects;
6. Foundation systems that are not firmly supported by footings are not plumb and free from open cracks and breaks, are not properly *anchored* or are not capable of supporting all nominal loads and resisting all load effects.

Exceptions:

1. When substantiated otherwise by an *approved* method.
2. Demolition of unsafe conditions shall be permitted when *approved* by the Mayor and Council's designee.

12-305.2 Structural members.

All structural members shall be maintained structurally sound, and be capable of supporting the imposed loads.

12-305.3 Interior surfaces.

All interior surfaces, including windows and doors, shall be maintained in good, clean and sanitary condition. Peeling, chipping, flaking or abraded paint shall be repaired, removed or covered. Cracked or loose plaster, decayed wood and other defective surface conditions shall be corrected.

12-305.4 Stairs and walking surfaces.

Every stair, ramp, landing, balcony, porch, deck or other walking surface shall be maintained in sound condition and good repair.

12-305.5 Handrails and guards.

Every handrail and *guard* shall be firmly fastened and capable of supporting normally imposed loads and shall be maintained in good condition.

12-305.6 Interior doors.

Every interior door shall fit reasonably well within its frame and shall be capable of being opened and closed by being properly and securely attached to jambs, headers or tracks as intended by the manufacturer of the attachment hardware.

SECTION 12-306 COMPONENT SERVICEABILITY

12-306.1 General.

The components of a structure and equipment therein shall be maintained in good repair, structurally sound and in a sanitary condition.

12-306.1.1 Unsafe conditions.

Where any of the following conditions cause the component or system to be beyond its limit state, the component or system shall be determined as unsafe and shall be repaired or replaced to comply with the *International Building Code* as required for existing buildings:

1. Soils that have been subjected to any of the following conditions:

- 1.1. Collapse of footing or foundation system;
- 1.2. Damage to footing, foundation, concrete or other structural element due to soil expansion;
- 1.3. Adverse effects to the design strength of footing, foundation, concrete or other structural element due to a chemical reaction from the soil;
- 1.4. Inadequate soil as determined by a geotechnical investigation;
- 1.5. Where the allowable bearing capacity of the soil is in doubt; or
- 1.6. Adverse effects to the footing, foundation, concrete or other structural element due to the ground water table.

2. Concrete that has been subjected to any of the following conditions:

- 2.1. *Deterioration*;
- 2.2. *Ultimate deformation*;
- 2.3. Fractures;
- 2.4. Fissures;
- 2.5. Spalling;
- 2.6. Exposed reinforcement; or
- 2.7. *Detached*, dislodged or failing connections.

3. Aluminum that has been subjected to any of the following conditions:

- 3.1. *Deterioration*;
- 3.2. Corrosion;
- 3.3. Elastic deformation;
- 3.4. *Ultimate deformation*;
- 3.5. Stress or strain cracks;

- 3.6. Joint fatigue; or
- 3.7. *Detached*, dislodged or failing connections.
- 4. Masonry that has been subjected to any of the following conditions:
 - 4.1. *Deterioration*;
 - 4.2. *Ultimate deformation*;
 - 4.3. Fractures in masonry or mortar joints;
 - 4.4. Fissures in masonry or mortar joints;
 - 4.5. Spalling;
 - 4.6. Exposed reinforcement; or
 - 4.7. *Detached*, dislodged or failing connections.
- 5. Steel that has been subjected to any of the following conditions:
 - 5.1. *Deterioration*;
 - 5.2. Elastic deformation;
 - 5.3. *Ultimate deformation*;
 - 5.4. Metal fatigue; or
 - 5.5. *Detached*, dislodged or failing connections.
- 6. Wood that has been subjected to any of the following conditions:
 - 6.1. *Ultimate deformation*;
 - 6.2. *Deterioration*;
 - 6.3. Damage from insects, rodents and other vermin;
 - 6.4. Fire damage beyond charring;
 - 6.5. Significant splits and checks;
 - 6.6. Horizontal shear cracks;
 - 6.7. Vertical shear cracks;
 - 6.8. Inadequate support;
 - 6.9. *Detached*, dislodged or failing connections; or
 - 6.10. Excessive cutting and notching.

Exceptions:

- 1. When substantiated otherwise by an *approved* method.
- 2. Demolition of unsafe conditions shall be permitted when *approved* by the Mayor and Council's designee.

SECTION 12-307 HANDRAILS AND GUARDRAILS

12-307.1 General.

Every exterior and interior flight of stairs having more than four risers shall have a handrail on one side of the stair and every open portion of a stair, landing, balcony, porch, deck, ramp or other walking surface which is more than 30 inches (762 mm) above the floor or grade below shall have *guards*. Handrails shall not be less than 30 inches (762 mm) in height or more than 42 inches (1067 mm) in height measured vertically above the nosing of the tread or above the finished floor of the landing or walking surfaces. *Guards* shall not be less than 30 inches (762 mm) in height above the floor of the landing, balcony, porch, deck, or ramp or other walking surface.

Exception: *Guards* shall not be required where exempted by the adopted building code.

SECTION 12-308 RUBBISH AND GARBAGE

12-308.1 Accumulation of rubbish or garbage.

All *exterior property* and *premises*, and the interior of every structure, shall be free from any accumulation of *rubbish* or garbage.

12-308.2 Disposal of rubbish.

Every *occupant* of a structure shall dispose of all *rubbish* in a clean and sanitary manner by placing such *rubbish* in *approved* containers.

12-308.2.1 Rubbish storage facilities.

The *owner* of every occupied *premises* shall supply *approved* covered containers for *rubbish*, and the *owner* of the *premises* shall be responsible for the removal of *rubbish*.

12-308.2.2 Refrigerators.

Refrigerators and similar equipment not in operation shall not be discarded, abandoned or stored on *premise*.

12-308.3 Disposal of garbage.

Every *occupant* of a structure shall dispose of garbage in a clean and sanitary manner by placing such garbage in an *approved* garbage disposal facility or *approved* garbage containers.

12-308.3.1 Garbage facilities.

The *owner* of every dwelling shall supply one of the following: an *approved* mechanical food waste grinder in each *dwelling unit*; an *approved* incinerator unit in the structure available to the *occupants* in each *dwelling unit*; or an *approved* leakproof, covered, outside garbage container.

12-308.3.2 Containers.

The *operator* of every establishment producing garbage shall provide, and at all times cause to be utilized, *approved* leakproof containers provided with close-fitting covers for the storage of such materials until removed from the *premises* for disposal.

SECTION 12-309 PEST ELIMINATION

12-309.1 Infestation.

All structures shall be kept free from insect and rodent *infestation*. All structures in which insects or rodents are found shall be promptly exterminated by *approved* processes that will not be injurious to human health. After pest elimination, proper precautions shall be taken to prevent reinfestation.

12-309.2 Owner.

The *owner* of any structure shall be responsible for pest elimination within the structure prior to renting or leasing the structure.

12-309.3 Single occupant.

The *occupant* of a one-family dwelling or of a single-*tenant* nonresidential structure shall be responsible for pest elimination on the *premises*.

12-309.4 Multiple occupancy.

The *owner* of a structure containing two or more *dwelling units*, a multiple *occupancy*, a *rooming house* or a nonresidential structure shall be responsible for pest elimination in the public or shared areas of the structure and *exterior property*. If *infestation* is caused by failure of an *occupant* to prevent such *infestation* in the area occupied, the *occupant* and *owner* shall be responsible for pest elimination.

12-309.5 Occupant.

The *occupant* of any structure shall be responsible for the continued rodent and pest-free condition of the structure.

Exception: Where the *infestations* are caused by defects in the structure, the *owner* shall be responsible for pest elimination.

SECTION 12-401 GENERAL

12-401.1 Scope.

The provisions of this chapter shall govern the minimum conditions and standards for light, *ventilation* and space for occupying a structure.

12-401.2 Responsibility.

The *owner* of the structure shall provide and maintain light, *ventilation* and space conditions in compliance with these requirements. A person shall not occupy as *owner-occupant*, or permit another person to occupy, any *premises* that do not comply with the requirements of this chapter.

12-401.3 Alternative devices.

In lieu of the means for natural light and *ventilation* herein prescribed, artificial light or mechanical *ventilation* complying with the *International Building Code* shall be permitted.

SECTION 12-402 LIGHT

12-402.1 Habitable spaces.

Every *habitable space* shall have at least one window of *approved* size facing directly to the outdoors or to a court. The minimum total glazed area for every *habitable space* shall be 8 percent of the floor area of such room. Wherever walls or other portions of a structure face a window of any room and such obstructions are located less than 3 feet (914 mm) from the window and extend to a level above that of the ceiling of the room, such window shall not be deemed to face directly to the outdoors nor to a court and shall not be included as contributing to the required minimum total window area for the room.

Exception: Where natural light for rooms or spaces without exterior glazing areas is provided through an adjoining room, the unobstructed opening to the adjoining room shall be at least 8 percent of the floor area of the interior room or space, but a minimum of 25 square feet (2.33 m²). The exterior glazing area shall be based on the total floor area being served.

12-402.2 Common halls and stairways.

Every common hall and stairway in residential occupancies, other than in one- and two-family dwellings, shall be lighted at all times with at least a 12-60-watt standard incandescent light bulb for each 200 square feet (19 m²) of floor area or equivalent illumination, provided that the spacing between lights shall not be greater than

30 feet (9144 mm). In other than residential occupancies, means of egress, including exterior means of egress, stairways shall be illuminated at all times the building space served by the means of egress is occupied with a minimum of 1 footcandle (11 lux) at floors, landings and treads.

12-402.3 Other spaces.

All other spaces shall be provided with natural or artificial light sufficient to permit the maintenance of sanitary conditions, and the safe *occupancy* of the space and utilization of the appliances, equipment and fixtures.

SECTION 12-403 VENTILATION

12-403.1 Habitable spaces.

Every *habitable space* shall have at least one operable window. The total operable area of the window in every room shall be equal to at least 45 percent of the minimum glazed area required in Section 12-402.1.

Exception: Where rooms and spaces without openings to the outdoors are ventilated through an adjoining room, the unobstructed opening to the adjoining room shall be at least 8 percent of the floor area of the interior room or space, but a minimum of 25 square feet (2.33 m²). The *ventilation* openings to the outdoors shall be based on a total floor area being ventilated.

12-403.2 Bathrooms and toilet rooms.

Every *bathroom* and *toilet room* shall comply with the *ventilation* requirements for *habitable spaces* as required by Section 12-403.1, except that a window shall not be required in such spaces equipped with a mechanical *ventilation* system. Air exhausted by a mechanical *ventilation* system from a *bathroom* or *toilet room* shall discharge to the outdoors and shall not be recirculated.

12-403.3 Cooking facilities.

Unless *approved* through the certificate of *occupancy*, cooking shall not be permitted in any *rooming unit* or dormitory unit, and a cooking facility or appliance shall not be permitted to be present in the *rooming unit* or dormitory unit.

Exceptions:

1. Where specifically *approved* in writing by the Mayor and Council's designee.
2. Devices such as coffee pots and microwave ovens shall not be considered cooking appliances.

12-403.4 Process ventilation.

Where injurious, toxic, irritating or noxious fumes, gases, dusts or mists are generated, a local exhaust *ventilation* system shall be provided to remove the contaminating agent at the source. Air shall be exhausted to the exterior and not be recirculated to any space.

12-403.5 Clothes dryer exhaust.

Clothes dryer exhaust systems shall be independent of all other systems and shall be exhausted outside the structure in accordance with the manufacturer's instructions.

Exception: Listed and *labeled* condensing (ductless) clothes dryers.

SECTION 12-404 OCCUPANCY LIMITATIONS

12-404.1 Privacy.

Dwelling units, hotel units, housekeeping units, rooming units and dormitory units shall be arranged to provide privacy and be separate from other adjoining spaces.

12-404.2 Minimum room widths.

A habitable room, other than a kitchen, shall be a minimum of 7 feet (2134 mm) in any plan dimension. Kitchens shall have a minimum clear passageway of 3 feet (914 mm) between counter-fronts and appliances or counter-fronts and walls.

