

City of Irwinton Code of Ordinances

Adopted October 8, 2019

**AN ORDINANCE OF THE CITY OF IRWINTON
TO ADOPT UPDATES TO THE CODE OF ORDINANCES FOR THE CITY OF IRWINTON**

WHEREAS, the City of Irwinton has the authority under its City Charter to provide for ordinances and codes and to carry into execution its powers as provided by ordinance; and

WHEREAS, at a meeting of the City of Irwinton City Council, a motion was made and duly seconded for the City of Irwinton to adopt an updated Code of Ordinances for the City of Irwinton; and

WHEREAS, the full Code of Ordinances for the City of Irwinton was last updated and approved by the Irwinton City Council on October 8, 2019; and

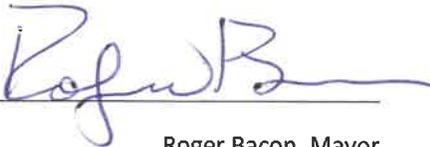
WHEREAS, updates to the Code of Ordinances are necessary to ensure conformance with the provisions of the City Charter and current state law;

WHEREAS, the enactment of appropriate ordinances is essential for the promotion of order within the corporate boundaries of the city and for the continued existence of the city's municipal services.

NOW THEREFORE, BE IT ORDAINED, BY THE CITY COUNCIL OF IRWINTON, that the Irwinton Code of Ordinances, consisting of Chapters 1 through 18, inclusive, is hereby adopted and enacted and shall be treated and considered as a new and original comprehensive ordinance, and that all ordinances or parts of ordinances that may be in conflict with this code are hereby repealed.

BE IT FURTHER ORDAINED, that this ordinance shall become effective on the date of its adoption.

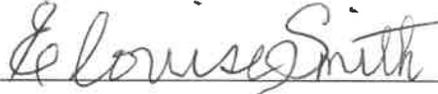
Adopted this 18 day of October, 2019.



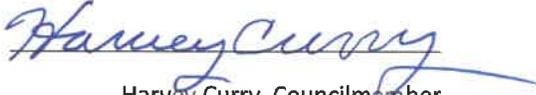
Roger Bacon, Mayor



John Horne, Councilmember



Eloise Smith, Council Member



Harvey Curry, Councilmember



Mitch Bentley, Councilmember



ATTEST: L'Niesha Anderson

(seal)

Contents

Chapter 1: General Provisions	4
Chapter 2: Administration	7
Chapter 3: Alcoholic Beverages	10
Chapter 4: Animals and Fowl	19
Chapter 5: Business Regulation and Taxation	24
Chapter 6: Offenses and Miscellaneous Provisions	29
Chapter 7: Police Department	31
Chapter 8: Traffic	32
Chapter 9: Nuisance.....	35
Chapter 10: Property Tax.....	43
Chapter 12: Water Ordinance.....	47
Chapter 13: Wellhead Protection Ordinance	51
Chapter 14: Environment	53
Chapter 15: Franchising.....	65
Chapter 16: Streets and Rights-of-Way	66
Chapter 17: Natural Gas Services Franchising	67
Chapter 18: Electric Power Franchising.....	69

Chapter 1: General Provisions

1-100 How Code is Designated and Cited.

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

1-101 Rules of Construction.

In the construction of this Code, and of all ordinances, the following rules shall be observed, unless such construction would be inconsistent with the manifest intent of the governing body:

"State" shall be construed to mean the State of Georgia.

"Council" shall mean the mayor and council members of the City of Irwinton, Georgia.

"County" shall mean Wilkinson County, Georgia.

"City" shall mean the City of Irwinton, Georgia.

"Governing body" shall mean the mayor and council members of the City of Irwinton, Georgia.

"Other officials or officers, etc." Whenever reference is made to officials, boards, commissions, departments, etc., by title only, e.g., "city clerk", "chief of police", etc., they shall be deemed to refer to the officials, boards, commissions, and departments of the City of Irwinton, Georgia.

Gender. A word importing the masculine gender only shall extend and be applied to females, and to firms, partnerships, and corporations, as well as to males.

Number. Words used in the singular include the plural, and the plural includes the singular number.

"Oath" shall be construed to include an affirmation in all cases in which, by law, an affirmation may be substituted for an oath, and in such cases "swear" and "sworn" shall be equivalent to the words "affirm" and "affirmed".

"Person" shall extend and be applied to firms, partnerships, associations, organizations, and bodies, politic and corporate, or any combination thereof, as well as to individuals.

Signature or Subscription. Includes a mark when the person cannot write.

"Street" shall be construed to embrace streets, avenues, boulevards, roads, alleys, lanes, viaducts, and all other public streets and ways in the city and shall embrace all parts thereof constituting the designated right-of-way.

1-102 Catch Lines of Sections.

The catch lines of sections of this Code printed in boldface type, italics, or otherwise, are intended as mere catchwords to indicate the contents of the section, and shall not be deemed or taken to be titles of such

sections, nor as any part of the section, nor, unless expressly so provided, shall they be so deemed when any of such sections, including the catch lines, are amended or re-enacted.

1-103 Effect of Repeal of Ordinances.

The repeal of an ordinance shall not revive any ordinances in force before or at the time the repealed ordinance took effect. The repeal of an ordinance shall not affect any punishment or penalty incurred before the repeal took effect, nor any suit, prosecution, or proceeding pending at the time of the repeal for an offense committed under the ordinance repealed.

1-104 Severability of Parts of Code.

It is hereby declared to be the intention of the governing body that the sections, paragraphs, sentences, clauses, and phrases of this Code are severable, and if any phrase, clause, sentence, paragraph or section of this Code shall be declared unconstitutional by the valid judgment or decree of a court of competent jurisdiction, such unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs, and sections of this Code.

1-105 Amendment to Code; Effect of New Ordinances: Amendatory Language.

- a. All ordinances passed subsequent to this Code of Ordinances which amend, repeal, or in any way affect this Code of ordinances, may be numbered in accordance with the numbering system of this Code and printed for inclusion therein. When subsequent, therefore, repeal any chapter section, or sub-section, or any portion thereof, such repealed portions may be excluded from said Code by omission from reprinted pages.
- b. Amendments to any of the provisions of this Code shall be made by amending such provisions by specific reference to the section of this Code in substantially the following language: "Section __ of the Code of Ordinances, City of Irwinton, Georgia, is hereby amended to read as follows: (Set out new provisions in full)"
- c. When the governing body desires to enact an ordinance of a general and permanent nature on a subject not heretofore existing in the Code, the following language may be used: "The Code of the City of Irwinton, Georgia is hereby amended by adding a section to be numbered ____, which section reads as follows:..." (New section may then be set out in full as desired)
- d. All sections, articles, chapters, or provisions of this Code desired to be repealed shall be specifically repealed by section or chapter number, as the case may be.

1-106 Altering Code.

It shall be unlawful for any person in the city to change or amend by additions or deletions any part or portion of this Code, or to insert or delete pages or portions thereof, or to alter or tamper with such Code in any manner whatsoever which will cause the law of the City of Irwinton, Georgia to be misrepresented thereby. Any person violating this section shall be punished as provided in section 1-107 thereof.

No part of this section shall be interpreted as to prohibit changes to this Code that reflect ordinances which have been duly considered and passed upon by the governing body of the City of Irwinton.

1-107 General Penalty.

Whenever in this Code or any ordinance of the city any act is prohibited or is made or declared to be unlawful or an offense, or whenever in such Code or ordinance the doing of any act is required or the failure to do any act is declared to be unlawful, where no specific penalty is provided; therefore, the violation, concealing of a violation, or the harboring, assisting, or protecting of a person charged with or convicted of a violation of any such provision of this Code or any ordinance shall be punished by a fine not exceeding five hundred dollars (\$500), and by sentence of imprisonment not exceeding ninety (90) days.

Chapter 2: Administration

Article 1: In General

2-100 Fiscal Year Established

The fiscal year of said city shall begin on the first day of October of each calendar year and shall end on the 30th day of September of each calendar year; both of said dates being inclusive.

2-101 City Depositories

The mayor and council members shall, by resolution, designate the banks and accounts therein as official depositories of the city.

2-102 Purpose for Which Money May Be Used

No money collected for a special purpose shall be used for any other purpose and the same shall be placed in the bank for that purpose only.

The forgoing paragraph shall apply to taxes collected for the repayment of bonds, interest on bonds, or any other purpose for which such money is collected.

2-103 Purchases Generally

Any purchase made by the City of Irwinton above \$1500 must be approved by the mayor and council in advance.

2-104 City Hall Hours

At the recommendation of city administration, the hours for Irwinton City Hall are to be set by the mayor and council via resolution.

Article 2: Mayor and Council Members

2-200 Meetings

The mayor and council members shall meet regularly on the second Tuesday of each month at 7:00 pm. Special called meetings may be held in accordance with the Irwinton City Charter.

2-201 Order of Business

The City of Irwinton shall follow Robert's Rules of Order, Newly Revised, for determining the order of business and answering questions of parliamentary procedure.

2-202 Salary of Mayor

The mayor shall be paid a salary of \$300 for each regular meeting of the council which they attend in its

entirety. The mayor is allowed excused absences and the same compensation for any regular meetings not attended due to illness or illness in their immediate family if they provide as much advance notice of their absence as possible. Immediate family includes a spouse, son/daughter, parents, grandchildren, and grandparents, mother/father-in-law, brother/sister-in-law. If an absence occurs for another reason, the mayor may petition to City Council to be paid for the meeting for which they were absent.

2-203 Salaries of Council Members

Each council member shall be paid a salary of \$205 for each regular meeting of the council which they attend in its entirety. Council members are allowed excused absences and the same compensation for any regular meetings not attended due to illness or illness in their immediate family if they provide as much advance notice of their absence as possible. Immediate family includes a spouse, son/daughter, parents, grandchildren, and grandparents, mother/father-in-law, brother/sister-in-law. If an absence occurs for another reason, council members may petition to City Council to be paid for the meeting for which they were absent.

Article 3: Municipal Officers

2-300 Appointment; Oath

The city clerk and city attorney, and other officers shall be appointed by the mayor and council members and take such oath as prescribed by the charter.

2-301 Duties of the Clerk

It shall be the duty of the clerk to receive all money due the city, whether for taxes or rent; receive all money collected by other officers on behalf of the city; keep a regular account of all money received and paid out by him/her; be ready at all times to make a report to the mayor and council members of the financial condition of the corporation; keep a fair and correct record of the proceedings of the meetings of the mayor and council members; issue all licenses required and authorized by the ordinances of this city; and in general, do and perform all and every other duty required of him/her by the mayor and council members.

Article 4: Recorder's Court

2-400 Police Prohibited from Collecting Fines as Cost

It shall be unlawful for any police officer of said city or any other officer of said city to collect or receive from any person convicted in the recorder's court, any amount of money whatsoever as cost.

Any person violating the provisions of this section shall, upon conviction by the recorder, and upon a proper case made against him in said court, be suspended from the office by the mayor.

2-401 Place for Holding Court; Time for Holding Court

The sessions of the recorder's court of the said city shall be held in Council Chambers of the Irwinton City Hall on the second Monday of each month at 5:00 pm.

2-402 Hours of City Hall

The Hours of Operation for City Hall are to be established by the mayor and council via resolution.

Chapter 3: Alcoholic Beverages

Article 1: Part 1: Beer and Wine

3-100 Definitions

As used herein, the following words and terms shall have the meaning indicated:

- a. "Beer" shall be defined to mean malt or fermented beverages made in whole or in part from malt or any similar fermented beverages provided the same shall not contain more than 14 percent of alcohol by volume.
- b. "Wine" shall be defined to mean any fermented beverages made from fruit or berries, with an alcoholic strength not exceeding 24 percent by volume.
- c. "Premises" shall be defined as a room, shop, building, or locality where beer and wine might be sold.
- d. "Brewpub" shall be defined as an eating establishment with a full-service kitchen in which beer is manufactured for consumption on the premise.
- e. "Pour" shall be defined as serving unsealed alcoholic beverages

3-101 License Required

No beer or wine may be sold legally in the city except under a license granted by the council as provided in this ordinance.

3-102 License Fee

License fees shall be such as specified from time to time by the license tax. In the event that a licensee shall relocate his business, the license fee paid for that year may be applied and transferred to the application for the license for the new location upon the condition that the application for new location shall be made in and for the same calendar year.

3-103 License a Privilege

Licenses hereunder are grants of privilege to carry on a business during the term of the license and shall be subject to all terms and conditions imposed by the City Council at the time of the issuance of the license, as well as such reasonable terms and conditions as may be thereafter be imposed by the council while the license is in effect. Licenses shall be subject to suspension or revocation as herein provided, but no such suspension or revocation shall entitle the licensee to a return of any portion of the license fee.

3-104 Assignability of Licenses

Licenses issued hereunder shall not be assignable or transferable to any individual or entity, including a business successor, except as herein expressly provided by Section 3-108.

3-105 Rights to Renewal.

The issuance of a license hereunder for any calendar year or any portion thereof shall not be deemed to vest the licensee or any person having an interest in the business with any right to renewal thereof.

Article 1: Part 2: Licenses: How Obtained and Issued

3-106 Advertisement

All persons, firms, or corporations desiring to engage in the retail sale of beer and wine shall advertise their intention to make an application to the council for the issuance of a license. Such advertisement shall be in such form as the council may from time to time prescribe and shall be published once a week for two consecutive weeks in the official organ of Wilkinson County, Georgia. Said advertisement shall contain a statement showing the location of the proposed business, the name of the applicant, and the fact that such applicant proposes to sell beer and wine at said location. If the applicant is a partnership, such notice shall show the names of the partners, and if a corporation, the notice shall show the names of the officers. The advertisement herein prescribed shall not be required of applicants for licenses where the license sought is a renewal of a prior license issued to the same applicant for the same location for a business establishment which is located continuously up until the date of the application. If the same location was previously licensed to do business, but there has been a change of ownership of the business or other interest therein, the advertisement shall be required.

3-107 Application

When the advertisements required by the preceding section have been published, the applicant shall obtain an affidavit of publication and shall attach the same to a written application for a beer and wine license. The application shall be in such form as shall be obtained from the clerk and filed with him/her. All applications for new licenses under the provision of this resolution shall be made to the clerk of the City of Irwinton. It shall be subscribed by the applicant under oath and shall be fully and completely executed. If the applicant is a partnership, all partners shall execute the same, and if the applicant is a corporation, it shall be executed by the president and secretary of the corporation. There shall also be attached to the application a cashier's check, money order, or like remittance for the license fee in full. When the verified application, with the affidavit of publication and payment of the license fee, is filed with the clerk, the council shall inspect the application, conduct such investigation and hold such hearing therein as it may deem necessary. The council may seek the advice of the district attorney and law enforcement officers during its consideration of the application. After the investigation, the council shall either grant or deny the application for a license pursuant to the provisions of this ordinance.

3-108 Transferability of Licenses

Licenses hereunder shall not be transferable or assignable to new owners, but where there is a change in the ownership of a business, the new owner or owners shall file an application as for a new license as provided by this ordinance. Changes of business interest from one party of interest named in the original application to another party of interest named in the original application and changes from one employee or manager of a business establishment to his successor shall not be deemed a transfer of a license. In each instance, however, the licensee shall notify the clerk in writing of such change and make a complete disclosure of all of the facts in connection therewith, such notification to be made within three days from the date of the change.

