

Chapter 12 BUSINESS REGULATION AND LICENSING¹

ARTICLE I. IN GENERAL

Secs. 12-1—12-18. Reserved.

ARTICLE II. OCCUPATION TAXES

DIVISION 1. GENERALLY

Sec. 12-19. Definitions.

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

Administrative fee means a component of an occupation tax which approximates the reasonable cost of handling and processing the occupation tax.

Business means any person that exerts substantial efforts within the city, engages in, causes to be engaged in, or represents or holds out to the public to be engaged in any occupation or activity with the object of gain or benefit, either directly or indirectly.

Business location means the physical location of a business. The term "business location" does not include a temporary work site which serves a single customer or project. The term "business location" does include a temporary work site which serves multiple customers, and any business operating at such location is subject to the requirements of this chapter. For the purposes of this article, a separate location shall exist if there is a separation of buildings of a business by the property of another, not including public streets.

Certificate holder means any person who has obtained a tax certificate pursuant to the provisions of this chapter.

Dominant line means the type of business within a multiple line business from which the greatest amount of income is derived.

Employee means an individual who performs services for an employer under the employer's direction and control as to the means and manner of performing the work and who is classified by the employer as an employee for federal and state tax and labor law purposes. An individual treated as an independent contractor and reported on IRS Form 1099, rather than IRS Form W-2, shall not be considered an employee.

¹State law reference(s)—Authority of cities and counties to license self-service motor fuel dispensing pumps, O.C.G.A. § 36-60-1; certain persons required to provide proof of state licensure before issuance of city or county business license, O.C.G.A. § 36-60-6; limitations regarding persons performing investigations related to city and county business licenses, O.C.G.A. § 36-60-9; taxation of insurers, O.C.G.A. § 33-8-1 et seq.; licensing and taxation of certain businesses, O.C.G.A. § 48-13-1 et seq.

For purposes of calculating occupation taxes based on the number of employees, part-time employees shall be converted to full-time equivalent employees by dividing the total hours worked by all part-time employees during the applicable pay period by forty (40).

Engaged in business means doing or performing of any act of selling any goods or services, or soliciting business, or offering any goods or services for sale primarily in an attempt to make a profit, including selling or performing services of the character of a wholesaler or retailer, or being involved in any of the functions performed as a manufacturer, or renting real or personal property, all of the foregoing performed either as an owner, operator or agent of any business, trade, profession, or occupation within the city.

Insurer means a company which is authorized to transact business in the classes of insurance designated in O.C.G.A. § 33-3-5.

Life insurance company means a company which is authorized to transact only the class of insurance designated in O.C.G.A. § 33-3-5 as class (1).

Location or office includes any structure or vehicle where a business profession or occupation is conducted but excludes a construction work site and a vehicle used for sales or delivery by a business or practitioner of a profession or occupation which has a location or office.

Nonprofit organization means an organization which is formed for a purpose not involving pecuniary remuneration, directly or indirectly, to its shareholders or members as such. Such organizations encompass those which are truly altruistic as well as those whose aid is limited to its membership.

Occupation tax means a tax levied on persons, partnerships, corporations, or other entities for engaging in an occupation, profession, or business for revenue raising purposes.

Practitioner of profession or occupation means one who by state law requires state licensure for regulating such profession or occupation. The term "practitioner of profession or occupation" shall not include a practitioner who is an employee of a business, if the business pays an occupation tax.

Regulatory fees means payments, whether designated as license fees, permit fees, or by another name, that are assessed by the city as an exercise of its police power and as a part of or as an aid to regulation of an occupation, profession, or business and which fees are designed to approximate the reasonable cost of the regulatory activity performed by the city.

(Ord. of 12-19-1994, § 2; Ord. No. 2026-01, 6-15-2026)

State law reference(s)—Similar definitions, O.C.G.A. § 48-13-5.

Sec. 12-20. Duty to keep information current.

Any person required by this article to register his business shall notify the clerk in writing within 30 days of the following changes:

- (1) Any change of address of the business, in which case the same occupation tax certificate shall be valid at the new location;
- (2) Any change of ownership, in which case the transfer shall be treated as the termination of one business and the establishment of a new business for the purposes of this article;
- (3) The termination of any business.

(Ord. of 12-19-1994, § 37)

Sec. 12-21. Compliance with other ordinances and laws.

- (a) All businesses registered under this article are required to comply with the provisions of this Code and all other ordinances of the city and applicable state and federal law. The issuance of an occupation tax certificate to any business by the city shall not authorize that business to engage in or carry on business or to perform any other activity in violation law nor shall it relieve that business from obtaining any certificate or permit required by the provision of other laws or ordinances.
- (b) No certificate shall be issued or renewed until any delinquent property taxes and other debts to the city have been paid.

(Ord. of 12-19-1994, § 38)

Sec. 12-22. Evidence of state license required, if applicable; state license to be displayed.

- (a) Each person who is licensed under O.C.G.A. title 43 of the state license examining boards shall provide evidence of proper and current state licensure before the city tax certificate is issued.
- (b) Each person who is subject to a city tax certificate and also is licensed by the state shall post the state license in a conspicuous place in the certificate holder's place of business and shall keep the license there at all times while the tax certificate remains valid.

(Ord. of 12-19-1994, § 12)

Sec. 12-23. Evidence of qualification required.

- (a) Any business required to obtain health permits, bonds, certificates of qualification, certificates of competency, or any other regulatory matter shall first, before the issuance of a city business tax certificate, show evidence of qualification.
- (b) Any business required to submit an annual application for continuance of such business shall do so before the tax certificate is issued.

(Ord. of 12-19-1994, § 13)

Sec. 12-24. Liability of officers and agents; failure to register and obtain certificate.

- (a) All persons subject to licensure and taxation provided in this article shall be required to take out the necessary tax certificate for said business prescribed in this article, and in default thereof, the officer or agent soliciting for or representing such persons shall be subject to the same penalty as other persons who fail to obtain a tax certificate.
- (b) Every person commencing business in the city after April 1 of each year shall likewise obtain the tax certificate herein provided for before commencing the same, and any person transacting or offering to transact in the city any of the kinds of business, trade, profession or occupation without first having so obtained said tax certificate shall be subject to penalties provided thereof.

(Ord. of 12-19-1994, § 14)

Sec. 12-25. Methods of payment.

- (a) The City of Cleveland shall accept as payment for amounts due under this section the following methods of payment:
 - (1) Cash;
 - (2) Check;
 - (3) Money order;
 - (4) Credit card/debit card (Visa, MasterCard, Discover).
- (b) Nothing in this section shall require the City of Cleveland to accept a particular type of credit card for the payment of amounts due under this section.

(Ord. No. 2017-10, § 2, 8-14-2017)

Editor's note(s)—Ord. No. 2017-10, § 2, adopted Aug. 14, 2017, set out provisions intended for use as § 12-215. For purposes of classification, and at the editor's discretion, these provisions have been included as § 12-25.

Secs. 12-26—12-51. Reserved.

DIVISION 2. ADMINISTRATION AND ENFORCEMENT

Sec. 12-52. Penalties.

- (a) Any person violating the provisions of this article shall be punished as provided in section 1-18; provided, however, that violator whose qualification to practice his profession are determined by state law and who fails to pay occupation tax as required in this article shall be subject only to collection by the clerk in the same manner as provided by law for tax executions.
- (b) In addition to such fine or imprisonment, violation of this article shall be grounds for immediate suspension or revocation of the tax certificate issued hereunder. However, no suspension or revocation shall take effect until written notice of the violations have been provided to the certificate holder not less than 48 hours prior to time of the hearing before the city council. If the evidence before the city council at the hearing shall demonstrate a violation likely to continue which poses an immediate threat to the health, safety or welfare of any citizen, then it shall be grounds for an immediate suspension of the tax certificate pending a full administrative hearing on the issue.
- (c) At the time set for hearing, the city council shall receive all relevant testimony in evidence from the city personnel, from interested parties, and from the certificate holder. The city council shall make findings of fact as to whether or not the alleged violation of this article has occurred.
- (d) The below enumerated periods of mandatory minimum suspension shall be imposed and enforced for each violation. The enumerated periods represent a minimum penalty, and additional periods of suspension and revocation may be imposed as determined by the city council on a case by case basis. The minimum suspension and revocation periods are as follows:

First offense: Suspension for four months.

Second offense: Suspension for one year.

Third offense: Revocation for a period not less than five years.

(Ord. of 12-19-1994, § 16)

Sec. 12-53. Enforcement authority.

The city clerk and his duly designated officers and inspectors, including, but not limited to, the city code enforcement officer, shall be classified as business inspectors with full subpoena and arrest authority in conjunction with any violation relating to the occupation tax of the city.

Sec. 12-54. Enforcement duties of city clerk.

The city clerk shall administer and enforce the provisions of this article for the levy, assessment, and collection of fees, taxes, and penalties imposed herein. In carrying out the responsibilities, the city clerk shall have the following specific duties:

- (1) To prepare and provide the necessary forms for licensing and registration of a business and for the submission of required information as may be necessary to properly administer and enforce the provisions of this article;
- (2) To ensure to each person an occupation tax certificate within a reasonable time after the payment of the occupation tax; provided, however, that if permits, certifications, and compliance with enumerated conditions are required for the operation of the business, the clerk shall not issue said certificate until the applicant exhibits to the clerk full compliance therewith;
- (3) To audit periodically, and when deemed necessary, the books and records of the businesses subject to the provisions of this article, and to require the submission of such additional information as may be necessary to correctly determine the amount of the occupation tax due and to ensure the collection of the same; and
- (4) To make and publish reasonable rules and regulations not inconsistent with this chapter or any federal, state, county, or city law or rule for the administration and enforcement of the provisions of this article and the collection of the fees, taxes, and penalties due hereunder.

(Ord. of 12-19-1994, § 17)

Sec. 12-55. Inspection of books and records; deficiencies.

- (a) Each business subject to taxation under this article shall keep adequate records for examination by the city clerk, or designee, as provided in this section.
- (b) The city clerk, through officers, agents, employees or representatives, including any independent contractors as may be employed by the city from time to time, may inspect the books of the business for which the returns are made as required in this article.
- (c) Upon demand of the city clerk, or designee, such books or records shall be submitted for inspection within 30 days. Failure to submit books or records within 30 days shall be grounds for revocation of the tax certificate currently existing to do business in the city.
- (d) If, after examination of the books or records, it is determined that a deficiency occurs as a result of underreporting, a penalty of ten percent of the deficiency, and an additional one percent of the deficiency for each month or fraction thereof that the deficiency was due and unpaid, shall be assessed.

(Ord. of 12-19-1994, § 25; Ord. No. 2026-01, 6-15-2026)

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Sec. 12-56. Grounds for revocation.

Except for a person whose qualifications to practice his profession is determined by general state law, the failure of any business to pay an occupation tax or any part thereof before it becomes delinquent or upon failure to permit inspection of its books as provided in section 12-55, any business tax certificate granted by the city under this article permitting the owner to do business in the city for the current year shall be, ipso facto, revoked. No new business tax certificate shall be granted by the city for the operation of a business for which any part of the occupation tax is at that time unpaid or to a person who has failed to submit adequate records as requested by the city clerk.

(Ord. of 12-19-1994, § 26)

Sec. 12-57. Tax certificate revocation or suspension.

- (a) Upon the failure of any business to obtain or renew, in a timely manner, a tax certificate hereunder, or to pay an occupation tax or any part thereof before it becomes delinquent, or upon failure to make and file returns within the time required herein, or upon failure to make a true return, or upon failure to amend a return to set forth the truth, or upon failure to permit inspection of its books as provided herein, any business in the city for the current year shall be, ipso facto, revoked.
- (b) No new business tax certificate shall be granted by the city for the operation of a business for which any fees or any part of the occupation tax herein provided for is at that time unpaid, or to a person who has failed to submit adequate records as requested by the revenue collection officer in accordance with this article.

(Ord. of 12-19-1994, § 27)

Sec. 12-58. Execution for delinquent occupation tax.

- (a) In addition to the other remedies herein provided for the collection of the occupation tax herein levied, the city clerk, upon any tax or installment of said tax becoming delinquent and remaining unpaid, shall issue execution for the correct amount of said tax against the person liable for said tax, which execution shall bear interest at the rate of one percent per month from the date when such tax or installment becomes delinquent.
- (b) The lien shall cover the property of the person liable for the delinquent tax as provided by this Code and state law. The lien shall become fixed from the date the tax or any installment thereof became delinquent. The execution shall be levied by the city clerk upon the property of the person liable for the tax, and sufficient property shall be advertised and sold to pay the amount of the execution, with interest and costs.
- (c) All other proceedings in relation thereto shall be had as provided in this Code and by state law. The defendant shall have rights of defense, by affidavit of illegality and otherwise, as may be provided by law.
- (d) When a nulla bona entry has been entered by the proper authority upon an execution issued by the city clerk against any person defaulting on the occupation tax, the person against whom the entry was made shall not be allowed or entitled to have or collect any fees or charges whatsoever for services rendered after the entry of the nulla bona. If, at any time after the entry of nulla bona has been made, the person against whom the execution issues pays the tax in full, together with all interest, penalties and costs accrued on the tax, the person may collect any fees and charges due the person as though the person had never defaulted in the payment of the taxes.

(Ord. of 12-19-1994, § 28)

Secs. 12-59—12-89. Reserved.

DIVISION 3. EXEMPTIONS AND EXCEPTIONS

Sec. 12-90. Businesses not subject to taxation under this article.

- (a) The following businesses are not subject to fees or taxes under this article but may be assessed an occupation tax or other type of tax or fee pursuant to the provisions of other general laws of the state or local law:
- (1) Those businesses regulated by the state public service commission;
 - (2) Those electrical service businesses organized under O.C.G.A. § 46-3-1 et seq.;
 - (3) Any farm operation for the production, from or on the land, of agricultural products, but not including agribusiness;
 - (4) Cooperative marketing associations governed by O.C.G.A. § 2-10-105;
 - (5) Insurance companies governed by O.C.G.A. § 33-8-8;
 - (6) Motor common carriers governed by O.C.G.A. § 46-7-15;
 - (7) Those businesses governed by O.C.G.A. § 48-5-355;
 - (8) Agricultural products and livestock raised in the state governed by O.C.G.A. § 48-5-356;
 - (9) Disabled veterans and blind persons with proof of exemption under O.C.G.A. § 48-12-1;
 - (10) Depository financial institutions governed by O.C.G.A. § 49-6-93;
 - (11) Facilities operated by a charitable trust governed by O.C.G.A. § 48-13-55;
 - (12) Established churches, religious, charitable, civic and fraternal organizations chartered or operated as nonprofit organizations and which are not engaged in daily selling of goods or services to the public in competition with persons taxed by virtue of the provisions of this division;
 - (13) Any person engaging in casual or isolated activity and commercial transactions, where such involve personal assets and are not an occupation for the individual.
- (b) In regard to yard/garage sales, this exemption shall apply to persons or nonprofit organizations conducting such sales at a private residence or at a commercial location with an occupancy permit and with permission of the property owner, not exceeding four events per year.
- (c) In regard to the rental of personally owned residences, this exemption shall apply to persons renting a maximum of five residences within the state.
- (d) The city may require any business claiming not to be covered by the provisions of this article to provide specific and detailed evidence showing such noncoverage.