12-404.3 Minimum ceiling heights.

Habitable spaces, hallways, corridors, laundry areas, bathrooms, toilet rooms and habitable basement areas shall have a minimum clear ceiling height of 7 feet (2134 mm).

Exceptions:

1. In one- and two-family dwellings, beams or girders spaced a minimum of 4 feet (1219 mm) on center and projecting a maximum of 6 inches (152 mm) below the required ceiling height.
2. *Basement* rooms in one- and two-family dwellings occupied exclusively for laundry, study or recreation purposes, having a minimum ceiling height of 6 feet 8 inches (2033 mm) with a minimum clear height of 6 feet 4 inches (1932 mm) under beams, girders, ducts and similar obstructions.
3. Rooms occupied exclusively for sleeping, study or similar purposes and having a sloped ceiling over all or part of the room, with a minimum clear ceiling height of 7 feet (2134 mm) over a minimum of one-third of the required minimum floor area. In calculating the floor area of such rooms, only those portions of the floor area with a minimum clear ceiling height of 5 feet (1524 mm) shall be included.

12-404.4 Bedroom and living room requirements.

Every *bedroom* and living room shall comply with the requirements of Sections 12-404.4.1 through 12-404.4.5.

12-404.4.1 Room area.

Every living room shall contain at least 120 square feet (11.2 m²) and every bedroom shall contain a minimum of 70 square feet (6.5 m²) and every bedroom occupied by more than one person shall contain a minimum of 50 square feet (4.6 m²) of floor area for each occupant thereof.

12-404.4.2 Access from bedrooms.

Bedrooms shall not constitute the only means of access to other *bedrooms* or *habitable spaces* and shall not serve as the only means of egress from other *habitable spaces*.

Exception: Units that contain fewer than two *bedrooms*.

12-404.4.3 Water closet accessibility.

Every *bedroom* shall have access to at least one water closet and one lavatory without passing through another *bedroom*. Every *bedroom* in a *dwelling unit* shall have access to at least one water closet and lavatory located in the same story as the *bedroom* or an adjacent story.

12-404.4.4 Prohibited occupancy.

Kitchens and non-habitable spaces shall not be used for sleeping purposes.

12-404.4.5 Other requirements.

Bedrooms shall comply with the applicable provisions of this code including, but not limited to, the light, *ventilation*, room area, ceiling height and room width requirements of this chapter; the plumbing facilities and water-heating facilities requirements of [Chapter 5](#); the heating facilities and electrical receptacle requirements of [Chapter 6](#); and the smoke detector and emergency escape requirements of [Chapter 7](#).

12-404.5 Overcrowding.

Dwelling units shall not be occupied by more occupants than permitted by the minimum area requirements of Table 12-404.5.

TABLE 12-404.5 MINIMUM AREA REQUIREMENTS

SPACE	MINIMUM AREA IN SQUARE FEET		
	1-2 occupants	3-5 occupants	6 or more occupants
Living room ^{a, b}	120	120	150
Dining room ^{a, b}	No requirement	80	100
Bedrooms	Shall comply with Section 12-404.4.1		

For SI: 1 square foot = 0.093 m².

a. See Section 12-404.5.2 for combined living room/dining room spaces.

b. See Section 12-404.5.1 for limitations on determining the minimum occupancy area for sleeping purposes.

12-404.5.1 Sleeping area.

The minimum occupancy area required by Table 12-404.5 shall not be included as a sleeping area in determining the minimum occupancy area for sleeping purposes. All sleeping areas shall comply with Section 12-404.4.

12-404.5.2 Combined spaces.

Combined living room and dining room spaces shall comply with the requirements of Table 12-404.5 if the total area is equal to that required for separate rooms and if the space is located so as to function as a combination living room/dining room.

12-404.6 Efficiency unit.

Nothing in this section shall prohibit an efficiency living unit from meeting the following requirements:

1. A unit occupied by not more than one occupant shall have a minimum clear floor area of 120 square feet (11.2 m²). A unit occupied by not more than two *occupants* shall have a minimum clear floor area of 220 square feet (20.4 m²). A unit occupied by three *occupants* shall have a minimum clear floor area of 320 square feet (29.7 m²). These required areas shall be exclusive of the areas required by Items 2 and 3.

2. The unit shall be provided with a kitchen sink, cooking appliance and refrigeration facilities, each having a minimum clear working space of 30 inches (762 mm) in front. Light and *ventilation* conforming to this code shall be provided.
3. The unit shall be provided with a separate *bathroom* containing a water closet, lavatory and bathtub or shower.
4. The maximum number of *occupants* shall be three.

12-404.7 Food preparation.

All spaces to be occupied for food preparation purposes shall contain suitable space and equipment to store, prepare and serve foods in a sanitary manner. There shall be adequate facilities and services for the sanitary disposal of food wastes and refuse, including facilities for temporary storage.

SECTION 12-501 PLUMBING FACILITIES AND FIXTURE REQUIREMENTS_

12-501.1 Scope.

The provisions of this chapter shall govern the minimum plumbing systems, facilities and plumbing fixtures to be provided.

12-501.2 Responsibility.

The *owner* of the structure shall provide and maintain such plumbing facilities and plumbing fixtures in compliance with these requirements. A person shall not occupy as *owner-occupant* or permit another person to occupy any structure or *premises* which does not comply with the requirements of this chapter.

SECTION 12-502 REQUIRED FACILITIES

12-502.1 Dwelling units.

Every *dwelling unit* shall contain its own bathtub or shower, lavatory, water closet and kitchen sink which shall be maintained in a sanitary, safe working condition. The lavatory shall be placed in the same room as the water closet or located in close proximity to the door leading directly into the room in which such water closet is located. A kitchen sink shall not be used as a substitute for the required lavatory.

12-502.2 Rooming houses.

At least one water closet, lavatory and bathtub or shower shall be supplied for each four *rooming units*.

12-502.3 Hotels.

Where private water closets, lavatories and baths are not provided, one water closet, one lavatory and one bathtub or shower having access from a public hallway shall be provided for each ten *occupants*.

12-502.4 Employees' facilities.

A minimum of one water closet, one lavatory and one drinking facility shall be available to employees.

12-502.4.1 Drinking facilities.

Drinking facilities shall be a drinking fountain, water cooler, bottled water cooler or disposable cups next to a sink or water dispenser. Drinking facilities shall not be located in *toilet rooms* or *bathrooms*.

12-502.5 Public toilet facilities.

Public toilet facilities shall be maintained in a safe sanitary and working condition in accordance with the *International Plumbing Code*. Except for periodic maintenance or cleaning, public access and use shall be provided to the toilet facilities at all times during *occupancy* of the *premises*.

SECTION 503 TOILET ROOMS

12-503.1 Privacy.

Toilet rooms and *bathrooms* shall provide privacy and shall not constitute the only passageway to a hall or other space, or to the exterior. A door and interior locking device shall be provided for all common or shared *bathrooms* and *toilet rooms* in a multiple dwelling.

12-503.2 Location.

Toilet rooms and *bathrooms* serving hotel units, *rooming units* or dormitory units or *housekeeping units*, shall have access by traversing a maximum of one flight of stairs and shall have access from a common hall or passageway.

12-503.3 Location of employee toilet facilities.

Toilet facilities shall have access from within the employees' working area. The required toilet facilities shall be located a maximum of one story above or below the employees' working area and the path of travel to such facilities shall not exceed a distance of 500 feet (152 m). Employee facilities shall either be separate facilities or combined employee and public facilities.

Exception: Facilities that are required for employees in storage structures or kiosks, which are located in adjacent structures under the same ownership, lease or control, shall not exceed a travel distance of 500 feet (152 m) from the employees' regular working area to the facilities.

12-503.4 Floor surface.

In other than *dwelling units*, every *toilet room* floor shall be maintained to be a smooth, hard, nonabsorbent surface to permit such floor to be easily kept in a clean and sanitary condition.

SECTION 12-504 PLUMBING SYSTEMS AND FIXTURES

12-504.1 General.

All plumbing fixtures shall be properly installed and maintained in working order, and shall be kept free from obstructions, leaks and defects and be capable of performing the function for which such plumbing fixtures are designed. All plumbing fixtures shall be maintained in a safe, sanitary and functional condition.

12-504.2 Fixture clearances.

Plumbing fixtures shall have adequate clearances for usage and cleaning.

12-504.3 Plumbing system hazards.

Where it is found that a plumbing system in a structure constitutes a hazard to the *occupants* or the structure by reason of inadequate service, inadequate venting, cross connection, backsiphonage, improper installation, *deterioration* or damage or for similar reasons, the Mayor and Council's designee shall require the defects to be corrected to eliminate the hazard.

SECTION 12-505 WATER SYSTEM

12-505.1 General.

Every sink, lavatory, bathtub or shower, drinking fountain, water closet or other plumbing fixture shall be properly connected to either a public water system or to an *approved* private water system. All kitchen sinks, lavatories, laundry facilities, bathtubs and showers shall be supplied with hot or tempered and cold running water in accordance with the *International Plumbing Code*.

12-505.2 Contamination.

The water supply shall be maintained free from contamination, and all water inlets for plumbing fixtures shall be located above the flood-level rim of the fixture. Shampoo basin faucets, janitor sink faucets and other hose bibs or faucets to which hoses are attached and left in place, shall be protected by an approved atmospheric-type vacuum breaker or an approved permanently attached hose connection vacuum breaker.

12-505.3 Supply.

The water supply system shall be installed and maintained to provide a supply of water to plumbing fixtures, devices and appurtenances in sufficient volume and at pressures adequate to enable the fixtures to function properly, safely, and free from defects and leaks.

12-505.4 Water heating facilities.

Water heating facilities shall be properly installed, maintained and capable of providing an adequate amount of water to be drawn at every required sink, lavatory, bathtub, shower and laundry facility at a minimum temperature of 110°F (43°C). A gas-burning water heater shall not be located in any *bathroom, toilet room, bedroom* or other occupied room normally kept closed, unless adequate combustion air is provided. An *approved* combination temperature and pressure-relief valve and relief valve discharge pipe shall be properly installed and maintained on water heaters.

SECTION 12-506 SANITARY DRAINAGE SYSTEM

12-506.1 General.

All plumbing fixtures shall be properly connected to either a public sewer system or to an *approved* private sewage disposal system.

12-506.2 Maintenance.

Every plumbing stack, vent, waste and sewer line shall function properly and be kept free from obstructions, leaks and defects.

12-506.3 Grease interceptors.

Grease interceptors and automatic grease removal devices shall be maintained in accordance with this code and the manufacturer's installation instructions. Grease interceptors and automatic grease removal devices shall be regularly serviced and cleaned to prevent the discharge of oil, grease, and other substances harmful or hazardous to the building drainage system, the public sewer, the private sewage disposal system or the sewage treatment plant or processes. All records of maintenance, cleaning and repairs shall be available for inspection by the Mayor and Council's designee.

SECTION 12-507 STORM DRAINAGE

12-507.1 General.

Drainage of roofs and paved areas, *yards* and courts, and other open areas on the *premises* shall not be discharged in a manner that creates a public nuisance.

SECTION 12-12-601 MECHANICAL AND ELECTRICAL GENERAL

12-601.1 Scope.

The provisions of this chapter shall govern the minimum mechanical and electrical facilities and equipment to be provided.

12-601.2 Responsibility.

The *owner* of the structure shall provide and maintain mechanical and electrical facilities and equipment in compliance with these requirements. A person shall not occupy as *owner-occupant* or permit another person to occupy any *premises* which does not comply with the requirements of this chapter.

SECTION 12-602 HEATING FACILITIES

12-602.1 Facilities required.

Heating facilities shall be provided in structures as required by this section.

12-602.2 Residential occupancies.

