

CHAPTER 1 - GENERAL PROVISIONS

Sec. 1-1. - Designation and citation of Code.

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

State law reference— Duty to codify ordinances, O.C.G.A. § 36-80-19.

Sec. 1-2. - Definitions and rules of construction.

- (a) *Applicability.* In the construction of this Code and of all ordinances, the rules of construction and definitions set out in this section shall be observed. The rules of construction and definitions set out in this section shall not be applied to any section of this Code which contain any express provisions excluding such construction or where the subject matter or context of the section may be repugnant thereto.
- (b) *Liberal construction; minimum requirements; overlapping provisions.*
- (1) The ordinary signification shall be applied to all words, except words of art or words connected with a particular trade or subject matter when they shall have the signification attached to them by experts in such trade or with reference to such subject matter.
 - (2) In all interpretations the courts shall look diligently for the intention of the city council, keeping in view, at all times, the old law, the evil, and the remedy. Grammatical errors shall not vitiate, and a transposition of words and clauses may be resorted to when the sentence or clause is without meaning as it stands.
 - (3) All general provisions, terms, phrases, and expressions contained in this Code shall be liberally construed in order that the true intent and meaning of the city council may be fully carried out. In the interpretation and application of any provision of this Code, they shall be held to be the minimum requirements adopted for the promotion of the public health, safety, comfort, convenience, and general welfare.
 - (4) Where any provision of this Code imposes greater restrictions on the subject matter than the other provisions of this Code, the provisions imposing the greater restriction or regulation shall be deemed to be controlling. The specific controls over the general.

- (c) *Definitions and conventions.*

As soon as possible. The term "as soon as possible" means within a reasonable time, having due regard to all the circumstances.

Charter. The term "Charter" means the city Charter, as amended.

City. The term "city" refers to the City of Summerville, Georgia.

City clerk. The term "city clerk" refers to that employee of the City of Summerville charged with keeping the minute book of the city.

City council and council. The terms "council" and "city council" refer to the city council of the City of Summerville, Georgia.

Code. The term "Code" refers to The Code of the City of Summerville, Georgia, as designated in section 1-1.

Computation of time. When a number of days are prescribed for the exercise of any privilege or the discharge of any duty, only the first and last day shall be counted. If the last day falls on Saturday or Sunday, the party having such privilege or duty shall have through the following Monday to exercise such privilege or to discharge the duty. When the last day prescribed for such action shall fall on a public or legal holiday as set forth in state law, the party having such privilege or duty shall have through the following business day to exercise such privilege or to discharge the duty. When the period of time prescribed is less than seven days, an intermediate Saturday, Sunday, and legal holiday shall be excluded in the computation.

Conjunctions. Where a provision involves two or more items, conditions, provisions, or events connected by any of the conjunctions "and," "or," "either ... or," or "neither ... nor," the conjunction shall be interpreted as follows, provided in appropriate cases the terms "and" and "or" are interchangeable:

- (1) The term "and" indicates that all the connected items, conditions, provisions or events shall apply.
- (2) The term "or" indicates that the connected items, conditions, provisions, or events may apply singly or in any combination.
- (3) The terms "either ... or" and "neither ... nor" indicate that the connected items, conditions, provisions, or events shall apply singly, but not in combination.

County. The term "county" means Chattooga County, Georgia.

Delegation of authority. Whenever a provision appears requiring a city officer or city employee to do some act, it is to be construed to authorize the officer or employee to designate, delegate, and authorize subordinates to perform the required act.

Fire department. The term "fire department" refers to the Chattooga County fire department or the City of Summerville fire department, whichever provides services to the City of Summerville.

Following. The term "following" means next after.

Gender. A word importing one gender shall extend and be applied to the other genders, except where inappropriate.

Joint authority. A joint authority given to any number of persons or officers may be executed by a majority of them, unless it is otherwise declared.

Keeper and proprietor. The terms "keeper" and "proprietor" mean and include persons, as the term "person" is defined herein, whether acting by themselves or through an agent or employee.

May. The term "may" is to be construed as being permissive.

Month. The term "month" means a calendar month.

Must. The term "must" is to be construed as being mandatory.

Number. A word importing only the singular number may extend and be applied to several persons or things as well as to one person or thing.

Oath. The term "oath" includes an affirmation in all cases in which by law an affirmation may be substituted for an oath, and in such cases the terms "swear" and "sworn" shall be equivalent to the terms "affirm" and "affirmed."

O.C.G.A. The abbreviation "O.C.G.A." refers to the Official Code of Georgia Annotated, as amended.

Officials, officers, etc. References to officials, employees, boards, commissions, or other agencies by title only shall be construed as referring to the officials, employees, boards, commissions, or other agencies of the city.

Owner. The term "owner," applied to a building or land, includes any part owner, joint owner, tenant in common, tenant in partnership, joint tenant or person in possession under a bond for title.

Person. The term "person" includes individuals and any association, club, society, firm, corporation, limited liability company, partnership, body politic and corporate, or any combination thereof.