(Ord. of 12-19-1994, § 18)

Sec. 12-91. Practitioners exclusively practicing for government.

Any practitioner whose office is maintained by and who is employed in practice exclusively by the state or federal government, a municipality or county of the state, an instrumentality of the state or federal government,

or an instrumentality of a municipality or county of this state, shall not be required to obtain a tax certificate for that purpose.

Sec. 12-92. Exemption for charitable purpose businesses.

No business on which a business fee or an occupation tax is levied by this article shall be exempt from said fees or tax on the grounds that such business is operated for a charitable purpose unless 80 percent or more of the entire proceeds from said business are devoted to such purpose.

(Ord. of 12-19-1994, § 11)

Sec. 12-93. Option to establish exemption or reduction.

The city council may, by subsequent ordinance or resolution, provide for an exemption or reduction in occupation tax to one or more types of businesses or practitioners of occupations or professions as part of a plan for economic development or attracting or encouraging selected types of businesses or practitioners of selected occupations or professions. Such exemptions or reductions in occupation tax shall not be arbitrary or capricious, and the reasons shall be set forth in the minutes of the city council.

(Ord. of 12-19-1994, § 33)

Sec. 12-94. Tax exemption for certain persons 65 years of age or older.

The city recognizes and encourages the fact that there are individuals within the city who have reached the age of 65 wish to remain involved in the economy of the area without pursuing a fulltime business or occupation. This involvement contributes to the economic development of the city, and as a means of encouraging this involvement, the city declares that any person 65 years of age or older conducting business from his home and having an annual gross income of less than \$10,000.00 may conduct such business by paying one-half of the otherwise required occupation tax. Proof of qualification for this status must be provided to the city clerk.

(Ord. of 12-19-1994, § 21)

Sec. 12-95. Tax not applicable where prohibited by law.

The occupation tax assessed in this article is not levied upon any part of a business to the extent that such levy is prohibited or exempted by state or federal law.

(Ord. of 12-19-1994, § 19)

Secs. 12-96—12-118. Reserved.

DIVISION 4. REGISTRATION AND FEES

Sec. 12-119. Business registration and tax certificate required.

It shall be unlawful for any person to engage in, conduct or carry on any business, trade, profession, or occupation from a location in the city, regardless of whether the location in the city is a main office or main place of business, and including home businesses, without registering with the city and obtaining a tax certificate. No tax

certificate so issued shall condone or make legal an activity thereunder if the same is deemed illegal or unlawful under state or federal law.

Sec. 12-120. Administrative and regulatory fees; additional occupation taxes.

- (a) *Administrative fee.* Each certificate holder under this chapter shall pay an administrative fee in the amount established by the city council, and such fees shall be used by the city to administer the occupation tax system.
- (b) *Regulatory fee.* Certain certificate holders under this article may be required to pay, in addition to administrative fees and occupation taxes, a regulatory fee to defray, in part, the city's cost in regulating the activities of the certificate holder by providing such services as background investigations, inspections, and similar regulatory activities; provided, however, that the regulatory fee assessed pursuant to this section shall approximate the reasonable cost of the regulatory activity performed by the city. Examples of businesses or practitioners of professions or occupations that may be subject to regulatory fees of under this section include, but are expressly not limited to, the following:
 - (1) Building and construction contractors, subcontractors, and workers;
 - (2) Carnivals;
 - (3) Taxicab and limousine operators;
 - (4) Tattoo artists;
 - (5) Stables;
 - (6) Shooting galleries and firearm ranges;
 - (7) Scrap metal processors;
 - (8) Pawnbrokers;
 - (9) Food service establishments;
 - (10) Dealers in precious metals;
 - (11) Firearms dealers;
 - (12) Peddlers;
 - (13) Parking lots;
 - (14) Nursing and personal care homes;
 - (15) Newspaper vending boxes;
 - (16) Modeling agencies;
 - (17) Massage parlors;
 - (18) Landfills;
 - (19) Auto and motorcycle racing;
 - (20) Boardinghouses;
 - (21) Businesses which provide appearance bonds;
 - (22) Boxing and wrestling promoters;
 - (23) Hotels and motels;

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- (24) Hypnotists;
 - (25) Handwriting analysts;
 - (26) Health clubs, gyms, and spas;
 - (27) Fortunetellers;
 - (28) Garbage collectors;
 - (29) Escort services;
 - (30) Burglar and fire alarm installers; and
 - (31) Locksmiths.
- (c) *Exceptions.* Examples of businesses and practitioners of professions and occupations not subject to regulatory fees under this chapter include, but are expressly not limited to, the following:
- (1) Lawyers;
 - (2) Physicians licensed by the state;
 - (3) Osteopaths licensed by the state;
 - (4) Chiropractors;
 - (5) Podiatrists;
 - (6) Dentists;
 - (7) Optometrists;
 - (8) Psychologists;
 - (9) Veterinarians;
 - (10) Landscape architects;
 - (11) Land surveyors;
 - (12) Practitioners of physiotherapy;
 - (13) Public accountants;
 - (14) Embalmers;
 - (15) Funeral directors;
 - (16) Civil, mechanical, hydraulic, or electrical engineers;
 - (17) Architects;
 - (18) Marriage and family therapists, social workers, and professional counselors;
 - (19) Dealers of motor vehicles, as defined in O.C.G.A. § 10-1-622(1);
 - (20) Owners or operators of bona fide coin-operated amusement machines, as defined in O.C.G.A. § 48-17-1, and owners or operators of businesses where bona fide coin-operated amusement machines are available for commercial use and play by the public, provided that such amusement machines have affixed current stickers showing payment of annual permit fees, in accordance with O.C.G.A. § 48-17-9;
 - (21) Merchants or dealers, as defined in O.C.G.A. § 48-5-354 as to their deliveries to businesses and practitioners of professions and occupations in areas zoned for commercial use; and

(22) Any other business, profession, or occupation for which state licensure or registration is required by state law, unless the state law regulating such business, profession, or occupation specifically allows for regulation by local governments.

(d) *Flat rate, per employee, and gross receipts occupation taxes.* In addition to administrative and any applicable regulatory fees, each certificate holder under this article shall be required to pay either an annual flat rate occupation tax, an occupation tax based on the number of employees of the certificate holder, or an occupation tax based on the gross receipts of the licensed business.

(Ord. of 12-19-1994, § 3)

State law reference(s)—Regulatory fees, O.C.G.A. § 48-13-8; limitations on imposition of regulatory fees, O.C.G.A. § 48-13-9.

Sec. 12-121. Application for tax certificate.

- (a) An application for a tax certificate under this article shall be made to the city clerk, on the form provided by the clerk, accompanied by an administrative fee and any applicable regulatory fee.
- (b) The application shall identify the line of business that the business conducts, including an identification of the dominant line, if more than one. No business shall conduct any line of business without first having that line of business registered with the revenue collection division and that line of business being imprinted by the revenue collection division upon the business tax certificate.

(Ord. of 12-19-1994, § 6)

Sec. 12-122. Number of businesses operating in city considered.

- (a) If a person conducts business at more than one store or place, each store or place shall be considered a separate business for the purpose of business fees and occupation tax.
- (b) If a business is operated at more than one place or if the business includes more than one line, the gross receipts of each location will be entered on a separate occupation tax return, and each different line of business will have the gross receipts of that line of business identified on a form to be furnished by the revenue collection officer.

(Ord. of 12-19-1994, § 7)

Sec. 12-123. Tax certificate and tax due date; delinquency penalties.

- (a) Tax certificate applications, together with administrative fees and applicable regulatory fees, and occupation taxes are payable by January 1 of each year and shall be delinquent if not paid by April 1 of each year.
- (b) Delinquent tax certificate renewals shall be subject to a penalty equal to ten percent of applicable fees for the first 30 days or fraction thereof of delinquency and an additional one percent of applicable fees for each additional month or fraction thereof of delinquency.
- (c) Delinquent occupation taxes shall be subject to a penalty equal to ten percent of the tax due for the first 30 days or fraction thereof of delinquency and an additional five percent of applicable fees for each additional month or fraction thereof of delinquency, plus interest at the rate of nine percent per annum.
- (d) Any new business, profession, or occupation commenced within the city shall obtain a tax certificate and pay applicable fees before commencing business. If business is commenced before issuance of a tax certificate under this article and payment of applicable fees, a ten percent penalty shall be added to the applicable fees.

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- (e) In addition to all other penalties specified in this section, any business that fails to obtain or renew a tax certificate in a timely manner as required in this article or who becomes delinquent in the payment of occupation taxes due hereunder shall be subject to penalties as set forth in section 1-18.

(Ord. of 12-19-1994, §§ 9, 15)

Secs. 12-124—12-146. Reserved.

DIVISION 5. TAX LEVY GENERALLY

Sec. 12-147. Purpose and scope of tax.

The occupation tax levied herein is for revenue purposes only and is not for regulatory purposes, nor is the payment of the tax made a condition precedent to the practice of any such profession, trade, or calling. The occupation tax only applies to those businesses and occupations covered by the provisions of O.C.G.A. § 48-13-6. All other applicable businesses and occupations are taxed by the local government pursuant to the pertinent general or local law and ordinance.

Sec. 12-148. Occupation tax levied.

Except for those business and practitioners of professions and occupations excluded from local taxation by O.C.G.A. §§ 48-13-16(a), 43-12-1, and 48-13-5—48-13-26, each business subject to the provisions of this article shall pay occupational taxes based on the number of employees or gross receipts, subject to the following:

- (1) The city shall not require the payment of more than one occupational tax for each location that a business or practitioner shall have, nor shall the city require that a business pay occupational tax for more than 100 percent of the business' gross receipts.
- (2) The city shall not require an occupation tax on those receipts that were taxed by occupation tax in other localities or states.
- (3) The city shall not require a business tax certificate from those real estate brokers, agents, or companies whose offices are located outside the city and sell property inside the limits of the city.

(Ord. of 12-19-1994, §§ 1, 5)

Secs. 12-149—12-179. Reserved.

DIVISION 6. TAXES BASED ON NUMBER OF EMPLOYEES

Sec. 12-180. Applicability to businesses with no physical location in the state.

- (a) Pursuant to O.C.G.A. § 48-13-7, the occupation taxes levied in this article shall be applicable to businesses and practitioners of professions and occupations with no location or office in the state if the business or practitioner:
- (1) Has one or more employees or agents who exert substantial efforts within the corporate limits of the city for the purpose of soliciting business or serving customers or clients; or
 - (2) Owns personal or real property which generates income and which is located in the corporate limits.

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- (b) For occupation taxes levied under this article based on a percentage of gross receipts, the gross receipts used for calculation of taxes shall include only those gross receipts reasonably attributable to sales or services in the state.
 - (c) For occupation taxes levied under this article based on the number of employees of the business, the number of employees shall include only those employees engaged in substantial efforts within the state, and nationwide profitability ratios shall apply only to types of business transacted within this state.
 - (d) All businesses and practitioners subject to this article and to local taxation in other counties or cities in this state shall be required to pay occupation tax only to the city in which the largest dollar volume of business is done or service is performed by the individual business or practitioner.
 - (e) If a business or practitioner subject to taxation under this article provides to the city proof of payment of a local business or occupation tax in another state which purports to tax the business's or practitioner's sales or services in this state, the business or practitioner shall be exempt from taxation under this article.

(Ord. of 12-19-1994, § 5)

State law reference(s)—Similar provision, O.C.G.A. § 48-13-7.

Sec. 12-181. Calculation of tax.

- (a) An occupation tax shall be levied upon those businesses and practitioners of professions and occupations with one or more locations or offices within the corporate limits of the city and upon the applicable out-of-state businesses with no location or office in this state pursuant to O.C.G.A. § 48-13-7 based the number of fulltime employees or their mathematical equivalent, calculated as follows:
 - (1) The total number of hours worked during the preceding calendar year by all employees shall be totaled and divided by 2,080 (40 hours per week times 52 weeks). The resulting number of fulltime employees shall be rounded to the nearest tenth.
 - (2) In making the calculation provided in subsection (a)(1) of this section, the hours of employees whose total number of hours worked are not available (such as salaried employees) shall be calculated at a rate of 40 hours per week.
 - (3) In businesses where it can be shown that calculation by this method would be impractical, an alternate method may be used, upon approval of the city clerk, which would provide an accurate count of fulltime-equivalent employees.
 - (4) If a business is operated at more than one place, the number of employees of each location will be entered on a separate occupation tax return furnished by the city.
 - (5) For out-of-state businesses with no location in this state, occupation taxes apply to the employees of the business that are reasonably attributed to sales or services in made or provided in this state.
- (b) The amount of occupation tax due shall be as shown in the city fee schedule in chapter 24.

(Ord. of 12-19-1994, §§ 4, 23)

Sec. 12-182. Number of employees determined for preceding calendar year.

All occupation taxes levied by this article are levied based on the number of employees employed by the business during the calendar year immediately preceding the calendar year for which the taxes are due. All persons conducting businesses subject to the provisions of this article shall file with the city clerk the returns hereinafter specifically provided for, showing the number of fulltime-equivalent employees of the business during

the preceding calendar year. This return shall be used as the basis for calculating the amount of occupation tax due from each business.

(Ord. of 12-19-1994, § 20)

Sec. 12-183. Businesses not having conducted business the preceding calendar year.

In the case of a business subject to the occupation tax for a calendar year that was not conducted for any period of time in the corporate limits of the city in the preceding year, the owner, proprietor, manager or executive officer of the business liable for the occupation tax shall estimate the number of fulltime-equivalent employees who will be employed when the business begins operation. Businesses beginning operation after July 1 of any calendar year shall pay a prorated occupation tax of 50 percent of the tax that would be due on an annual basis.