Dwellings shall be provided with heating facilities capable of maintaining a room temperature of 68°F (20°C) in all habitable rooms, *bathrooms* and *toilet rooms* based on the winter outdoor design temperature for the locality indicated in Appendix D of the *International Plumbing Code*. Cooking appliances shall not be used, nor shall portable unvented fuel-burning space heaters be used, as a means to provide required heating.

Exception: In areas where the average monthly temperature is above 30°F (-1°C), a minimum temperature of 65°F (18°C) shall be maintained.

12-602.3 Heat supply.

Every *owner* and *operator* of any building who rents, leases or lets one or more *dwelling units* or *sleeping units* on terms, either expressed or implied, to furnish heat to the *occupants* thereof shall supply heat during the period from October 1st and March 1st to maintain a minimum temperature of 68°F (20°C) in all habitable rooms, *bathrooms* and *toilet rooms*.

Exceptions:

1. When the outdoor temperature is below the winter outdoor design temperature for the locality, maintenance of the minimum room temperature shall not be required provided that the heating system is operating at its full design capacity. The winter outdoor design temperature for the locality shall be as indicated in Appendix D of the *International Plumbing Code*.
2. In areas where the average monthly temperature is above 30°F (-1°C) a minimum temperature of 65°F (18°C) shall be maintained.

12-602.4 Occupiable work spaces.

Indoor occupiable work spaces shall be supplied with heat during the period from October 1st and March 1st to maintain a minimum temperature of 65°F (18°C) during the period the spaces are occupied.

Exceptions:

1. Processing, storage and operation areas that require cooling or special temperature conditions.
2. Areas in which persons are primarily engaged in vigorous physical activities.

12-602.5 Room temperature measurement.

The required room temperatures shall be measured 3 feet (914 mm) above the floor near the center of the room and 2 feet (610 mm) inward from the center of each exterior wall.

SECTION 12-603 MECHANICAL EQUIPMENT

12-603.1 Mechanical appliances.

All mechanical appliances, fireplaces, solid fuel-burning appliances, cooking appliances and water heating appliances shall be properly installed and maintained in a safe working condition, and shall be capable of performing the intended function.

12-603.2 Removal of combustion products.

All fuel-burning equipment and appliances shall be connected to an *approved* chimney or vent.

Exception: Fuel-burning equipment and appliances which are *labeled* for unvented operation.

12-603.3 Clearances.

All required clearances to combustible materials shall be maintained.

12-603.4 Safety controls.

All safety controls for fuel-burning equipment shall be maintained in effective operation.

12-603.5 Combustion air.

A supply of air for complete combustion of the fuel and for *ventilation* of the space containing the fuel-burning equipment shall be provided for the fuel-burning equipment.

12-603.6 Energy conservation devices.

Devices intended to reduce fuel consumption by attachment to a fuel-burning appliance, to the fuel supply line thereto, or to the vent outlet or vent piping therefrom, shall not be installed unless *labeled* for such purpose and the installation is specifically *approved*.

SECTION 12-604 ELECTRICAL FACILITIES

12-604.1 Facilities required.

Every occupied building shall be provided with an electrical system in compliance with the requirements of this section and Section 12-605.

12-604.2 Service.

The size and usage of appliances and equipment shall serve as a basis for determining the need for additional

facilities in accordance with NFPA 12-70. *Dwelling units* shall be served by a three-wire, 120/240 volt, single-phase electrical service having a minimum rating of 600 amperes.

12-604.3 Electrical system hazards.

Where it is found that the electrical system in a structure constitutes a hazard to the *occupants* or the structure by reason of inadequate service, improper fusing, insufficient receptacle and lighting outlets, improper wiring or installation, *deterioration* or damage, or for similar reasons, the Mayor and Council's designee shall require the defects to be corrected to eliminate the hazard.

12-604.3.1 Abatement of electrical hazards associated with water exposure.

The provisions of this section shall govern the repair and replacement of electrical systems and equipment that have been exposed to water.

12-604.3.1.1 Electrical equipment.

Electrical distribution equipment, motor circuits, power equipment, transformers, wire, cable, flexible cords, wiring devices, ground fault circuit interrupters, surge protectors, molded case circuit breakers, low-voltage fuses, luminaires, ballasts, motors and electronic control, signaling and communication equipment that have been exposed to water shall be replaced in accordance with the provisions of the *International Building Code*.

Exception: The following equipment shall be allowed to be repaired where an inspection report from the equipment manufacturer or *approved* manufacturer's representative indicates that the equipment has not sustained damage that requires replacement:

1. Enclosed switches, rated a maximum of 12-600 volts or less;
2. Busway, rated a maximum of 600 volts;
3. Panelboards, rated a maximum of 600 volts;
4. Switchboards, rated a maximum of 600 volts;
5. Fire pump controllers, rated a maximum of 600 volts;
6. Manual and magnetic motor controllers;
7. Motor control centers;
8. Alternating current high-voltage circuit breakers;
9. Low-voltage power circuit breakers;
10. Protective relays, meters and current transformers;
11. Low- and medium-voltage switchgear;
12. Liquid-filled transformers;
13. Cast-resin transformers;
14. Wire or cable that is suitable for wet locations and whose ends have not been exposed to water;
15. Wire or cable, not containing fillers, that is suitable for wet locations and whose ends have not been exposed to water;
16. Luminaires that are listed as submersible;
17. Motors;
18. Electronic control, signaling and communication equipment.

12-604.3.2 Abatement of electrical hazards associated with fire exposure.

The provisions of this section shall govern the repair and replacement of electrical systems and equipment that have been exposed to fire.

12-604.3.2.1 Electrical equipment.

Electrical switches, receptacles and fixtures, including furnace, water heating, security system and power distribution circuits, that have been exposed to fire, shall be replaced in accordance with the provisions of the *International Building Code*.

Exception: Electrical switches, receptacles and fixtures that shall be allowed to be repaired where an inspection report from the equipment manufacturer or *approved* manufacturer's representative indicates that the equipment has not sustained damage that requires replacement.

SECTION 12-605 ELECTRICAL EQUIPMENT

12-605.1 Installation.

All electrical equipment, wiring and appliances shall be properly installed and maintained in a safe and *approved* manner.

12-605.2 Receptacles.

Every *habitable space* in a dwelling shall contain at least two separate and remote receptacle outlets. Every laundry area shall contain at least one grounded-type receptacle or a receptacle with a ground fault circuit interrupter. Every *bathroom* shall contain at least one receptacle. Any new *bathroom* receptacle outlet shall have ground fault circuit interrupter protection. All receptacle outlets shall have the appropriate faceplate cover for the location.

12-605.3 Luminaires.

Every public hall, interior stairway, *toilet room*, kitchen, *bathroom*, laundry room, boiler room and furnace room shall contain at least one electric luminaire. Pool and spa luminaries over 15 V shall have ground fault circuit interrupter protection.

12-605.4 Wiring.

Flexible cords shall not be used for permanent wiring, or for running through doors, windows, or cabinets, or concealed within walls, floors, or ceilings.

SECTION 12-606 ELEVATORS, ESCALATORS AND DUMBWAITERS

12-606.1 General.

Elevators, dumbwaiters and escalators shall be maintained in compliance with ASME A17.1. The most current certificate of inspection shall be on display at all times within the elevator or attached to the escalator or dumbwaiter, be available for public inspection in the office of the building *operator* or be posted in a publicly conspicuous location *approved* by the Mayor and Council's designee. The inspection and tests shall be performed at not less than the periodic intervals listed in ASME A17.1, Appendix N, except where otherwise specified by the authority having jurisdiction.

12-606.2 Elevators.

In buildings equipped with passenger elevators, at least one elevator shall be maintained in operation at all times when the building is occupied.

Exception: Buildings equipped with only one elevator shall be permitted to have the elevator temporarily out of service for testing or servicing.

SECTION 12-607 DUCT SYSTEMS

12-607.1 General.

Duct systems shall be maintained free of obstructions and shall be capable of performing the required function.

SECTION 12-701 GENERAL

12-701.1 Scope.

The provisions of this chapter shall govern the minimum conditions and standards for fire safety relating to structures and exterior *premises*, including fire safety facilities and equipment to be provided.

12-701.2 Responsibility.

The *owner* of the *premises* shall provide and maintain such fire safety facilities and equipment in compliance with these requirements. A person shall not occupy as *owner-occupant* or permit another person to occupy any *premises* that do not comply with the requirements of this chapter.

SECTION 12-702 MEANS OF EGRESS

[F] 12-702.1 General.

A safe, continuous and unobstructed path of travel shall be provided from any point in a building or structure to the *public way*. Means of egress shall comply with the *International Fire Code*.

[F] 12-702.2 Aisles.

The required width of aisles in accordance with the *International Fire Code* shall be unobstructed.

[F] 12-702.3 Locked doors.

All means of egress doors shall be readily openable from the side from which egress is to be made without the need for keys, special knowledge or effort, except where the door hardware conforms to that permitted by the *International Building Code*.

12-702.4 Emergency escape openings.

Required emergency escape openings shall be maintained in accordance with the code in effect at the time of construction, and the following. Required emergency escape and rescue openings shall be operational from the inside of the room without the use of keys or tools. Bars, grilles, grates or similar devices are permitted to be placed over emergency escape and rescue openings provided the minimum net clear opening size complies with the code that was in effect at the time of construction and such devices shall be releasable or removable from the inside without the use of a key, tool or force greater than that which is required for normal operation of the escape and rescue opening. Any multi-unit commercial rental shall provide emergency escape openings as required under the current International Fire Code.

SECTION 12-703 FIRE-RESISTANCE RATINGS

12-703.1 Fire-resistance-rated assemblies.

The required fire-resistance rating of fire-resistance-rated walls, fire stops, shaft enclosures, partitions and

floors shall be maintained.

12-703.2 Opening protectives.

Required opening protectives shall be maintained in an operative condition. All fire and smoke stop doors shall be maintained in operable condition. Fire doors and smoke barrier doors shall not be blocked or obstructed or otherwise made inoperable.

SECTION 12-704 FIRE PROTECTION SYSTEMS

12-704.1 General.

All systems, devices and equipment to detect a fire, actuate an alarm, or suppress or control a fire or any combination thereof shall be maintained in an operable condition at all times in accordance with the *International Fire Code*.

12-704.1.1 Automatic sprinkler systems.

Inspection, testing and maintenance of automatic sprinkler systems shall be in accordance with NFPA 25.

12-704.2 Smoke alarms.

Single- or multiple-station smoke alarms shall be installed and maintained in Group R or I-1 occupancies, regardless of *occupant* load at all of the following locations:

1. On the ceiling or wall outside of each separate sleeping area in the immediate vicinity of *bedrooms*.
2. In each room used for sleeping purposes.
3. In each story within a *dwelling unit*, including *basements* and cellars but not including crawl spaces and uninhabitable attics. In dwellings or *dwelling units* with split levels and without an intervening door between the adjacent levels, a smoke alarm installed on the upper level shall suffice for the adjacent lower level provided that the lower level is less than one full story below the upper level.

Single- or multiple-station smoke alarms shall be installed in other groups in accordance with the *International Fire Code*.

12-704.3 Power source.

In Group R or I-1 occupancies, single-station smoke alarms shall receive their primary power from the building wiring provided that such wiring is served from a commercial source and shall be equipped with a battery backup. Smoke alarms shall emit a signal when the batteries are low. Wiring shall be permanent and without a disconnecting switch other than as required for overcurrent protection.

Exception: Smoke alarms are permitted to be solely battery operated in buildings where no construction is taking place, buildings that are not served from a commercial power source and in existing areas of buildings undergoing alterations or repairs that do not result in the removal of interior wall or ceiling finishes exposing the structure, unless there is an attic, crawl space or *basement* available which could provide access for building wiring without the removal of interior finishes.

12-704.4 Interconnection.

Where more than one smoke alarm is required to be installed within an individual *dwelling unit* in Group R or I-1 occupancies, the smoke alarms shall be interconnected in such a manner that the activation of one alarm will activate all of the alarms in the individual unit. Physical interconnection of smoke alarms shall not be required where listed wireless alarms are installed and all alarms sound upon activation of one alarm. The alarm shall be clearly audible in all *bedrooms* over background noise levels with all intervening doors closed.