3-109 Applicant to Furnish Correct Information

All applications for licenses shall be completely and fully executed, and each question on the form provided shall be answered accurately. Failure of an applicant to furnish all dates, information, and records required by the application, as well as failure to accompany the application with the payment of the prescribed fee or the affidavit of publication shall be deemed just cause for denying the application.

3-110 Renewals

Upon the expiration of any license by its terms, licensees shall be required to apply for a new license for the succeeding calendar year as herein provided for new licenses; provided, however, that under the terms of section 3-106 above, advertisement of the application is waived, and provided further, that nothing herein contained shall be deemed to prohibit a licensee from applying for a new license for the succeeding calendar year within a period of sixty days prior to the expiration of his then-current license.

Article 1: Part 3: Criteria for Issuance of License

3-111 Payment of Fees and Taxes

No license shall be issued hereunder unless the applicant, therefore, shall have fully paid all license fees and ad valorem taxes due the City of Irwinton, Georgia for which he is liable. If the applicant is not liable for ad valorem taxes on the property of which said business is to be located, all ad valorem taxes on such property must be paid by the true owner.

3-112 Character

No person, firm, or corporation shall be granted a retail beer and wine license unless the council shall find that such applicant is of good moral character, to be defined as an applicant who shall not have within ten years immediately prior to the filing of the application, entered a plea of guilty, a plea of nolo contendere, or shall have suffered any conviction involving moral turpitude involving alcohol control laws of the State of Georgia, or of the United States. Should the applicant, after a license has been granted hereunder, be convicted or plead guilty or nolo contendere to a crime involving turpitude or to a violation of any of the laws of the State of Georgia, or of the United States relating to alcohol, the license issued to such licensee shall stand revoked and canceled.

3-113 Distances from Certain Uses

No license shall be issued under this ordinance where the location of the business is within 300 feet of an active church, school building, or school ground.

The distance herein prescribed shall be measured in a straight line from the nearest property line of the place of business to the nearest property line of any such church, school building, or school ground.

3-114 Other Criteria Declared to be in the Public Interest

In determining whether or not any license applied for hereunder shall be granted, in addition to all other

provisions of this ordinance, the following may be considered in the public interest and welfare:

- a. The applicant's character, as defined in section 3-112.
- b. Whether or not the applicant has violated any law or regulation relating to any beer and wine which he may have previously held a license or in which he may have had an interest.
- c. The manner in which the applicant conducted the beer and wine business under any prior license.
- d. The distance of the premises on which the license is to be used from other premises for which a license has already been granted.
- e. Whether or not the applicant has previously had a beer license revoked. It is the declared policy of the council that no person, firm, or corporation whose license has previously been revoked shall be issued a license. No license shall be issued under the provisions of this section to any person who is in fact afront for any person, partnership, or corporation whose license has been revoked.
- f. The extent of the financial interest of the applicant in any wholesale beer and wine business. It is declared to be the policy of the council that no person who has any financial interest in any wholesale beer and wine business shall also have any financial interest in any retail beer and wine business and no financial aid or assistance to any licensee hereunder from any wholesaler or manufacturer of beer and wine shall be permitted.
- g. The suitability of the premises for the conduct of a beer and wine business, including its location and the difficulties or absence thereof of policing by law enforcement agencies.
- h. The sentiment of the community in which the proposed business would be operated, so far as the same may be known to the council.

3-115 Waiver of Existing Businesses

Where a license has been issued to a business engaged in the retail sale of beer and wine and the licensee or the location thereof do not meet all of the criteria specified in this ordinance, the council reserves the right to waive one or more of such criteria provided: (a) the business operation is continuous as a beer and wine establishment into subsequent years and there is no change in the ownership thereof if the licensee be an individual or partnership, and there is no change in the corporate personnel if the licensee be an individual or partnership, and there is no change in the corporate personnel if the licensee be corporation; and (b) the council shall find that the waiver necessary will not be substantially contrary to the public interest. Should there be an interruption or lack of continuity in the business operation as a beer and wine establishment or any change in the ownership thereof, the applicant for a new license shall be required to comply with all of the provisions thereof. Provided, however, that a change of said establishment which does not result in the discontinuance as a beer and wine establishment, will authorize said council to waive one or more of said specified criteria.

Article 1: Part 4: Conditions of Issuance of Licenses: Duties of Licensees

3-116 Duty to Report Changes

Whenever there shall be a change in any of the facts reported to the council in the application for a license after such license has been granted, it shall be the duty of the licensee, within three days after such change, to report the same to the clerk in writing.

3-117 When Sales Permitted

Licensees shall not engage in the sale of beer and wine between the hours of 2:00 am and 7:00 am Monday through Saturday, and between the hours of 2:00 am and 10:00 am on Sundays. Additionally, licensees shall not engage in the sale of beer and wine within 250 feet of any polling place on election days.

3-118 Furnishing to Minors Prohibited

No licensee shall furnish or cause to be furnished or permit any person in his employ to furnish beer or wine to any minor. The prohibition of this section includes the sale, gift, or other procuring of said beverages to minors.

3-119 Furnishing to Other Persons Prohibited

No licensee shall furnish or cause to be furnished or permit any person in his employ to furnish beer or wine to any person who is physically or mentally incapacitated due to the consumption of beer, wine, or other alcoholic beverages or is under the influence thereof.

3-120 Restriction on Employment of Minors

No licensee shall employ or permit the employment of any minor to sell or otherwise handle or deal with beer or wine.

3-121 Familiarity with Ordinance

It shall be the duty of each licensee to maintain a copy of these regulations on the premises and to instruct every employee as to the terms thereof. Each licensee and employee shall at all times be familiar with this ordinance.

3-122 Responsibility for Acts of Employees and Others

Licensees are charged with the responsibility hereunder for compliance with this ordinance by their officers, agents, servants, and employees.

3-123 Compliance with Laws

In addition to the provisions of this ordinance, licensees are also charged with the responsibility for acts in violation of this ordinance performed by others if done on the premise and with the knowledge of the licensee.

3-124 Posting of Notices to Minors

Every licensee shall post in a conspicuous place in his business, a notice with letters not less than 4 inches in height with shall be clearly visible to all customers entering the establishment as follows: "SALES TO INDIVIDUALS UNDER 21 YEARS OF AGE ARE STRICTLY PROHIBITED".

Article 1: Part 5: Investigations: Suspension or Revocation of Licenses

3-125 Investigations.

The council shall have the right to make such inquiry or investigation as it may find to be reasonably necessary to determine compliance with these regulations. Such investigation may consist, among other actions, of calling licensees for examination under oath, obtaining evidence under oath from other persons; the procurement of documents or records, including records of the license, and inspection and examination of records and documents from whatever source obtainable.

3-126 Suspensions of Revocation.

Any license issued hereunder may be revoked or suspended by the council for cause shown, after a hearing of which at least three days written notice shall be given to the licensee. Such notice shall specify the time, place, and purpose of the hearing, and a statement of the charges upon which such hearing shall be held. At such hearing, the licensee shall have the right to appear in person and be represented by an attorney, and both the council and the licensee shall have the right to present evidence under oath, introduce documentary evidence, cross-examine witnesses and generally present evidence of a violation of the ordinance or absence thereof.

3-127 Grounds for Suspension or Revocation of License.

The following shall be considered just cause for suspension or revocation of a license hereunder:

- a. The performance of any act prohibited by this ordinance or the failure to perform any act required by this ordinance, as well as the violation of any law, state, or federal, relating to the business of the licensee. If such act, omission, or violation is done by an agent, servant, employee, or officers of the licensee, the lack of knowledge on the part of the licensee or the lack of authorization for such act or omission or violation shall be no defense.
- b. The entry of a plea of guilty or nolo contendere, or the conviction of any licensee with respect to a charge of violation of any of the laws of the State of Georgia, or of the United States relating to alcohol control, or any crime, whether a felony or not, involving moral turpitude.
- c. The occurrence on two or more occasions within any 12-month period of fights, disorderly conduct, drunkenness, breach of the peace, and other similar conduct whether the same be committed by the licensee or by customers or others.
- d. Any other act or omission with respect to the operations of a business licensed hereunder which the council shall find to be contrary to the public interest, or which shall render the applicant or the business location unfit for the continued operation of the business.

e. The making of any statement on an application for a license which is later found to be false.

3-128 Whether License Suspended or Revoked

The council shall have the right to revoke a license for cause shown or to suspend the same for a period of time. Whether a license shall be suspended or revoked, and if suspended, for what period of time shall be determined by the council after a consideration of the evidence in the cause and in accordance with the council's findings as to the severity of the offense.

3-129 No New License to be issued After Revocation.

When a license has been revoked under the provisions of this ordinance, no application for a new license for the same location will be received for a period of 12 months; and no application for a new license from the licensee involved shall be received for a period of 24 months from the date of said revocation of suspension.

3-130 Motion for Rehearing.

Any person, firm, or corporation aggrieved by act or omission of the council with respect to its proceedings under this ordinance, including the suspension or revocation of a license, shall have the right to move for a rehearing. Such motion for rehearing shall be filed within five days after the act or omission complained of, shall be in writing, and shall outline the manner in which such protestant believes the council erred. If the motion relates to a matter as to which evidence has already been heard, no additional evidence or argument shall be permitted on the motion for rehearing except after a grant hereof by the council. If the matter of which complaint is made was not the subject of a prior hearing at which the protestant was permitted to be present and heard, the council shall afford a hearing within 10 days after the filing of the motion, of which persons interested in protesting or supporting the act or omission of the council shall be allowed to appear, be represented, introduce oral and documentary evidence, and examine and cross-examine witnesses.

Article 2: Spirituous Liquors

3-200 Definitions

The definitions of words and phrases specified and declared in Section 3-1-2 of the Official Code of Georgia, Annotated, are hereby adopted for all purposes under this article.

3-201 Distributing, Selling, Etc., Forbidden

No person shall engage in the business of manufacturing, distributing, or selling, any liquors within the limits of the City of Irwinton unless approved in a referendum by Wilkinson County and City of Irwinton voters.

3-202 Possession of Non-Tax Paid Liquor

It shall be illegal and a violation of this ordinance, and an offense against said city, for any person to have in his possession or custody or control, regardless of the use of the same, any quantity, however small, any alcoholic beverage or liquor on which all required federal and state taxes thereon have not been paid

in full, and on which proper and sufficient governmental stamps or decals are not affixed to the package or container.

Article 3: The Sale of Alcoholic Beverages by the Drink

3-300 License Requirement

No beer or wine shall be sold by the drink for consumption on the premise except under an annual license granted by the City of Irwinton. Licenses for sale of alcoholic beverages by the drink shall only be granted to those businesses which also operate primarily as restaurants with a minimum of 50 percent of their total revenue coming from food service. All other entities wishing to serve alcohol shall apply for a limited pour license.

3-301 Place of Sale or Delivery

No licensee shall sell or deliver any beer or wine to any person except in the licensee's place of business.

3-302 Containers and Manner of Delivery

The sale of beer and wine by any consumption on-premise licensee in unbroken packages or in any quantity other than consumption on-premise is prohibited.

3-303 Storage Spaces

The licensee shall keep no inventory or stock of beer or wine at any place except his licensed place of business. Within their licensed place of business, the storage space a licensee uses for beer and wine shall be immediately adjacent to the room in which they are licensed to do business.

3-304 Duties of Licensee and Agents

- (a) It is the responsibility of the licensee to be familiar with all applicable state and local laws, ordinances, and regulations associated with the sale of beer and wine.
- (b) The licensee shall be responsible for ensuring that all employees and agents are familiar with all laws, ordinances, and regulations in association with the buying, selling, and distribution of alcohol and that agents and employees under the license abide by all said laws and policies.

3-305 Inspection of Premise

Any business selling beer or wine by the drink is subject to inspection during business hours by officers or officials authorized to conduct such inspection.

3-306 Structure Requirements

No consumption on-premise license shall be issued to any person unless complete and detailed floor plans of the building in which the business will be located, and of the outside premise, are attached to the application, or unless a building permit of a proposed building is attached to the application. The licensee is required to show proof of ownership of the building or provide a copy of an executed leasing

agreement. The final building is also subject to final inspection and approval when completed. Each section of the building including outdoor space, passageways, and hallways are required to have adequate lighting. All buildings where consumption on-premise beer and wine are to be sold should have adequate sanitary toilet facilities.

3-307 Gambling

There shall be no gambling, betting, games of chance, slot machines, lotteries or tickets of chance, the operation of any scheme for hazarding money or any other thing of value at the establishment for which an alcohol license has been issued or in any room adjoined to one at which an alcohol license has been issued.

3-308 Limited Pour License

The following establishments may apply for a limited pouring license allowing them to sell beer and wine by the glass within the City of Irwinton provided that they stay in compliance with O.C.G.A Title 3:

- (a) Performing Arts Facilities and Theaters, only during shows/performances,
- (b) Art Galleries/ Studios and Craftsman Studios, during advertised art shows, open houses, and exhibitions;
- (c) Arts/Craft/Hobby Shops, Book Stores, Culinary Kitchen Shops, Fabric Shops, and Music Shops, only during individual instruction, classes, and group activities;
- (d) Salons and Spas, during the course of regular services purchased and provided;
- (e) Dessert Shops

Article 4: Brewpub Licenses

3-400 License Requirement

No brewpub will be operated within the City of Irwinton without first obtaining a license.

3-401 Sale

A Brewpub license authorizes the holder to manufacture no more than 5,000 barrels of beer for consumption on the premise, wholesale, and individual sale in sealed retail packages.

3-402 Promotions Prohibited

Free sampling of beer is prohibited. A brewpub may not offer any “happy hour” discounts, “buy one get one free” or other specials as it pertains to the buying and selling of beer.

3-403 Distribution of Beer

Distribution of beer produced by a brewpub to a wholesaler is permitted. The sale of beer produced in a brewpub should not be sold to a business or retailer for the purpose of resale.

3-404 Excise Tax

There shall be a levied excise tax on all beers produced by a brewpub at \$6.00/half barrel (15.5 gallons) and \$12.00 per barrel (31 gallons) to be paid on the first day of each month. Each brewpub shall also submit a monthly report detailing all beer sales for the month prior. Failure to submit reports and excise tax by the first of each month will result in a \$25.00 late fee.

Article 5: Temporary License for Special Events

3-500 License Requirement

Vendors for special events who wish to sell beer in any capacity, including open containers to be consumed on the event premise must apply for a day special event license.

No license is transferable or assignable to any other person, entity, or location.

3-501 Boundaries

The sale of beer and wine for on-premise consumption is only permitted within the designated areas and the designated time frame allotted by the City of Irwinton at the time of license application.

3-502 State Requirements

Vendors must comply with all state regulations. Vendors must file an application and pay the \$25.00 application fee to the commissioner of the state department of revenue and receive approval and the issuance of a license. No more than six state licenses may be awarded to a single vendor per calendar year.

3-503 City License Requirements

To obtain a city license the applicant must:

- (a) Apply at least 14 days prior to the scheduled event
- (b) Pay a \$25.00 licensing fee per event.

Chapter 4: Animals and Fowl

Article 1: Animals at Large:

4-100 Animals Running at Large

It shall be unlawful for the owner or keeper of any dogs, cattle, horses, mules, goats, sheep, hogs, turkeys, chickens, or other livestock or fowls, to permit such animal or fowl to run at large upon the streets, alleys, sidewalks, parks, or public squares of said city.