(Ord. of 12-19-1994, § 22)

Sec. 12-184. Businesses having operated for portion of preceding calendar year only.

If a business subject to the occupation tax for the calendar year has been conducted for only a part of the preceding year, the number of fulltime-equivalent employees for such part shall be set forth in said return. Said figure shall be used as the estimate of the number of fulltime-equivalent employees of the business for the current calendar year.

(Ord. of 12-19-1994, § 20)

Sec. 12-185. Filing return.

The owner, proprietor, manager or executive officer of the business subject to said occupation tax for the current calendar year shall, not earlier than the end of the preceding year, and on or before April 1 of the current calendar year, file with the city clerk, on a form furnished by the city clerk, a signed return setting forth the number of fulltime-equivalent employees of such business for the preceding calendar year which number of employees shall be used as the basis of the calculation of the amount of occupation tax due in the current calendar year. For the purpose of this calculation the number of fulltime-equivalent employees of a business during the preceding calendar year is the number of fulltime-equivalent employees used in the calculation of the occupation tax due for the current calendar year.

(Ord. of 12-19-1994, § 20)

Sec. 12-186. Estimated number of employees upon failure to file return; notice; contest.

- (a) If any person fails to make a return, the city clerk may make an estimate of the number of fulltime-equivalent employees of the business. The estimate shall be made for the period or periods in respect to which the person failed to make the return and shall be based upon any information which is or may come into the possession of the city clerk.
- (b) The city clerk or his designee shall give to the operator of said business written notice of his determination. The notice may be served personally or by mail. If by mail, such service shall be addressed to the operator at his address as it appears in the records of the city clerk. Service by mail is complete when delivered by certified mail with a receipt signed by the addressee.

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- (c) Should such person contest the city clerk's determination as to the number of fulltime-equivalent employees within ten days of the receipt of said notice, then, upon payment of a penalty equal to ten percent of the occupation tax due (based on the amended return), the clerk may accept the amended return and recalculate the occupation tax due from such person.

(Ord. of 12-19-1994, § 20)

Sec. 12-187. Allocation of employees of business with multiple locations.

- (a) For businesses that have multiple locations inside and outside the city where the number of employees can be allocated to each location, the number of employees used to determine the occupational tax assessed will be those employees attributed to each location within the city. If the number of employees attributed locally cannot be determined, the total number of employees will be divided by the total number of locations in the city and elsewhere and allotted to those locations.
- (b) Upon request, the business or practitioner with a location or office situated in more than one jurisdiction shall provide to the city with information necessary to allocate the number of employees of the business or practitioner and information relating to the allocation of the business or practitioner's number of employees by other local governments.

(Ord. of 12-19-1994, § 10)

Secs. 12-188—12-212. Reserved.

DIVISION 7. ALTERNATIVE TAX FOR CERTAIN PROFESSIONALS

Sec. 12-213. Alternative flat tax for practitioners of certain professions.

- (a) Practitioners of professions as described in O.C.G.A. § 48-13-9(c)(1)—(18) shall elect as their entire occupation tax one of the following:
 - (1) An occupation tax based on the number of employees; or
 - (2) A fee of \$400.00 per practitioner who is licensed to provide the service, such tax to be paid at that practitioner's office or location; provided, however, that a practitioner electing to pay a flat rate occupation tax according to this subsection shall not be required to provide information to the city relating to the gross receipts of the business or practitioner.
- (b) Practitioners of professions subject to this section are currently designated by state law as:
 - (1) Lawyers;
 - (2) Physicians licensed by the state;
 - (3) Osteopaths licensed by the state;
 - (4) Chiropractors;
 - (5) Podiatrists;
 - (6) Dentists;
 - (7) Optometrists;

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- (8) Psychologists;
 - (9) Veterinarians;
 - (10) Landscape architects;
 - (11) Land surveyors;
 - (12) Practitioners of physiotherapy;
 - (13) Public accountants;
 - (14) Embalmers;
 - (15) Funeral directors;
 - (16) Civil, mechanical, hydraulic, or electrical engineers;
 - (17) Architects;
 - (18) Marriage and family therapists, social workers, and professional counselors.
- (c) The tax levied herein is for revenue purposes only and is not for regulatory purposes, nor is the payment of the tax made a condition precedent to the practice of any such profession, trade or calling.

(Ord. of 12-19-1994, § 8)

State law reference(s)—Similar provisions, O.C.G.A. §§ 48-13-9, 48-13-10.

Secs. 12-214—12-261. Reserved.

ARTICLE III. INSURANCE COMPANIES²

Sec. 12-262. Insurers license fees.

There is hereby levied for the year 2012 and for each year thereafter, an annual license fee upon each insurer doing business within the City of Cleveland, Georgia, in the amount of \$40.00. For each separate business location in excess of one not covered by section 12-263 of this article, which is operating on behalf of such insurers within the City of Cleveland, Georgia, there is hereby levied a license fee in the amount of \$40.00. For the purposes of this article, the term *insurer* means a company which is authorized to transact business in any of the classes of insurance designated in O.C.G.A. § 33-3-5.

(Ord. No. 2011-16, § 1, 11-3-2011)

Sec. 12-263. License fees for insurers insuring certain risks at additional business locations.

For each separate business location, not otherwise subject to a license fee hereunder, operated and maintained by a business organization which is engaged in the business of lending money or transacting sales involving term financing and in connection with such loans or sales offers, solicits or takes application for insurance

²Editor's note(s)—Ord. No. 2011-16, §§ 1—5, adopted Nov. 3, 2011, amended Art. III in its entirety to read as herein set out. Former Art. III, §§ 12-286—12-289, pertained to similar subject matter, and derived from Comp. Ords. 1970, §§ 5-201, 5-202; Ord. of 10-20-1983(2), §§ 1, 3.

through a licensed agent of an insurer for insurance said insurer shall pay an additional license fee of \$14.00 per location for the year 2012 and for each year thereafter.

(Ord. No. 2011-16, § 2, 11-3-2011)

Sec. 12-264. Gross premiums tax imposed on life insurers.

There is hereby levied for the year 2012 and for each year thereafter, an annual tax based solely upon gross direct premiums upon each insurer writing life, accident, and sickness insurance within the State of Georgia in an amount equal to one percent of the gross direct premiums received during the preceding calendar year in accordance with O.C.G.A. § 33-8-8.1. Gross direct premiums as used in this section shall mean gross direct premiums as used in O.C.G.A. § 33-8-4. The premium tax levied by this section is in addition to the license fees imposed by section 12-262 of this article.

(Ord. No. 2011-16, § 3, 11-3-2011)

Sec. 12-265. Gross premiums tax—All other insurers.

There is hereby levied for the year 2012 and for each year thereafter, an annual tax based solely upon gross direct premiums upon each insurer, other than an insurer transacting business in the class of insurance designated in O.C.G.A. § 33-3-5(1), doing business within the State of Georgia in an amount equal to two and one-half percent of the gross direct premiums received during the preceding calendar year in accordance with O.C.G.A. § 33-8-8.2. Gross direct premiums as used in this section shall mean gross direct premiums as used in O.C.G.A. § 33-8-4. The premium tax levied by this section is in addition to the license fees imposed by section 12-262 of this article.

(Ord. No. 2011-16, § 4, 11-3-2011)

Sec. 12-266. Due date for license fees.

License fees imposed in sections 12-262 and 12-263 of this article shall be due and payable on the first day of 2012 and on the first day of each subsequent year.

(Ord. No. 2011-16, § 5, 11-3-2011)

Secs. 12-267—12-335. Reserved.

ARTICLE IV. FINANCIAL INSTITUTION LICENSE TAX³

Sec. 12-336. License tax.

Pursuant to O.C.G.A. § 48-6-93, the city has levied upon state and national banking associations, federal savings and loan associations and state building and loan associations operating with the city a business license tax at the rate of 0.25 percent of the gross receipts of said institutions. The term "gross receipts," as used in this section, shall have the same meaning as provided in O.C.G.A. § 48-6-93. Notwithstanding any other provisions of

³State law reference(s)—Authority for license tax on financial institutions, O.C.G.A. § 48-6-93.

this article, the minimum amount of business license tax due from any depository financial institution pursuant to this article shall be \$1,000.00 per year.

(Ord. of 10-20-1983(1), § 1)

Sec. 12-337. Due date; filing of return.

Each depository financial institution within the city shall file a return of its gross receipts with the city clerk on March 1 of the year following the year in which such gross receipts were measured. Returns shall be in the manner and in the form prescribed by state law and shall be based upon the allocation method set forth in O.C.G.A. § 48-6-93(d). The tax levied pursuant to this article shall be assessed and collected based upon the information provided in the return. Taxes due pursuant to the return shall be due and payable not later than April 1 of each year. Delinquent taxes shall be subject to a penalty of ten percent per month or fraction thereof that the tax is delinquent.

(Ord. of 10-20-1983(1), § 2)

Secs. 12-338—12-362. Reserved.

ARTICLE V. LODGING TAX⁴

Sec. 12-363. Definitions.

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

Due date means from the 20th day after the close of the monthly period for which tax is to be computed.

Guest room means a room occupied, or intended, arranged, or designed for occupancy, by one or more occupants for the purpose of living quarters or residential use.

Hotel.

- (1) The term "hotel" means any structure or any portion of any structure, including, but not limited to, any lodging house, rooming house, dormitory, Turkish bath, bachelor hotel, studio, hotel, motel, motor hotel, auto court, inn, bed and breakfast, public club or private club containing guest rooms and which is occupied or is intended or designed for occupancy by guests, whether rent is paid in money, goods, labor, or otherwise.

Occupancy means the use or possession or the right to use or possession of any room or apartment in a hotel, or the right to the use or possession of the furnishings or to the services and accommodations accompanying the use and possession of the room.

⁴Editor's note(s)—Ord. No. 2010-02, § 1, adopted July 29, 2010, repealed former §§ 12-364—12-375, and enacted new §§ 12-364—12-375 as set out herein. The former sections pertained to similar subject matter and derived from Ord. of 2-13-1989, §§ II—XIII; Ord. of 12-11-2008(2).

State law reference(s)—Authority for county to assess and collect excise taxes on rooms, lodgings, and accommodations, O.C.G.A. § 48-13-51.

Occupant means any person who, for consideration, uses, possesses, or has the right to use or possess any room in a hotel under any lease, concession, permit, right of access, license, use, or other agreement, or otherwise.

Operator means any person operating a hotel in the city, including, but not limited to, the owner or proprietor of such premises, the lessee, sublessee, lender in possession, licensee, or any other person otherwise operating such hotel.

Permanent resident means any occupant as of a given date who has or shall have occupied or has or shall have the right of occupancy of any guest room in a hotel for more than ten consecutive days. No tax shall be levied for the use of rooms as meeting rooms or upon the fees or charges for any guest room used for a period of one or more days by state or local government officials or employees when traveling on official business.

Rent means the consideration received for occupancy valued in money, whether received in money or otherwise, including all receipts, cash, credits and property or services of any kind or nature, and also the amount for which credit is allowed by the operator to the occupant, without any deduction therefrom whatsoever.

Return means any return filed or required to be filed as herein provided.

(Ord. of 2-13-1989, § I; Ord. of 12-11-2008(2); Ord. No. 2026-01, 6-15-2026)

Sec. 12-364. Levied.

There is hereby levied an excise tax at the rate of eight percent of the rent paid for the occupancy of any room, lodging or accommodation furnished by any person or legal entity within the incorporated portions of the city. The tax applies to hotels, motels, inns, lodges, tourist camps, tourist cabins or any other place in which rooms, lodgings or accommodations are available.

(Ord. No. 2010-02, § 1, 7-29-2010)

Sec. 12-365. Exemptions.

(a) No tax shall be levied as provided in this article upon:

- (1) Charges made for any rooms, lodgings or accommodations provided to any persons who certifies that they are staying in such room, lodging or accommodation as a result of the destruction of their home or residence by a fire or other casualty;
- (2) The use of meeting rooms and other such facilities or any rooms, lodgings or accommodations provided without charge;
- (3) Any rooms, lodgings or accommodations furnished for a period of one or more days for use by Georgia state or local governmental officials or employees when traveling on official business. Notwithstanding other means of identification, a person paying for rooms, lodgings or accommodations with a state or local government credit or debit card shall be a Georgia state or local government official or employee traveling on official business. For purpose of the exemption provided under this paragraph, a local government official or employee shall include officials or employees of counties, municipalities, consolidated governments or independent school districts; or
- (4) Charges made for continuous use of any rooms, lodgings or accommodations after the first 30 days of continuous occupancy.

(Ord. No. 2010-02, § 1, 7-29-2010)

Sec. 12-366. Duty of operator to collect.

Each operator maintaining a place of business in the incorporated portions of the city as provided in section 12-364 and renting occupancy, lodging or accommodations not exempted under section 12-365 shall collect a tax of eight percent on the amount of rent from the occupant.

(Ord. No. 2010-02, § 1, 7-29-2010)

Sec. 12-367. Registration.

- (a) Every person engaging in or about to engage in business as an operator of any establishment pursuant to this article shall immediately register such business with the city, on a form provided by the city for such purpose. Such registration shall set forth the name under which the operator transacts business or intends to transact business, the location of the place or places of business, and such other information as would facilitate the collection of the tax by the city. The owner if a natural person, a member or general partner in case of ownership by an association or partnership or an appropriate officer in the case of ownership by a corporation shall sign the registration.
- (b) A separate registration shall be required for each place of business of an operator.

(Ord. No. 2010-02, § 1, 7-29-2010)

Sec. 12-368. Certificate of taxing authority.

Upon the registration of an operator pursuant to this article, the city shall issue to such operator without charge a certificate of authority to collect the tax on occupants. Each certificate shall state the name and location of the business to which it relates. Such certificate of authority shall also constitute a license by the city to operate such an establishment; provided, however, that such license shall not relieve the operator from obtaining any other required licenses or permits.

(Ord. No. 2010-02, § 1, 7-29-2010)

Sec. 12-369. Due, payable monthly.

- (a) All taxes levied by this article shall be due and payable to the city monthly on or before the 20th day of every month next succeeding each respective month in which such taxes are collected. The payment and return for the preceding month confirming the gross rent, rent from permanent residents, taxable rent, amount of tax collected or otherwise due for the period as well as information requested by the city.
- (b) The monthly report shall have attached thereto a copy of the corresponding month's state department of revenue sales and use tax report (Form ST-3).

(Ord. No. 2010-02, § 1, 7-29-2010)

Sec. 12-370. Compensation allowed for collection.