Exceptions:

1. Interconnection is not required in buildings which are not undergoing alterations, repairs or construction of any kind.
2. Smoke alarms in existing areas are not required to be interconnected where alterations or repairs do not result in the removal of interior wall or ceiling finishes exposing the structure, unless there is an attic, crawl space or *basement* available which could provide access for interconnection without the removal of interior finishes.

12-801- REFERENCED STANDARDS

American Society of Mechanical Engineers
 Three Park Avenue
 New York, NY 10016-5990

ASME

Standard reference number	Title	Referenced in code section number
A17.1/CSA B44—2007	Safety Code for Elevators and Escalators	12-606.1

ASTM International
 100 Barr Harbor Drive
 West Conshohocken, PA 19428-2959

ASTM

Standard reference number	Title	Referenced in code section number
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F 1346—91 Performance Specifications for Safety Covers
(2003) and Labeling Requirements
for All Covers for Swimming Pools, Spas and
Hot Tubs 303.2

ICC International Code Council
500 New Jersey Avenue, NW
6th Floor
Washington, DC 20001

Standard reference number	Title	Referenced in code section number
IBC—12	International Building Code®	102.3, 201.3, 401.3, 702.3
IEBC—12	International Existing Building Code®	305.1.1, 306.1.1
IFC—12	International Fire Code®	201.3, 604.3.1.1, 604.3.2.1, 702.1, 702.2, 704.1, 704.2
IFGC—12	International Fuel Gas Code®	102.3
IMC—12	International Mechanical Code®	102.3, 12-201.3
IPC—12	International Plumbing Code®	201.3, 505.1, 12-602.2, 602.3
IRC—12	International Residential Code®	201.3
IZC—12	International Zoning Code®	102.3, 201.3

NFPA National Fire Protection Association
1 Batterymarch Park
Quincy, MA 02269

Standard reference number	Title	Referenced in code section number
25—11	Inspection, Testing and Maintenance of Water-Based Fire Protection Systems	12-704.1.1
70—11	National Electrical Code	102.4, 12-201.3, 12-604.2

12-3 APPENDIX A

COHUTTA LABOR RATE ORDINANCE

Whereas, the Property Maintenance Ordinance and the Nuisance Ordinance 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:

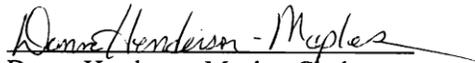
- 1) All work shall be paid at Fifty-Dollars (\$50.00) per hour for each worker and machine;
- 2) Any expense required for repair of machines or hire of outside materials, equipment or labor incurred while working on private property by order of public authority shall be charged to the job;
- 3) Under the Cohutta Nuisance Ordinance and the Property Maintenance Ordinance, the labor and expense charges shall become a lien against the improved real property.

Passed at second reading this 7th day of June, 2016 with a 4 to 0 vote of the Cohutta Town Council.



Ron Shinnick, Mayor

ATTEST:



Donna Henderson Maples, Clerk

EXHIBIT "A"

CHAPTER
THIRTEEN

COHUTTA
MOTORIZED
CART
ORDINANCE

**CITY OF COHUTTA
STATE OF GEORGIA**

THE COHUTTA MOTORIZED CART ORDINANCE

AN ORDINANCE ESTABLISHING REGULATIONS FOR THE USE OF MOTORIZED CARTS WITHIN THE CITY OF COHUTTA; TO PROVIDE FOR CODIFICATION; TO PROVIDE FOR SEVERABILITY; TO REPEAL CONFLICTING ORDINANCES; 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 ordinances 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:

SECTION 13-1

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 device propelled by human power upon which any person may ride, having only two wheels which are in tandem and either of which is more than 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 device 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 device to be considered an electric assisted bicycle, it shall meet the requirements of the Federal Motor Vehicle Safety Standards, as set forth in 49 C.F.R. Section 571, 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 weights 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 mans 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.13-1- 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 13-1-8 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 2017.

(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 ordinance.

(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. 13-1-3: 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 issue 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. 13-1-4: 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. 13-1-5: 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. 13-1-6: 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. 13-1-7: 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. 13-1-8: Penalties.

(a) A violation of the ordinance 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 13-2

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 Ordinance.

SECTION 13-3

All other ordinances, which are in any way inconsistent with this Ordinance, are hereby repealed.

SECTION 13-4

The effective date of this Ordinance is the 1st day after the month of publication of the enactment.

SO ORDAINED this 5th day December, 2017.

Ron Shinnick

RON SHINNICK
Mayor, City of Cohutta

ATTEST:

By:

CHAPTER
FOURTEEN

COHUTTA
MISCELLANEOUS
ORDINANCES

14-101
COHUTTA
GEORGIA
POWER
FRANCHISE
ORDINANCE

ORDINANCE GRANTING FRANCHISE

To

GEORGIA POWER COMPANY

By

CITY OF COHUTTA

On

April 17th, 2014

The within franchise accepted on

June 3, 2014.

GEORGIA POWER COMPANY

By:


President

ORDINANCE GRANTING PERMISSION AND CONSENT to Georgia Power Company, a Georgia corporation, and its successors, lessees, and assigns (hereinafter referred to collectively as the "Company") to occupy the streets and public places of the City of Cohutta, Georgia, a municipality and political subdivision of the State of Georgia (hereinafter referred to as the "City"), in constructing, maintaining, operating, and extending poles, lines, cables, equipment, and other apparatus for transmitting and distributing electricity and for other purposes.

SECTION I. Be it ordained by the governing authority of the City that the authority, right, permission, and consent are hereby granted to the Company, for a period of thirty-five (35) years from the date of the Company's acceptance hereof, to occupy and use the streets, alleys, and public places of the City within the present and future corporate limits of the City as from time to time the Company may deem proper or necessary for the overhead or underground construction, maintenance, operation, and extension of poles, towers, lines, wires, cables, conduits, insulators, transformers, appliances, equipment, connections, and other apparatus (hereinafter referred to collectively as the "Company's Facilities") for the business and purpose of transmitting, conveying, conducting, using, supplying, and distributing electricity for light, heat, power, and other purposes for which electric current may be or become useful or practicable for public or private use, and to re-enter upon such streets, alleys, and public places from time to time as the Company may deem proper or necessary to perform these functions, and to cut and trim trees and shrubbery when and where necessary, in the judgment of the Company, to insure safe and efficient service.

SECTION II. Be it further ordained that the rights, permission, and consents herein contained are granted for the following considerations and upon the following terms and conditions:

1. The Company shall pay into the treasury of the City (a) on or before the first day of March in each year following the granting of this franchise, a sum of money equal to four percent (4%) of the gross sales of electric energy to customers served under residential and commercial rate schedules (as prescribed by the Georgia Public Service Commission) within the corporate limits of the City during the preceding calendar year and four percent (4%) of the gross sales of electric energy to customers served under industrial rate schedules (as so prescribed) within the corporate limits of the City during the period beginning on the first day of the month following the granting of this franchise and ending on December 31 thereafter and (b) on or before the first day of March of each year thereafter during the term of this franchise, a sum of money equal to four percent (4%) of the gross sales of electric energy to customers served under residential, commercial, and industrial rate schedules (as so prescribed) within the corporate limits of the City during the preceding calendar year, on condition that in the event the City shall grant to any other entity the right to use and occupy the City's streets for like purposes, such use and occupancy shall be upon the same terms and conditions as those herein contained, including the payment provisions hereof.

2. The amount, if any, of any tax, fee, charge, or imposition of any kind required, demanded, or exacted by the City on any account, other than ad valorem taxes on property, shall operate to reduce to that extent the amount due from the percentage of gross sales provided for in paragraph 1 of this Section II.

3. The Company shall fully protect, indemnify, and save harmless the City from all damages to persons or property caused by the construction, maintenance, operation, or extension of the Company's Facilities, or conditions of streets, alleys, or public places resulting therefrom, for which the City would otherwise be liable.

4. The Company shall, in constructing, maintaining, operating, and extending the Company's Facilities, submit and be subject to all reasonable exercises of the police power by the City. Nothing contained herein, however, shall require the Company to surrender or limit its property rights created hereby without due process of law, including adequate compensation, for any other purpose at the instance of the City or for any purpose at the instance of any other entity, private or governmental.

5. For purposes of paragraph 6 of this Section II, the term "Distribution Facilities" means poles, lines, wires, cables, conductors, insulators, transformers, appliances, equipment, connections, and other apparatus installed by or on behalf of the Company (whether before or after the adoption of this ordinance) in the streets, alleys, or public places of the City for the purpose of distributing electricity within the present and future corporate limits of the City. Distribution Facilities do not include any of the following: (i) electric transmission lines with a design operating voltage of 46 kilovolts or greater (hereinafter referred to as "Transmission Lines"); (ii) poles, towers, frames, or other supporting structures for Transmission Lines (hereinafter referred to as "Transmission Structures"); (iii) Transmission Lines and related wires, cables, conductors, insulators, or other apparatus attached to Transmission Structures; (iv) lines, wires, cables, or conductors installed in concrete-encased ductwork; or (v) network underground facilities.

6. In the event that the City or any other entity acting on behalf of the City requests or demands that the Company relocate any Distribution Facilities from their then-current locations within the streets, alleys, and public places of the City in connection with a public project or improvement, then the Company shall relocate, at its expense, the Distribution Facilities affected by such project or improvement. The Company's obligations under this paragraph 6 shall apply without regard to whether the Company has acquired, or claims to have acquired, an easement or other property right with respect to such Distribution Facilities and shall not affect the amounts paid or to be paid to the City under the provisions of paragraph 1 of this Section II. Notwithstanding the foregoing provisions of this paragraph 6, the Company shall not be obligated to relocate, at its expense, any of the following: (i) Distribution Facilities that are located on private property at the time relocation is requested or demanded; (ii) Distribution Facilities that are relocated in connection with sidewalk improvements (unless such sidewalk improvements are related to or associated with road widenings, the creation of new turn lanes, or the addition of acceleration/deceleration lanes); (iii) streetscape projects or other projects undertaken primarily for aesthetic purposes; or (iv) Distribution Facilities that are converted from an overhead configuration or installation to an underground configuration or installation.

7. The City and the Company recognize that both parties benefit from economic development within the City. Accordingly, when it is necessary to relocate any of the Company's Facilities (whether Distribution Facilities, Transmission Lines, Transmission Structures, or other facilities) within the City, the City and the Company shall work cooperatively to minimize costs, delays, and inconvenience to both parties while ensuring compliance with applicable laws and regulations. In addition, the City and the Company shall communicate in a timely fashion to coordinate projects included in the City's five-year capital improvement plan, the City's short-term work program, or the City's annual budget in an effort to minimize relocation of the Company's Facilities. Such communication may include, but is not limited to, (i) both parties' participation in the Georgia Utilities Coordinating Council, Inc. (or any successor organization) or a local utilities coordinating council (or any successor organization) and (ii) both parties' use of the National Joint Utility Notification System (or any successor to such system mutually acceptable to both parties).

8. With regard to each streetscape project undertaken by or on behalf of the City, the City shall pay the Company in advance for the Company's estimated cost to relocate any of the Company's Facilities (whether Distribution Facilities, Transmission Lines, Transmission Structures, or other facilities) in

connection with such project. For each streetscape project, the Company shall estimate in good faith the amount of incremental base revenue, if any, that the Company will realize as a result of new customer load or expansion of existing customer load attributable to such project; and such estimate shall be based on tariffs in effect at the time that construction of such project begins and shall not include fuel recovery charges, non-electric service billings, or taxes. If such estimate indicates that the Company will realize incremental base revenue, the Company shall do one of the following, whichever results in greater cost savings to the City: (i) reduce the City's advance payment to the Company for relocation costs by ten percent (10%); or (ii) where the City has developed a bona fide marketing plan within twelve (12) months after construction of such project begins, either refund the amount of the Company's incremental base revenue during such twelve-month period to the City or credit such amount against any future payment due from the City to the Company. The City and the Company acknowledge and agree that the amount of any refund or credit calculated pursuant to clause (ii) of the foregoing sentence of this paragraph 8 shall not exceed the amount of the City's advance payment to the Company for relocation costs associated with such project.