Unless another penalty is expressly provided by law, every person convicted of a violation of any provisions of this ordinance shall be punished as provided in Section 1-107 of this Code of Ordinances.

Article 2: Dogs

4-200 Definitions

The following definitions shall apply in the interpretation and enforcement of this article:

“Dog” shall mean dog, of either sex, whether or not vaccinated against rabies.

“Vaccinate” shall mean the injection, by a veterinarian, of a specified dose of anti-rabies vaccine into the body of a dog, such vaccine having the U.S. Department of Agriculture Biologic's Control Section license number stamped on the label of the vaccine container and having been approved by the Georgia Department of Public Health. Vaccines used for vaccination of dogs against rabies shall be refrigerated and kept under proper conditions and shall show no signs of spoilage, outdating, or otherwise be unfit for producing immunity against rabies.

“Veterinarian” shall mean any person who holds a license to practice the profession of veterinary medicine in the State of Georgia; the number of the license shall be the same as that recorded by the Georgia Board of Veterinary Examiners.

“Rabies Control Officer” shall mean an employee of the Wilkinson County Department of Public Health or another such person within the said city as they may designate and appoint to carry out the provisions of this ordinance.

“Deputy Rabies Control Officer” shall mean any other person deputized by the rabies control officer as an assistant.

“Rabies Vaccination Tag” shall mean a metal tag furnished by the Georgia Department of Public Health or the county Board of Health at the time of vaccination as evidence of vaccination.

“Pound” shall mean the facilities operated by the City of Irwinton for confining dogs impounded under the provisions of this ordinance.

“Certificate” shall mean a certificate issued at the time of vaccination of the dog, and bearing thereon the signature of the veterinarian, the license number, the name, color, breed, and sex of the dog, the name and address of the owner, the date of the vaccination, and the type, manufacturer, and lot number of the vaccine used.

“Owner” shall mean and include any person having a right of property in the dog, or who keeps or harbors a dog, or who has in its care, or acts as its custodian, or who permits a dog to remain on or about any premises occupied by him.

4-210 Vaccination and Licensing of Dogs

(a) It shall be unlawful for any person to own, keep, maintain, or harbor any dog three months of age or over, unless such dog has been vaccinated and holds a current, unexpired license tag and certificate issued in accordance with the provisions of this ordinance.

(b) Dogs less than three months of age shall be confined to their owners' premises and shall not be

allowed to run at large.

- (c) Every dog has been vaccinated in accordance with the provisions of this ordinance shall at all times wear the license tag in a manner approved by the health officer.
- (d) Any licensed veterinarian shall be entitled in connection with his practice, on the request of any given dog owner, to vaccinate such dogs against rabies, provided that at the time of such vaccination, he provides a dog tag issued by the Wilkinson County or State Department of Public Health, bearing the official serial number furnishing at the same time to the dog owner, a certificate or certificates certifying to the vaccination of each dog, furnishing one copy to the Wilkinson County Department of Public Health and one copy to be kept by the veterinarian for his file.
- (e) The Wilkinson County Department of Public Health may conduct clinics for the vaccination of dogs against rabies at such times and places as designated by the county board of health.
- (f) Any owner or custodian of any dog not previously vaccinated by an authorized veterinarian shall be subject to have the animal impounded and to be prosecuted for violation of this ordinance.
- (g) No person shall vaccinate any dog against rabies with any substance other than a vaccine meeting the specifications set forth in section 4- 200 (vaccinate).
- (h) It shall be the duty of all persons owning or having charge of any dog brought into the city to have such dog vaccinated and to obtain within the past twelve months with a quality and a quantity of vaccine prescribed by this ordinance by a person duly licensed to practice veterinary medicine, such dog shall not be required to be re-vaccinated, but the owner of such dog shall obtain a license tag and certificate therefore as required by this ordinance.
- (i) Dogs entering the city on temporary stay not exceeding fourteen (14) days and kept under the direct control of their owners are exempt from the license requirements of this ordinance provided that the owner has evidence of current rabies vaccination as defined in section 4-200.

4-202 Rabies Cases to be Reported

It shall be the duty of any person knowing of a rabid dog or of a dog showing signs of rabies, to immediately report such dog to the health officer and give as much additional pertinent information as possible.

4-203 Quarantine.

- (a) Where rabies has been found to exist in any animal, or where its existence suspected, the health officer or other designated person or officer, may designate an area within quarantine or of all such animals shall be maintained and all such animals shall thereupon be immediately confined to the premises designated by the health department in a manner approved by the county board of health whether or not such animal has been vaccinated against rabies.

- (b) No animal shall be removed from or brought into a quarantined area or premises without the written approval of the county board of health.
- (c) Quarantine ordered by the county board of health shall be maintained for such period as the county board of health deems necessary to protect the public health.
- (d) Quarantined areas or premises and areas where rabid animals or animals suspected of rabies remain at large, may be posted by the county board of health with signs which read as follows: "Rabies Suspected" or "Rabies-- Keep Away From Animals". Such signs shall be conspicuously displayed in a place designated by the health officer or county board of health and shall not be defaced or removed except by the county board of health and shall not be defaced or removed except by the county board of health. Signs furnished and approved by the county board of health shall be used.
- (e) The owner or custodian of each animal subject to a quarantine invoked by the health officer or county board of health under the terms of this ordinance shall be notified of the quarantine, the particular animals subject hereto, and shall be given such other information as the county board of health deems necessary.
- (f) The heads of all animals having rabies or suspected of having rabies at the time of death shall be submitted to the Georgia Department_of Public Health Laboratory (or county health department laboratory) for examination.

4-204 Impoundment of Dogs

- (a) Dogs or other animals within any of the following classes may be captured and impounded in the city:
 - 1) Dogs whose ownership is unknown.
 - 2) Vicious dogs and animals of all kinds.
 - 3) Dogs or other animals that have bitten a person or animal, or which have been bitten by a dog or by a dog suspected of having rabies.
 - 4) Dogs not tagged with an expired Wilkinson County or Georgia Department of Public Health license tag.
 - 5) Dogs not vaccinated for rabies within the last 12 months.
 - 6) Dogs suspected of having rabies.
 - 7) Unconfined dogs in quarantined areas
- (b) No dog shall be exempted from this provision by virtue of vaccination, license tag, or certificate.
- (c) When a dog's owner can be readily identified and located, the health officer or county board of health shall notify the owner that such dog has been impounded. If an impounded dog is not claimed within three days of the date such dog is impounded, such dog shall be disposed of in a manner approved by the health department; provided, that the animal under observation for rabies symptoms remain in the confinement of a veterinarian, the pound, or on the owners premises if adequate quarantine can be provided for seven days such period of time as the county board of health may deem necessary to protect the public health; and provided that the county board of health may, in discretion, offer for adoption, any dog not deemed or claimed

within three) days by the person having right of possession, to any person desiring the dog, but only after such person has complied with all applicable provisions of this ordinance and has paid a fee of fifty dollars plus vaccination fee to cover the cost of vaccinating, licensing, and impounding of the dog.

- (d) All impounded dogs shall be vaccinated and licensed before being released to the owner; a fee of \$50.00 plus vaccination fee shall be collected for each dog so released to cover the cost of vaccination, licensing, and impounding. Dogs that have been vaccinated and licensed before becoming impounded shall be released to their owners within three days after capture upon payment of a \$50.00 pound fee, provided that the health officer is of the opinion that such release will not impair the safety of the public. Every animal impounded under the provisions of this ordinance that is found, upon the arrival at the pound, to be diseased or injured, and whose owner is unknown or relinquishes ownership in writing, shall be disposed of in a humane manner if not accepted by an organization approved by the health department, provided such organization signs a receipt for the animal.
- (e) Every animal suspected of having rabies shall remain in quarantine until its natural death or until its freedom from suspicion of rabies has been established to the satisfaction of the board of health; nothing in this ordinance shall be interpreted to the contrary.
- (f) The health officer or another person responsible for the carrying out of the provisions of this ordinance shall exercise every reasonable care to prevent the injury, illness, death, escape, or pilfering of any dog that he deals with in carrying out the provisions of this ordinance, but he shall not be responsible for any such occurrence.

Chapter 5: Business Regulation and Taxation

Article 1: Occupation Taxes, Generally

5-100 Definitions.

The following words, terms, and phrases shall, for the purposes of this chapter, have the following meaning:

“Employee” refers to an individual whose work is performed under the direction and supervision of the employer and whose employer withholds FICA, federal income tax, or state income tax from such individual's compensation or whose employer issues to such individual, for purposes of documenting compensation, a form I.R.S. W-2 but not a form I.R.S. 1099.

“Location or Office” shall include any structure or vehicle where a business, profession, or occupation is conducted, but shall not include a temporary or construction worksite which serves a single customer or project, nor a vehicle used for sales or delivery by a business or practitioner of a profession.

“Occupation Tax” shall be defined as a tax levied on persons, partnerships, corporations or other entities for engaging in an occupation, profession or business and enacted by a local government as a revenue-raising ordinance for the City of Irwinton.

“Occupation Tax Certificate or Business License” refers to a document issued by the City of Irwinton acknowledging payment of the occupation tax.

“Practitioners of Professions and Occupations” refers to those individuals listed in O.C.G.A. Section 48-13-9(c)(1-18) but does not include a practitioner who is an employee of a business if such business pays an occupation tax.

5-101 Occupation Tax Levied.

An occupation tax based upon the number of employees in the City of Irwinton is levied upon businesses and practitioners of professions and occupations with one or more locations or offices within the corporate limits of the city. The city shall not require the payment of more than one occupation tax for multiple locations within the city. Pursuant to the terms and exemptions of O.C.G.A. Section 48-13-7, an occupation tax is also levied upon out-of-state businesses with no location or office in the city, but with employees or agents engaging in substantial efforts to solicit business or serve customers or clients in the State of Georgia.

The City of Irwinton shall adopt a fee schedule by resolution.

Businesses seeking any other exemption from or limitation to the occupation tax imposed by this ordinance shall submit documentation justifying such a request to the City of Irwinton.

5-102 Occupation Tax Certificate.

Every business, practitioner, and location subject to payment of the occupation tax levied by this ordinance shall display a current occupation tax certificate in a conspicuous place at the location for which

such certificate was issued. If the taxpayer does not have a permanent location within the City, the occupation tax certificate shall be shown to any police officer or the city clerk upon request.

5-103 Due Date for Occupation Tax.

Occupation tax renewals shall be due to the City of Irwinton by December 31 for each year. If a business or practitioner commences business in the city on or after July 1 in any year, the occupation tax for the remaining portion of the year shall be 50 percent of the tax imposed for the entire year.

5-104 Practitioners on Professions and Occupations.

Practitioners of professions as defined in this ordinance shall pay the occupation tax as set forth by the City of Irwinton or may elect to instead pay an occupation tax of \$400.00 per practitioner. On such time as the practitioner first commences business in the City, the practitioner shall elect a method of taxation. Such election shall be changed for subsequent calendar years only by written request filed by the practitioner, to become effective on January 1 of the following year.

5-105 Exemptions.

No occupation tax shall be levied upon any business where the levy of such occupation tax is prohibited by the laws of the State of Georgia or the United States. On such time as an exempt entity first commences business in the City, said entity shall notify the city clerk of their exemption from payment of the occupation tax.

The exemptions and limitations contained in this ordinance shall not be construed to repeal or otherwise affect in any way any franchise fees, business taxes or other fees or taxes otherwise allowed by the law.

5-106 Evidence of State Registration when Required.

Each person who is licensed under Title 43 of the Official Code of Georgia Annotated by the Examining Boards of the Secretary of State's office shall provide evidence of proper and current state licensure before any city occupation tax certificate may be issued.

Article 2: Insurance Company License Fees and Gross Direct Premium Tax

5-200 Insurers License Fees.

Pursuant to O.C.G.A. § 33-8-8, there is hereby levied an annual license fee upon each insurer doing business within the City of Irwinton in the amount of \$15.00. For each separate business location in excess of one not covered by section 5-201, which is operating on behalf of insurers within the City of Irwinton, there is hereby levied a license fee in the amount of fifteen dollars (\$15.00). For the purpose of this ordinance, the term "insurer" means a company that is authorized to transact business in any of the classes of insurance designated in O.C.G.A. § 33-8-8.

5-201 License Fee for Insurers Insuring Certain Risks at Additional Business Locations.

For each business location, not otherwise subject to a license fee hereunder, operated and maintained by a business organization which is engaged in the business of lending money or transacting sales involving

term financing and in connection with such loans or sales, offers, solicits, or takes application for insurance through a licensed agent of an insurer for insurance, said insurer shall pay an additional annual license fee of ten dollars (\$10.00) per location.

5-202 Independent Insurance Agencies, Brokers, etc. Not Otherwise Licensed.

There is hereby levied an annual license fee upon independent agencies and brokers for each separate business location for which an insurance business is conducted and which is not subject to the company license fee imposed by section 9-100 thereof, in the amount of \$15.00 for each such location within the City of Irwinton.

5-202 Due Date for License Fees.

License fees imposed in the above sections of this ordinance shall be due to the City of Irwinton by December 31 for each year. Every insurance company subject to the provisions of this ordinance shall file with the city clerk a report showing the names and addresses of its agents representing such company within the city; the report shall require the location and the person in charge of each and every business location within the city-operated and maintained by said company and such other reasonable information as may be required. Said report shall be filed at the time of paying the license fee prescribed therein.

5-203 Rate of Gross Premium Tax Levy on Life Insurers.

There is hereby set and levied upon each company authorized to write life, accident and health insurance, and which is doing business within the municipal corporate limits, an annual tax equal to 1 percent of the annual gross premiums received during the preceding calendar year from policies insuring persons residing within the City of Irwinton as used in this section shall have the same meaning as that used in Chapter 56-13 (Section 33-8-8 of the official Code of Georgia) of the Insurance Code of Georgia as amended. The tax levied by this subsection is in addition to any license fee imposed by this municipal Code.

5-204 Rate of Gross Premium Tax Levy on All Other Insurers.

There is hereby set and levied upon each insurance company not taxed under the provisions of the preceding section 5-205, and which is doing business within the municipal corporate limits, an annual tax equal to 2.5 percent of the annual gross direct premiums received during the preceding calendar year from policies insuring persons residing within the municipal corporate limits. The tax levied by this subsection is in addition to any license fee imposed by this municipal Code.

5-205 False Information.

It is hereby declared to be a violation of this ordinance for any person, firm, corporation or agents thereof to knowingly give false or incomplete information on any report herein required to be filed.

5-206 Confidentiality of Information.

All reports required to be filed under this section shall be confidential and the information contained therein shall be used solely by the officers of the city responsible for the administration of this section.

5-207 Enforcement.

The license fee prescribed by this article may be enforced by execution in the same manner as other taxes owed to the City of Irwinton. A violation of this ordinance shall be grounds for refusing or revoking a license and the individual responsible may be punished as provided for in the Code of Ordinances of the City of Irwinton. The taxes levied by this article may be enforced by execution in the same manner as other taxes of this municipality.

Article 3: Financial Institutions

5-300 Gross Receipts Tax Levied.

Pursuant to O.C.G.A. Section 48-6-93, there is levied an annual license tax upon depository financial institutions at the rate of 0.25 percent of the gross receipts of such institutions. Notwithstanding any other provisions of this section, the minimum amount of business license tax due from any depository financial institution pursuant to this section shall be \$1,000 per year. "Gross receipts" shall be defined as in O.C.G.A. Section 48-6-95.