Operators collecting the tax levied by this article shall be allowed a percentage of the tax due and accounted for and shall be reimbursed in the form of a deduction for submitting, reporting and payment of the amount due if such amount is not delinquent at the time of payment. The rate of the deduction shall be three percent of the total amount of tax collected. (O.C.G.A. § 48-13-52)

(Ord. No. 2010-02, § 1, 7-29-2010)

Sec. 12-371. Delinquency; estimation; enforcement.

- (a) If any operator fails to file a return as required under the provisions of this article, the city shall make an estimate of the amount of gross rentals, which are subject to the tax. The estimate for the period or periods in which the operator failed to file a return shall include any information which has or may come into the possession of the city.
- (b) The mayor and city council or its designated representative shall give to the operator written notice of the determination as herein provided. Service of the notice shall be in person or by mail. If by mail, the service shall be to the operator at the address appearing in the city's records. Service by mail is complete when delivered by certified mail with a receipt signed by the addressee.
- (c) The amount of the determination made under this section shall bear interest at the rate of 0.75 percent per month or fraction thereof from the 20th day of the month following the monthly period, for which the amount or any portion thereof should have been returned, until the date of payment.
- (d) In addition, a penalty of five percent of the tax due or \$5.00, whichever is greater, for each 30-day period or fraction thereof, not to exceed 25 percent or \$25.00, whichever is greater, shall be assessed and paid by the operator to the city.
- (e) The estimated tax, together with applicable penalties and interest is collectible utilizing any of the enforcement methods set forth in this article.

(Ord. No. 2010-02, § 1, 7-29-2010; Ord. No. 2026-01, 6-15-2026)

Sec. 12-372. Required records.

Each operator collecting a tax under the provisions of this article shall keep for a period of at least three years all records, receipts, invoices, and other pertinent papers setting forth the rental charged for each occupancy, the date or dates of occupancy and such other information as the city may require.

(Ord. No. 2010-02, § 1, 7-29-2010)

Sec. 12-373. Administration and enforcement, powers.

The mayor and city council, or its designated representative shall administer and enforce the provisions of this article for the collection of the tax imposed by this article, and in so doing shall have the power to:

- (1) Examine, or authorize the examination of, books, papers, records, financial reports, equipment, and other facilities of any operator subject to this article, in order to verify the accuracy of any return made, or if no return is made by the operator, to ascertain and determine the amount required to be paid.
- (2) Require the filing of reports by any person having in his possession or custody information relating to rentals which are subject to the tax levied by this article; and
- (3) Allow a credit on any amount due and payable from persons erroneously or illegally charged.

(Ord. No. 2010-02, § 1, 7-29-2010)

Sec. 12-374. Collection by court action.

Within three years after the tax or any portion of the tax becomes due and payable, the city attorney and/or city solicitor at the direction of the mayor and city council may bring an action in a court of competent jurisdiction to collect such amount due together with interest, court fees, attorney's fees and other legal fees incident thereto.

(Ord. No. 2010-02, § 1, 7-29-2010)

Sec. 12-375. Effect of sale of establishment (successors or assignees of operator).

If any operator becomes liable for any amount required to be paid by this article and subsequently thereto sells out or quits the business, the successors or assignees of such operator shall withhold a sufficient amount of the purchase price to cover such amount due. If such purchaser of the business fails to withhold the required amount, he shall become personally liable therefore to the extent of the tax owed, together with any applicable penalties and interest.

(Ord. No. 2010-02, § 1, 7-29-2010)

Sec. 12-376. Penalties for violation.

- (a) Any person who violates the terms of this article or who fails to do anything required by this article shall be guilty of a misdemeanor, amenable to the process of the judicial court and upon conviction, shall be punished as provided in the Code of Ordinances of Cleveland, Georgia, section 1-16.
- (b) In order to enforce this article or to correct or abate any violation of this article, the mayor and city council, in addition to other remedies may institute injunction, mandamus or other appropriate action.

(Ord. No. 2010-02, § 1, 7-29-2010)

Sec. 12-377. Proceeds for the tax.

The proceeds of this tax shall be used in accordance with O.C.G.A. § 48-13-51(b) and City of Cleveland Resolution 2009-3/9, duly passed by the mayor and city council at their March 9, 2009, regular meeting, and with said resolution attached as a part of the public minutes for said public meeting.

(Ord. No. 2010-02, § 1, 7-29-2010)

Sec. 12-378. Repeal of prior tax rate and effective date of new rate.

The eight percent excise tax imposed herein shall become effective on the first day of the second month following the passage of the ordinance from which this section was derived by the mayor and city council. The prior five percent excise tax levied under the previous sections of the Cleveland City Code shall continue in effect until the effective date of the eight percent excise tax, and then the prior five percent excise tax shall be repealed.

(Ord. No. 2010-02, § 1, 7-29-2010)

Secs. 12-379—12-384. Reserved.

ARTICLE VI. SHORT-TERM RENTAL ORDINANCE

Sec. 12-385. Purpose.

- (a) The purpose of this article is to establish standards for short-term rentals of privately owned single-family residential structures used as rented to transient occupants, minimize adverse effects of short-term rental uses on surrounding residential neighborhoods, and preserve the character of neighborhoods.
- (b) This article is not intended to regulate hotels, motels, inns, but not limited to, boarding houses, lodging houses, or rooming houses.

(Ord. No. 2022-03, §1, 3-14-2022)

Sec. 12-386. Applicability.

- (a) It shall be unlawful for any owner of any property within the incorporated areas of Cleveland to rent or operate a short-term rental of residentially zoned property contrary to the procedures and regulations established in this article, other provisions of this Code, or any applicable state law.
- (b) The restrictions and obligations contained in this article shall apply to short-term rentals at all times during which such homes are marketed and used as short-term rentals.
- (c) The allowance of short-term rentals pursuant to this article shall not prevent enforcement of additional restrictions that may be contained in restrictive covenants or other private contractual agreements or arrangements.

(Ord. No. 2022-03, §1, 3-14-2022; Ord. No. 2026-01, 6-15-2026)

Sec. 12-387. Definitions.

The following words, terms, and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning.]

City manager means the city manager, which also acts as the daily operations contact for the city, or designee.

City director of economic development and planning means the city *director of economic development and planning*, which also acts as the daily operations contact for the city, or designee.

Managing agency or agent means person, firm or agency representing an owner or owners of a short-term rental.

Noise regulations means those regulations contained in article II of chapter 36, division 5: Noise, of the Cleveland Code of Ordinances.

Owner means a person that holds legal and/or equitable title to private property.

Private means intended for or restricted to the occupants and/or guests of his or her short-term rental; not for public use.

Property means a residential legal lot of record on which a short-term rental is located.

Rental term means the period of time a responsible person rents or leases a short-term rental.

Residential zoning district means a district that is designated as residential under the City of Cleveland Zoning Ordinance for use of short-term rental which includes R-1, Residential District, R-2, Multi-Family Residential, and R-3, Residential-Agricultural District. Apartments in any district are excluded for use of short-term rental.

Responsible person means an occupant of a short-term rental who is at least 21 years of age and who is legally responsible for ensuring that all occupants and/or guests of the short-term rental comply with all applicable laws, rules and regulations pertaining to the use and occupancy of the subject short-term rental.

Short-term rental means an accommodation for transient guests, where in exchange for monetary compensation, a residential dwelling unit is provided for the purpose of overnight lodging for a period of no more than 24 consecutive nights. Apartments are excluded-for the use of short-term rental.

(Ord. No. 2022-03, §1, 3-14-2022; Ord. No. 2026-01, 6-15-2026)

Sec. 12-388. Property owners, local contact person, and responsible person.

- (a) *Property owners.* The owner and/or local contact person shall use reasonably prudent business practices to ensure the short-term rental is used in a manner that complies with all applicable laws, rules, and regulations pertaining to the use and occupancy of the subject home, and shall further use reasonably prudent business practices to ensure the occupants and/or guests of the home do not create noise in violation of the noise regulations of this Code or disturbances, engage in disorderly conduct, or violate any applicable law, rule or regulation or create a nuisance pertaining to the use and occupancy of the subject home.
- (b) *Local contact person.*
- (1) Each owner of a short-term rental shall designate a local contact person who has access and authority to assume management of the short-term rental and take remedial measures while the short-term rental is being rented to an occupant and/or guest. The owner may serve as the local contact person.
 - (2) The local contact person shall be at least 21 years of age;
 - (3) There shall be only one designated local contact person for a short-term rental at any given time;
 - (4) The local contact person shall be required to respond to the location of the short-term rental 24 hours a day, seven days a week, and after being notified by Cleveland of the existence of a violation of this article or any other provision of the City Code, or any disturbance or complaint requiring immediate remedy or abatement regarding the condition, operation, or conduct of occupants of the short-term rental;
 - (5) An owner may retain a managing agent, managing agency, operator, or representative to serve as the local contact person to comply with the requirements of this section, including, without limitation, the permitting of the short-term rental, the management of the short-term rental, and the compliance with the conditions of the short-term rental permit. The owner of the short-term rental is responsible for compliance with the provisions of this section and the failure of an agent, representative, or local contact person to comply with this section shall be deemed noncompliance by the owner; and
 - (6) The owner must immediately notify the city manager, or designee, in writing upon a change of local contact person or the local contact person's telephone number and pertinent contact information. This notification will be on forms prescribed by the Permitting Department. The new, (or), revised business short-term rental permit will not extend beyond the expiration date of the original short-term rental

permit, will be issued for a fee of \$25.00, and must be posted in the home within ten days of any change of local contact person information and before occupants can rent or occupy the short-term rental.

- (c) *Responsible person.* Every short-term rental shall be rented to a designated responsible person. The owner of the short-term rental is responsible for compliance with the provisions of this article, and the failure to designate a responsible person prior to the occupancy of a short-term rental shall be deemed noncompliance by the owner.

(Ord. No. 2022-03, §1, 3-14-2022; Ord. No. 2026-01, 6-15-2026)

Sec. 12-389. Business license, permit and transferability.

(a) *Required business licenses and permits:*

- (1) The owner shall pay the required business license and shall comply with all applicable provisions of article II of chapter 12 of this Code for business license and regulations;
- (2) No owner or local contact person of a short-term rental shall rent, lease, or otherwise exchange for compensation for all or any portion of such home without first obtaining a short-term rental permit, business license and certificate of taxing authority from the city;
- (3) A separate short-term rental permit shall be required for each residential structure used for short-term rental;
- (4) A short-term rental permit application shall be denied if the applicant has had a prior short-term rental for the same home revoked within any 12-month period;
- (5) No short-term rental permit shall be issued for apartments;
- (6) An owner of a short-term rental, or their designated representative, shall submit an application for a short-term rental permit to the city on an annual basis. The application shall be furnished on a form specified by the city, accompanied by a non-refundable permit fee as established in this section. Such application shall include:
 - a. The complete street address of the short-term rental; and
 - b. Ownership information, including the name, address, e-mail address, and telephone number of each person or entity with an ownership interest in the property; and
 - c. The name, address, telephone number, and email address of the local contact person for the short-term rental;
 - d. The number of bedrooms and approximate square footage in the short-term rental, and the maximum number of overnight and daytime occupants, as allowed by this article;
 - e. A code compliance verification form, certifying that all designated bedrooms, including egress from all designated bedrooms, meet safety code requirements;
 - f. Acknowledgment that the owner and local contact person have read all regulations pertaining to the operation of a short-term rental;
 - g. Acknowledgement that the owner or local contact person has or will post, at the short-term rental a notice of safety requirement and instructions; and,
 - h. Certification that property is comprehensively insured specifically for use of short-term rental.
- (7) Any false statements or information provided in the application are grounds for denial or revocation of a permit, including the denial of future applications.

(b) *Permit fee/renewal.*

- (1) All application fees and business license for short-term rental shall be as provided in the city fee schedule and shall be posted in the building inspection department.

The short-term rental permit application shall be accompanied by an initial permit application fee and be subject to an annual renewal fee every year thereafter. The business license for short-term rental shall be renewed annually at the same time.

- (2) All permits granted under this article shall expire on December 31 of each year. Applicants shall file a renewal application accompanied by the requisite renewal fee with the city on or before the November 30th of each year without penalty. If an application is submitted after November 30th, a new application shall be required, as renewal of eligibility will not be considered past this date.
- (3) The short-term rental permit is not transferrable and should ownership of a unit change, a new permit application shall be required.

(c) All short-term rental permits issued pursuant to this article are subject to the following standard conditions:

- (1) The owner or local contact person shall, by written agreement with the responsible person, limit overnight occupancy of the short-term rental to the specific number of overnight occupants designated in the short-term rental permit application;
- (2) Any advertising of the short-term rental shall conform to information included in the short-term rental permit and requirements of this article, and shall include notification of the maximum occupancy, maximum number of vehicles allowed, and provisions regulating noise;
- (3) Occupancy for short-term rentals. The number of overnight occupants shall not exceed 15 overnight persons total. All occupants, regardless of age, are counted as persons;
- (4) A bedroom shall be a room that is designed to be or meets all applicable building code requirements.
- (5) Prior to permitting occupancy of a short-term rental by a transient occupant, the owner or the local contact person shall: (a) obtain the name, address, and a copy of a valid government identification of the responsible person; (b) provide information about the short-term rental regulations to the responsible person; and (c) provide and require that such responsible person execute a formal certification that he or she:

- a. Has read the pertinent regulations; and
- b. Understands all applicable laws, rules, and regulations pertaining to the use and occupancy of the short-term rental, including, but not limited to, the city's noise and nuisance regulations; and
- c. Understands that they are bound to all applicable laws, rules, and regulations; and
- d. Agrees to comply with all applicable laws, rules, and regulations, and agrees to be legally responsible for compliance by all occupants and/or guests of the home with all applicable laws, rules and regulations pertaining to the use and occupancy of the short-term rental, including, but not limited to, to the city's noise regulations.