SECTION III. Be it further ordained that nothing contained in this ordinance shall limit or restrict the right of customers within the corporate limits of the City to select an electric supplier as may hereafter be provided by law.

SECTION IV. Be it further ordained that from time to time after the approval of this ordinance, the Company and the City may enter into such additional agreements as the Company and the City deem reasonable and appropriate; provided, however, that such agreements shall not be inconsistent with the terms and conditions of the franchise granted in this ordinance, shall not extend beyond the term of the franchise, and shall be enforceable separate and apart from the franchise.

SECTION V. Be it further ordained that the Company shall, within ninety (90) days from the approval of this ordinance, file the Company's written acceptance of the franchise granted in this ordinance with the Clerk of the City, so as to form a contract between the Company and the City.

SECTION VI. Be it further ordained that upon such acceptance all laws and ordinances, and all agreements between the Company and the City with respect to the Company's use of the City's streets, alleys, and public places, in actual conflict herewith be and the same shall thereupon stand repealed and terminated, respectively.

Adopted by the City Council of the City of Cohutta, Georgia, at a meeting held on

April 17th, 2014.

Approved: April 17th, 2014.


Mayor

I, Donna Henderson, Clerk of the City of Cohutta, Georgia, hereby certify that

I was present at the meeting of the City Council of the City of Cohutta, Georgia, held on April 17th, 2014, which meeting was duly and legally called and held, and at which a quorum was present, and that an ordinance, a true and correct copy of which I hereby certify the foregoing to be, was duly passed and adopted by the City Council of the City of Cohutta, Georgia, at said meeting.

IN WITNESS WHEREOF, I hereunto set my hand and the corporate seal of the City of Cohutta, County of Whitfield, State of Georgia, this 17th day of April, 2014.

Donna Henderson
Clerk

14-102
COHUTTA
SECONDARY
SUPPLIER
FRANCHISE
ORDINANCE
(NGEMC)

**CITY OF COHUTTA, GEORGIA GROSS RECEIPTS FEE ORDINANCE FOR
SECONDARY ELECTRICAL SUPPLIERS USING ITS RIGHTS OF WAY**

Whereas, it appearing that certain secondary electrical suppliers have poles and lines along the streets and highways of the City of Cohutta; and

Whereas, under O.C.G.A. §32-4-92(a)(7), the City of Cohutta is granted power to regulate and control streets within its corporate limits; and

Whereas, under O.C.G.A. §32-4-92(a)(10) the City of Cohutta is granted power to grant permits and establish regulations for use of streets within corporate limits by utility companies;

Whereas, under O.C.G.A. §46-3-201(b)(10) electric membership corporations while using the City of Cohutta rights of way are subject to the City's reasonable terms and conditions;

Whereas, under *N.Ga.Elec.Mbrshp, Corp. v. City of Calhoun*, 264 Ga. 769 (1994), the City of Cohutta may enact franchise fees or taxes upon secondary electrical suppliers within its City limits;

THEREFORE, BE IT ORDAINED AS FOLLOWS:

1. Each secondary electric supplier (including specifically electric membership corporations whether or not operated for profit), within the meaning of the Georgia Territorial Electric Service Act (O.C.G.A. § 46-3-1 et seq.), distributing and selling electric power within the city, which is not otherwise paying a franchise fee pursuant to a franchise agreement, and whether or not such secondary electric supplier has, operates and maintains offices within the city, shall, pay a gross receipts tax at the rate of four percent on any and all gross revenue derived from distribution and sale of electric power to its customers, members, or purchasers within the city, according to the verified statement of such gross revenues which shall be submitted by such secondary electric supplier at the time the taxes are paid.

2. The taxes set out in this article shall be due and payable to the city on the 20th day of each month, calculated on gross revenues billed for the immediately preceding month. The percentage of the gross revenues prescribed to be collected under this article shall be in lieu of all other license and business or occupation taxes, but shall not at any time be considered to interfere with or in any way prevent the collection of ad valorem taxes upon the property of such secondary electric supplier in the same manner as all other property, real and personal, in the city is taxed.

3. Secondary electric suppliers distributing and selling electric power within the city, and which do not have a franchise agreement with the city, do not acquire any additional rights by the payment of the tax levied under this article other than those rights granted under the Georgia Electric Territorial Service Act (O.C.G.A. § 46-3-1 et seq.).

4. (a) The city clerk shall be responsible for the administration and enforcement of this article, and shall have the power to prepare and provide the necessary forms and for the collection of the tax levied in this article.

(b) In addition to the other remedies available to the city for the collection of the tax upon secondary electrical suppliers due the city from entities subject to the tax or fee who fail or refuse to pay the tax or fee, the city clerk shall issue executions against the delinquent taxpayers for any or all of the following: the amount of the taxes or fees due when the taxes or fees become due, any penalty imposed by O.C.G.A. § 48-13-21(a), and any interest imposed by local ordinance in accordance with O.C.G.A. § 48-13-21(b). The municipal court may impose a civil fine for failure to pay the tax or fee. Such a civil fine shall not exceed \$500.00 and may be enforced by the contempt power of the court.

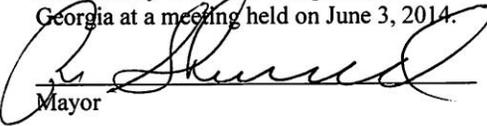
5. The amount, if any, of any tax, fee, charge or imposition of any kind required under this ordinance shall operate to reduce to that extent the amount due from the percentage of gross sales provided for in paragraph 1 of this Section;

6. The extent of this fee is comparable with that required of the primary electrical provider in the City of Cohutta and is reasonable.

7. Nothing contained in this ordinance shall limit or restrict the right of customers within the corporate limits of the City to select an electrical supplier as may hereafter be provided by law.

8. All laws and ordinances in conflict with the terms of this ordinance are hereby repealed.

Adopted at first reading by the City Council of the City of Cohutta, Georgia, at a meeting held on May 13, 2014. Adopted at second reading the City Council of the City of Cohutta, Georgia at a meeting held on June 3, 2014.


Mayor

Attest:


Town Clerk

TOWN OF COHUTTA
RESOLUTION FOR PAYMENT OF UTILITY FRANCHISE FEES

WHEREAS, the Town of Cohutta seeks to make equal those Franchise Fees required of Utility providers within and through the Town of Cohutta; and

WHEREAS, the Town of Cohutta has agreed to continue a 4 percent Franchise fee of its primary power company, accommodated through the billings of that company subject to equal fees placed on all such utility companies;

THEREFORE, be it Resolved that North Georgia Regional Membership Corporation be required to pay an equivalent fee of 4 percent on its member billings within the corporate limit of Cohutta, Georgia along the North Georgia Regional Membership Corporation lines within Cohutta.

Resolved, this 17 day of April, 2014 at the noticed and called meeting for this purpose, with 4 votes in favor and 0 votes opposed.



Hon. Ron Shinnick, Mayor



Attest: Town Clerk

14-200
COHUTTA
UTILITY
ACCOMMODATION
POLICY
ORDINANCE

COHUTTA UTILITY ACCOMMODATION POLICY IS SET FORTH in order to administer and regulate the public right-of-way in the public interest, and to provide for the issuance and regulation of right-of-way permits

WHEREAS, pursuant to Sections 102.(e), 104(h) and 1.04(j) of the Charter of the City of Cohutta (“City”), the City is empowered to regulate roadside areas, including rights-of-way;

WHEREAS, pursuant to O.C.G.A. 36-76-1 et seq. known as the “Consumer Choice for Television Act” of 2007 the City retains regulatory powers over certain activity of cable and video providers with respect to public rights-of-way within or belonging to the City; and,

WHEREAS, pursuant to O.C.G.A. 46-5-1 et seq. telephone companies shall comply with all applicable local laws and regulations, including municipal ordinances and regulations, regarding the placement and maintenance of facilities in the public rights of way that are reasonable, nondiscriminatory, and applicable to all users of the public rights of way within or belonging to the City; and,

WHEREAS, the City desires to establish reasonable nondiscriminatory regulations for the installation construction, maintenance, renewal, removal and relocations of Utility Facilities that are not more restrictive than equivalent regulations promulgated by the Georgia Department of Transportation with respect to Utilities on the state highway system under authority of O.C.G.A. 32-4-70;

NOW, THEREFORE, BE IT ORDAINED AND ESTABLISHED by the Mayor and Council of the City of Cohutta Georgia as follows:

The Code of Ordinances of the City of Cohutta is hereby amended by adding a new **Chapter 14, Section Two, Articles 201-209**, entitled “Utility Accommodation Policy”, as follows:

**Article 201
DECLARATION OF FINDINGS AND PURPOSE, SCOPE, DEFINITIONS**

Section 201.1 Intent and Purpose. The City of Cohutta, (the "City") is vitally concerned with the use, construction within, and occupancy of all Rights of Way in the City as such Rights of Way are a valuable and limited resource which must be utilized to promote the public health, safety, welfare, economic development of the City and to protect public work infrastructure. Therefore, the City, under the authority of the Laws and Constitution of the State of Georgia, including but not limited to Article 9, Section 1, paragraphs 2 and 3 of the Georgia Constitution, O.C.G.A. 36-1-20 and O.C.G.A. 32-4-42(6), has adopted this ordinance for the purpose of regulating public and private entities which use the City Rights of Way.

Section 201.2 Scope. The provisions of this Chapter shall apply to all Utilities and Facilities occupying the Rights of Way as provided herein.

Section 201.3 Definitions. For the purposes of this Chapter, the following terms, phrases, words, and their derivations have the meanings set forth herein. The words "shall" and "will" are mandatory and "may" is permissive. Words not defined shall be given their common and ordinary meaning. References hereafter to "Sections" are, unless otherwise specified, references to Sections in this Chapter. Defined terms remain defined terms whether or not capitalized.

1. City means the City of Cohutta Georgia;
2. Codified Ordinances means the Codified Ordinances of the City of Cohutta, Georgia;
3. Construct means, but shall not be limited to, dig, bore, tunnel, trench, excavate, obstruct, install or remove signs, or Facilities, other than landscaping or ornamental plantings, in, on, above, within, over, below, under, or through any part of the Rights of Way. Construct shall also include the act of opening and/or cutting into the surface of any paved or improved surface that is any part of the Right of Way;
4. Construction means, but shall not be limited to, the act or process of digging, boring, tunneling, trenching, excavating, obstructing, installing or removing signs or Facilities, other than landscaping or ornamental plantings, in, on, above, within, over, below, under, or through any part of the Rights of Way. Construction shall also include the act of opening, boring and/or cutting into the surface of any part of the Right of Way;
5. Director means the Mayor of the City of Cohutta, Georgia, or his or her designee;
6. Emergency means a condition that poses a clear and immediate danger to life, health, or safety of a person, or of significant damage or loss of real or personal property;
7. Facility or Facilities means any tangible thing, including but not limited to pipes, mains, conduits, cables, wires, poles, towers, traffic and other signals, and other equipment, appurtenances, appliances and future technology of any Utility in, on, along, over, or under any part of the Rights of Way within the City;
8. Facilities Representative(s) means the specifically identified agent(s)/employee(s) of a Utility who are authorized to direct field activities of that Utility and serve as official notice agent(s) for Facilities related information. Utility shall be required to make sure at least one (1) of its Facilities Representatives available at all times to receive notice of, and immediately direct response to, Facilities related emergencies or situations;
9. FCC means the Federal Communications Commission or any successor thereto;
- 10 Permit means an authorization which grants permission to conduct specific regulated activities on, in, over, under or within any public right-of-way, and which may be subject to conditions

specified in a written agreement with the City or in a related provision of this Code of Ordinances;