5-301 Due Date; Filing of Return.

Each depository financial institution within the City of Irwinton shall file a return of its gross receipts with the City of Irwinton by March 1 of the year following the year in which such gross receipts were measured. Said returns shall be in the manner and in the form prescribed by the Commissioner of the Department of Banking and Finance and shall be based upon the allocation method set forth in Section 48-6-93(d) of the Official Code of Georgia Annotated. The tax levied pursuant to this ordinance shall be assessed and collected based upon the information provided in said return. The due date of taxes levied by this ordinance shall be April 1 of each year.

5-302 Exemption from Occupation Tax.

Except as authorized under this article, no form of occupation tax or fee shall be levied on any depository financial institution by the City of Irwinton.

Article 4: Telephone Companies

5-400 Due Compensation for Actual Recurring Local Service Revenue.

Each telephone company operating in the City of Irwinton shall pay due compensation on local service revenue for each calendar year in the amount of 3 percent of recurring local service revenues received by such company from subscribers located within the City of Irwinton. "Recurring local service revenues" shall be defined as in O.C.G.A. §46-5-1(b)(9). Such compensation shall be remitted to the City of Irwinton as detailed in O.C.G.A. §46-5-1(b)(11).

5-401 Levying of Other Taxes and Fees

The occupational license tax provided for in subsection 14-19(a) shall be charged in lieu of any other business license or permit fee, or any other fee specified in O.C.G.A. §46-5-1(b) (10). Nothing in this definition shall preclude the charging of a separate franchise fee for the transmission of audio or video programs to customers by cable television companies.

Chapter 6: Offenses and Miscellaneous Provisions

6-100 Defacing, Destroying Public Property.

In accordance with § O.C.G.A 16-7-24 and § O.C.G.A 16-7-25, it shall be unlawful for any person or persons to destroy or deface any public building, room, or portion of such building or room.

6-101 Disorderly Conduct.

It shall be unlawful for any person or persons to disturb or endanger the public peace, wellbeing, or safety by any disorderly conduct in accordance with O.C.G.A 16-11-39.

6-102 Public Drunkenness.

In accordance with § O.C.G.A 16-11-41 (a), 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 a misdemeanor.

6-103 Fire Arms. Discharging. Concealed Weapons

(a) In accordance with § O.C.G.A 16-11-173 (e), it shall be unlawful for any person to fire or discharge any firearms within the city limits, unless:

- (1) In defense of a person, habitation or any other property to the extent such defense would constitute legal justification under state law;
- (2) On their own property;
- (3) At an indoor commercial, licensed shooting range;
- (4) At an indoor, private, or non-commercial shooting range that has safety features comparable to those required of an indoor commercial shooting range or otherwise adequate to protect persons inside and outside the range from injury; or
- (5) Within areas delineated by resolution of the Irwinton City Council as being appropriate for the safe and lawful discharge of firearms.

(b) It shall be unlawful for any person to discharge a weapon on or into the property of another person without the expressed permission of such property owner.

6-104 Gambling.

(a) In accordance with § O.C.G.A 16-1-21, § O.C.G.A. 16-2-22, and § O.C.G.A 16-2-23, it shall be unlawful to gather within the City of Irwinton for any public display of gambling, betting, games of chance, punch board, slot machines, or any other scheme hazarding money or any other thing of value, including but limited to, games played with cards, dice, or balls or for the purpose of playing and betting money, or other things of value, at any table of whatever name, kind, or description, for

gaming; or for the purpose of betting at any game of nine-pins, or any other number of pins, or at any billiard or pool table.

- (b) This provision shall not be read to prohibit the sale of any lottery tickets authorized under Chapter 27 of Title 50 of the Official Code of Georgia Annotated, the Georgia Lottery for Education Act.

6-105 Posting Signs on Poles Prohibited.

- (a) No person shall post or attach to any tree, telephone, telegraph, or electric light pole in the streets, lanes, and alleys of the city any advertising matter, campaign literature, papers, or documents.
- (b) No person shall in any manner destroy, deface, change, alter, or interfere with any official sign erected within the city by any official of the city.

6-106 Dumping of Trash and Animals.

Garbage, refuse, trash, debris, or dead animals shall only be disposed of in designated containers provided by the City of Irwinton as referenced in §O.C.G.A 16-7-43 (a)(1)). For each violation of this ordinance, such person, business, or organization shall be fined the sum of \$100.00.

Chapter 7: Police Department

7-100 Composition.

The police department shall consist of the chief of police and such other officers and personnel as the City Council shall approve.

7-101 Oath.

Prior to entering upon the duties of their respective offices, all officers of the police department shall take and subscribe to the oath prescribed by the City Council.

7-102 Police Chief – Appointment.

- (a) The police chief shall be appointed by the mayor and approved by the city council or its designee and shall be the chief executive officer of the police department, subject to the orders and regulations of the mayor and city council.
- (b) In the event of resignation, removal, death, or disability of the police chief, the officer next in rank shall perform the duties of the chief until removal of such disability or until a successor has been duly appointed and approved.

7-103 Disposition of stolen, abandoned, or impounded property.

Disposition of all personal property seized or abandoned and in the custody of the police department shall be disposed of only in accordance with O.C.G.A §17-5-54.

7-104 Arrest Authority.

Police officers of the City may make arrests for the violation of this Code, municipal ordinances and state laws in accordance with O.C.G.A §14-4-1 et. seq.

7-105 Disposition of fines and forfeitures

All fines and forfeitures collected upon conviction or upon the forfeiture of bail for any person charged with a violation of any of the provisions of this chapter or other ordinance of the City shall be paid into the city treasury.

Chapter 8: Traffic

Article I: In General

8-100 Uniform Rules of the Road

Pursuant to Chapter 6 of Title 40 of the Official Code of Georgia Annotated, Code Sections 40-6-372 through 40-6-376, Chapter 6 of Title 40 of the Official Code of Georgia Annotated known as the Uniform Rules of the Road and the definitions contained in Code Section 40-1-1 are hereby adopted as and for the traffic regulations of the city with like effect as if recited herein.

8-101 Temporary Traffic Regulations

In cases where traffic upon the streets of the city may become congested upon occasions of parades or other public assemblages where large numbers of vehicles are assembled, the police may make temporary rules regulating the traffic in these congested districts. No person, after being warned of the temporary traffic regulations, shall violate any of the same.

8-102 Penalties

Unless another penalty is expressly provided by law, every person convicted of a violation of any provisions of this ordinance shall be punished as provided in Section 1-107 of this Code of Ordinances.

Article II – Speed Zones

8-200 Speed Zones

Pursuant to the authority granted to municipalities by O.C.G.A. §§ 40-6-183 and 40-6-376 of the Uniform Rules of the Road Act, the city council is authorized to adopt specific speed zones by resolution. The Georgia Department of Transportation is responsible for the installation of speed zone signs on all state routes. The City of Irwinton is responsible for the installation of signs on off-system routes.

Article III: Impoundment of Vehicles

8-300 Authority to Establish Pound

The chief of police is hereby authorized to create a vehicle pound or pounds to which automobiles and other vehicles may be removed by police officers in the manner hereto after provided. Such pound or pounds shall be located at such places as may be designated by the chief of police.

8-301 Immediate Record of Impounding to be Made.

It shall be the duty of the officer impounding a vehicle to immediately report the fact of such impounding, together with any other information which will identify the vehicle to the chief of police. A permanent record of impoundment shall be made, a copy shall be filed with the city clerk.

8-302 Impounding Fee.

A fee set by the mayor and city council in addition to the cost of removal and storage shall be assessed

against the owner, or other person having the right to the possession of the impounded vehicle.

8-303 Release of Impounded Vehicle.

Any person claiming a vehicle impounded under this chapter shall produce evidence of their identity and ownership or right of possession to a police officer and pay to such officer the fees and costs for the removal and storage. A receipt shall be given, and an order issued to the officer in charge of the pound to discharge the vehicle and to deliver the same to such person. Thereupon, the impounded vehicle shall be surrendered by the officer in charge, who shall take a receipt for such impounded vehicle. Such receipt shall identify the vehicle and become a permanent record of the police department. A copy of such receipt shall be delivered to the city clerk.

8-304 Pound Record and Fee Accounting.

It shall be the duty of the chief of police to keep a permanent record of all vehicles committed to the pound, the names and addresses of such owners of vehicles, the numbers of the vehicles' license tags, and the nature and circumstances of each violation, as well as the disposition of each case and to account for all fees collected under this ordinance and pay the same to the city clerk taking a receipt therefore.

8-305 Impounding Does Not Preclude Other Prosecution.

The impounding of a vehicle shall not prevent or preclude prosecution for violations of the penal provisions of this chapter or other ordinances relating to traffic.

Article IV: All-Terrain Vehicles

8-400 Definitions

The following words and phrases, when used in this section, shall have the meanings as set out herein:

All-Terrain Vehicles (ATV) means a self-propelled vehicle designed primarily for operation over natural terrain and steered by wheels, to specifically include, but not be limited to, off-road motorcycles, three-wheelers, four-wheelers and all other such vehicles with one or more wheels. The term "ATV" is not intended to include bicycles or street-legal vehicles operating on public road rights-of-way.

ATV trails mean the property designated and posted for lawful, authorized use by ATVs.

Operate means to ride in or on and control the operation of an ATV.

Operator means every person who operates an ATV.

Owner means a person, other than a person with a security interest, having a right of use regarding, property interest in or title to an ATV and entitled to the use and possession of the vehicle.

Public road right-of-way means the entire right-of-way of a public road, street or highway including the traveled portions, banks, ditches, shoulders and medians of a roadway that is not privately owned.

8-402 Intent

It is the intent of this section to limit the use of ATVs within incorporated Irwinton, Georgia.

8-403 Unlawful Operation

Unless otherwise noted, it is unlawful for any person to operate an ATV

- (a) In a careless, reckless or negligent manner or heedlessly in disregard of the rights or safety of others, or in a manner so as to endanger, or be likely to endanger, or cause injury or damage to any person or property.
- (b) So as to tow any person or thing on a public road right-of-way.
- (c) In a manner so as to create loud, unnecessary or unusual and unreasonable noise so as to disturb or interfere with the peace and quiet of other reasonable persons of ordinary sensibilities. Such sound that is plainly audible at a distance of 200 feet from the origin of sound shall be presumed to be a violation of this provision. Additionally, it shall be presumed to be a violation of this provision if an individual ride an ATV continuously past, around, or near an inhabited dwelling place so as to disturb or unduly annoy the inhabitants.
- (d) On private property without the express permission to do so by the owner and occupant of the property.
- (e) On public grounds, park property, playgrounds, recreational areas, cemeteries or any other public places, except on posted "ATV trail" locations, unless the operator has the express permission of the proper public authority.
- (f) On any portion of the paved public road right-of-way or any unpaved portion of a public road right-of-way that is used for automated travel.

8-404 Age Restrictions

No person shall operate an ATV in violation of the age requirements established by Georgia state law.

8-405 Organized Events

Nothing in this section shall prohibit the use of ATVs within the city limits in organized events, provided the event organization and property owner does not object to such use.

8-406 Exceptions

This section shall not apply to:

- (a) Any military, fire or law enforcement vehicle;
- (b) Any farm machinery, farm tractors, and other self-propelled equipment for harvesting and transportation of forest products, for clearing land for planting, for utility services and maintenance, for earthmoving, and for like activities, and

- (c) Self-propelled lawnmowers, garden or lawn tractors while such vehicles are being used exclusively for their designed purposes and used in a location consistent with their designed purpose.

8-407 Penalties

Any person violating the terms of this section shall be subject to the issuance of a citation, and if proven guilty before a court of competent jurisdiction, shall be subject to a penalty in accordance with Section 1-107.

Chapter 9: Nuisance

9-100 Definitions.

For the purposes of this ordinance, the following terms are thusly defined:

- (a) Nuisance: Anything that causes hurt, inconvenience, or damage to others or a threat to public health and safety. The fact that the committed act may otherwise be lawful, shall not keep it from being a nuisance. The inconvenience complained of shall not be fanciful, or such as would affect only one of a fastidious taste, but it shall be such as would affect an ordinary, reasonable person.
- (b) Abandoned Building: Any building or structure which has been abandoned, or which, because of inadequate maintenance, dilapidation, decay, damage, faulty construction or arrangement, inadequate light, air or sanitation facilities, or otherwise is determined to be unsanitary, unfit for human habitation or in such a condition that is likely to threaten the health or safety of others.
- (c) Abandoned Vehicle: A vehicle, including cars, trucks, trailers, boats, motorcycles, recreational vehicles, mobile homes, manufactured homes, or any other similar vehicle, that meets one or more of the following conditions: (1) Has been left unattended upon a highway, street, or alley or other public property outside a designated parking space for a period in excess of 48 hours; and/or, (2) Is within public view and is inoperable, partially or wholly dismantled, wrecked, junked, discarded, or of similar condition, or any vehicle without a current license plate if required by law, and is located outside of an enclosed building, garage, carport, wrecked motor vehicle compound, or other place of business designated and lawfully used for the storage of such inoperable vehicles, for a period exceeding 60 days.
- (d) Dilapidated: Caused or allowed (a structure, automobile, etc.) to fall into a state of disrepair (or to be in such a state), as by misuse or neglect.
- (e) Dwelling: Any building or structure or part thereof used and occupied for human habitation or occupation or intended to be used for such purpose, including any outbuilding and appurtenances belonging thereto or usually enjoyed therewith.
- (f) Air Assisted Brake Systems: A braking system operated through the release of energy through a vehicle's exhaust system.

- (g) Junk: Litter, debris, rubber, waste materials of any kind, dead animals, used or unserviceable automobile and machinery parts, scrap, salvage, or used and non-functional furniture and appliances, used and non-functional tools, equipment, and implements.
- (h) Junk Vehicle: An abandoned motor vehicle that does not display a current license plate or tag, updated vehicle registration, valid insurance coverage, and that
 - (1) is wholly or partially dismantled or wrecked; or
 - (2) cannot be self-propelled or moved in the manner in which it was intended; or
 - (3) is disabled and/or in an inoperative condition if it is not moved for a time period of 60 days, except it is enclosed within a garage or other building or behind an opaque fence that completely obstructs the view.
- (i) Occupant: Any person who occupies real property, whether with or without any right, title, or interest in the property, and any person in possession or charge of such property, in the event the owner resides or is located elsewhere.
- (j) Operate: To perform a function that includes to ride in or on and control the operation of a vehicle, as defined below.
- (k) Owner: Any person, persons, organization, or corporation that owns, in whole or in part, the land, structure, or other property or is the purchaser of the property under contract or deed.
- (l) Vehicle: Any device designed with internal combustion or another type engine for motorized transportation of persons or property over public rights-of-way.
- (m) Visible: Capable of being seen without visual aid by a person of normal visual acuity.
- (n) Weeds: As used herein, means any of the following:
 - 1) Brush and woody vines shall be classified as weeds;
 - 2) Indigenous grasses which may attain such large growth as to become, when dry, a fire menace to adjacent improved property;
 - 3) Grasses which bear or may bear seeds of a downy or wingy nature;
 - 4) Grasses which are in an area which harbors rats, insects, animals, reptiles or any other creature which either may or does constitute a menace to public health, safety, or welfare of the community;
 - 5) Indigenous grass on or about residential property, which, because of its height, has a blighting influence on the neighborhood.
 - 6) Any such indigenous grass grown to a height higher than allowable in this ordinance.