This information shall be maintained by the owner or the local contact person for a period of three years and be made readily available upon request of any officer or employee of the city responsible for the enforcement of any provision of this Code or any other applicable law, rule or regulation pertaining to the use and occupancy of the short-term rental;

(6) Parked vehicles:

- a. Shall be limited by written agreement between the owner or local contact person and the responsible person to the number designated in the short-term rental permit application. A

watercraft, travel trailer, or any other recreational trailer which is pulled by a motorized vehicle shall be counted as a separate vehicle when referenced in this article of the Code;

- b. Shall not be parked on the city right-of-way or along any roadways or on neighboring property at any time; and,
 - c. Shall be parked only on designated hard surfaced areas.
- (7) The owner and/or local contact person shall use best efforts to ensure that the occupants and/or guests of the short-term rental do not violate the noise regulations set forth in City Code by notifying the occupants of the rules regarding short-term rentals and responding when notified that occupants are violating laws regarding their occupancy. Any violation of the noise regulations by a guest at a short-term rental shall be considered a violation under this article. It is not intended that the owner and/or local contact person act as a peace officer or place themselves in harm's way;
- (8) The owner and/or local contact person of the short-term rental shall post a copy of the short-term rental permit and a copy of the conditions set forth in this article in a conspicuous place within the short-term rental.
- (d) *Transferability.* No short-term rental permit issued under this article shall be transferred or assigned or used by any person other than the owner or local contact person to whom it is issued, or at any location other than the one for which it is issued.
- (e) *Abandonment.* The abandonment or failure to use a residence as a short-term rental for a period of 12 consecutive months for any period shall be deemed an abandonment of the short-term rental use and the owner shall be required to obtain a new short-term rental permit for the property.

(Ord. No. 2022-03, §1, 3-14-2022; Ord. No. 2026-01, 6-15-2026)

Sec. 12-390. Standard operational requirements and conditions.

- (a) Posted information notice:
- (1) Each short-term rental shall have a clearly visible and legible notice conspicuously posted within the short-term rental on or adjacent to the front door, containing the following information:
- a. The name of the owner and local contact person of the short-term rental, and a telephone number at which that party may be reached on a 24-hour, seven days a week, basis;
 - b. The name and address of the nearest hospital;
 - c. The maximum number of overnight occupants and/or daytime guests permitted to be at the short-term rental;
 - d. The trash pickup day and notification that trash and refuse shall not be left or stored on the exterior of the property unless it is placed in a curbside container
 - e. Notification that failure to conform to the parking and occupancy requirements of the short-term rental is a violation of this article; and
 - f. The times that quiet hours are to be observed per the City Code. Any failure to comply with the noise regulations is a violation of the City Code.
- (b) *Occupancy.* The number of overnight occupants and/or daytime guests at the short-term rental shall comply with all applicable provisions of section this Code.
- (c) *Parked vehicles.* All parked vehicles at the short-term rental shall comply with all applicable provisions of section of this Code.

(d) *Life safety and sanitation.*

- (1) Short-term rentals require an annual site inspection by the fire department to ensure compliance with all life safety and fire codes.
- (2) Private swimming pools shall comply with the current International Swimming Pool and Spa Code.
- (3) The owner and/or local contact person shall maintain a street address number at the driveway entrance that is visible from the street at all times and meets city and county 911 emergency requirements.
- (4) Trash and sanitation for short-term rentals shall comply with all city requirements for sanitation.

(e) *Application.* The city staff shall develop and maintain an application form for short-term rental permits.

(Ord. No. 2022-03, §1, 3-14-2022; Ord. No. 2026-01, 6-15-2026)

Sec. 12-391. Suspension or revocation of permit.

Immediate suspension, revocation, or forfeiture of an issued permit by the mayor and city council shall occur only after notice and opportunity for a hearing before the mayor and city council consistent with the procedures set forth in this Code and only upon the following occurrences:

- (1) Any short-term rental permit issued under this article for the operation of a short-term rental shall be immediately revoked in the case of bankruptcy, receivership or levy of legal process upon the owner or subject short-term rental property.
- (2) A short-term rental permit shall be immediately suspended or revoked by the mayor and city council upon learning that an applicant furnished fraudulent or untruthful information in the application for a permit, or omits information required in the application for a permit, or fails to pay all fees, taxes, or other charges imposed under the provisions of this article.

(Ord. No. 2022-03, §1, 3-14-2022)

Sec. 12-392. Violation and penalties.

(a) Any violation of this article other than those items set forth in section, shall subject the permitted individual to the following progressive actions:

- (1) The first violation within a consecutive 12-month period shall result in a fine in Cleveland Municipal Court not to exceed \$250.00 and a written warning notice of violation upon a finding of guilt or plea in Cleveland Municipal Court.
- (2) The second violation within a consecutive 12-month period shall result in a fine in Cleveland Municipal Court not to exceed \$500.00 and a permit suspension for a period of not less than 30 days nor more than 90 days upon a finding of guilt or plea in Cleveland Municipal Court.
- (3) The third violation within a consecutive 12-month period shall result in a fine in Cleveland Municipal Court not to exceed \$1,000.00 and the revocation of the short-term rental permit upon a finding of guilt or plea in municipal court, and the owner or local contact person shall not be eligible to reapply for a permit for a period of 12 months from the date of revocation.

(b) Any violation of the provisions of this article by occupants and/or guests of the short-term rental shall be enforced in Cleveland Municipal Court to the full extent authorized by O.C.G.A. 36-1-20, with a finding of guilt or plea by the occupants and/or guests subjecting the permitted individual to the same administrative

sanctions as set forth in this section. Enforcement actions may be brought against occupants and/or guests of a short-term rental for violations of this article and any other provision of this Code notwithstanding that this section may also make the owner or local contact person of the short-term rental responsible for the conduct constituting the violation.

- (c) Failure of the owner or local contact person to respond to calls or complaints regarding the condition, operation, or conduct of occupants and/or guests of the short-term rental in a timely and appropriate manner shall be grounds for imposition of penalties as set forth in this article. It is not intended that an owner or local contact person act as a peace officer or be placed in an at-risk situation.
- (d) In addition to the penalties described above, any person violating the provisions of this article by operating a short-term rental without a valid short-term rental permit may be prosecuted according to the general penalties described in of this Code.

(Ord. No. 2022-03, §1, 3-14-2022; Ord. No. 2026-01, 6-15-2026)

Sec. 12-393. Enforcement.

- (a) Penalties, including a notice of violation, shall be imposed, and short-term rental permits shall be revoked, in the manner provided in this subsection.
 - (1) Any complaints received by the city regarding a short-term rental shall result in a notice of the complaint being directed to the local contact person designated in the short-term rental permit. The local contact person shall be responsible for contacting the responsible person to correct the problem within one hour. The local contact person is required to visit the property to confirm compliance with this article, unless compliance can reasonably be confirmed without visiting the property.
 - (2) The city director of economic development and planning or designee shall conduct an investigation whenever there is reason to believe that an owner and/or local contact person has failed to comply with the provisions of this article. The investigation may include an inspection of the premises, review of law enforcement/security reports, online searches, citations, or neighbor documentation consisting of photos, sound recordings and video all of which may constitute evidence of a violation. Should the investigation support a finding that a violation occurred, the city director of economic development and planning shall issue written notice of the violation and intention to impose a penalty and/or revoke the short-term rental permit. The written notice may be served either by email or certified mail, and shall specify the facts which, in the opinion of the city director of economic development and planning, constitute grounds for imposition of the penalties and/or revocation, and specify that the penalties will be imposed and/or that the short-term rental permit will be revoked 15 calendar days from the date of the notice unless the owner and/or local contact person files with the city director of economic development and planning a request for an appeal hearing before the mayor and city council.
 - (3) The city director of economic development and planning or designee is hereby authorized and directed to establish such procedures as may from time to time be required to carry out the purpose and intent of this section. The Cleveland Police Chief or designee shall also have authority to enforce this section.

(Ord. No. 2022-03, §1, 3-14-2022; Ord. No. 2026-01, 6-15-2026)

Sec. 12-394. Hearing on denial, suspension or revocation.

- (a) Upon receipt of a timely appeal (accompanied by a fee of \$250.00 made payable to Cleveland, Georgia) of an administrative denial, upon presentation of evidence to the city director of economic development and planning of a violation of this article, or upon a showing of any of the other occurrences set forth in the Code, the city director of economic development and planning shall schedule a hearing before the mayor and city

council and provide written notice to the adverse party of the time, place and date of the scheduled hearing. The city director of economic development and planning shall also state in the written notice the basis for the administrative denial or the violation or occurrence alleged that forms the basis for the denial or potential suspension or revocation. After notice of hearing, matters scheduled for hearing may only be continued by agreement of the city attorney and the adverse party and/or counsel for the adverse party.

- (b) The mayor and city council shall have the duty of conducting hearings concerning the denial, revocation, or suspension of a permit. The standard of proof on all issues in the hearing shall be a preponderance of the evidence and a determination will be made on the basis of the evidence presented at the hearing.
- (c) At the hearing, after presentation of the case against the adverse party, the adverse party will have an opportunity to present his case, to rebut the allegations made and present a defense.
- (d) At the conclusion of the hearing, the findings and conclusions of the mayor and city council shall be forwarded to the city director of economic development and planning, and it shall be the duty of the city director of economic development and planning to provide written notification via email or certified mail to the adverse party of the decision of the mayor and city council.
- (e) The decision of the mayor and city council shall be final unless appealed to the superior court of White County within 30 days of receipt of the city director of economic development and planning 's written notification to the adverse party of the board's decision.

(Ord. No. 2022-03, §1, 3-14-2022; Ord. No. 2026-01, 6-15-2026)

Secs. 12-395—12-399. Reserved.

ARTICLE VII. HOTELS OR MOTELS

Sec. 12-400. Purpose and definitions.

- (a) (a) *Purpose.* The purpose of this article is to ensure and provide for the protection of the health, safety and welfare of hotel guests, residents of the city, and all visitors to the city. The requirements of this article apply to those who occupy, visit, patronize, frequent, operate, keep, conduct, or own a hotel within the city regardless of the date of the hotel's date of construction. This article is essential to the public's interest, safety, health, and welfare, and this article shall be liberally construed to effectuate its purposes.

- (b) *Definitions.*

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

Employee shall mean a person employed for wages, salary or other consideration by an owner or operator of a hotel within the city.

Guest shall mean a person who is not a patron, but who is present on the premises of a hotel, as the guest of:

- (1) A patron of the hotel, and
- (2) The operator of the hotel has been notified of, or is otherwise aware of, his or her presence at the hotel.

Hotel shall mean

- (1) The term "hotel" means any structure or any portion of any structure primarily engaged in the business of providing temporary lodging, known generally to the public as a hotel or a motel, and including, but not limited to, any hotel, motel, lodginghouse, rooming house, dormitory, Turkish bath, bachelor hotel, studio, motor hotel, auto court, inn, bed and breakfast, public club or private club containing guest rooms and which is occupied or is intended or designed for occupancy by patrons and guests in exchange for rent, whether rent is paid in money, goods, labor, or otherwise.
- (2) The term "hotel" shall not mean any jail, hospital, asylum, sanitarium, orphanage, prison, detention center, or other building in which human beings are detained under legal restraint.

Operator means any person operating a hotel in the city, including, but not limited to the owner, keeper or proprietor of such premises, the lessee, sublessee, lender in possession, licensee or any other person otherwise operating such hotel or motel.

Patron shall mean any person who, for a consideration to the owner, operator, keeper or proprietor of a hotel, uses, possesses, or has the right to use or possess any room in a hotel under any lease, concession, permit, right of access, license, or other agreement, or otherwise.

Vehicle is any car, truck, trailer, motorcycle, or other machinery used for transporting people or goods and is normally required to be registered with the state in order to be legally operated or towed on a public roadway.

Visitor shall mean a person who is not a patron or guest of the hotel, but who is on the premises of a hotel at the invitation of a patron or guest.

Sec. 12-401. Permitting.

The construction and operations of all hotels/motels within the city limits of Cleveland, Georgia must also comply with all requirements of chapter 34, land development code.

(Res. No. 2022-13, 11-17-2022)

Sec. 12-402. Occupation, time limits.

- (a) No individual patrons or guests shall register, reside in, or occupy any room or rooms within a hotel or motel for more than a 14-day consecutive day period, except in the event of the approval of a variance, which approval shall be determined on a case-by-case basis by the city council. As specified in City Code section 12-364, and pursuant to O.C.G.A. § 48-13-51(b)(2), an excise tax at the rate of eight percent of the rent paid is levied for the occupancy of any room or rooms, lodging or accommodations, up to 14 consecutive days. Occupancy of a room or rooms for more than a 14-day consecutive day period is not permitted, except upon approval by the city council, as authorized in this Code section. Once a 14-day consecutive period has elapsed, neither a patron, nor a guest of that patron, may re-register in that hotel within the next 30 days.
- (b) Up to two rooms within a hotel or motel (but no more than two) may be utilized by a hotel or motel owner/operator for use by employees. However, in any such event where an employee is utilizing such accommodations, the hotel/motel owner shall keep a record of the same information that hotels and motels are required under this article to obtain and maintain from patrons and guests of the hotel/motel; and in such event that any employee is to occupy a room for more than a 14-day consecutive period, such information must be provided to the city of such occupancy, and all requirements of this article must be met by the hotel/motel owner/operator.

(Supp. No. 12)

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(a) *Occupation Limitations.*

- (i) No patron or guest shall register, reside in, or occupy any room or rooms within a hotel or motel for more than fourteen (14) consecutive days, except upon approval of a waiver granted in accordance with this section.
- (ii) Absent a waiver granted in accordance with this section, after a 14-day consecutive period of occupancy has elapsed, neither a patron, nor a guest of that patron, may re-register in that hotel within the next thirty (30) days.
- (iii) In accordance with City Code section 12-364 and O.C.G.A. § 48-13-51(b)(2), an excise tax at the rate of eight percent of the rent paid is levied for the occupancy of any room or rooms, lodging or accommodations, up to fourteen (14) consecutive days.
- (iv) Notwithstanding the above occupancy limitations, up to two rooms within a hotel (but no more than two) may be utilized by a hotel for use by employees of the hotel. However, in any such event where an employee is utilizing such accommodations, the hotel operator shall keep a record of the same information that hotels are required under this article to obtain and maintain from patrons and guests of the hotel; and in such event that any employee is to occupy a room for more than a 14-day consecutive period, information of such occupancy must be provided to the Chair of the Hotel Waiver Committee, and the hotel operator must continue to meet all other requirements of this article.

(b) *Waiver Authority and Waiver Committee.*

- (i) Waivers permitting occupancy beyond fourteen (14) consecutive days may only be approved by a majority of a quorum of the Hotel Waiver Committee.
- (ii) The Hotel Waiver Committee shall consist of the following members:
 - 1. The chief of police;
 - 2. The fire chief;
 - 3. The director of planning & economic development; and
 - 4. The city manager, who shall serve as Chair.
- (iii) Three members of the Hotel Waiver Committee shall constitute a quorum. Approval of an application for a waiver shall require an affirmative vote of a majority of a quorum of the Hotel Waiver Committee. In the event of a tie vote on an application, the application shall be deemed denied.
- (iv) In the event that one or more of the committee members are unavailable, due to vacancy of the position, scheduling conflicts, or otherwise, to consider an application for a waiver during the required time frame, the mayor shall designate another department head(s) to serve on the Hotel Waiver Committee for purposes of considering that application.