11. Right(s) of Way means the surface and space in, on, above, within, over, below, under or through any real property in which the City has an interest in law or equity, whether held in fee, or other estate or interest, or as a trustee for the public, including, but not limited to any public street, boulevard, road, highway, freeway, lane, alley, court, sidewalk, parkway, or any other place, area, or real property owned by or under the legal or equitable control of the City, now or hereafter, that consistent with the purposes for which it was dedicated, may be used for the purposes of constructing, operating, repairing or replacing Facilities;
12. Service(s) means the offering of any service by a Utility for a fee directly to the public, or to such classes of users as to be effectively available directly to the public, or alternatively, the provision of any service by a Utility between two or more points for a proprietary purpose to a class of users other than the general public;
13. Service Agreement means a valid license agreement, service agreement, franchise agreement, or operating agreement issued by the City or state pursuant to Law and accepted by a Utility or entered into by and between the City and a Utility, which allows such Utility to operate or provide service within the geographic limits of the City;
14. Street or Streets means the surface of, as well as the spaces above and below, any and all the streets, alleys, avenues, roads, bridges, tunnels and public places of the City within the corporate limits of the City, as the same now exist or may be hereafter extended or altered, and any location thereon, thereover or thereunder, and any portion thereof;
15. Transfer means the disposal by the Utility, directly or indirectly, by gift, assignment, sale, merger, consolidation, or otherwise, of more than fifty percent (50%) at one time of the ownership or controlling interest in the Facilities, or of more than fifty percent (50%) cumulatively over the term of a written approval of Registration of such interests to a corporation, partnership, limited partnership, trust, or association, or person or group of persons acting in concert;
16. Unused Facilities means Facilities located in the Rights of Way which have remained unused for twelve (12) months and for which the Utility is unable to provide the City with a plan detailing the procedure by which the Utility intends to begin actively using such Facilities within the next twelve (12) months, or that it has a potential purchaser or user of the Facilities who will be actively using the Facilities within the next twelve (12) months, or, that the availability of such Facilities is required by the Utility to adequately and efficiently operate its Facilities;
17. Utility or Utilities means All privately, publicly, or cooperatively owned systems for producing, transmitting, or distributing communication, data, information, telecommunication, cable television, video services, power, electricity, light, heat, gas, oil, crude products, water/sewer,

steam, fire and police signals, traffic control devices, and street lighting systems, and housing or conduit for any of the foregoing, which directly or indirectly serve the public or any part thereof. The term "utility" may also be used to refer to the owner, operator, Utility, service, contractor or subcontractor, or any agent thereof, of any above-described utility or utility facility.

Article 202 UTILITY REGISTRATION

Section 202.1 Registration Required. Each Utility who occupies, uses or has Facilities in the Rights of Way at the time of passage of this Ordinance, including by lease, sublease or assignment, to operate Facilities located in the Rights of Way, unless specifically exempted by state or federal law or this Code, shall file a Registration Statement with the Department within ninety (90) days of the effective date of this Ordinance.

Section 202.2 Registration Procedure. The Registration information provided to the City shall be on a form approved by the City and include, but not be limited to:

1. The name, legal status (i.e. partnership, corporation, etc.), street address, email address, and telephone and facsimile numbers of the Utility filing the Registration Statement (the "Registrant"). If the Registrant is not the owner of the Facility in the Right of Way, the Registration shall include the name, street address, email address if applicable, and telephone and facsimile numbers of the owner;
2. The name, street address, email address if applicable and telephone and facsimile numbers of one (1) or more Facilities Representative(s). Current information regarding how to contact the Facilities Representative(s) in an Emergency shall be provided at the time of filing a Registration and shall be updated as necessary to assure accurate contact information is available to the City at all times;
3. A copy, if requested, of the Utility's certificate of authority (or other acceptable evidence of authority to operate) from the Georgia Public Service Commission and/or the FCC and any other similar approvals, permits, or agreements.
4. A copy, if requested, of the Service Agreement, if applicable or other legal instrument that authorizes the Utility to use or occupy the Right of Way for the purpose described in the Registration.

Section 202.3 Incomplete Registration. If a Registration is incomplete, the Director shall notify the Registrant and shall provide a reasonable period of time in which to complete the Registration. If a Registration is complete, the Director shall so notify the Utility in writing.

Section 202.4 Limited Rights Acceptance of the Registration shall not convey title in the Rights of Way. Acceptance of the Registration is only the nonexclusive, limited right to occupy Rights of Way in

the City for the limited purposes stated in the Acceptance. Acceptance of the Registration does not excuse a Utility from obtaining Permits required by City ordinances nor from obtaining appropriate access or pole attachment agreements before using the Facilities of others, including the City. Acceptance of the Registration does not excuse a Utility from notifying the City of Construction as required herein.

Section 202.5 Facilities in Place without Registration. Beginning one year after the effective date of this Chapter, any Facilities or part of a Facility found in a Right of Way for which registration is required but has not been obtained unless specifically exempted by law, and for which no valid Service Agreement exists with the City, may be deemed to be a nuisance and an unauthorized use of the Rights of Way. The City may exercise any remedies or rights it has at law or in equity, including, but not limited to abating the nuisance; taking possession of the Facilities, evicting the Utility from the Right of Way; prosecuting the violator; and/or any other remedy provided by City ordinance or otherwise allowed in law or in equity.

Article 203 CONSTRUCTION PERMITS

Section 203.1 Permit Required. It shall be unlawful for any Utility to excavate or to construct, install, maintain, renew, remove or relocate Facilities in, on, along, over or under the public roads of the City without a Utility permit from the Cohutta Town Clerk in accordance with the terms of this Chapter.

Section 203.2 Permit Procedure. Utility Permits shall be obtained from the Cohutta Town Clerk (or such other person as the Mayor may designate) upon application made on forms prescribed by the Cohutta Town Clerk. The written application shall include the following:

1. The name and address of the Utility;
2. The nature, extent, and location of any work proposed to be done, along with satisfactory plans as attachments showing in detail the location of the proposed Facility or operations as described in the Permit application. The plans shall show the size or capacity of Facilities to be installed; their relationship to Street features such as right-of-way lines, pavement edge, structures, etc., horizontal and vertical clearance to critical elements of the roadway and any other information necessary to evaluate the impact on the Street and its operation;
3. The name and address of the person or firm who is to do such work;
4. The name, street address, email address if applicable and telephone and facsimile numbers of one (1) or more Facilities Representative(s).
5. The projected dates for the work to be started and finished;

6. An indemnity bond or other acceptable security in an amount to be set by the City to pay any damages to any part of the City road system or other City property or to any city employee or member of the public caused by activity or work of the Utility performed under authority of the permit issued;
7. A copy, if requested, of the Registrant's certificate of authority (or other acceptable evidence of authority to operate) from the Georgia Public Service Commission and/or the FCC and any other similar approvals, permits, or agreements; and
8. A copy, if requested, of the service agreement, if applicable or other legal instrument that authorizes the Utility to use or occupy the Right of Way for the purpose described in the application.

Section 203.3 Permit Fees. Fees shall be determined by the Director, subject to the approval by resolution of the City Council. A fee schedule shall be available at the offices of the Director and the City Clerk and open for public inspection.

Section 203.4 Issuance of Permit. If the Director determines the Applicant has satisfied the following requirements, the Director may issue a permit.

1. Whether issuing of the approval will be consistent with this Chapter; and
2. Whether Applicant has submitted a complete Application and has secured all certificates and other authorizations required by law, if applicable, in order to construct Facilities in the manner proposed by the Applicant; and
3. The impact on safety, visual quality of the streets, traffic flow, and other users of the right of way and the difficulty and length of time of the Project, construction or maintenance.

Section 203.5 Emergency Situations.

1. Each Utility shall, as soon as reasonably practicable, notify the Director of any event regarding its Facilities which it considers to be an Emergency. The Utility may proceed to take whatever actions are necessary in order to respond to the Emergency. A Utility who engages in an emergency excavation shall take all reasonable precautions to avoid or minimize damage to any existing facilities.
2. In the event that the City becomes aware of an Emergency regarding Utility Facilities, the City may attempt to contact the affected Utility or Facilities Representative. The City may take whatever action it deems necessary in order to respond to the Emergency, including cut or move any of the wires, cables, amplifiers, appliances, or other parts of the Facilities. The City shall not incur any liability to the Utility, for such emergency actions, and the cost of such shall be paid by each Utility affected by the Emergency

Section 203.6 Effective Period of Permit.

1. Each permit shall have a set commencement and expiration date based on information provided in the applicant's permit application.
2. The Permit shall remain in place Construction is completed or until its expiration date unless the Utility is in default. The Director may give written notice of default to a Utility if it is determined that a Utility has
 - a. Violated any provision or requirement of the issuance or acceptance of a Permit application or any law of the City, state, or federal government;
 - b. Attempted to evade any provision or requirement of this Chapter;
 - c. Practiced any fraud or deceit upon the City; or
 - d. Made a material misrepresentation or omission of fact in its Permit application.

Section 203.7 Cancellation for Cause. If a Utility fails to cure a default within twenty (20) Working Days after such notice is provided to the Utility by the City, then such default shall be a material breach and City may exercise any remedies or rights it has at law or in equity to terminate the Permit. If the Director decides there is cause or reason to terminate, the following procedure shall be followed:

1. City shall serve a Utility with a written notice of the reason or cause for proposed termination and shall allow a Utility a minimum of fifteen (15) calendar days to cure its breach.
2. If the Utility fails to cure within fifteen (15) calendar days, the City may declare the Permit terminated.

Section 203.8 Expiration of Permit. If work is not begun within six (6) months of the date of issuance, the permit will automatically expire.

**Article 204
REQUIRED MINIMUM STANDARDS**

Section 204.1 Utility Accommodation Manual Adopted. The 2016 Utility Accommodation Policy and Standards manual, including all references contained therein to codes, rules, regulations, schedules, forms and appendix items, except Appendix B (Permit Forms and supporting Documents), promulgated by the State of Georgia Department of Transportation, as may be amended from time to time is hereby adopted by reference and incorporated in the article as if fully set forth herein, subject to the amendments and modification contained in this Chapter. A copy of the manual shall be maintained at the offices of the Director or his designee and open for public inspection online for reference. Any

conflicts between the provisions of this ordinance and the manual shall be resolved in favor of the manual. References to State personnel, agencies, and fees shall be interpreted, where required, as meaning the City of Cohutta municipal equivalents. Manual site:
<http://www.dot.ga.gov/PartnerSmart/utilities/Documents>

Section 204.2 Protection of Traffic and Roadway. Unless specifically in the Permit, no Utility may occupy the City Rights of Way unless sufficient space is available so that the free flow and safety of traffic and other capacity considerations are not unduly impaired and the installation does not prevent the Department from reasonably maintaining the streets, structures, traffic control devices and other appurtenant facilities, and further provided that maintenance and operations of the Facilities do not jeopardize the traffic, street structure, other users of the right of way or the right of way itself.

Section 204.3 Grading: If the grades or lines of any street within the City Right of Way are changed at any time by the City during the term of the permit and this change involves an area in which the Utility's Facilities are located, then the Utility shall, at its own cost and expense and upon the request of the City upon reasonable notice, protect or promptly alter or relocate the Facilities, or any part thereof, so as to conform with such new grades or lines. In the event the Utility refuses or neglects to so protect, alter, or relocate all or part of the Facilities, the City shall have the right to break through, remove, alter, or relocated all or any part of the Facilities without any liability to the Utility and the Utility shall pay to the City the costs incurred in connection with such breaking through, removal, alteration, or relocation.

Section 204.4 Installation of Poles and Other Wire-holding Structures and Relocation. Unless otherwise provided in a valid service agreement, no placement of any pole or wire-holding structure of the Utility is to be considered a vested interest in the Right of Way, and such poles or structures are to be removed, relocated underground, or modified by the Utility at its own expense whenever the City determines that the public convenience would be enhanced thereby. The Facilities shall be so located and installed as to cause minimum interference with the rights and convenience of property owners.