9-101 Nuisances Explained.

For the purposes of this article, the existence or accumulation of any combination of the following conditions or things on lands within the city is hereby declared to be a nuisance; although this section

shall not be construed to be limiting regarding its enumeration of nuisances:

- (a) Abandoned buildings
- (b) Abandoned vehicles
- (c) Junk Vehicles
- (d) Weeds or grass within a residential or commercial area allowed to grow to a height greater than 12 inches on the average, or any accumulation of dead weeds, grass, or brush, that may provide safe harborage for rats, mice, snakes and/or other vermin.
- (e) Vegetation that obstructs the safe passage or line-of-sight of motorists or pedestrians at an intersection or driveway connection with a public or private street or alley, or along any street or sidewalk.
- (f) Dead or dying trees or other vegetation which may cause a hazardous situation if they fall.
- (g) Junk
- (h) Animal carcasses
- (i) Dilapidated structures
- (j) Use of Air Assisted Braking Systems, except in the case of use resulting from a bona fide emergency that threatens life, health or property.
- (k) All unreasonable noises which may annoy or inhibit others in their reasonable enjoyment of the use of their property.
- (l) All disagreeable or obnoxious odors or stenches, as well as the conditions, substances or other causes which give rise to the emission or generation of such odors and stenches, including smoke and fires.
- (m) Any building, structure, or other place or location where any activity is conducted, performed or maintained in violation of local, state or federal law.
- (n) Any accumulation of stagnant water that creates a menace to public health.
- (o) Any well or other hole or excavation, unless the same is adequately covered, barricaded or otherwise guarded.
- (p) Any other condition constituting a nuisance under state law.

9-102 Provisions for Specific Nuisances.

(a) Abandoned and Dangerous Structures - Police officers of the City of Irwinton or designated representative, may decide that a dwelling or structure is a threat to the public health and safety because it is

- (1) Vacant;
- (2) Dilapidated; or
- (3) Being used in connection with the commission of criminal activity based upon their personal observations or the reports of the Irwinton Police Department, a law enforcement agency of the county, the State of Georgia or the United States of America.

Police officers of the City of Irwinton may determine that a dwelling, building, or structure is unfit for human habitation, or is unfit for its current commercial, industrial or business use if they find that conditions exist in such building, dwelling, or structure which are dangerous or injurious to the health, safety or morals of the occupants of such dwelling, building or structure; the occupants of neighborhood dwellings, buildings or structures; or other residents or visitors to the city. Such conditions may include the following, without limiting the generality of this subsection:

- (1) Defects therein increasing hazards of fire, accidents or other calamities;
- (2) Lack of adequate ventilation, light or sanitary facilities;
- (3) Dilapidation;
- (4) Disrepair;
- (5) Structural defects;
- (6) Uncleanliness;
- (7) Those which have parts which are so attached that they are likely to fall and injure persons or property;
- (8) Those which are likely to cause injury to persons or property because they contain weakened, defective or deteriorated
 - (i) Footings or foundations;
 - (ii) Flooring or floor supports;
 - (iii) Ceilings or ceiling supports;
 - (iv) Roof or chimney;
 - (v) Walls; or
 - (vi) Any other structural elements;
- (9) Those which have visible soil erosion adjacent to or under any structural support; and
- (10) Those which are vacant, and because of lack of proper maintenance, deterioration or decay, or

fire hazards, are otherwise dangerous to human life, safety, health or general welfare.

(b) Noise

- (1) It shall be unlawful for any person to create or assist in creating, permit or continue any unreasonably loud, disturbing or unnecessary noise in the city. Noise of such character, intensity, and duration that is detrimental to the reasonable comfort, health or life of any individual is prohibited. The following acts, among others, are declared to be loud, disturbing and unnecessary noises that constitute a public nuisance in violation of this ordinance and shall be abated:
 - i) The keeping or maintaining of any domestic animal which, due to prolonged or habitual barking, howling, whining or other noises, causes annoyance to neighboring residents, or interferes with the reasonable use and enjoyment of the premises occupied by such residents, is hereby declared to be a public nuisance and shall be abated as provided in this ordinance.
 - ii) The sounding of any bell, horn, whistle, mechanical device operated by compressed air, or signal device while not in motion, except as a danger signal, for an unnecessary and unreasonable period.
 - iii) The use of any siren, other than police, fire or emergency vehicle.
 - iv) The use or operation of any musical instrument, radio, loudspeaker or sound-amplifying device so loudly as to disturb persons in the vicinity thereof.
 - v) The erection, excavation, demolition, alteration or repair of any building or structure in the vicinity of residential dwellings between the hours of 10:00 p.m. and 7:00 a.m., except in the case of urgent necessity or in the interest of public safety.
 - vi) The shouting or crying of peddlers, vendors or residents which unreasonably disturbs the peace and quiet of a residential area.
 - vii) The unnecessary creation of loud or excessive noise in connection with unloading or loading vehicles or merchandise.
 - viii) The use of any vehicle that is in a state of such disrepair as to create loud or unnecessary grinding, rattling, backfiring or other noise.
 - ix) The creation of loud or excessive noise associated with the ignition, explosion, or detonation of any consumer fireworks except during specified dates and times as mentioned by O.C.G.A. § 25-10-2(b)(3)(B)(ii) and O.C.G.A. § 25-10-2(b)(3)(B)(iii).
- (2) Exemptions: Noise from the following sources or causes shall be exempt from noise provisions of this ordinance:

- i. Expression or communication protected by the First Amendment to the Constitution of the United States.
 - ii. Any activity or conduct the regulation of which has been preempted by the State of Georgia.
 - iii. Noise created by safety and protection devices such as burglar alarms, fire alarms, and emergency pressure relief valves if it is no more than 15 minutes.
 - iv. Noise from air conditioners, when functioning in accordance with the manufacturer's specifications, manufacturer's standard mufflers and noise-reducing equipment, and in proper operating condition consistent with standards promulgated by the American Refrigeration Institute.
 - v. Noise originated from aircraft in flight and sounds from airports that are directly related to flight operations.
 - vi. Noise caused by organized sporting events, religious, educational, civic associations or other organized group activities, when such activities are conducted on improved property that is designed for and generally used for such purposes, including band shells, amphitheaters, stadiums, parks, schools, churches, athletic fields, racetracks and accessories thereto; provided, however, that such uses of property are otherwise permitted by applicable city ordinances.
 - vii. Noise resulting from any authorized emergency vehicles, when responding to an emergency call or acting in time of emergencies.
 - viii. Noise from fireworks during certain times and dates as permitted by O.C.G.A. § 25-10-2(b)(3)(B)(ii) and O.C.G.A. § 25-10-2(b)(3)(B)(iii).
 - ix. Any other noise resulting from a temporary activity permitted by law and for which a license or permit has been granted by the city.
- 3) Air Assisted Braking System: The governing body may cause traffic signs to be placed in appropriate locations that substantially state, "No Air Assisted Braking Systems."

9-103 Enforcement

- (a) The Irwinton Police Department or designated representative is hereby authorized to enforce the provisions of this Code section in order to abate any nuisance in the city.
 - (1) The Police Department is hereby commissioned with the following powers and responsibilities:
 - i. Visit any lot in this city, at any time, and investigate its condition from the view of the public right-of-way.
 - ii. Determine a nuisance and issue notifications and citations where a nuisance is determined.

- iii. Receive and file complaints alleging a violation of this ordinance. Such complaints shall clearly and fully state the causes and bases of the complaint and must be written and signed by those who allege a violation.
- iv. Issue written “stop work” and “cease and desist” orders for any activity that fails to comply with the provisions of this ordinance. Such “stop work” or “cease and desist” orders may be lifted at such time as the police department is satisfied that a good faith effort is being made to comply with applicable provisions of this ordinance. Nothing shall prevent the police department from reissuing “stop work” and “cease and desist” orders where warranted.
- v. Perform all relevant abatement actions necessary to enforce this ordinance.

(2) Mayor and Council are hereby authorized to order the city clerk to deny or withhold business licenses for any new applications where the applicant or applicant’s business has failed or refused to comply with this ordinance.

(b) Notification: If any property, house, store, building, yard, stable, animal enclosure, well, cellar, sink or other place or condition is found to be in an unclean or offensive condition or dangerous to health, or to be or contain a nuisance, or if any person is found to be otherwise causing or maintaining a nuisance, a police officer shall give written notice, by mail or in person, to the owner or occupant of the property upon which such a nuisance exists or upon the person causing or maintaining the nuisance, that the condition shall be abated within a time frame . The police chief shall notify the mayor of such notice. The Code Enforcement Officer issuing the citation will recommend a time frame for abatement between fourteen 14 and 120 days to be approved by the Mayor. In the event that circumstances require and justify a determination that the nuisance should be abated in less than 14 days, the Mayor may authorize such an order, provided that such lesser time is feasible and reasonable under the circumstances.

The notice to abate a nuisance issued under the provisions of this ordinance shall contain the following:

- (1) An order to abate the nuisance or to request a hearing within a stated time, which shall be reasonable under the circumstances;
- (2) The location of the nuisance, if the nuisance is stationary;
- (3) A description of what constitutes the nuisance;
- (4) A statement of acts necessary to abate the nuisance; and,
- (5) A statement that if the nuisance is not abated as directed, the City of Irwinton will file an action in Municipal Court to abate the nuisance and that the person shall be subject to a fine of up to \$500 per offense or other penal action as determined by the Municipal Court Judge according to the severity of the nuisance.

(c) If after the expiration of the abatement period recommended by the Code Enforcement Officer and approved by the Mayor, property owners have not made sufficient progress to remedy the nuisance

within the given time frame, the city shall issue a citation for the offender to appear in Municipal Court.

- (1) Non-residents: Any property owner that is not a resident of Irwinton shall be served by posting a copy of such complaint or orders in a conspicuous place on premises affected by the complaint or orders. Where the address of such non-residents is known, a copy of such complaint or orders shall be mailed to them by registered or certified mail.
 - (2) Unknown or Absent Property Owner: If the whereabouts of any owner or party of interest are unknown and cannot be ascertained by the city in the exercise of reasonable diligence, then the city shall make an affidavit to that effect and shall service any complaint or order upon such persons in the same manner as provided to non-residents. Such complaints or orders may be perfected upon any person, firm or corporation holding itself out as an agent for the property involved.
- (d) Hearing: The Municipal Court Judge shall preside over a hearing concerning the case, which must occur at the next scheduled meeting of the municipal court. All parties interested shall have the right to appear at such a time when the court shall proceed to hear the case.
- (e) Immediate Action: In any case where the owner, agent or tenant fails to abate the nuisance in the time specified, or where the owner, agent or tenant cannot be served with notice, or where the nature of the nuisance is such in the opinion of the Police Department that it must be immediately abated, the Municipal Court Judge may issue an order permitting the City to abate the nuisance immediately. In this case, the Mayor may authorize any city employee or contractor to abate the nuisance. The city clerk shall maintain a record of the expenses and costs of abatement and all costs shall be billed against the owner, agent or tenant for collection as city revenues.
- (f) Punishment: Any person violating any of the provisions of this ordinance, or found by the Municipal Court to be or have been creating, causing, allowing or maintaining a nuisance after notice to abate the same as provided for under this chapter, shall be punished by penalty and/or fine up to \$500 per offense, to be determined by the Municipal Court Judge according to the severity of the nuisance. For each day any person continues or allows any nuisance as defined by this article, such person shall be guilty of separate and distinct offenses for each nuisance, each day such nuisances are continued or allowed, and separate punishments may be inflicted.

Chapter 10: Property Tax

10-100 Same Values as County.

The City of Irwinton, Georgia, for purposes of assessing values to all real and personal property within the town limits and subject to taxation, is granted the authority to adopt and does hereby adopt the same values assessed by the Wilkinson Board of Tax Assessors.

10-101 Tax Notices.

The mayor and council shall appoint the city clerk or other designated representative to prepare the tax digest for the City of Irwinton and said clerk or designated representative shall be responsible for the preparation and mailing of tax notices to the residents of the City of Irwinton. The notices shall be mailed on or before September 15 of each calendar year and payment of all taxes shall be made to the city clerk or designated representative.

10-102 Maintenance of Tax Digest.

The city clerk or designated representative shall be responsible for updating and maintaining the city digest. The city clerk or designated representative shall also give bond and security in a sum not exceeding \$5,000.

10-103 Date Taxes Due.

All ad valorem taxes owing to the city shall become due on December 20 of each year. All ad valorem taxes not paid by December 31 of each year shall become delinquent and shall bear interest at the rate set forth in O.C.G.A. § 48-2-40 from said date. The city clerk or designated representative shall collect the interest on such unpaid taxes and account for the same in their settlements.

10-104 Delinquent Taxes.

The city clerk or designated representative shall keep an execution docket, and on the 20th day of December in each year, issue executions against each delinquent or defaulting taxpayer in the City of Irwinton, unless further time is allowed as provided by law. The city clerk or designated representative shall enter the names of such delinquent or defaulting taxpayers on said docket together with an itemized statement of the taxes covered by such execution.

10-105 Executions.

When executions have been issued, they shall be placed in the hands of some officer authorized by law to collect the same and make an entry on said execution docket of the name of said officer and the date of delivery. Such delinquent or defaulting taxpayer shall then become liable for a penalty of 5 percent of the delinquent tax or \$250.00, whichever is the lesser, in addition to the taxes and interest owned thereon. The penalty shall be paid to the authorized officer.

Chapter 11: Solid Waste Collection and Disposal

11-100 Definitions.

- (a) Garbage: Regularly occurring household items, such as wastes resulting from the handling, preparing, cooking, and consuming of food; wastes from the handling, storing, and selling of produce, paper, cartons, boxes, bedding, metals, tin cans, dirt, glass, crockery, and other mineral waste, catch-basin dirt, or contents of litter receptacles.
- (b) Larger Household Items and Refuse: Large items, such as wood, excelsior, tree branches, yard trimmings, wood furniture, metal furniture, small quantities of rock and pieces of concrete, street sweepings, dirt, and leaves. Provided, however, refuse shall not include earth and wastes from building operations, nor shall it include solid wastes resulting from industrial processes and manufacturing operations, such as food processing waste, boiler house cinders, lumbers, scraps, and shavings.
- (c) Litter: Trash, such as paper, cans, and bottles, that are left lying in an open or public place.

11-101 Administration.

The mayor and council of the City of Irwinton shall be responsible for the implementation and enforcement of this ordinance; to control storage, maintain a collection and disposal system for garbage and refuse in compliance with all county and state regulations; provide for a public refuse collection and disposal system; approve and regulate private systems; and adopt any necessary regulations.

11-102 Container Requirement.

It shall be unlawful to place or permit to remain anywhere in the city any garbage, or other material subject to decay other than leaves or grass, except in designated containers provided by the City of Irwinton. Such material, not so properly disposed of, shall be placed in containers for collection by the city as hereinafter described.

11-103 Containers to be in Good Repair

The trash and garbage containers which shall be utilized for the collection of garbage and refuse shall have tight-fitting covers, be free from holes, and otherwise be in good repair. No container shall have been filled beyond its capacity. It is the responsibility of the property owner or resident to care for the containers provided by the city for solid waste collection. Containers shall have tight-fitting covers, be free from holes, and otherwise be in good repair. It is the responsibility of the property owner or resident to notify the city of containers in need of replacement. No container shall have been filled beyond its capacity.