(c) *Waiver Application.*

- (i) An operator may submit an application for a waiver of the consecutive occupancy limits set forth in this section. Any such application must be submitted in writing to the Chair of the Hotel Waiver Committee, or in the Chair's absence any member of the Hotel Waiver Committee, at least three (3) business days prior to the expiration of the fourteenth (14th) consecutive day of occupancy.
- (ii) The Committee shall have full authority to review, approve, conditionally approve, or deny waiver applications and shall comply with procedural rules that the Committee establishes for the purpose of review and consideration of such applications. The Committee shall have discretion to approve waivers for a time period other than that requested by the applicant and attach conditions to an approval as it deems appropriate.

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- (iii) The Committee shall issue and communicate to the applicant its decision on any properly submitted application for waiver prior to the expiration of the fourteenth (14th) consecutive day of occupancy.
 - (iv) Waivers shall only be granted under extraordinary circumstances where enforcement of the limitation would create an undue hardship on the operator, patron, or guest, and where such extension does not conflict with the purpose and intent of this section.
- (d) *Appeals of Waiver Decisions.*
- (i) If an operator disagrees with the decision of the Hotel Waiver Committee, the decision may be appealed to the city council by delivery of a written notice of appeal of the decision within five (5) calendar days of the Committee's decision. The written appeal shall state the specific reasons or justifications for the appeal and shall detail the extraordinary circumstances that justify an extension of the limitation.
 - (ii) The appeal shall be heard at the next meeting of the city council and the Chair of the Hotel Waiver Committee shall present an overview of the appeal and the Hotel Waiver Committee's findings and decision to the city council. The city council shall approve, reverse, or modify the decision on the application at said hearing. A failure to affirmatively reverse or modify the decision shall constitute an approval of the decision on the application.
 - (iii) The city council may, in its sole discretion, choose to waive violations and associated penalties that may otherwise accrue for violation of this section during the pendency of a properly instituted appeal under this section. Violations and associated penalties are not automatically stayed for purposes of an appeal under this section.

Sec. 12-403. Responsibilities, access, and registration requirements for hotel/motel operators.

- (a) Every owner, operator, keeper or proprietor of any hotel shall, without delay, report violations of law to the city police department that were either witnessed or made known to them by an employee, patron, guest, visitor or other person on the premises.
- (b) Every owner, operator, keeper or proprietor of any hotel shall, at all times during which the premises accommodates patrons, guests, or visitors, maintain on duty a responsible front desk clerk capable of assisting, communicating, and cooperating with the police or other law enforcement officials, fire department and EMS officials in maintaining the public health, welfare, and safety, including without limitation communications regarding occupancy in the hotel, the identification of patrons and guests, and information required to be maintained by this section.
- (c) Any federal, state, or local sworn law enforcement officer having the lawful power to arrest may make a request for inspection of the information required to be maintained under this section. If the hotel operator declines to provide the information pursuant to such a request, the hotel operator shall then be required to secure the system in the presence of an officer in a manner directed by the officer. The operator shall then be required to ensure that no one tampers with records until such time as a subpoena, warrant or court order has been issued or denied. Nothing in this subsection shall be construed as giving an officer any greater right or license to enter a room or invade privacy than the officer shall otherwise possess as a matter of law, probable cause, constitutional law, statutory right, or warrant, nor is it intended to restrict an officer's rights in situations where exigent circumstances exist.
- (d) Every owner, operator, keeper or proprietor of any hotel shall make and keep a record of all rental agreements, as they are secured, between the hotel and all patrons and for employees utilizing rooms for lodging. For the purposes of this section, the term "record" shall mean the hotel's guest registration system which stores patron and guest identifying information, whether in electronic or paper format. The owner,

operator, manager, or authorized representative of each lodging establishment is responsible for ensuring the accuracy and timely submission of all required reports.

(i) Each hotel/motel paper record (folio) should be stamped with a sequential number, and the reservation book should note that number, so that they mirror one another. Each room rented should have a separate reservation record and anyone over the age of 18 staying in that room should be listed on the paper record and identification attached. If a patron reserves two rooms, each guest, over 18, should be listed on the paper record.

(ii) Each hotel, motel, inn, or other lodging establishment shall submit a Monthly Sales Report to the designated authority no later than the 20th day of the month following the reporting period.

1. The Monthly Sales Report shall include, at a minimum:

1. Total gross room revenue for the reporting month.
2. Total number of room nights sold.
3. Total occupancy percentage for the month.
4. Applicable taxes collected and remitted.
5. Failure to submit the Monthly Sales Report by the required deadline may result in follow-up inquiries, compliance reviews, penalties, or other actions as authorized by applicable regulations.

(e) The following information, at a minimum, must be recorded in the guest registration system at the time of registration and maintained for a period of no less than 180 days after the rental agreement's termination:

- (i) The full name, phone number, and home address of each patron;
- (ii) The total number of occupants (patrons and guests) registered in each room;
- (iii) The room number assigned to each patron;
- (iv) The day, month, year and time of arrival of each patron;
- (v) The day, month, year each patron and guest are scheduled to depart;
- (vi) The rate charged and amount collected for rental of the room at the time of check-in;
- (vii) The method of payment for each room; and
- (viii) The make, model, color, license plate number, and license plate state of each patron and guest's vehicle if the vehicle(s) will be parked on the premises.

(f) Every owner, operator, keeper or proprietor of any hotel or motel shall require each patron, over the age of 18, to provide proper identification prior to renting a room. Proper identification is defined as a current and valid government issued photo identification card such as a driver's license, military identification card, state identification card, or passport. A record and a photocopy of the provided identification shall be kept on file for the duration of the occupancy and for 180 days thereafter.

(g) No person shall procure or provide lodging in any hotel or motel, or any services therefrom, through misrepresentation or production of false identification, or identification which misrepresents the identity of the person procuring or sharing in such lodging or service.

(h) Hotel operators are required to comply with City Code section 12-402, and sections 12-362 through 12-378 related to lodging tax requirements.

(Res. No. 2022-13, 11-17-2022; Ord. No. 2026-01, 6-15-2026)

Sec. 12-404. Vehicles, parking, and registration.

- (a) All patrons and guests who wish to park a vehicle on hotel premises must register said vehicle with the hotel operator upon initial registration, during any future re-registration, or at any time after registration when they begin parking a vehicle on hotel premises. Hotel operators must record the vehicle's information in accordance.
- (b) Every owner, operator, keeper or proprietor of a hotel must provide patrons and guests registering a vehicle with a standardized placard that must at all times be hung from the vehicle's rear view mirror, placed on the vehicle's front dash, or affixed to the vehicle in a way that can be easily seen. At a minimum, the placard will contain the following information: hotel name, vehicle registration number and state, and date of check-out. Any hotel with gated and controlled access parking accessible only to employees and registered guests are exempt from this subsection (b).
- (c) All vehicles of patrons, guests and visitors must be parked in designated parking spaces or parking area, including areas designated for oversized vehicles or trailers
- (d) All hotel accessible parking must be in compliance with state and local laws.
- (e) All vehicles parked on any hotel's premises must be in good working order.
- (f) Vehicle maintenance in hotel parking lots is prohibited.

(Res. No. 2022-13, 11-17-2022)

Sec. 12-406. Smoking.

- (a) Smoking is prohibited in all hotel spaces with the exception of designated smoking rooms. Designated smoking rooms shall comprise no more than 20 percent of the total rooms available for rent.
- (b) Smoking is prohibited in interior hallways, exterior breezeways, stairwells or within 25 feet of any guest room.

Sec. 12-407. Video surveillance systems.

- (a) For the purpose of this section, "video surveillance system" (VSS) means a continuous digital surveillance system including cameras, cabling, monitors, and digital video recorders (DVR) which has been approved by the Chief of Police or his/her designee in accordance with this section.
- (b) All hotels are required to install, operate, and maintain a VSS in accordance with this section.
- (c) All VSS shall be maintained in proper working order at all times, be kept in continuous operation 24 hours a day, seven days a week, and meet the minimum technological standards established in this section. The hotel shall retain the continuous digital images recorded by this system for no less than 180 days.
- (d) All VSS shall have no less than one camera dedicated to each register or check-out stand, entrance/exit, interior/exterior hallway, stairwell, and lobby, swimming pool area, exercise facility, loading dock, and parking lots or areas designated for customer and/or employee parking use. The placement of cameras included in VSS required under this section must be approved by the police department. The Chief of Police or his/her designee will conduct an assessment of each site required to install a VSS prior to installation of said system, and upon approval will issue an approval notice which will be placed in plain view inside the various common areas of the hotel or motel. This approval notice will also inform customers and employees of the presence of the VSS.

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- (e) The VSS shall be subject to regular inspection by the Chief of Police or his/her designee, who is authorized to inspect any such system at reasonable times to determine whether it conforms with this section. If the VSS does not conform, the hotel in question shall take immediate steps to bring the system back into compliance.

Sec. 12-408. Loitering.

All hotel operators will advise patrons and guests, in writing upon registration, that loitering on or about the common areas of hotel property by patrons, guests and their visitors is prohibited.

No person(s) shall loiter in or upon any hotel parking lot, parking structure or in or around any building to include breezeways, stairwells or hotel either on foot or in or upon any conveyance being driven or parked thereon, without the permission of the owner, operator, keeper or proprietor or the hotel.

Sec. 12-409. Violations and penalties.

Any person or other entity violating the provisions of this article shall be punishable by a fine not to exceed \$1,000.00 per violation or by imprisonment for a period not to exceed 180 days, or by both such fine or imprisonment. Such persons shall be guilty of a separate offense for each and every day during which any violation of any provision of this article is committed, continued, or permitted by that person and shall be punished accordingly.

Sec. 12-410. Authority to enforce.

- (a) Sworn officers of the city police department, fire department and civilian employees of the city designated by the city manager shall have the authority to inspect establishments governed under this section during the hours in which the premises are open for business.
- (b) These inspections shall be made for the purpose of verifying compliance with the requirements of this article and with state law.

Sec. 12-411. Unlawful operation declared nuisance.

- (a) Any hotel operated, conducted or maintained contrary to the provisions of this article may be declared to be unlawful and a public nuisance. The city may, in addition or in lieu of all other remedies, commence actions or proceedings for abatement, removal, or injunction thereof, in the manner provided by state law and the City of Cleveland Code of Ordinances
- (b) No hotel shall operate at any location or on any premises which does not comply with all zoning, building code, fire safety code and other ordinances and laws of the city and state.

(Res. No. 2022-13, 11-17-2022)

Chapter 14 CEMETERIES⁵

ARTICLE I. IN GENERAL

Secs. 14-1—14-18. Reserved.

ARTICLE II. REGULATIONS

Sec. 14-19. Authority of city council to adopt, repeal, and change rules.

The city council may from time to time adopt rules governing cemeteries within the city limits, including, but not limited to, rules governing interment, maintenance, monuments and markings, construction of walks and walls, and annual and perpetual care and maintenance, planting shrubbery and flowers, and such other rules that may be deemed wise in the judgment of the council.

(Comp. Ords. 1970, § 6-101)

Sec. 14-20. Maintenance; authority to employ necessary personnel.

The city council may provide for and secure the employment of such personnel as it may deem necessary for effective maintenance and care of city cemeteries. Compensation for such employees shall be set by the city council.

(Comp. Ords. 1970, § 6-102)

Sec. 14-21. Exhumation permit required.

No person shall exhume or remove any corpse in cemeteries of this city without notice to the city council, a court order authorizing exhumation and notice from the county coroner.

(Comp. Ords. 1970, § 6-105)

Sec. 14-22. Opening graves; persons permitted to open.

No grave in city cemeteries shall be opened for the purpose of disinterment except by the cemetery administrator of city cemeteries or employees working under the cemetery administrator and only upon notice to the city council as herein provided.

(Comp. Ords. 1970, § 6-106)

⁵State law reference(s)—Cemetery and Funeral Services Act, O.C.G.A. § 10-14-1 et seq.; abandoned cemeteries and burial grounds O.C.G.A. § 36-72-1 et seq.; grants to municipalities for improvement and preservation of cemeteries or burial lots, O.C.G.A. § 36-37-4.

Sec. 14-23. Monuments to have secure foundations.

Each and every person erecting or causing to be erected any monument or gravestone within city cemeteries shall have first laid out, of brick or stone and in mortar or cement, a firm foundation, so that such monument or gravestone, when thus erected, shall not fall, sink, or lean.

(Comp. Ords. 1970, § 6-107)

Sec. 14-24. Prohibited acts.

The following acts are positively prohibited in city cemeteries: discharging firearms, turning hogs, cattle, or other livestock loose in city cemeteries, injuring or defacing in any way the trees, flowers, shrubbery, graves, tombstones, monuments, seats, buildings, or structures of any kind in city cemeteries, or committing a nuisance or depositing trash or refuse matter. Nothing in this section shall be construed to prohibit the discharge of firearms for purposes of military or law enforcement ceremonies.

(Comp. Ords. 1970, § 6-108)

Sec. 14-25. Livestock impounding.

Any horses, cattle, hogs, or other livestock found running at large within city cemeteries shall be impounded by the in coordination with Animal Control and the police, subject to the charges and penalties imposed when same are found at large in the streets of the city.

(Comp. Ords. 1970, § 6-109; Ord. No. 2026-01, 6-15-2026)

Chapter 16 COURTS⁶

ARTICLE I. IN GENERAL

Secs. 16-1—16-18. Reserved.

⁶State law reference(s)—Municipal courts, O.C.G.A. § 36-32-1 et seq.; appointment of judges of municipal courts, O.C.G.A. § 36-32-2; powers of municipal court judges in criminal cases, O.C.G.A. § 36-32-3; alternative sentences by municipal courts, O.C.G.A. § 36-32-5; jurisdiction of municipal court, O.C.G.A. § 36-32-6 et seq.; training courses for judge of municipal court, O.C.G.A. § 36-32-11; municipal court clerk training, O.C.G.A. § 36-32-13.

ARTICLE II. MUNICIPAL COURT

Sec. 16-19. Name; court schedule.