Section 204.5 48 Hours Notice As provided in O.C.G.A § 25-9-6 (the Georgia Utility Facility Protection Act) and other applicable state law currently in place or as amended, no Utility shall commence, perform, or engage in blasting or in excavating with mechanized excavating facilities unless and until the Utility planning the blasting or excavating has given 48 hours' notice by submitting a locate request to the Utility Protection Center, beginning the next Working Day after such notice is provided, excluding hours during days other than Working Days.

Article 205 RESTORATION OF PROPERTY

Section 205.1 Repair Duty Each Utility shall be responsible for the cost of repairing any Facilities in the Rights of Way and adjoining property or other Facilities which it or its Facilities damage.

Section 205.2 Repairs to Street Structures A Utility shall be liable, at its own cost and expense, to replace, restore or repair, any Street, Facilities or property or structure thereon, thereunder, thereover or

adjacent thereto that may become disturbed or damaged as a result of the Construction or installation, operation, upgrade, repair or removal of Facilities to a condition as good as or better than its condition before the work performed by the Utility that caused such disturbance or damage. If the Utility does not commence such replacement or repair after twenty (20) Working Days following written notice from the City, the City or the owner of the affected structure or property may make such replacement or repair and the Utility shall pay the reasonable and actual cost of the same.

Article 206 INSPECTION

Section 206.1 Site Open for Inspection. The Utility shall make the Construction site available to the Director and to all others as authorized by Law for inspection at all reasonable times during the execution and upon completion of the Construction.

Section 206.2 Work Cessation. At any time, including the time of inspection, the Director may order the immediate cessation of any work which poses a serious threat to the health, safety, or welfare of the public, violates any law, or which violates the terms and conditions of the Permit and/or this Chapter or issue an order to correct work which does not conform to the Permit and/or applicable standards, conditions or codes.

Section 206.3 Notification upon Completion. When the Construction under any Permit is completed, the Utility shall notify the Town Clerk.

Article 207 OTHER APPROVALS, PERMITS AND AGREEMENTS

Section 207.1 Additional Permits Required. The Utility shall obtain all construction, building or other permits or approvals as according to City ordinance, state or federal law. In addition, a Permittee shall comply with all requirements of laws, shall complete work in a way as to not cause any unnecessary or unauthorized obstructions of sidewalks, streets, waterways or railways, and is responsible for all work done in the Rights of Way regardless of who performs the work. No Rights of Way obstruction or excavation may be performed when seasonally prohibited or when conditions are unreasonable for such work, except in the case of an Emergency as outlined in Article II, Section 7 (B).

Article 208 PENALTIES

Section 208.1 Penalties. Every Utility convicted of a violation of any provision of this chapter shall be punished by a fine not exceeding one thousand dollars (\$1,000.00) per violation. Each act of violation and each day upon which any such violation shall occur shall constitute a separate offense. In addition to

the penalty prescribed above, the city may pursue other remedies such as abatement of nuisances, injunctive relief and revocation of licenses or permits.

Article 209 OTHER PROVISIONS

Section 209.1 Severability. If any section, subsection, sentence, clause, phrase, or portion of this Chapter is for any reason held invalid or unconstitutional by any court or administrative agency of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portions thereof.

Section 209.2 Reservation of Regulatory and Police Powers. The City by issuing a written approval of Registration under this Chapter, does not surrender or to any extent lose, waive, impair, or lessen the lawful powers and rights, which it has now or may be hereafter vested in the City under the Constitution and Laws of the United States, State of Georgia and the City Charter, and under the provisions of the City's Codified Ordinances to regulate the use of the Rights of Way. The Utility by applying for and being issued a written Permit, is deemed to acknowledge that all lawful powers and rights, regulatory power, or police power, or otherwise as are or the same may be from time to time vested in or reserved to the City, shall be in full force and effect and subject to the exercise thereof by the City at any time. A Utility is deemed to acknowledge that its interests are subject to the regulatory and police powers of the City to adopt and enforce general ordinances necessary to the safety and welfare of the public and is deemed to agree to comply with all applicable general laws enacted by the City pursuant to such powers. In particular, all Utilities shall comply with City zoning and other land use requirements pertaining to the placement and specifications of Facilities.

Section 209.3 Compliance. No Person shall be relieved of its obligation to comply with any of the provisions of this Chapter by reason of any failure of City to enforce compliance.

Section 209.4 Appeal of Administrative Decisions. All appeals provided for by this chapter and any notification to the City required by this Chapter shall be in writing and sent via certified mail to the Director as specified in this Chapter.

Section 209.5 Chapter Headings. Chapter headings are for convenience only and shall not be used to interpret any portion of this Chapter

Section 209.6 Conflicting Provisions Repealed. Except as provided otherwise herein, all ordinances or parts of ordinances in conflict with this ordinance are hereby repealed.

Section 209.7 Consistent With Georgia Law

This ordinance shall be codified in a manner consistent with the laws of the State of Georgia

Section 209.8 Effective upon Advertisement

This ordinance shall become effective upon legal advertisement upon its adoption by the Mayor and Council of the City of Cohutta.

Originally Adopted in June 2016.

(SEAL)

/s/Ron Shinnick
Mayor

/s/ Donna Henderson Maples
Town Clerk

14-300
COHUTTA
FLOOD
DAMAGE
PREVENTION
ORDINANCE

FLOOD DAMAGE PREVENTION ORDINANCE

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

SECTION A. AUTHORIZATION

Article IX, Section II of the Constitution of the State of Georgia and Section 36-1-20(a) of the Official Code of Georgia Annotated have delegated the responsibility to local governmental units to adopt regulations designed to promote the public health, safety, and general welfare of its citizenry. Therefore, the Town Council of Cohutta, GEORGIA, does ordain as follows:

SECTION B. FINDINGS OF FACT

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

SECTION C. STATEMENT OF PURPOSE

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

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

SECTION D. OBJECTIVES

The objectives of this ordinance are:

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

ARTICLE 2. GENERAL PROVISIONS

SECTION A. LANDS TO WHICH THIS ORDINANCE APPLIES

This ordinance shall apply to all Areas of Special Flood Hazard within the jurisdiction of Cohutta, Georgia.

SECTION B. BASIS FOR AREA OF SPECIAL FLOOD HAZARD

The Areas of Special Flood Hazard identified by the Federal Emergency Management Agency in its Flood Insurance Study (FIS), dated September 19, 2007, with accompanying maps and other supporting data and any revision thereto, are adopted by reference and declared a part of this ordinance.

For those land areas acquired by a municipality through annexation, the current effective FIS dated September 19, 2007, with accompanying maps and other supporting data and any revision thereto, for (unincorporated Whitfield County) are hereby adopted by reference.

Areas of Special Flood Hazard may also include those areas known to have flooded historically or defined through standard engineering analysis by governmental agencies or private parties but not yet incorporated in a FIS. (*The drainage ditch adjacent to Wolfe Street)

The Repository for public inspection of the Flood Insurance Study (FIS), accompanying maps and other supporting data is located: NW Georgia RDC.

SECTION C. ESTABLISHMENT OF DEVELOPMENT PERMIT

A Development Permit shall be required in conformance with the provisions of this ordinance PRIOR to the commencement of any Development activities.

SECTION D. COMPLIANCE

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

SECTION E. ABROGATION AND GREATER RESTRICTIONS

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

SECTION F. INTERPRETATION

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

SECTION G. WARNING AND DISCLAIMER OF LIABILITY

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

SECTION H. PENALTIES FOR VIOLATION

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

ARTICLE 3. ADMINISTRATION

SECTION A. DESIGNATION OF ORDINANCE ADMINISTRATOR

The Mayor of Cohutta or his designee is hereby appointed to administer and implement the provisions of this ordinance.

SECTION B. PERMIT PROCEDURES

Application for a Development Permit shall be made to the Town Clerk of Cohutta for the Mayor on forms furnished by the community **PRIOR** to any development activities, and may include, but not be limited to the following: plans in duplicate drawn to scale showing the elevations of the area in question and the nature, location, dimensions, of existing or proposed structures, earthen fill placement, storage of materials or equipment, and drainage facilities.

Specifically, the following information is required:

(1) Application Stage -

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

(2) Construction Stage -

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

Any work undertaken prior to submission of these certifications shall be at the permit holder's risk.

The Mayor or his designee shall review the above referenced certification data submitted. Deficiencies detected by such review shall be corrected by the permit holder immediately and prior to further progressive work being allowed to proceed. Failure to submit certification or failure to make said corrections required hereby, shall be cause to issue a stop-work order for the project.

SECTION C. DUTIES AND RESPONSIBILITIES OF THE ADMINISTRATOR

Duties of the Mayor or his designee shall include, but shall not be limited to:

- (1) Review proposed development to assure that the permit requirements of this ordinance have been satisfied.
- (2) Review proposed development to assure that all necessary permits have been received from governmental agencies from which approval is required by Federal or State law, including section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1334. Require that copies of such permits be provided and maintained on file.
- (3) Review all permit applications to determine whether proposed building sites will be reasonably safe from flooding.

- (4) When Base Flood Elevation data or floodway data have not been provided in accordance with Article 2 Section B, then the Mayor or his designee shall obtain, review and reasonably utilize any base flood elevation and floodway data available from a Federal, State or other sources in order to administer the provisions of Article 4.
- (5) Review and record the actual elevation in relation to mean sea level (or highest adjacent grade) of the lowest floor, including basement, of all new or substantially improved structures in accordance with Article 3, Section B (2).
- (6) Review and record the actual elevation, in relation to mean sea level to which any new or substantially improved structures have been flood-proofed, in accordance with Article 3, Section B (2).
- (7) When flood-proofing is utilized for a structure, the Mayor or his designee shall obtain certification of design criteria from a registered professional engineer or architect in accordance with Article 3(B)(1)(c) and Article 4(B)(2) or (D)(2).
- (8) Make substantial damage determinations following a flood event or any other event that causes damage to structures in flood hazard areas.
- (9) Notify adjacent communities and the Georgia Department of Natural Resources prior to any alteration or relocation of a watercourse and submit evidence of such notification to the Federal Emergency Management Agency (FEMA).
- (10) For any altered or relocated watercourse, submit engineering data/analysis within six (6) months to the FEMA to ensure accuracy of community flood maps through the Letter of Map Revision process. Assure flood carrying capacity of any altered or relocated watercourse is maintained.
- (11) Where interpretation is needed as to the exact location of boundaries of the Areas of Special Flood Hazard (for example, where there appears to be a conflict between a mapped boundary and actual field conditions) the Mayor or his designee shall make the necessary interpretation. Any person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in this Ordinance.
- (12) All records pertaining to the provisions of this ordinance shall be maintained in the office of the Mayor or his designee and shall be open for public inspection.