11-104 Refuse Disposal.

It shall be unlawful to dispose of any refuse in the City of Irwinton except in designated and established

refuse dumps. Such material, not so properly disposed of, shall be placed in containers for collection by the city as hereinafter described.

11-105 Litter.

It shall be unlawful to deposit or permit to fall from any vehicle any garbage, refuse, or other solid wastes on any public street or alley in the city; provided, that this section shall not be construed to; prohibit placing garbage, refuse, or other solid waste in a container complying with the provisions of this ordinance, preparatory to having such material collected and disposed of in the manner provided herein.

11-106 Private Property.

It shall be unlawful to dump or place any garbage, refuse, or other solid waste on any premises within the city without the consent of the owner of such premises.

11-107 Duty of Owner.

It shall be the duty of the owner or occupier of the premises to place said trash and garbage containers on the curb nearest the street, or in near proximity thereto as is feasible under the circumstances. Those unable to place garbage containers on the curb nearest to the street for collection due to physical disabilities are responsible for requesting special accommodations from the city.

11-108 Poisons, Acids, Etc.

It shall be unlawful for a person or firm to deposit poisons, acid, explosives, infected materials, materials for repair and excavation, junk cars, and solid or liquid waste from industrial processes in any containers for collection by the city.

11-109 Burning.

It shall be unlawful to burn garbage or trash within the city limits without first receiving written permission from the Georgia Forestry Commission.

11-110 Fees.

A monthly garbage collection fee mandated by the City of Irwinton is hereby fixed and assessed against the owner or occupant of each family unit within the city for which the occupant shall be liable for payment on a monthly basis. Payment for garbage collection is to be included in the monthly water bill.

11-111 Dead Animals.

The city will not collect and dispose of dead animals on private property and the disposition of such dead animals is the responsibility of the property owner. Failure of the property owner to dispose of the carcass of a dead animal on his property in a proper manner shall constitute a violation of this ordinance and the owner shall be subject to be fined as the council deems necessary.

11-112 Enforcement.

The Irwinton Police Department is hereby authorized to

- (a) Determine violations of this ordinance and issue citations where non-compliance is determined;
- (b) Receive and file complaints alleging a violation of this ordinance. Such complaints shall clearly and fully state the causes and bases of the complaint and must be written and signed by those who allege a violation; and
- (c) Perform all relevant abatement actions necessary to enforce this ordinance.

11-113 Penalty.

Any person, firm, or occupation violating any provision of this ordinance shall be fined according to the guidelines set forth in section 1-107 of this Code of ordinances up to \$100 for each offense; A separate offense shall not be deemed committed on each day on which the violation occurs or continues.

Chapter 12: Water Ordinance

12-100 Rate Schedule.

From and after the passage of this ordinance, there will be and is hereby adopted the following water rate schedule for the City of Irwinton, Georgia;

Water Rate Schedule - the water rate schedule for residential use, residential commercial use, non-residential commercial use, and non-residential commercial use (outside city limits) shall be set by the Mayor and City Council

12-101 Application for Water Service

The residential customer shall make an application for water service, to the City of Irwinton, and at the same time, shall make a security deposit and service fee set by the Mayor and City Council.

The commercial customer shall make an application for water service, to the City of Irwinton, and at the same time, shall make a security deposit and service fee set by the mayor and city council.

12-102 Charges for Initial Water Service

Each customer subscribing to use the water service of the City of Irwinton shall pay a connection fee set by the mayor and city council or the actual cost of connection, per connection. This fee is only for connections that do not require boring under the road.

If the connection to the City of Irwinton water system requires boring under a road, customers shall pay the cost of boring under the road per connection.

12-103 City 's Responsibility and Liability.

The City of Irwinton shall run a service line from its distribution line to the property line where the distribution line exists or is to be constructed and run immediately adjacent and parallel to the property to be served. No service charge, other than the connection fee referred to in 12-102 above, will be charged for a 5/8" x 3/4" meter. A proportionately greater charge than the connection fee above will be made for a meter of larger dimensions.

- (a) The city may make connections to service other properties not adjacent to its lines. This will require payment of the reasonable cost for the extensions of the distribution lines that are required to render such service.
- (b) The city may install its meter at or near the property line or, at the city's option, on the customer's property within three feet of the property line.
- (c) The city reserves the right to refuse service unless the customer's lines or pipes are installed in such a manner as to prevent cross-connections or back-flow.
- (d) Under normal conditions, the customer will be notified of any anticipated interruptions of service by

the City of Irwinton.

12-104 Customer's Responsibility and Liability.

Water furnished by the City of Irwinton shall be used for consumption by the customer, members of his household, and employees only. The customer shall not sell water to any other person or permit any other person to use said water. Water shall not be used for irrigation, fire protection, nor other purposes, except when water is available in sufficient quantity without interfering with regular domestic consumption in the area served. Disregard of this rule shall be sufficient cause for refusal and/or discontinuance of service.

- (a) If the meter or meter box is placed on the premises of a customer, a suitable place for the meter or meter box shall be provided by the customer, which must be unobstructed and accessible at all times to the meter reader.
- (b) The customer shall furnish and maintain a private cut-off valve on the customer's side of the meter.
- (c) The customer's piping and apparatus shall be installed and maintained by the customer at the customer's expense, in a safe and efficient manner, and in accordance with the sanitary regulations of the State Health Department
- (d) In order to be received as a customer and entitled to receive water from the city's water system, all applicants must offer proof that any private wells located on their property are not physically connected to the lines of the city's water system, and all applicants by becoming customers of the city, covenant and agree that so long as they continue to be customers of the city, they will not permit the connection of any private wells on their property to the city's water system.
- (e) It shall be unlawful for any person to tap, connect with, disturb, damage, turn on or off any main service connection or meter of any public utility in the city, whether such device is in the public right-of-way or on private property, unless such person is acting by the consent of or under direction of utility owning such property. In the event of a meter lockout, the city is the only authorized party to unlock the meter. Tampering with equipment will be grounds for discontinuance of utility service and prosecution. A tampering fee will be charged to the customer if tampering has occurred.

12-105 Access to Premises and Extensions of System

- (a) Duly authorized agents of the City of Irwinton shall have access at all hours to the premises of the customer for the purpose of installing or removing city property, inspecting piping, reading and testing meters, or for any other purpose in connection with water services and its facilities.
- (b) Extensions to the system shall be made only when the customer shall grant or convey, or cause to be granted or conveyed, to the City of Irwinton, a permanent easement of right-of-way across any property traversed by the water and sewer lines.

12-106 Change of Occupancy

No less than three business days' notice must be given in person or in writing, at the Irwinton City Hall to discontinue water service or to change occupancy. The outgoing party shall be responsible for all water consumed up to the time of departure or the time specified for departure, whichever period is longer.

The new occupant shall apply for water service within 48 hours after occupying the premises and failure to do so will make him liable for paying for the water consumed since the last meter reading.

12-107 Meter Reading – Billings - Collecting

Bills to the customers for water service may be mailed out on such day or days of each month as may be determined as desirable by the city. The failure of customers to pay charges duly imposed shall result in the automatic imposition of the following penalties:

- (a) Non-payment after the 10th day of each month will be subject to a penalty set by the mayor and city council.
- (b) Non-payment by the 21st of every month at 5:00 pm will be subject to a non-payment penalty set by the Mayor and City Council and be subject to disconnection of water service. Whenever the 21st of the month falls on a Saturday, Sunday, or legal holiday, the customer must pay on the next business day after the 21st. The city, in addition to all other rights and remedies, can terminate the agreement, and in such event, the water used shall not be entitled to receive, nor the city obliged to supply any water under this agreement

12-108 Suspension of Service.

When water service is discontinued and all bills paid, the security deposit shall be refunded to the customer by the city.

- (a) Upon discontinuance of service from the non-payment of bills, the security deposit will be applied by the City of Irwinton toward the settlement of the account. Any balance will be refunded to the customer; however, if the security deposit is insufficient to cover the bill, the city may proceed to collect the balance in the usual way provided by law for the collection of debts.
- (b) Water service shall not be reconnected until the customer's delinquent bill, including penalty and reconnect charges, have been paid in full. Bills shall be paid at the Irwinton City Hall. Failure to receive bills or notices shall not prevent such bills from becoming delinquent nor relieve the customer from payment.
- (c) The city reserves the right to discontinue its service without notice for the following additional reasons:
 - 1. To prevent fraud or abuse.
 - 2. Customer's willful disregard of the city's rules.
 - 3. Emergency repairs
 - 4. Insufficiency of water supply due to circumstances beyond the city's control.
 - 5. Legal processes
 - 6. Direction of public authorities.
 - 7. Strike, riot, fire, flood, unavoidable accident.

12-109 Complaints - Adjustments.

If the customer believes his bill to be in error, he shall present his claim, in person, at the Irwinton City Hall before the bill becomes delinquent. Such claim, if made after the bill has become delinquent, shall not be effective in preventing discontinuance of service as heretofore provided. The customer may pay

such bill under protest and said payment shall not prejudice his claim.

The city will provide a water use profile at the request of a customer for a fee set by the Mayor and City Council. The request must be received before the 10th of the month. Profiles will be conducted between the 10th and 15th of each month. The fee may be waived at the city's discretion.

If the meter is found to be defective, the customer shall pay an amount estimated from the record of previous bills and/or other proper data.

12-110 New Hook-Ups

New hookups will not be provided until the approval of the property's septic sewage system by the County Health Department.

Chapter 13: Wellhead Protection Ordinance

13-100 Purpose.

The purpose of this ordinance is to ensure the provision of a safe and sanitary drinking water supply for the city by (1) establishing wellhead protection zones surrounding the wellheads for all wells which are the supply sources for the city water system and (2) designating and regulating property uses and conditions which may be maintained within such zones.

13-200 Definitions.

When used in this ordinance the following words and phrases shall have the meanings given in this section:

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

13-300 Establishment of a wellhead protection zone.

There is hereby established a use district to be known as a wellhead protection zone, identified and described as the area within a circle with a radius of 1500 feet, where the center of the circle is the center of a city water supply wellhead

13-400 Permitted uses.

The following uses shall be permitted within wellhead protection zones:

- (a) Any use permitted within existing agricultural or single-family residential districts; and
- (b) Any other open land use where any building located on the property is incidental and accessory to the primary open land use.

13-500 Prohibited uses.

The following uses or conditions shall be and are hereby prohibited within wellhead protection zones, whether or not such use or condition may otherwise be ordinarily included as a part of use permitted under Section 13-400 of this ordinance.

- (a) Surface use or storage of hazardous material, expressly including commercial use of agricultural pesticides;
- (b) Septic tanks or drain fields appurtenant thereto;
- (c) Impervious surfaces other than roofs of buildings, and streets, driveways, and walks serving buildings permitted under Section 13-400 of this ordinance;
- (d) Sanitary landfills;
- (e) Hazardous waste disposal sites;
- (f) Stormwater infiltration basins;
- (g) Underground storage tanks;
- (h) Sanitary sewer lines within 150 feet of a wellhead;

13-600 Administration.

The policies and procedures for the administration of any wellhead protection zone established under this ordinance, including without limitation those applicable to nonconforming uses, exceptions, enforcement, and penalties, shall be the same as regulations established by the Georgia Environmental Protection Division.

Chapter 14: Environment

Article 1 - Soil Erosion, Sedimentation, and Pollution

14-100 Definitions.

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

- (a) Buffer: An area along the course of any state waters to be maintained in an undisturbed, natural condition.
- (b) Cut: A portion of land surface or area from which earth has been removed or will be removed by excavation; the depth below the original ground surface to excavated surface. Also known as excavation.
- (c) Drainage Structure: Any roadway drainage structure as defined below, and any piping or ditching for stormwater management purposes.
- (d) Erosion: The process by which land surface is worn away by the action of wind, water, ice or gravity.
- (e) Erosion and Sediment Control Plan: Plan for the control of soil erosion and sediment resulting from the land-disturbing activity. Also known as the "plan."
- (f) Existing Grade: The vertical location of the existing ground surface prior to cutting or filling.
- (g) Fillings: The placement of any soil or other solid material either organic or inorganic on a natural ground surface or excavation.
- (h) Finished Grade: The final elevation and contour of the ground after cutting or filling and conforming to the proposed design.
- (i) Grading: Altering ground surfaces to specified elevations, dimensions, and/or slopes; this includes stripping, cutting, filling, stockpiling, and shaping, or any combination thereof, and shall include land in a cut or filled condition.
- (j) Issuing Authority: The governing authority of any county or municipality which has been certified by the Director of the Environmental Protection Division of the Department of Natural Resources as an Issuing Authority, pursuant to the Erosion and Sedimentation Act of 1975, as amended.
- (k) Land-Disturbing Activity: Any activity which may result in soil erosion from water or wind and the movement of sediments into state waters or onto lands within the state, including, but not limited to, clearing, dredging, grading, excavating, transporting, and filling of land but not including agricultural practices, as exempted below.

- (l) Metropolitan River Protection Act (MRPA): A state law referenced as O.C.G.A. 12 5-440 et seq., which addresses environmental and developmental matters in certain metropolitan river corridors and drainage basins.
- (m) Natural Ground Surface: The ground surface in its original state before any grading, excavation or filling.
- (n) Nephelometric Turbidity Units (NTU): Numerical units of measure based upon photometric analytical techniques for measuring the light scattered by finely divided particles of a substance in suspension. This technique is used to estimate the extent of turbidity in water in which colloiddally dispersed particles are present.
- (o) One-Hundred-Year Flood Plain: Land subject to a 1 percent or greater statistical probability of flooding in any given year.
- (p) Permit: The authorization necessary to conduct a land-disturbing activity under this ordinance.
- (q) Project: The entire proposed development project regardless of the size of the area of land to be disturbed.
- (r) Roadway Drainage Structure: Bridges, culverts, and ditches associated with roadway construction that allows stream flows to move freely under a crossing or to convey stormwater run-off from a roadway to a stream.
- (s) Sediment: Solid material, both organic and inorganic, that is in suspension, is being transported, or has been moved from its site of origin by air, water, ice, or gravity as a product of erosion.
- (t) Sedimentation: The action or process of forming or depositing sediment.
- (u) Stabilization: The process of establishing an enduring soil cover of vegetation and/or mulch or other ground cover and/or in combination with installing temporary or permanent structures for the purpose of reducing to a minimum the erosion process and the resultant transport of sediment by wind, water, ice or gravity.
- (v) State Waters: Any and all rivers, streams, creeks, branches, lakes, reservoirs, ponds, drainage systems, springs, wells, and other bodies of surface or subsurface water, natural and artificial, lying within or forming a part of the boundaries of the state which are not entirely confined and retained completely upon the property of a single individual, partnership, or corporation.
- (w) Structural Erosion and Sediment Control Practices: Measures for the stabilization of erosive or sediment-producing areas by utilizing the mechanical properties of matter for the purpose of either changing the surface of the land or storing, regulating or disposing of runoff to prevent excessive sediment loss. Examples of structural erosion and sediment control practices are riprap, sediment basins, dikes, level spreaders, waterways or outlets, diversions, grade stabilization structures, sediment traps, land grading, etc.