The city municipal court, created by the city Charter, shall be convened at regular intervals and at such other times as may be determined by the judge. A court schedule shall be published and made available to the public, either at city hall or the municipal court office.

Sec. 16-20. Jurisdiction; powers.

- (a) The municipal court shall try and punish violations of this Code, the city Charter, all city ordinances, and such other violations as permitted by general state law.
- (b) The court shall have the authority to punish those in its presence for contempt, provided that such punishment shall not exceed a fine as authorized by law or ten days in jail.
- (c) The court may fix punishment for offenses within its jurisdiction, not to exceed a fine of \$1,000.00, or imprisonment for six months, or both a fine and imprisonment, or may fix punishment by fine, imprisonment, community service, or any other form of alternative sentencing as now or hereafter provided by law. If state law authorizes punishment in excess of the fine and/or imprisonment specified herein, then the court may impose the greater punishment.
- (d) The court shall have authority to establish a schedule of fees to defray its costs of operation and, with regard to prisoners bound over to any superior court for violations of state law, shall be entitled to reimbursement for the actual costs of meals, transportation, general caretaking expenses, court costs, administrative fees, and such other fees as are authorized to be collected by state law as presently enacted or hereafter amended.
- (e) The court shall have the authority to establish bail and recognizance to ensure the presence of those charged with violations before said court and shall have discretionary authority to accept cash, personal or real property as surety for the appearance of persons charged with such violations. Whenever any person gives bond for his appearance and fails to appear at the time fixed for trial, the bond shall be forfeited as provided in O.C.G.A. § 36-32-4.
- (f) The court shall have the same authority as the county superior court to compel the production of evidence in the possession of any party, to enforce obedience to its orders, judgments, or sentences, and to administer such oaths as may be necessary.
- (g) The court shall have the authority to bind defendants over to the appropriate court when it appears by probable cause that state law has been violated, or where a defendant makes a written request for a trial by jury, or under other circumstances in which a transfer is authorized by state law.
- (h) The court is specifically vested with all jurisdiction and power throughout the corporate limits of the city as granted generally by law to municipal courts, and particularly by such laws that authorize the abatement of nuisances and prosecution of traffic violations.
- (i) Subject to the approval of the mayor and council, the municipal court is further authorized to enter into any contracts or agreements it deems necessary or expedient for certain services, including, but not limited to, housing persons charged with city offenses in other jail facilities, probation and related supervision services, collection of fines, fees, and other delinquent payments, and similar such services.

State law reference(s)—Jurisdiction of municipal court, O.C.G.A. § 36-32-6 et seq.

Sec. 16-21. Certiorari.

The right of certiorari from the decisions and judgments of the municipal court shall exist in all criminal cases, ordinance violation cases, and such other cases in which certiorari is appropriate under state law. Such certiorari shall be obtained under the sanction of a judge of the county superior court, under the state law regulating the granting and issuance of writs of certiorari.

State law reference(s)—When writ of certiorari will lie in superior court, O.C.G.A. § 5-4-1.

Secs. 16-22—16-45. Reserved.

ARTICLE III. MUNICIPAL JUDGE

Sec. 16-46. Qualifications.

The municipal court shall be presided over by a parttime municipal judge and any other standby or substitute judges as may be provided by ordinance. No person shall be qualified and eligible to serve as a judge of the municipal court unless that person:

- (1) Has attained the age of 30 years; and
- (2) Possesses all other certifications and qualifications as may be required by law.

State law reference(s)—Municipality to set qualifications and compensation of municipal judge, O.C.G.A. § 36-32-2.

Sec. 16-47. Appointment; term; compensation.

The judge of the municipal court shall be appointed by and serve at the pleasure of the mayor and council and shall serve until a successor is duly appointed and qualified. The mayor and council shall fix the compensation of the municipal judge. The municipal judge shall serve at will and may be removed from office at any time by majority vote of the city council, unless otherwise provided by ordinance.

State law reference(s)—Appointment of judges of municipal courts, O.C.G.A. § 36-32-2.

Sec. 16-48. Oath of office.

Before assuming office, the municipal judge shall take an oath, to be administered by the mayor, that he will honestly and faithfully discharge the duties of office to the best of his ability, and without fear, favor, or partiality. The oath shall be entered upon the minutes of the city council as maintained by the city clerk.

State law reference(s)—Oath of public officers, O.C.G.A. § 45-3-1.

Sec. 16-49. Authority.

- (a) The municipal judge shall have all power and authority conferred upon municipal judges by state law and the city Charter including, but not by way of limitation, the specific additional authority set forth in this section.

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- (b) The municipal judge may compel the presence of all parties necessary for the proper disposal of each case by the issuance of summons, subpoenas, and warrants, which may be served or executed by any officer as authorized by law of the city Charter.
 - (c) The municipal judge shall be authorized to issue warrants for the arrest of any person charged with violations of this Code and any ordinances of the city.
 - (d) The judge shall have the same authority as a magistrate of the state or county to issue warrants for violations of state laws committed within the corporate limits of the city. The judge shall also have the authority to issue warrants for the arrest of persons charged with violating any of the terms or conditions of any sentence of probation imposed upon such persons in the municipal court and revoke any or all of said persons' remaining probated sentence, if those persons are found to have violated the terms and conditions of their probation.

State law reference(s)—Powers of municipal court judges in criminal cases, O.C.G.A. § 36-32-3; jurisdiction, O.C.G.A. § 36-32-6 et seq.

Secs. 16-50—16-71. Reserved.

ARTICLE IV. RULES OF PROCEDURE

Sec. 16-72. Applicability; suspended sentences.

- (a) This article governs trials in the municipal court of the city for violations of city ordinances which may be punishable by incarceration or monetary penalty or a combination of both. The punishment imposed for any ordinance violation shall not exceed a fine of \$1,000.00 plus all statutory fees allowed by state law or 12 months imprisonment or both, provided that the judge of said municipal court shall probate not less than 120 days of any sentence imposed, except as otherwise provided by general law, and shall not exceed the maximum punishment specified by this article. In the event a sentence is revoked, a defendant shall serve a sentence up to the maximum allowable under state law.
- (b) Should the city, in conformity with state enabling statutes, have adopted certain ordinances which provide for larger fines and longer terms of imprisonment than specified in subsection (a) of this section, then the larger fines and longer terms of imprisonment authorized by said enabling statutes and the ordinances adopted in accordance therewith shall control.
- (c) The municipal court of the city may suspend the service of the sentence imposed in any case upon such terms and conditions as it may prescribe for the payment of the fine, for performance of community service in lieu of a fine or incarceration, for the payment of restitution to a victim, or for other conditions relating to the underlying offense. Service of the sentence, when so suspended, shall not begin unless and until ordered by the municipal court of the city after a hearing, as in cases of revocation of probated sentences, because of the failure or refusal of the defendant to comply with the terms and conditions upon which service of a sentence was suspended. Service of all or any part of any sentence suspended upon such conditions may be ordered to commence by the municipal court of the city at any time before the expiration of one year from the date of the sentence after a hearing and a finding by said court that the defendant has willfully failed or refused to comply with the terms and conditions upon which service of the sentence was suspended.

(Ord. of 1-8-2007, § 1; Ord. of 2-9-2009(2), § 1)

State law reference(s)—Jurisdiction of municipal court, O.C.G.A. § 36-32-6 et seq.

Sec. 16-73. No right to trial by jury; right of removal to superior court.

There shall be no jury trials in the municipal court of the city. Any defendant who is charged with one or more ordinance violations may, at any time before trial, demand that the case be removed for a jury trial to the county superior court. Such a demand shall be written and served upon the solicitor of the municipal court and filed with the clerk of the municipal court. Upon such a demand, the municipal court of the city shall grant the demand. Failure to demand removal of the case shall constitute a waiver of any right to trial by jury which the defendant may otherwise have.

(Ord. of 1-8-2007, § 2; Ord. of 2-9-2009(2), § 2)

Sec. 16-74. Prosecution upon citation or accusation; service.

- (a) Prosecutions for violations of municipal ordinances shall be upon citation as provided in section 16-75 or upon accusation by the attorney designated to prosecute such cases by the mayor and council of the city.
- (b) Accusations of violations of ordinances and citations shall be provided to the accused at or prior to arraignment as provided by state law.

(Ord. of 1-8-2007, § 3; Ord. of 2-9-2009(2), § 3)

Sec. 16-75. Use of citations; arrests.

- (a) The mayor and council of the city expressly authorize that ordinance violations may be tried upon citations, with or without a prosecuting attorney, as well as upon accusations.
- (b) Each citation shall state the time and place at which the accused is to appear for trial, shall identify the offense with which the accused is charged, shall have an identifying number by which it shall be filed with the municipal court of the city, shall indicate the identity of the accused and the date of service, and shall be signed by the city agent who completes and serves it. For the purposes of this section, such person who signed the citation shall be deemed the person who issued such citation.
- (c) Prosecutions for violations of ordinances upon citations shall be commenced by the completion, signing, and service of a citation by any agent of the city who is authorized by the mayor and council of the city to issue citations. A copy of the citation shall be personally served upon the accused, and the original shall promptly be filed with the municipal court for the city. For the purposes of this section, the mayor of the city, the city building inspector, the city fire marshal, the city code enforcement officer, and any police officer of the city shall be authorized to issue such a citation.
- (d) Defendants may be arrested prior to trial pursuant to O.C.G.A. § 17-4-20 for any ordinance violation. Additionally, any defendant who fails to appear for trial shall be arrested thereafter on the warrant of the judge of the municipal court of the city and required to post a bond for his future appearance.

(Ord. of 1-8-2007, § 4; Ord. of 2-9-2009(2), § 4)

Sec. 16-76. Procedures.

Prosecutions of ordinance violations in the municipal court of the city shall follow the procedures set out in the ordinance alleged to have been violated. In the absence of such procedures being set out in the city ordinance alleged to have been violated, then the procedures for the prosecution of such violations in the municipal court of the city shall be in conformity with the general procedures followed in the magistrate court of the county for

violations of resolutions of the county. For the purposes of this section, the term "county resolutions" shall be deemed to include county ordinances.

(Ord. of 1-8-2007, § 5; Ord. of 2-9-2009(2), § 5)

Sec. 16-77. Cash bonds.

- (a) The judge of the municipal court of the city may by written order establish a schedule of cash bonds for the personal appearance in municipal court of any person charged with a violation of an ordinance. The judge of municipal court of the city shall designate the officer of the municipal court authorized to accept cash bonds pursuant to the schedule of bonds published by said court. The officer of said municipal court accepting a cash bond shall issue a receipt for the bond to the person posting the cash bond.
- (b) Any person who is accused by citation but has not been arrested may, but shall not be required to, give a cash bond for his personal appearance in court for trial. If a person who has given a cash bond fails to appear for trial, the failure to appear shall be deemed to constitute a guilty plea, and such cash bond shall be forfeited upon the call of the case for trial. It shall not be necessary for the city to take any further action to forfeit the cash bond. Forfeiture of a cash bond shall be deemed to constitute imposition and payment of a fine and shall be a bar to a subsequent prosecution of the accused for the violation. The municipal court of the city may, however, in any case enter an order pursuant to which bond forfeiture shall not be deemed to constitute imposition of a sentence, and subsequent prosecution shall not be barred, and in any such case, the amount of the bond forfeited shall be credited against any fine subsequently imposed.
- (c) The receipts shall be completed by the officer of the municipal court when accepting a cash bond so as to show the name of the person cited or arrested, the date of citation or arrest, the nature of the offense, the amount of cash bond given, and the name of the receiving officer of the municipal court. The receiving officer of the municipal court shall deliver a copy of the receipt to the person cited or arrested at the time the cash bond is given and shall file the original, together with the cash bond, with the clerk of the municipal court not later than the next succeeding business day following the date of issuance of the receipt. For the purposes of this section, any member of the staff of the office of the city clerk or police department shall be authorized to issue such receipts acting as an ex-officio officer of said municipal court. Receipts issued pursuant to this section may be in the form of a copy of a property receipt form.

(Ord. of 1-8-2007, § 6; Ord. of 2-9-2009(2), § 6)

Sec. 16-78. Execution upon unpaid fines.

- (a) The county detention center will receive sentenced persons upon the request of the chief of police.
- (b) Execution may issue immediately upon any fine imposed by the municipal court of the city and not immediately paid.
- (c) The county detention center will receive and house all persons sentenced to confinement for contempt of court or arrested or sentenced to a period of confinement for violation of ordinances upon the order of the municipal court judge.

(Ord. of 1-8-2007, § 7; Ord. of 2-9-2009(2), § 7)

Sec. 16-79. Certiorari to superior court.

Review of convictions shall be by certiorari to the county superior court.

(Ord. of 1-8-2007, § 8; Ord. of 2-9-2009(2), § 8)

State law reference(s)—When writ of certiorari will lie in superior court, O.C.G.A. § 5-4-1.

Sec. 16-80. Prosecuting attorney.

The city attorney or another attorney designated by the mayor and council of the city may act as prosecutor of criminal law violations or traffic law violations in said municipal court of the city, which attorney may also act under the title of "solicitor" or otherwise, and said attorney shall prosecute any and all violations of the ordinances of the city.

(Ord. of 1-8-2007, § 9; Ord. of 2-9-2009(2), § 9)

Secs. 16-81—16-89. Reserved.

ARTICLE V. OFFICE OF PROSECUTING ATTORNEY OF THE MUNICIPAL COURT

Sec. 16-90. Short title.

This article shall be known as the "Cleveland Office of Prosecuting Attorney of the Municipal Court Ordinance."

(Ord. No. 2012-10, § 1, 9-17-2012)

Sec. 16-91. Findings and intent.

This article is adopted to address requirements made under Georgia law for the city to pass an ordinance or resolution creating the office of prosecuting attorney of the municipal court should the city choose to hire or have a prosecuting attorney of the municipal court. Under state law, in order to have a municipal court prosecutor, the city must pass this ordinance or resolution and provide to the Prosecuting Attorneys' Council of the State of Georgia a copy of the same. The city is also required to submit the name of the person appointed to be the prosecuting attorney of the municipal court within 30 days of such appointment in order to maintain the office of prosecuting attorney of the municipal court. It is therefore the intent of the city to comply with Georgia law, particularly O.C.G.A. Article 5 of Chapter 18 of Title 15, and to enact this article.

(Ord. No. 2012-10, § 1, 9-17-2012)

Sec. 16-92. Establishment of office.