ARTICLE 4. PROVISIONS FOR FLOOD HAZARD REDUCTION

SECTION A. GENERAL STANDARDS

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

- (1) New construction and substantial improvements of existing structures shall be anchored to prevent flotation, collapse or lateral movement of the structure;
- (2) New construction and substantial improvements of existing structures shall be constructed with materials and utility equipment resistant to flood damage;

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

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

SECTION B. SPECIFIC STANDARDS

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

- (1) New construction and/or substantial improvements - Where base flood elevation data are available, new construction and/or substantial improvement of any structure or manufactured home shall have the lowest floor, including basement, elevated no lower than **one foot** above the base flood elevation. Should solid foundation perimeter walls be used to elevate a structure, openings sufficient to facilitate equalization of flood hydrostatic forces on both sides of exterior walls shall be provided in accordance with standards of Article 4, Section A (4), "Elevated Buildings".
 - (a) All heating and air conditioning equipment and components (including ductwork), all electrical, ventilation, plumbing, and other service facilities shall be elevated at or above **one foot** above the base flood elevation.
- (2) Non-Residential Construction - New construction and/or the substantial improvement of any structure located in A1-30, AE, or AH zones, may be flood-proofed in lieu of elevation. The structure, together with attendant utility and sanitary facilities, must be designed to be water tight to **one foot** above the base flood elevation, with walls substantially impermeable to the passage of water, and structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effect of buoyancy. A registered professional engineer or architect shall certify that the design and methods of construction are in accordance with accepted standards of practice for meeting the provisions above, and shall provide such certification to the official as set forth above and in Article 3, Section C. (6).
- (3) Standards for Manufactured Homes and Recreational Vehicles - Where base flood elevation data are available:
 - (a) All manufactured homes placed and/or substantially improved on: (1) individual lots or parcels, (2) in new and/or substantially improved manufactured home parks or subdivisions, (3) in expansions to existing manufactured home parks or subdivisions, or (4) on a site in an existing manufactured home park or subdivision where a manufactured home has incurred "substantial damage" as the result of a flood, must have the lowest floor including basement, elevated no lower than **one foot** above the base flood elevation.
 - (b) Manufactured homes placed and/or substantially improved in an existing manufactured home park or subdivision may be elevated so that either:
 - (i) The lowest floor of the manufactured home is elevated no lower than **one foot** above the level of the base flood elevation, or

- (ii) The manufactured home chassis is elevated and supported by reinforced piers (or other foundation elements of at least an equivalent strength) of no less than 36 inches in height above grade.
 - (c) All manufactured homes must be securely anchored to an adequately anchored foundation system to resist flotation, collapse and lateral movement. (Ref. Article 4(A)(6) above)
 - (d) All recreational vehicles placed on sites must either:
 - (i) Be on the site for fewer than 180 consecutive days.
 - (ii) Be fully licensed and ready for highway use, (a recreational vehicle is ready for highway use if it is licensed, on its wheels or jacking system, attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached structures or additions), or
 - (iii) The recreational vehicle must meet all the requirements for "New Construction", including the anchoring and elevation requirements of Article 4, Section B (3)(a)(c), above.
- (4). Floodway - Located within Areas of Special Flood Hazard established in Article 2, Section B, are areas designated as floodway. A floodway may be an extremely hazardous area due to velocity floodwaters, debris or erosion potential. In addition, the area must remain free of encroachment in order to allow for the discharge of the base flood without increased flood heights. Therefore, the following provisions shall apply:
- (a) Encroachments are prohibited, including earthen fill, new construction, substantial improvements or other development within the regulatory floodway. Development may be permitted however, provided it is demonstrated through hydrologic and hydraulic analyses performed in accordance with standard engineering practice that the encroachment shall not result in **any** increase in flood levels or floodway widths during a base flood discharge. A registered professional engineer must provide supporting technical data and certification thereof.
 - (b) ONLY if Article 4 (B)(4)(a) above is satisfied, then any new construction or substantial improvement shall comply with all other applicable flood hazard reduction provisions of Article 4.

SECTION C. BUILDING STANDARDS FOR STREAMS WITHOUT ESTABLISHED BASE FLOOD ELEVATIONS AND/OR FLOODWAY (A-ZONES) -

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

- (1) When base flood elevation data or floodway data have not been provided in

accordance with Article 2(B), then the Mayor or his designee shall obtain, review, and reasonably utilize any scientific or historic base flood elevation and floodway data available from a Federal, State, or other source, in order to administer the provisions of Article 4. ONLY if data are not available from these sources, then the following provisions (2&3) shall apply:

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

(3) In special flood hazard areas without base flood elevation data, new construction and substantial improvements of existing structures shall have the lowest floor of the lowest enclosed area (including basement) elevated no less than *three feet* above the highest adjacent grade at the building site. (NOTE: Require the lowest floor to be elevated one foot above the estimated base flood elevation in A-Zone areas where a Limited Detail Study has been completed). Openings sufficient to facilitate the unimpeded movements of floodwaters shall be provided in accordance with standards of Article 4, Section A (4) "Elevated Buildings".

(a) All heating and air conditioning equipment and components (including ductwork), all electrical, ventilation, plumbing, and other service facilities shall be elevated no less than *three feet* above the highest adjacent grade at the building site.

The Mayor or his designee shall certify the lowest floor elevation level and the record shall become a permanent part of the permit file.

SECTION D. STANDARDS FOR AREAS OF SPECIAL FLOOD HAZARD (ZONES AE) WITH ESTABLISHED BASE FLOOD ELEVATIONS WITHOUT DESIGNATED FLOODWAYS

Located within the Areas of Special Flood Hazard established in Article 2, Section B, where streams with base flood elevations are provided but no floodways have been designated, (Zones AE) the following provisions apply:

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

2. New construction or substantial improvements of buildings shall be elevated or flood-proofed to elevations established in accordance with Article 4, Section B.

SECTION E. STANDARDS FOR AREAS OF SHALLOW FLOODING (AO ZONES) -

Areas of Special Flood Hazard established in Article 2, Section B, may include designated "AO" shallow flooding areas. These areas have base flood depths of *one to three feet* above ground, with no clearly defined channel. The following provisions apply:

(1) All new construction and substantial improvements of residential and non-residential structures shall have the lowest floor, including basement, elevated to the flood depth number specified on the Flood Insurance Rate Map (FIRM), above the highest adjacent grade. If no flood depth number is specified, the lowest floor, including basement, shall be elevated at least *three feet* above the highest adjacent grade. Openings sufficient to facilitate the unimpeded movements of flood waters shall be provided in accordance with standards of Article 4, Section A (4), "Elevated Buildings".

The Mayor or his designee shall certify the lowest floor elevation level and the record shall become a permanent part of the permit file.

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

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

SECTION F. STANDARDS FOR SUBDIVISIONS

(1) All subdivision and/or development proposals shall be consistent with the need to minimize flood damage;

(2) All subdivision and/or development proposals shall have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize flood damage;

(3) All subdivision and/or development proposals shall have adequate drainage provided to reduce exposure to flood hazards, and;

(4) For subdivisions and/or developments greater than *fifty lots or five acres*,

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

SECTION G. STANDARDS FOR CRITICAL FACILITIES

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

ARTICLE 5. VARIANCE PROCEDURES

- (A) The Cohutta Planning and Land Use Commission established by the Cohutta Town Council shall hear and decide requests for appeals or variance from the requirements of this ordinance.
- (B) The board shall hear and decide appeals when it is alleged an error in any requirement, decision, or determination is made by the Mayor or his designee in the enforcement or administration of this ordinance.
- (C) Any person aggrieved by the decision of the Mayor or his designee may appeal such decision to the Superior Court of Georgia, as provided in Section 5-4-1 of the Official Code of Georgia Annotated.
- (D) Variances may be issued for the repair or rehabilitation of Historic Structures upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a Historic Structure and the variance is the minimum to preserve the historic character and design of the structure.
- (E) Variances may be issued for development necessary for the conduct of a functionally dependent use, provided the criteria of this Article are met, no reasonable alternative exists, and the development is protected by methods that minimize flood damage during the base flood and create no additional threats to public safety.
- (F) Variances shall not be issued within any designated floodway if ANY increase in flood levels during the base flood discharge would result.
- (G) In reviewing such requests, the Mayor or his designee shall consider all technical evaluations, relevant factors, and all standards specified in this and other sections of this ordinance.
- (H) **Conditions for Variances:**
 - (1) A variance shall be issued ONLY when there is:
 - (i) a finding of good and sufficient cause,
 - (ii) a determination that failure to grant the variance would result in exceptional hardship, and;
 - (iii) a determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense,

create nuisance, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.

(2) The provisions of this Ordinance are minimum standards for flood loss reduction; therefore any deviation from the standards must be weighed carefully. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief; and, in the instance of an Historic Structure, a determination that the variance is the minimum necessary so as not to destroy the historic character and design of the building.

(3) Any applicant to whom a variance is granted shall be given written notice specifying the difference between the base flood elevation and the elevation of the proposed lowest floor and stating that the cost of flood insurance will be commensurate with the increased risk to life and property resulting from the reduced lowest floor elevation.

(4) The Mayor or his designee shall maintain the records of all appeal actions and report any variances to the Federal Emergency Management Agency upon request.

(I) Upon consideration of the factors listed above and the purposes of this ordinance, the Cohutta Town Council may attach such conditions to the granting of variances as it deems necessary to further the purposes of this ordinance.

ARTICLE 6. DEFINITIONS

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

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

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

"Appeal" means a request for a review of the Mayor or his designee's interpretation of any provision of this ordinance.

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

"Area of special flood hazard" is the land in the floodplain within a community subject to a one percent or greater chance of flooding in any given year. In the absence of official designation by the Federal Emergency Management Agency, Areas of Special Flood Hazard shall be those designated by the local community and referenced in Article 2, Section B.

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

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

"Basement" means that portion of a building having its floor sub grade (below ground level) on all sides.

"Building," see definition for structure.

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

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

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

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

***"Existing construction"** means for the purposes of determining rates, structures for which the "start of construction" commenced before 9/19/2007. [the effective date of the initial FIRM for that community].

***"Existing Manufactured Home Park or subdivision"** means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum the installation of utilities, the construction of streets, and final site grading or the pouring of concrete pads) is completed before February 1, 2016. [the effective date of the FIRST floodplain management regulations adopted by a community].

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

"Flood" or "flooding" means a general and temporary condition of partial or complete inundation of normally dry land areas from:

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

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

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

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

"Floodplain" means any land area susceptible to flooding.

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

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

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

"Highest adjacent grade" means the highest natural elevation of the ground surface, prior to construction, adjacent to the proposed walls of a structure.

"Historic Structure" means any structure that is;

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

"Lowest floor" means the lowest floor of the lowest enclosed area, including basement. An unfinished or flood resistant enclosure, used solely for parking of vehicles, building access, or storage, in an area other than a

basement, is not considered a building's lowest floor, provided that such enclosure is not built so as to render the structure in violation of other provisions of this ordinance.

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

"Manufactured home park or subdivision" means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

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

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

***"New construction"** means, for the purposes of determining insurance rates, structures for which the "start of construction" commenced after 9/19/2007 [the effective date of the initial FIRM] and includes any subsequent improvements to such structures. For floodplain management purposes, "new construction" means structures for which the "start of construction" commenced after

3/15/2016 [the effective date of the FIRST floodplain management ordinance adopted by the community] and includes any subsequent improvements to such structures.

***"New manufactured home park or subdivision"** means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed after 3/15/2016. [the effective date of the first floodplain management regulations adopted by a community].

"North American Vertical Datum (NAVD)" has replaced the National Geodetic Vertical Datum of 1929 in existing and future FEMA Flood Modernization Maps.

"Recreational vehicle" means a vehicle, which is:

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

"Start of construction" means the date the development permit was issued, provided the actual start of construction, repair, reconstruction, or improvement was within 180 days of the permit date. The actual start means the first placement of permanent construction of the structure such as the pouring of slabs or footings,

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

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

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

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

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

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

"Variance" is a grant of relief from the requirements of this ordinance, which permits construction in a manner otherwise prohibited by this ordinance.

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

ARTICLE 7. SEVERABILITY

If any section, clause, sentence, or phrase of this Ordinance 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 Ordinance.

Ordinance adopted on January 18, 2016.

BY: /s/ Ron Shinnick
Mayor

Certified by: /s/ Donna Henderson Maples
Town Clerk

Date: January 18, 2016

14-400
COHUTTA
LABOR RATE
ORDINANCE

COHUTTA LABOR RATE ORDINANCE

Whereas, the Property Maintenance Ordinance and the Nuisance Ordinance 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;

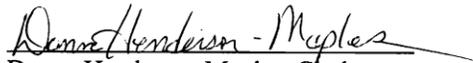
Therefore, the Town of Cohutta sets out the following compensation rules for the work of the Town under proper authority on private property:

- 1) All 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) Under the Cohutta Nuisance Ordinance and the Property Maintenance Ordinance, the labor and expense charges shall become a lien against the improved real property.

Passed at second reading this 7th day of June, 2016 with a 4 to 0 vote of the Cohutta Town Council.


Ron Shinnick, Mayor

ATTEST:


Donna Henderson Maples, Clerk