- (x) Trout Streams: All streams or portions of streams within the watershed as designated by the Game and Fish Division of the Georgia Department of Natural Resources under the provisions of the Georgia Water Quality Control Act, O.C.G.A. 12-5-20 et seq. Streams designated as primary trout waters are defined as water supporting a self-sustaining population of rainbow, brown or brook trout. Streams designated as secondary trout waters are those in which there is no evidence of natural trout reproduction but are capable of supporting trout throughout the year.
- (y) Vegetative Erosion and Sediment Control Practices: Measures for the stabilization of erosive or sediment-producing areas by covering the soil with permanent seeding, sprigging or planting, which produces long-term vegetative cover; temporary seeding, which produces short-term vegetative cover; or sodding, covering "areas with a turf of perennial sod-forming grass."

14-101 Exemptions

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

- (a) Surface mining, as the same is defined in O.C.G.A. 12-4-72.
- (b) Granite quarrying and land clearing for such quarrying.
- (c) Such minor land-disturbing activities, under 1.1 acres, such as home gardens and individual home landscaping, repairs, maintenance work, and other related activities which result in minor soil erosion.
- (d) The construction of single-family residences when such are constructed by or under contract with the owner for his own occupancy; or the construction of single-family residences not a part of a larger project.
- (e) Agricultural practices involving the establishment, cultivation, or harvesting of products of the field or orchard; the preparation and planting of pasture land; forestry land management practices, including harvesting; farm ponds; dairy operations; livestock and poultry management practices; and the construction of farm buildings.
- (f) Any project carried out under the technical supervision of the Soil Conservation Service of the United States Department of Agriculture.
- (g) Any project involving 1.1 acres or less provided, however, that this exemption shall not apply to any land-disturbing activity within 200 feet of the bank of any state waters. For purposes of this paragraph, "state waters" excludes channels and drainageways which have water in them only during and immediately after rainfall events and intermittent streams which do not have water in them year-round; provided, however, that any person responsible for a project which involves one 1.1 acres or less, which involves land-disturbing activity, and which is within 200 feet of any such excluded channel or drainageway, must prevent sediment from moving beyond the boundaries of the property on which such project is located and provided, further, that nothing contained herein shall prevent the issuing

authority from regulating any such project which is not specifically exempted elsewhere in this section.

- (h) Construction or maintenance projects, or both, undertaken or financed in whole or in part, or both, by the Department of Transportation, the Georgia Highway Authority, or the Georgia State Road and Tollway Authority; or any road construction or maintenance project, or both, undertaken by any county or municipality; or construction and maintenance, or either, by any water or sewerage authority established by the General Assembly of this state; provided, however, that:
 - (1) If such projects are constructed within 200 feet of the banks of any channels or drainageways which have water in them only during and immediately after rainfall events, or intermittent streams which do not have water in them year-round, then such projects shall conform to the specifications used by the Department of Transportation for control of soil erosion and sedimentation on its highway construction projects.
 - (2) If such projects are constructed within 200 feet of the banks of any state waters which do have water in them year-round and in which the drainage area of the watershed upstream from such projects is less than three square miles, then such projects shall conform to the specifications used by the Department of Transportation for control of soil erosion and sedimentation on its highway construction projects.
 - (3) If such projects are constructed within 200 feet of the banks of any state waters which do have water in them year-round and in which the drainage area of the watershed upstream from such projects is equal to or more than three square miles, then such projects shall conform to the minimum standards set forth in Section 7-3.
- (i) Any land-disturbing activities conducted by any airport authority provided that any such land-disturbing activity shall conform to the minimum standards set forth in Section 14-103.
- (j) Any land-disturbing activities conducted by any electric membership corporation or municipal electrical system or any public utility under the regulatory jurisdiction of the Public Service Commission provided that any such land-disturbing activity shall conform to the minimum requirements set forth in Section 14-103.

14-103 Minimum Requirements for Erosion and Sedimentation Control.

- (a) Plans for land-disturbing activities not excluded by this ordinance shall contain provisions for the application of soil erosion and sediment control measures. The application of measures shall apply to all features of the site, including street and utility installations, drainage facilities and other temporary and permanent improvements. Measures shall be installed to prevent or control erosion and sediment pollution during all stages of any land-disturbing activity.
- (b) The permittee shall follow sound conservation and engineering practices to prevent and minimize erosion and resulting sedimentation consistent with the following requirements:

- (1) Stripping of vegetation, regrading, and other development activities shall be conducted in a manner so as to minimize erosion.
- (2) Cut-fill operations must be kept to a minimum.
- (3) Development plans must conform to topography and soil type so as to create the lowest practical erosion potential.
- (4) Whenever feasible, natural vegetation shall be retained, protected, and supplemented.
- (5) The disturbed area and the duration of exposure to erosive elements shall be kept to a practicable minimum.
- (6) Disturbed soil shall be stabilized as quickly as practicable.
- (7) Temporary vegetation or mulching shall be employed to protect exposed critical areas during development.
- (8) Permanent vegetation and structural erosion control measures shall be installed as soon as practicable.
- (9) To the extent necessary, sediment in runoff water must be trapped by the use of debris basins, sediment basins, silt traps, or similar measures until the disturbed area is stabilized.
- (10) Adequate provisions must be provided to minimize damage from surface water to the cut face of excavations or the sloping surface of fills.
- (11) Cuts and fills may not endanger adjoining property.
- (12) Fills may not encroach on state waters in a way that adversely affects other property owners.
- (13) Grading equipment must cross flowing streams by means of bridges or culverts except when such methods are not feasible and provided, in any such case, that such crossings are kept to a minimum.
- (14) Land-disturbing activity plans for erosion and sedimentation control shall include provisions for control or treatment of any source of sediments and adequate sedimentation control facilities to retain sediments onsite or preclude sedimentation of adjacent streams.
- (15) Land-disturbing activities shall not be conducted within the 100-year flood plain unless compliance with any applicable local flood plain management ordinance.

14-104 Permitting and Enforcement.

Land disturbing permits are required for the aforementioned activities not otherwise exempted within the City of Irwinton in accordance with the Georgia Soil Erosion and Sedimentation Act of 1975 (O.C.G.A. §12-7-1, et. seq.). The Georgia Environmental Protection shall be responsible for the issuance of general state permits and issuing citations for violations of any of the provisions in this ordinance.

Article 2: Wetlands

14-200 Definitions

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

- (a) **Wetlands:** Those areas that are inundated or saturated by surface or groundwater at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions.
- (b) **Generalized Wetlands Map:** The current U.S. Fish and Wildlife Service National Wetlands Inventory map for the City of Irwinton Georgia.
- (c) **Jurisdictional Wetland:** An area that meets the definitional requirements for wetlands as determined by the Army Corps of Engineers.
- (d) **Jurisdictional Wetland Determination:** A delineation of jurisdictional wetland boundaries by the Army Corps of Engineers, as required by Section 404 of the Clean Water Act, 33 U.S.C. § 1344, as amended.
- (e) **Regulated Activity:** Any activity which will, or which may reasonably be expected to, result in the discharge of dredged or fill material into waters of the U.S. excepting those activities exempted in Section 404 of the Federal Clean Water Act.

14-201 Establishment of the Wetlands Protection District

The Wetlands Protection District is hereby established which shall correspond to all lands within the jurisdiction of the City of Irwinton, Georgia that is mapped as wetland areas by the U.S. Fish and Wildlife Service National Wetlands Inventory Maps. This map shall be referred to as the Generalized Wetlands Map and is hereby adopted by reference and declared to be a part of this ordinance, together with all explanatory matter thereon and attached thereto.

The Generalized Wetlands Map does not necessarily represent the boundaries of jurisdictional wetlands within the City of Irwinton and cannot serve as a substitute for a delineation of wetland boundaries by the Army Corps of Engineers, as required by Section 404 of the Clean Water Act, as amended. Any local government action under this ordinance does not relieve the landowner from federal or state permitting requirements.

14-202 Protection Criteria

Requirement for Local Permit or Permission: No regulated activity will be permitted within the Wetlands Protection District without written permission or a permit from the Wilkinson County Health Department. If the area proposed for development is located within 50 feet of a Wetlands Protection District boundary, as determined by the County Environmental Health officer using the Generalized Wetlands Map, an Army Corps of Engineers determination shall be required. If the Corps determines that wetlands are present on the proposed development site, the local permit or permission will not be granted until a Section 404 Permit or Letter of Permission is issued.

14-203 Permitted Uses

The following uses shall be allowed as of right within the Wetlands Protection District to the extent that they are not prohibited by any other ordinance or law, including laws of trespass, and provided they do not require structures, grading, fill, draining, or dredging, except as provided herein. The activities listed in this section are exempt from Section 404 regulations provided they do not have impacts on a navigable waterway that would necessitate the acquisition of an individual 404 permit. However, under Section 10 of the Rivers and Harbors Act, a permit may be required in some circumstances.

- (a) Conservation or preservation of soil, water, vegetation, fish and other wildlife, provided it does not affect waters of Georgia or of the United States in such a way that would require an individual 404 Permit.
- (b) Outdoor passive recreational activities, including fishing, bird watching, hiking, boating, horseback riding, and canoeing.
- (c) Forestry practices applied in accordance with best management practices approved by the Georgia Forestry Commission and as specified in Section 404 of the Clean Water Act.
- (d) The cultivation of agricultural crops. Agricultural activities shall be subject to the best management practices approved by the Georgia Department of Agriculture.
- (e) The pasturing of livestock, provided that riparian wetlands are protected, that soil profiles are not disturbed and that approved agricultural Best Management Practices are followed.
- (f) Education, scientific research, and nature trails.

14-204 Prohibited Uses

The following uses are not permitted within the Wetlands Protection District.

- (a) Receiving areas for toxic or hazardous waste or other contaminants;
- (b) Hazardous or sanitary waste landfills;

14-205 Administration and Enforcement Procedures

- (a) Site Plans: Application for a local development permit within the City of Irwinton shall include a site plan, drawn at a scale of 1" = 50', with the following information:
 - (1) A map of all planned excavation and fill, including calculations of the volume of cut and fill involved, cross-sectional drawings showing existing and proposed grades. Elevations, horizontal scale, and vertical scale must be shown on the cross-sectional drawings.
 - (2) A map of any wetland boundaries occurring within the site must be provided. This boundary may be included in other maps provided by the applicant.

- (3) Location, dimensions, and area of all impervious surfaces, both existing and proposed, on the site and adjacent to the site for a distance of 200 feet.
 - (4) The orientation and distance from the boundaries of the proposed site to the nearest bank of an affected perennial stream or water body.
 - (5) Elevations of the site and adjacent lands within 200 feet of the site at contour intervals of no greater than two feet; and no greater than one foot for slopes less than or equal to two percent.
 - (6) Location and detailed design of any spill and leak collection systems designed for the purpose of containing accidentally released hazardous or toxic materials.
 - (7) All proposed temporary disruptions or diversions of local hydrology.
- (b) Activities to Comply with Site Plan: All development activities or site work conducted after approval of the site plan shall conform with the specifications of the said site plan. Significant changes to the site plan that would alter the amount and velocity of stormwater runoff from the site, increase the amount of impervious surface within the development, alter the overall density of development, result in a considerable increase in the amount of excavation, fill or removal of the overall appearance of the development as proposed, can be amended only with the approval of the building official or designated appointee. Minor changes, such as the realignment of streets or minor alterations to drainage structures and other infrastructure to meet unexpected conditions are exempt from this requirement.
- (c) Exemptions to Site Plan Requirements: The following activities and developments are exempt from the requirement for detailed site plans.
- (1) Single-family detached homes constructed within a subdivision of fewer than five parcels.
 - (2) Repairs to a facility that is part of a previously approved and permitted development.
 - (3) Construction of minor structures, such as sheds or additions to single-family residences.
- (d) Review Procedures: The application shall be made to the Army Corp of Engineers and will be reviewed within 15 days. At the time of the application, the applicant shall pay a filing fee as specified by the Army Corp of Engineers. Filing fees based on acreage may be required to review the application. This fee may be used to retain expert consultants who will provide services pertaining to functional assessment, mitigation, and wetland boundary determinations, as deemed necessary by the reviewer. The review period shall include the preparation of findings (approval, approval with conditions, or disapproval) by the reviewer. The applicant will receive written notification of the finding.
- (e) Duration of Permit Validity:
- (1) If construction described in the development permit has not commenced within 12 months from the date of issuance, the permit shall expire.
 - (2) If construction described in the development permit is suspended or abandoned after work has commenced, the permit shall expire 12 months after the date that work ceased.
 - (3) Written notice of pending expiration of the development permit shall be issued by the Army Corp of Engineers.

(f) Penalties:

- (1) When a building or other structure has been constructed in violation of this section, the violator may be required to remove the structure at the discretion of the Director of License and Permits and/or the Director of Planning.
- (2) When removal of vegetative cover, excavation, or fill has taken place in violation of this section, the violator may be required to restore the affected land to its original contours and to restore vegetation, as far as practicable, at the discretion of the Director of Planning.
- (3) If the Director of Planning discovers a violation of this ordinance that also constitutes a violation of any provision of the Clean Water Act as amended, the Board of Commissioners shall issue written notification of the violation to the U.S. Environmental Protection Agency, the Army Corps of Engineers, and the landowner.

(g) Suspension, Revocation:

The Army Corps of Engineers may suspend or revoke a permit if he finds that the applicant has not complied with the conditions or limitations set forth in the permit or has exceeded the scope of the work set forth in the permit. The Army Corps of Engineers shall cause notice of denial, issuance, conditional issuance, revocation or suspension of a permit to be published in a daily newspaper having a broad circulation in the area where the wetland is located.

(h) Judicial Review:

- (1) Jurisdiction: All final decisions of the City of Irwinton concerning denial, approval or conditional approval of a permit shall be reviewable in the United States District Court.
- (2) Alternative Actions: Based on these proceedings and the decision of the United States District Court, the City of Irwinton Council Commissioners or its designee may, within the time specified by the United States District Court, elect to:
 - (a) Institute negotiated purchase or condemnation proceedings to acquire an easement or fee interest in the applicant's land;
 - (b) Approve the permit application with lesser restrictions or conditions (i.e., grant a variance); or
 - (c) Institute other appropriate actions ordered by the court that fall within the jurisdiction of the City of Irwinton City Council

(i) Amendments: These regulations and the Generalized Wetlands Map may from time to time be amended in accordance with procedures and requirements in the general statutes and as new information becomes available.

(j) Relief Assessment: Assessors and boards of assessors shall consider the requirements of these regulations in determining the fair market value of the land.

- (k) Separability and Abrogation: All sections and subsections of this ordinance are considered separate and distinct. Should any section, subsection, paragraph or part of this ordinance be declared by a court of jurisdiction to be invalid for any reason, it shall not invalidate any other section, subsection, paragraph, or part of this ordinance.

Article 3: Groundwater

14-300 Definitions

- (a) Aquifer: Any stratum or zone of rock beneath the surface of the earth capable of containing or producing water from a well.
- (b) Drastic: The standardized system for evaluating groundwater pollution potential using the hydrogeologic settings described in the U.S. Environmental Protection Agency document EPA-600-2-87-035. (Note: the DRASTIC methodology is the most widely used technique for evaluating pollution susceptibility).
- (c) Pollution Susceptibility: The relative vulnerability of an aquifer to being polluted from spills, discharges, leaks, impoundments, applications of chemicals, injections and other human activities in the recharge area.
- (d) Pollution Susceptibility Map: The relative vulnerability to pollution prepared by the Department of Natural Resources, using the DRASTIC methodology. (Georgia Department of Natural Resources Hydrologic Atlas 20: Groundwater Pollution Susceptibility Map of Georgia)
- (e) Recharge Area: Any portion of the earth's surface, where water infiltrates into the ground to replenish an aquifer.
- (f) Significant Recharge Areas: Those areas mapped by the Georgia Department of Natural Resources in Hydrologic Atlas 18 (1989 edition)

14-301 Establishment of the Groundwater Recharge Area Protection District

The Groundwater Recharge Area District is hereby established which shall correspond to all lands within the jurisdiction of the City of Irwinton, Georgia that are mapped as significant recharge areas by the Georgia Department of Natural Resources in Hydrologic Atlas 18, 1989 edition. The said map is hereby adopted and made a part of this ordinance.

