

## **PART II**

### **CODE OF ORDINANCES**

#### Chapter 1

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### **GENERAL PROVISIONS**

#### ***Sec. 1-1. Designation and Citation of Code.***

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

(Code 1968, Section 1-1)

#### ***Sec. 1-2. Definitions and Rules of Construction.***

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

*Charter.* "Charter" shall mean the Charter of the City of Elberton, Georgia as printed in Part I of this volume.

*City.* The words "the city" or "this city" shall mean the City of Elberton, Georgia.

*Code.* "Code" shall mean this Code of Ordinances, as designated in Section 1-1.

*Computation of Time.* Except as otherwise provided in O.C.G.A., Section 9-11-6, when a number of days is prescribed for the exercise of any privilege or the discharge of any duty, only the first or last day shall be counted; and if the last day falls on Saturday or Sunday, the party having such privilege or duty shall have through the following Monday to exercise the privilege or to discharge the duty. When the last day prescribed for such action falls on a public and legal holiday as set forth in O.C.G.A. Section 1-4-1, the party having the privilege or duty shall have through the following day to exercise the privilege or to discharge the duty; however, when the following day is a Saturday or

Sunday, the party shall have through the following Monday to exercise the privilege or to discharge the duty.

**State law reference** – Similar construction, O.C.G.A. Section 1-3-1(d)(3).

*County.* The words “the county” or “this county” shall mean the County of Elbert, 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.

*Governing Body.* Whenever the words “governing body” are used, they shall mean the Mayor and Council of the city.

*May.* The word “may” is always permissive and never mandatory.

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

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

*O.C.G.A.* “O.C.G.A.” means the latest edition of Official Code of Georgia Annotated, as amended or supplanted.

*Or, and.* “Or” may be read “and” and “and” may be read “or” if the sense requires it.

*Other Officials or Officers.* Whenever reference is made to officials, boards, commissions, departments, etc. by title only, i.e., “City Manager”, “City Clerk and Treasurer”, Chief of Police”, etc., they shall be deemed to refer to the officials, boards, commissions and departments of the City of Elberton, Georgia.

*Person.* The word “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.

*Shall.* The word “shall” is mandatory and never permissive.

*Signature or subscription.* The word “signature” or “subscription” includes a mark when the person cannot write.

*State.* The words “the state” or “this state” shall be construed to mean the State of Georgia.

*Street.* The word “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, unless otherwise stated.

*Tense.* Words used in the past or present tense include the future as well as the past and present.

*Written, in writing.* The term “written” or “in writing” shall be construed to include any representation of words letters or figures by printing or otherwise  
(Code 1968, Section 1-2).

**State law reference** – Construction of definitions O.C.G.A. Sections 1-3-2, 1-3-

**Sec. 1-3. Catchlines of sections; history notes and references.**

(a) The catchlines 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 catchlines are amended or reenacted.

(b) The history notes appearing in parentheses after each section and the references and editor’s notes scattered throughout the Code are for the benefit of the user of the Code and shall have no legal effect.

(Code 1968, Section 1-3).

**Sec. 1-4. Effect of Repeal of Ordinances.**

The repeal of an ordinance shall not revive any ordinances in force before or at the time the ordinance repealed 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 ordinances repealed.

(Code 1968, Section 1-4).

**Sec. 1-5. Severability of Parts of Codes.**

It is hereby declared to be the intention of the mayor and council 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 section of this Code.

(Code 1968, Section 1-5).

**State law reference** – Similar provisions, O.C.G.A. §1-1-3.

**Sec. 1-6. 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 ordinances repeal any chapter, section or subsection or any portion thereof, such repealed portions may be excluded from the Code by omission from reprinted pages.

(b) Amendments to any of the provisions of this Code should be made by amending such provisions by specific reference to the section of this Code in substantially the

following language: "That section \_\_\_\_\_ of the code of Ordinances, City of Elberton, Georgia, is hereby amended to read as follows: (Set out new provisions in full)"

(c) When the mayor and council desire to enact an ordinance of a general and permanent nature on a subject not heretofore existing in the code, which the Mayor and Council desire to incorporate into the code, a section in substantially the following language shall be made a part of the ordinance:

"Section \_\_\_\_\_. It is the intention of the Mayor and Council, and it is hereby ordained that the provisions of this ordinance shall become and be made a part of the code of Ordinances, City of Elberton, Georgia, and the sections of this ordinance may be renumbered to accomplish such intention."