Personal property. The term "personal property" includes every species of property except real property, as defined in this section.

Police. The term "police" refers to the police department or police chief of the City of Summerville.

Preceding. The term "preceding" means next before.

Property. The term "property" includes real and personal property.

Public place. The term "public place" means any park, cemetery, shopping center, schoolyard, or open space adjacent thereto, or any area available and accessible to the public, regardless of whether privately or publicly owned, and any place that the public is invited or permitted to go or to congregate.

Real property. The term "real property" includes lands, tenements, and hereditaments.

Shall. The term "shall" is mandatory.

Sidewalk. The term "sidewalk" means any portion of a street between the curb line and the adjacent property line, intended for the use of pedestrians, excluding parkways.

Signature and subscription. The terms "signature" and "subscription" include a mark when the person cannot write.

State. The term "state" means the State of Georgia.

Street. The term "street" means and includes any public way, road, highway, street, avenue, boulevard, parkway, court, circle, way, alley, lane, viaduct, bridge, and the approaches thereto and any area owned or dedicated as public rights-of-way within the city.

Tenant and occupant. The terms "tenant" and "occupant," applied to a building or land, include any person holding a written or oral lease of, or who occupies the whole or a part of, such building or land, either alone or with others.

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

Week. The term "week" means seven calendar days, unless otherwise specified.

Will. The term "will" is to be construed as being mandatory.

Written and in writing. The terms "written" and "in writing" shall be construed to include any representation of words, letters, numbers, or figures, whether by printing or otherwise.

Year. The term "year" means a calendar year.

Sec. 1-3. – Catch-lines of sections; effect of notes; references in Code.

- (a) The catch-lines of the several sections and subsections of this Code 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 or subsections, nor as any part of the section or subsection, nor, unless expressly so provided, shall they be so deemed when any of such sections or subsections, including the catch-lines, are amended or reenacted.
- (b) The history or source notes appearing in parentheses after sections in this Code are not intended to have any legal effect but are intended merely to indicate the source of matter contained in the section. Editor's notes, Charter references and state law references and other references that appear after sections or subsections of this Code or which otherwise appear in footnote form are provided for the convenience of the user of the Code and have no legal effect.
- (c) All references to chapters, articles, divisions, subdivisions, or sections are to chapters, articles, divisions, subdivisions, or sections of this Code, unless otherwise specified.
- (d) References in city forms, documents, citations, and regulations to city ordinances codified in this Code shall be construed to apply to the corresponding provisions contained within this Code.

Sec. 1-4. - Exercise of powers.

The powers of the city may be exercised as provided by the Charter, by the city, and by the parties with whom the city contracts for municipal services.

Sec. 1-5. - Effect of repeal of ordinances.

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

Sec. 1-6. - Amendments to Code; effect of new ordinances; amendatory language.

- (a) All ordinances passed subsequent to the passage of the ordinances originally included herein, which amend, repeal or in any way affect this Code, may be numbered in accordance with the numbering system of this Code and added hereto. In the case of repealed chapters, sections and subsections, or any part thereof, by subsequent ordinances, such repealed portions may be excluded from the Code by omission from reprinted pages affected thereby.
- (b) Amendments to any of the provisions of this Code may be made by amending such provisions by specific reference to the section number of this Code in the following language: "Section _____ of The Code of the City of Summerville, Georgia, is hereby amended to read as follows:...." The new provision may then be set out in full as desired.
- (c) In the event a new section not theretofore existing in the Code is to be added, the following language may be used: "The Code of the City of Summerville, Georgia, is hereby amended by adding a section (or article or chapter) to be numbered _____, which said section (or article or chapter) reads as follows:...." The new section (or article or chapter) may then be set out in full as desired.
- (d) All sections, articles, chapters, or provisions desired to be repealed shall be specifically repealed by section, article or chapter number, as the case may be.

Sec. 1-7. - Supplementation of Code.

- (a) By contract or by city personnel, supplements to this Code shall be prepared and printed whenever authorized or directed by the council. A supplement to the Code shall include all substantive, permanent and general parts of ordinances passed by the council or adopted by initiative and referendum 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. 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. Charter amendments may be included in like manner.
- (b) In the preparation of a supplement to this Code, all portions of the Code that 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, agency or organization 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 catch-lines, headings and titles for sections and other subdivisions of the Code printed in the supplement, and make changes in such catch-lines, 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 _____ through _____"

(inserting section numbers to indicate the sections of the Code which embody the substantive sections of the ordinance incorporated into the Code); and

- (5) Make other non-substantive changes necessary to preserve the original meaning 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, ordinance or other public document.

- (a) It shall be unlawful for any person in the city to change or amend, by additions or deletions, any part 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.
- (b) It shall be unlawful for any person to deface, mutilate, or in any other manner alter any ordinance book or minute book, or any notice posted by the city for the benefit of the public, or any other document or record of the municipal government of the city.

State law reference— Offenses involving public records, O.C.G.A. § 45-11-1.