Determination of Pollution Susceptibility: Each recharge area shall be determined to have a pollution susceptibility of high, medium, or low based on the Georgia Pollution Susceptibility Map, Hydrologic Atlas 20, 1992 edition. The said map is hereby adopted and made a part of this ordinance.

14-301 Protection Criteria

- (a) No construction may proceed on a building or mobile home to be served by a septic tank unless the Wilkinson County Health Department first approves the proposed septic tank installations as meeting the requirements of the Georgia Department of Human Resources for On-Site Sewage Management (hereinafter DHR Manual), and Sections B. and C. below.

- (b) New homes served by a septic tank/drain field system shall be on lots having minimum size limitations as follows, based on the application of Table MT-1 of the DHR Manual (hereinafter DHR Table MT-1). The minimums set forth in Table MT-1 may be increased further based on consideration of other factors (set forth in Sections A-F) of the DHR Manual.
 - (1) One hundred and fifty (150) percent of the subdivision minimum lot size calculated based on the application of DHR Table MT-1 if they are within a high pollution susceptibility area;
 - (2) One hundred and twenty-five (125) percent of the subdivision minimum lot size calculated based on the application of DHR Table MT-1 if they are within a medium pollution susceptibility area;
 - (3) One hundred and ten (110) percent of the subdivision minimum lot size calculated based on the application of DHR Table MT-1 if they are within a low pollution susceptibility area.

- (c) New mobile home parks served by septic tank/drain field systems shall have lots or spaces having minimum size limitations as follows, based on the application of Table MT-2 of the DHR Manual (hereinafter DHR Table MT-2). The minimums set forth in Table MT-2 may be increased further based on consideration of other factors (set forth in Sections A-F) of the DHR Manual.
 - (1) One hundred and fifty (150) of the subdivision minimum lot or space size calculated based on the application of DHR Table MT-2 if they are within a high pollution susceptibility area;
 - (2) One hundred and twenty-five (125) percent of the subdivision minimum lot or space size calculated based on the application of DHR Table MT-2 if they are within a medium pollution susceptibility area;
 - (3) One hundred and ten (110) percent of the subdivision minimum lot or space size calculated based on the application of DHR Table MT-2 if they are within a low pollution susceptibility area.

- (d) New agricultural waste impoundment sites shall be lined if they are within a high pollution susceptibility area; a medium pollution susceptibility area and exceed 15 acre-feet; or a low pollution susceptibility area and exceed 50 acre-feet. As a minimum, the liner shall be constructed of compacted clay having a thickness of one-foot and a vertical hydraulic conductivity of less than 5×10^{-7} cm/sec or other criteria established by the Natural Resource and Conservation Service.

- (e) New above-ground chemical or petroleum storage tanks, having a minimum volume of 660 gallons, shall have secondary containment for 110 percent of the volume of such tanks or 110 percent of the volume of the largest tank in a cluster of tanks. Such tanks used for agricultural purposes are exempt, provided they comply with all federal requirements.

- (f) New facilities that handle hazardous materials of the types listed in section 312 of the Resource Conservation and Recovery Act of 1976 (excluding underground storage tanks) and in amounts of 10,000 pounds or more on any one day, shall perform their operations on impervious surfaces and in conformance with any applicable federal spill prevention requirements and local fire code requirements.

(g) Permanent stormwater infiltration basins shall not be constructed in areas having high pollution susceptibility.

14-303 Exemptions

Any lot of record approved prior to the adoption of this ordinance is exempt from the minimum lot size requirements contained in Sections IV.B. and C. of this ordinance.

14-304 Administration

The Wilkinson County Health Department and Wilkinson County Magistrate court are charged with administering and enforcing wetland standards ordinances in accordance with the Wilkinson County Code of Ordinances Chapter 7 section 1.

Article 4: Tree Commission Ordinance

14-400 Definition

There is hereby created a Commission to be known and designated as the City of Irwinton Tree Commission and to be herein referred to as the "Commission" for the purpose of regulating the planting, maintenance and removal of trees and shrubs in public places; providing for the pruning and removal of trees on private property which endanger public safety, and generally improving the welfare and health of the people of the City of and Wilkinson County.

14-401 Members

The City of Irwinton's Mainstreet Board is hereby designated to also serve as the City's Tree Commission under the supervision of the City of Irwinton's Mayor and Council.

14-402 Power and Authority

The Commission herein created shall have the power and authority:

- (a) To study and determine the problems and needs of the City of Irwinton for the planting of trees and shrubbery in public places;
- (b) To recommend to the proper authorities and officials of the City of Irwinton, the types and kinds of trees and shrubs to be planted upon the right-of-way of municipal streets, public parks, and public facilities.
- (c) To assist the City and Parks and Recreation Department in a program to protect and maintain existing trees, shrubs and green areas on all city-owned property and public properties;

Chapter 15: Franchising

15-100 Franchises

The city shall have the power to grant franchises for the use of this city's streets and alleys for the purposes of railroads, street railways, telephone companies, electric companies, cable television companies, gas companies, transportation companies, and other similar organizations. The city shall enter into a service agreement with a franchise that allows the utility to operate or provide service within the geographic limits of the city. The city shall determine the duration, terms, whether the same shall be exclusive or nonexclusive, and the consideration for such franchises; provided, however, that no franchise shall be granted for a period in excess of 20 years and no franchise shall be granted unless the city receives just and adequate compensation, therefor. The city shall develop an application for the franchise and provide for the registration of all franchises with the city clerk in a registration book kept by them. The city may provide by ordinance for the registration within a reasonable time of all franchises previously granted.

Chapter 16: Streets and Rights-of-Way

AN ORDINANCE OF IRWINTON, GEORGIA TO REGULATE THE USE OF HEAVY EQUIPMENT, MACHINERY AND VEHICLES ON CITY STREETS AND RIGHTS-OF- WAY.

16-100 Scope of Ordinance

The ordinance shall cover any business enterprise or commercial entity that uses a city street right-of-way in carrying out its business by loading materials of any nature whether on the pavement of a city street or crossing the unpaved portion of the right-of-way including ditches or embankments.

16-200 Logging or Pulpwood Loading

All logging or pulpwood operations shall be conducted off city roads and rights-of-way and behind the established ditch line of the city street. Logging and skidding of logs on city roads and rights-of-way are strictly prohibited.

16-201 Roadway Safety

- (a) Ditches constituting a part of the public drainage system or otherwise benefitting a public right-of-way shall be kept clear of all debris and residue at all times to permit proper drainage.
- (b) There shall be no blockage of city roads or rights-of-way at the access site, and all city roads and rights-of-way must remain open and kept free of debris and residue at all times.
- (c) Mud shall not be carried onto city roads by logging vehicles. Where necessary, a temporary construction exit of gravel shall be maintained by the timber harvester to eliminate any hazard to traffic or unsightly conditions on the public right-of-way.
- (d) During periods of rain or inclement weather, logging vehicles and other heavy equipment shall not be operated over the unimproved city roads when such travel causes sufficient damage to the road system that the passage of smaller and lighter vehicles is hampered.

16-300 Suspension of Operations

The Mayor or a designee shall have the authority to close down all operations when it is determined that the city streets and access sites are not being maintained. Upon suspension of operations by the Mayor, the individual, firm, or company shall have five days from the date of the suspension to resolve the violation or appeal the decision. The appeal shall be made in writing to the Mayor and Council.

Upon receipt of the written appeal, the City and individual, firm, or company shall have five days to mutually agree upon a resolution. If a resolution is not agreed to by the City and the firm or company, the City may pursue other legal remedies available to them to enforce compliance with the ordinance.

Chapter 17: Natural Gas Services Franchising

17-100 AN ORDINANCE, GRANTING TO THE CITY OF DUBLIN, GEORGIA, A GEORGIA MUNICIPALITY, HEREINAFTER DESIGNATED AS "GRANTEE", ITS SUCCESSORS AND ASSIGNS, THE RIGHT AND FRANCHISE TO USE AND OCCUPY THE STREETS, AVENUES, ROADS, PUBLIC HIGHWAYS, ALLEYS, LANES, WAYS PARKS AND OTHER PUBLIC PLACES OF THE CITY OF IRWINTON, GEORGIA, FOR CONSTRUCTING, MAINTAINING, RENEWING, REPAIRING, AND OPERATING A GAS WORKS AND GAS DISTRIBUTION SYSTEM, AND OTHER NECESSARY MEANS FOR MANUFACTURING, TRANSMITTING, DISTRIBUTING AND SELLING OF MANUFACTURED, OR NATURAL GAS WITHIN AND THROUGH THE CITY OF IRWINTON, GEORGIA; AND FIXING THE TERMS AND CONDITIONS OF SUCH GRANT.

BE IT ORDAINED by the Mayor and Council of the City of Irwinton, Georgia, as follows:

- (a) The right is hereby granted to the Grantee, its successors and assigns, to lay, construct, extend, maintain, renew, replace and repair gas pipes, valves, manholes, service boxes, posts, lamps, structures, appliances and all appurtenances and appendages under, along, through and across any streets, avenues, roads public places in the City of Irwinton, Georgia, and to use and occupy the said streets, avenues, roads, public highways, alleys, lanes, ways, parks and other public places for the purpose of therein laying, constructing, extending, maintaining, renewing, replacing and repairing mains, pipes, valves, manholes, service boxes, posts, lamps, structures, appliances and all appurtenances and appendages thereto, used and useful for the manufacture, transmission, distribution and sale of gas within and through the present or future territorial limits of the City of Irwinton, Georgia, such right, when exercised as herein provided, to continue for five years after the date of approval of this ordinance by the Mayor and Council.
- (b) Grantee shall be entitled to charge for gas furnished by it, such rates as are prescribed by the Public Service Commission or another lawful regulatory body of the State of Georgia.
- (c) Grantee hereby agrees for and in consideration of the rights and privileges herein granted to it, to pay, within 10 days following the end of each quarterly period to the City of Irwinton, 4 percent of the gas sales receipts received by Grantee from residential, commercial and industrial customers within the territorial limits of said City, during the preceding quarterly period (hereinafter referred to as the quarterly period):

Provided, however, that should the City of Irwinton require Grantee to pay any license fee or tax, regulation charge or related fees, taxes or charges, the aggregate amount of such fees, taxes and charges shall be deducted in full by the Grantee from the quarterly payment or payments subsequently accruing to the City of Irwinton. Such quarterly payment shall not start until the first of the second month following the introduction of natural gas into Grantee's distribution system. The Mayor of said City, through its authorized representative or representatives, shall have the right to inspect and audit the books and records of the Grantee for the purpose of determining the amount of its revenues received from the sale of gas to residential, commercial, and industrial customers within said territorial limits.

- (d) All rights herein granted and authorized shall be subject to and governed only by this ordinance; provided, however, that the City expressly reserves unto itself all of its police power to adopt general ordinances necessary to protect the safety and welfare of the general public in relation to the rights hereby granted not inconsistent with the provisions of this ordinance.
- (e) Grantee upon making an opening upon any of the streets, avenues, roads, public highways, alleys, lanes, ways, parks and other public places in the City, for the purpose of laying, repairing or maintaining gas mains, shall use due care and caution to prevent injury to persons, and shall replace and restore all public ways to their former condition as nearly as practicable, and within a reasonable time, and shall not unnecessarily obstruct or impede traffic upon the streets, avenues, roads, public highways, alleys, lanes ways, parks and other public places of said City.
- (f) Grantee shall save and keep harmless the City of Irwinton from any and all liability by reason of damage or injury to any person or persons whomsoever, on account of the negligence of the Grantee in the installation, maintenance and repair of its mains and pipelines along said streets, avenues, roads, public highways, alleys, lanes, ways, parks and other public places in the City of Irwinton, provided the Grantee shall have been notified in writing of any claim against the City on account thereof and shall have been given ample opportunity to defend the same.
- (g) This ordinance, after its passage according to law, and its acceptance by Grantee, in writing duly filed with the city clerk, within 10 days from the date of approval thereof by the Mayor and Council, shall become effective and in full force.
- (h) All ordinances or parts of ordinances in conflict herewith are hereby repealed.
- (i) This franchise and all rights hereunder shall not be construed as granting an exclusive right or franchise for the uses and purposes granted herein.

Chapter 18: Electric Power Franchising

ORDINANCE GRANTING PERMISSION AND CONSENT to Georgia Power Company, its successors, lessees and assigns, to occupy the streets and public places of the City of Irwinton in constructing, maintaining, operating and extending poles, lines, cables, equipment, and other apparatus for transmitting and distributing electricity, and for other purposes.

18-100 Authority

Be it ordained by the governing authority of the City of Irwinton (hereafter referred to as the "City"), that the authority, right, permission and consent are hereby granted to Georgia Power Company, its successors, lessees and assigns (hereafter referred to as the "Company"), for a period of 50 years, to occupy and use the streets, alleys and public places of the City within the present and future limits of the said 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 for the business and purpose of transmitting, conveying, conducting, using, supplying and distributing useful or practicable for public or private use, and to re-enter upon such streets, alleys and public places from time to time as it may deem proper or necessary to perform these functions, and to cut and trim trees and shrubbery when and where necessary, in the judgment of the Company, to insure safe and efficient service.

18-200 Terms and Conditions

Be it further ordained that the rights, permission, and consents herein contained are made for the following considerations and upon the following terms and conditions, to-wit:

- (a) Following the granting of this franchise, the Company shall pay into the treasury of the City on or before the first day of March in each year a sum of money equal to 4 percent of the gross sales of electric energy to customers served under residential, commercial, and industrial rate schedules (as prescribed by the Georgia Public Service Commission) within the corporate limits of the City during the preceding calendar year) within the corporate limits of the City during the period beginning on the first day of the month following granting of this franchise and ending on December 31 thereafter
- (b) In the event the City shall grant to any other entity the right to use and occupy its streets for like purposes, such use and occupancy shall be upon the same terms and conditions as those herein contained, including the payment provisions hereof.
- (c) 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 and license taxes on the sale of home appliances, shall operate to reduce to that extent the amount due from the percentage of gross sales above provided for.
- (d) The Company shall fully protect, indemnify and save harmless the City from all damages to person or property caused by the construction, maintenance, operation or extension of poles, wires or other apparatus, or conditions of streets, alleys or public places therefrom, for which

the said City would otherwise be liable.

- (e) The Company shall, in constructing, maintaining, operating and extending its poles, wires and other apparatus, 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.

18-300 Contract

Be it further ordained that the Company shall, within 90 days from the approval of this ordinance, file its written acceptance of the same with the Clerk of said City, so as to form a contract between the parties.

18-400 Conflicting Agreements

Be it further ordained that upon such acceptance all laws and ordinances, and all agreements between the parties, in conflict herewith be and the same shall thereupon stand repealed and terminated, respectively.