(d) All sections, articles, chapters or provisions of this Code desired to be repealed should be specifically repealed by section or chapter number, as the case may be. (Code 1968, Section 1-6).

**Sec. 1-7. *Supplementation of Code.***

(a) By contract or by city personnel, supplements to this Code shall be prepared from time to time. A supplement to the code shall include all substantive permanent and general parts of ordinances passed by the mayor and council during the period covered by the supplement and all changes made thereby in the Code. The pages of a supplement shall be so numbered that they will fit properly into the code and will, where necessary, replace pages that have become obsolete or partially obsolete, and the new pages shall be so prepared that, when they have been inserted, the code will be current through the date of the adoption of the latest ordinance included in the supplement.

(b) In preparing a supplement to this Code, all portions of the Code which have been repealed shall be excluded from the Code by the omission thereof from reprinted pages.

(c) When preparing a supplement to this Code, the codifier (meaning the person authorized to prepare the supplement) may make formal, non-substantive changes in ordinances and parts of ordinances included in the supplement, insofar as it is necessary to do so to embody them into a unified code. For example, the codifier may:

(1) Organize the ordinance material into appropriate subdivisions.

(2) Provide appropriate catchlines headings and titles for sections and other subdivisions of the Code printed in the supplement, and make changes in such catchlines, headings and titles.

(3) Assign appropriate numbers to sections and other subdivisions to be inserted in the Code and, where necessary to accommodate new material, change existing section or other subdivision numbers.

(4) Change the words "this ordinance" or words of the same meaning to "this chapter", "this article", "this division", etc. as the case may be, or to "sections \_\_\_\_\_ to \_\_\_\_\_" (inserting section numbers to indicate the sections of the Code which embody the substantive sections of the ordinance incorporated into the Code).

(5) Make other non-substantive changes necessary to preserve the original meanings of ordinance sections inserted into the code; but in no case shall the codifier make any change in the meaning or effect of ordinance material included in the supplement or already embodied in the Code.

**Sec. 1-8. 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 to be misrepresented thereby. Any person violating this section shall be punished as provided in section 1-9.

(Code 1968, Section 1-7)

**State law reference** – Alteration of records prohibited, O.C. G.A., Section 50-18-102.

**Sec. 1-9. General Penalty.**

Whenever in this Code or in any ordinance of the city any act is prohibited or is made or declared to be unlawful or an offense, or whenever in 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, such violation of any such provision of this Code or any ordinance shall be punishable by a fine not exceeding \$1,000.00, by sentence of imprisonment not exceeding six months and by work on the streets or public works for a period not exceeding 60 days, any or all such penalties in the discretion of the Municipal Court Judge.

(Code 1968, Section 1-8)

**State law reference**-Penalties for ordinance violations limited, O.C.G.A., Section 36-35-6(a).

**Sec. 1-10. Ordinances Not Affected By Code**

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

- (1) Any offense or act committed or done or any penalty or forfeiture incurred or any contract or right established or accruing before the effective date of this Code.
- (2) Any ordinance or resolution promising or guaranteeing the payment of money for the city or authorizing the issuance of any bonds of the city or any evidence of the city's indebtedness.
- (3) Any contract or obligation assumed by the city.
- (4) Any ordinance fixing the salary of any city officer or employee.
- (5) Any right or franchise granted by the city.
- (6) Any ordinance dedicating, naming, establishing, locating, relocating,

opening, widening, paving, etc., any street or public way in the city.

- (7) Any appropriation ordinance.
- (8) Any ordinance which, by its own terms, is effective for a stated or limited term.
- (9) Any ordinance providing for local improvements and assessing taxes therefore.
- (10) Any zoning map amendment or zoning ordinance.
- (11) Any ordinance dedicating or accepting any subdivision plat.
- (12) Any ordinance describing or altering the boundaries of the city.
- (13) The administrative ordinances or resolutions of the city not in conflict or inconsistent with the provisions of this Code.
- (14) Any ordinance levying or imposing taxes not included in this Code.
- (15) Any ordinance establishing or prescribing street grades in the city.
- (16) Any ordinance setting fees, rates, or charges and not included in this Code.
- (17) Any ordinance providing for a recorder's (municipal) court.

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