Sec. 1-9. - Severability of parts of Code.

It is declared to be the intention of the 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 any court of competent jurisdiction, such unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs, and sections of this Code. If any phrase, clause, sentence, paragraph or section of this Code shall be declared inapplicable in any situation by the valid judgment or decree of any court of competent jurisdiction, such judgment or decree shall not affect the applicability of such phrase, clause, sentence, paragraph, and section to other situations.

Sec. 1-10. - Penalties for violation of Code.

- (a) The following words, terms and phrases, when used in this section, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:

Violation of this Code means:

- (1) Doing an act that is prohibited or made or declared to be an unlawful act, an offense, or a violation of this Code by ordinance or by rule or regulation authorized by ordinance;
 - (2) Failure to perform an act that is required to be performed by ordinance, rule, or regulation authorized by ordinance; or
 - (3) Failure to perform an act if the failure is declared a violation of this Code, an offense, or an unlawful omission by ordinance, rule, or regulation authorized by ordinance.
- (b) The phrase "violation of this Code" does not include the failure of a city officer or city employee to perform an official duty, unless it is provided that failure to perform the duty is to be punished as provided in this section or it is clear from the context of this Code that it is the intent of the city to impose the penalty provided for in this section upon the city officer or employee.
 - (c) Except as otherwise provided, a person convicted of a violation of this Code shall be punished by a fine not exceeding \$1,000.00, imprisonment for a term not exceeding six months, confinement at labor for a period of time not to exceed 30 days, or any combination thereof.
 - (d) Except as otherwise provided:
 - (1) With respect to violations that are continuous with respect to time, each day that the violation continues is a separate offense.
 - (2) As to other violations, each act is a separate offense.

- (e) Violations of this Code that are continuous with respect to time are a public nuisance and may be abated by injunctive or other equitable relief and by such other means as are provided by law.
- (f) The imposition of a penalty does not prohibit equitable relief.
- (g) The imposition of a penalty does not prohibit revocation or suspension of a license, permit, or franchise or the imposition of other administrative sanctions.
- (h) All fines shall be paid into the city treasury.
- (i) If it is deemed by a court of competent jurisdiction that a punishment imposed under this Code conflicts with the laws of the state, the punishment shall be the maximum permitted by law.

State law reference— Maximum penalties, O.C.G.A. § 36-35-6(a)(2); authority to punish ordinance violations by requiring labor, O.C.G.A. § 36-30-8; maximum penalties which may be imposed by municipal courts, O.C.G.A. §§ 36-32-1(c) and 36-32-5; additional penalties in certain traffic cases, O.C.G.A. § 15-21-73.

Sec. 1-11. - Prior offenses, penalties, contracts or rights not affected by adoption of Code.

- (a) Nothing in this Code or the ordinance adopting this Code shall affect 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.
- (b) The adoption of this Code shall not be interpreted as authorizing or permitting any use or the continuance of any use of a structure or premises in violation of any ordinance or resolution in effect on the date of adoption of this Code.

Sec. 1-12. - Provisions considered as continuation of existing ordinances.

The provisions appearing in this Code, so far as they are substantially the same as ordinances existing at the time of the effective date of this Code, shall be considered continuations thereof and not as new enactments.

Sec. 1-13. - Certain 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:

- (a) Any rates, fees or charges not inconsistent with this Code;
- (b) Any ordinance or resolution promising or guaranteeing the payment of money for the city, or authorizing the issuance of any bonds for the city or any evidence of the city's indebtedness, or any contract or obligation assumed by the city;
- (c) Any ordinance or resolution consistent with this Code prescribing traffic regulations for specific locations, such as prescribing through streets, parking limitations, parking prohibitions, one way traffic or limitations on loads of vehicles or loading zones;
- (d) Any ordinance or resolution consistent with this Code fixing salaries of, or providing policies and programs for, or providing retirement, disability or death benefits for officials, officers or employees of the city or providing personnel policies;
- (e) Any budget ordinance or appropriation ordinance and any ordinance levying any tax;
- (f) Any right or franchise granted by any ordinance or resolution;
- (g) Any ordinance dedicating, naming, establishing, locating, relocating, opening, closing, paving, widening or vacating any street or public way in the city;
- (h) Any ordinance establishing and prescribing the street grades of any street in the city;
- (i) Any ordinance providing for local improvements or assessing taxes therefor;

- (j) Any ordinance dedicating or accepting any plat or subdivision in the city;
- (k) Any ordinance establishing or changing the boundary of the city;
- (l) Any zoning ordinance or any ordinance regulating subdivisions or any ordinance regulating signs or any ordinance regulating building design standards;
- (m) Any ordinance or resolution adopted for purposes that have been consummated;
- (n) Any ordinance that is temporary, although general in effect, or special, although permanent in effect; and
- (o) Any resolution of the city not in conflict with this Code.

All such ordinances or resolutions are hereby recognized as continuing in full force and effect to the same extent as if set out at length in this Code.