The office of prosecuting attorney of the municipal court is hereby established for the purpose of providing representation of the City of Cleveland in matters pertaining to ordinance violations of the city and state offenses enforceable in the municipal court as allowed by Georgia law. The prosecuting attorney for the municipal court shall be a contracted part time position.

(Ord. No. 2012-10, § 1, 9-17-2012)

Sec. 16-93. Qualifications.

Any person appointed as the prosecuting attorney for the Municipal Court of the City of Cleveland shall be a member in good standing of the State Bar of Georgia and admitted to practice before the trial and appellate courts of this state. Nothing in this article shall prevent the city from appointing the city attorney to be the prosecuting attorney for the municipal court, so long as all other requirements under the law are met.

(Ord. No. 2012-10, § 1, 9-17-2012)

Sec. 16-94. Oath.

The prosecuting attorney of the Municipal Court for the City of Cleveland shall take and subscribe to the following oath:

'I swear (or affirm) that I will well, faithfully, and impartially and without fear, favor, or affection discharge my duties as prosecuting attorney of the Municipal Court for the City of Cleveland.'

(Ord. No. 2012-10, § 1, 9-17-2012)

Sec. 16-95. Term of office.

Unless otherwise provided by the Charter for the City of Cleveland, the prosecuting attorney for the municipal court shall serve a term of office of one year, [a year running January through December], and is reappointed annually by the mayor and city council.

(Ord. No. 2012-10, § 1, 9-17-2012)

Sec. 16-96. Jurisdiction, duties, and authority.

The Office of Prosecuting Attorney of the Municipal Court for the City of Cleveland shall have the duty and authority to represent the city as defined by the city charter and by state law, particularly as described in O.C.G.A. § 15-18-96.

(Ord. No. 2012-10, § 1, 9-17-2012)

Sec. 16-97. Assistant prosecuting attorney (substitute).

The prosecuting attorney of the municipal court may appoint one or more assistant prosecuting attorneys to substitute whose appointment shall be ratified by the city council before becoming a substitute prosecuting attorney for the municipal court. Such assistant prosecuting attorney shall be a member in good standing of the State Bar of Georgia or satisfy the provisions of the Third Year Practice Act, found in the O.C.G.A. § 15-18-22.

(Ord. No. 2012-10, § 1, 9-17-2012)

Sec. 16-98. Ratification.

This article shall ratify all actions that have been taken by the persons acting in the positions of the office of the prosecuting attorney for the municipal court to date as authorized by the mayor and his council.

(Ord. No. 2012-10, § 1, 9-17-2012)

Chapter 18 ELECTIONS⁷

Sec. 18-1. Applicability of general law.

All primaries and elections for any elected office in the city, or any other matter that is properly the subject of a municipal election, shall be held and conducted in accordance with general state law governing elections as contained in O.C.G.A. § 21-2-1 et seq.

Chapter 20 EMERGENCY SERVICES⁸

ARTICLE I. IN GENERAL

Sec. 20-1 Purpose and Intent.

The purpose of this Chapter is to establish a comprehensive framework for emergency management, fire protection, rescue services, disaster preparedness, mitigation, response, and recovery operations within the City of Cleveland. This Chapter ensures the protection of life, property, infrastructure, and the environment through clearly defined authority, organized command structure, and adherence to nationally recognized emergency management practices including NIMS and ICS.

(Ord. No. 2026-01, 6-15-2026)

Sec. 20-2 Legal Authority.

This Chapter is adopted pursuant to O.C.G.A. Titles 36 and 38.

Sec. 20-3 Guiding Principles.

Emergency operations shall be guided by:

- (a) Life safety as the highest priority;

⁷State law reference(s)—Georgia Election Code, O.C.G.A. § 21-2-1; elections and primaries generally, O.C.G.A. § 21-2-1 et seq.; November election, O.C.G.A. § 21-2-9; registration of voters, O.C.G.A. § 21-2-210 et seq.; selection and qualification of candidates, O.C.G.A. § 21-2-130; subversive persons not to be nominated or elected, O.C.G.A. § 21-2-7; persons convicted of certain crimes not to be eligible for nomination or election to public office or to serve as primary or election official, O.C.G.A. § 21-2-8; qualifications and oath of election officers, O.C.G.A. § 21-2-214.

⁸State law reference(s)—Emergency management generally, O.C.G.A. § 38-3-1 et seq.; local organizations for emergency management, O.C.G.A. § 38-3-27; authority to promulgate local rules and regulations, O.C.G.A. § 38-3-28; mutual aid, O.C.G.A. § 36-69-1 et seq.; Disaster Volunteer Leave Act, O.C.G.A. § 38-3-90 et seq.

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- (b) Responder safety as essential;
 - (c) Incident stabilization through coordinated command;
 - (d) Property conservation when consistent with life safety;
 - (e) Unified Command when agencies overlap;
 - (f) Decisions based on conditions known at the time;
 - (g) Professional standards guiding operations.

(Ord. No. 2026-01, 6-15-2026)

Sec. 20-4. Definitions.

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

Curfew means a regulation requiring the withdrawal from any person not otherwise exempt from this chapter from appearing in certain public areas during specified hours.

Emergency management means the preparation for the carrying out of all emergency functions other than functions for which military forces are primarily responsible to prevent, minimize, and repair injury and damage resulting from emergencies, energy emergencies, disasters, or the imminent threat thereof, of manmade or natural origin caused by enemy attack, sabotage, acts of domestic or international terrorism, civil disturbance, fire, flood, earthquake, wind, storm, wave action, oil spill or other water contamination requiring emergency action to avert danger or damage, epidemic, air contamination, blight, drought, infestation, explosion, riot or other hostile action, radiological action, or other causes. Emergency functions include, without limitation, fire-fighting services; police services; emergency medical services; rescue; engineering; warning services; communications; defense from radiological, chemical, biological, and other special weapons to include weapons of mass destruction; evacuation of persons from stricken areas; emergency welfare services; consequence management functions to include victim services; emergency transportation; plant protection; temporary restoration of public utility services; and other functions related to civilian protection, together with all other activities necessary or incidental to the preparation for and carrying out of the foregoing functions.

Essential officers and employees means and refers to the mayor, constitutional officers, the police chief, police officers, police and other dispatchers, emergency medical service providers, road department employees and code enforcement personnel.

Exempt individuals, unless otherwise specified in any resolution implementing a curfew, means those individuals engaged in the provision of designated essential services, such as firefighting, law enforcement, emergency medical services and hospital services, military services, and utility emergency repairs. The resolution implementing a curfew may, in the discretion of the city council, also exempt regular employees of local industries traveling to and from their jobs with appropriate identification, news media employees, and building and repair contractors performing activities related to construction, repair, renovation or improvement of buildings and other structures damaged during the disaster or emergency.

Incident Commander means the Fire Chief or designee for fire/rescue incidents and the Police Chief or designee for law enforcement incidents. Unified Command shall be used when appropriate.

Nonessential employees means all city personnel other than those identified as "essential employees."

Overcharging means charging prices for goods, materials, services, or housing that are substantially in excess of the customary charges or in applicable cases substantially in excess of the supplier's or provider's costs for such goods, materials, services or housing. The existence of overcharging shall be presumed from a substantial increase in the price at which the goods, materials, services, or housing were offered in the usual course of business

immediately prior to the onset of the emergency, but shall not include increases in costs to the supplier directly attributable to higher costs of materials, supplies, and labor resulting from the emergency.

State of emergency means a condition declared by the governor when, in his judgment, the threat or actual occurrence of a disaster, emergency, or energy emergency is of sufficient severity and magnitude as to warrant *extraordinary* efforts in preventing or alleviating the damage, loss, hardship or suffering threatened or caused thereby.

Subsequent recovery period means the period of time that the disaster or emergency continues to cause disruptions in the area by the disaster or emergency. The subsequent recovery period shall not exceed six months after the state of emergency declaration by the governor is terminated unless extended by official action of the city council.

State law reference(s)—Similar provisions, O.C.G.A. §§ 36-69-2, 38-3-3.

(Ord. No. 2026-01, 6-15-2026)

Secs. 20-2—20-20. Reserved.

ARTICLE II. EMERGENCY MANAGEMENT AGENCY AND OPERATIONS PLAN

Sec. 20-21. Membership in county agency.

An emergency management agency has been created by the county that includes the city, among other cities within the county. The city hereby adopts the county emergency management plan to the extent applicable with the city, and the adopted plan, as supplemented by the provisions of this article, shall constitute the city's emergency operations plan (EOP). A copy of the county's emergency management plan is available for inspection in the office of the city clerk.

State law reference(s)—Authority for establishment of local emergency management organization, O.C.G.A. § 38-3-27; local director required for state financial assistance, O.C.G.A. § 38-3-27; authority for nomination of local director of emergency management, O.C.G.A. § 38-3-27.

(Ord. No. 2026-01, 6-15-2026)

Sec. 20-22. City Emergency Management Coordination.

The Mayor and Council shall appoint the City's Emergency Management Coordinator for purposes of coordinating the City's participation in the county emergency management program.

(Ord. No. 2026-01, 6-15-2026)

Sec. 20-23. Emergency management organization.

(a) For purposes of coordinating the city's participation in the county plan, the city council has assigned city departments and personnel to be responsible for certain emergency functions, as follows:

Mayor and city council	Direction and control
Police department	Evacuation; police services

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Emergency management agency	Public Information; search, rescue and recovery; resource management; communications and warning; radiological protection; state military support training; preliminary damage assessment and reporting; public property assistance; attack preparedness; specific hazards
Fire department	Fire services; hazardous materials; life safety
Public works	Engineering; petroleum and solid fuel services; utilities; restoring lifeline services, clearing roads/enabling access, supporting evacuations and rescue operations, damage assessment and repair
City health officials	Health and medical services; social services; shelter and temporary housing
City clerk, city manager and finance director	Administrative services

- (b) Heads of city departments listed in this section are responsible for developing the plan, in cooperation as necessary with county emergency personnel, for their assigned emergency functions. Such plans will be submitted to the city council for approval.

State law reference(s)—Local organizations for emergency management, O.C.G.A. § 38-3-27.

(Ord. No. 2026-01, 6-15-2026)

Sec. 20-24 Incident Command.

Incident Command System (ICS) shall be used at all incidents. ICS shall follow the National Incident Management System directives on Unified Command.

(Ord. No. 2026-01, 6-15-2026)

Sec. 20-25 Unified Command Cooperation.

The Fire Chief and Police Chief shall cooperate in Unified Command when incidents overlap.

(Ord. No. 2026-01, 6-15-2026)

Sec. 20-26 Scene Authority.

The Incident Commander may establish zones, restrict access, order evacuations, and take protective actions.

(Ord. No. 2026-01, 6-15-2026)

Sec. 20-27 Emergency Property Access.

Emergency personnel may enter property when necessary.

(Ord. No. 2026-01, 6-15-2026)

Sec. 20-28 Operational Risk Management.

Risk shall be taken to save lives, calculated risk to protect property, and unnecessary risk avoided.

(Ord. No. 2026-01, 6-15-2026)

Sec. 20-29 Fire Department Emergency Scene Authority.

Fire Department may establish fire lanes, protect hose lines and hydrants, remove obstacles, establish hazard zones, prevent interference, and take immediate life safety actions.

(Ord. No. 2026-01, 6-15-2026)

Sec. 20-30 Police Department Emergency Scene Authority.

The Police Chief shall oversee law enforcement emergency operations.

(Ord. No. 2026-01, 6-15-2026)

Sec. 20-31 Scene Security.

Police shall assist with scene security, evacuations, and traffic control.

(Ord. No. 2026-01, 6-15-2026)

Sec. 20-32 Enforcement.

Police may enforce curfews, emergency orders, and scene restrictions.

(Ord. No. 2026-01, 6-15-2026)

Sec. 20-33. Involvement of subversive persons prohibited; oath of emergency personnel.

- (a) No person shall be employed or associated in any capacity in the city's emergency management agency who advocates a change by force or violence in the constitutional form of the government of the United States or in this state or the overthrow of any government in the United States by force or violence, or who has been convicted of or is under indictment or accusation charging any subversive act against the United States.
- (b) Before entering upon his duties, each person who is appointed to serve in the city's emergency management agency shall take an oath in writing before a person authorized to administer oaths in the state, which oath shall be substantially as follows:

"I, _____, do solemnly swear (or affirm) that I will support and defend the Constitution of the United States and the Constitution of the State of Georgia, against all enemies, foreign and domestic; that I will bear true faith and allegiance to the same; that I take this obligation freely, without any mental reservation or purpose of evasion; and that I will well and faithfully discharge the duties upon which I am about to enter.

I do further swear (or affirm) that I do not advocate, nor am I a member of any political party or organization that advocates, the overthrow of the government of the United States or of this state by force or violence; and that during such time as I am a member of the (name of emergency management organization) I will not advocate nor become a member of any political party or organization that advocates the overthrow of the government of the United States or of this state by force or violence."

- (c) For the purposes of this section, the mayor, as emergency management director and coordinator, and his duly appointed deputies and assistants are authorized to administer oaths to emergency management personnel.

State law reference(s)—Similar provision, O.C.G.A. § 38-3-34.

Sec. 20-34. Emergency management office.

To the extent necessary for carrying out the provisions of the city's EOP, the city fire department is designated as the physical location of the office of emergency management for the city.

(Ord. No. 2026-01, 6-15-2026)

Sec. 20-35. Emergency powers.

In the event of manmade or natural disaster, actual enemy attack upon the United States, or any other emergency which may affect the lives and property of the citizens of the city, the city council, in cooperation with the county as contemplated by the county-city emergency management agency, may declare that a state of emergency exists and thereafter shall have and may exercise for such period as such state of emergency exists or continues, the emergency power to:

- (1) Enforce all rules, laws and regulations relating to emergency management, and assume direct operational control over all emergency management resources;
- (2) Seize, take for temporary use, or condemn any private property for the protection of the public;
- (3) Sell, lend, give, or distribute all or any such property or supplies among the inhabitants of the city; maintain a strict accounting of property or supplies distributed and for funds received for such property or supplies;

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- (4) Perform and exercise such other functions and duties, and take such emergency actions as may be necessary to promote and secure the safety, protection and well-being of the inhabitants of the city.

State law reference(s)—Rules, etc., authorized, O.C.G.A. § 38-3-28; powers of local governing bodies during state of emergency or disaster, O.C.G.A. § 38-3-54.

(Ord. No. 2026-01, 6-15-2026)

Secs. 20-36—20-57. Reserved.

ARTICLE III. PROCEDURE AND REGULATIONS

Sec. 20-58. Scope and applicability.

The procedures applicable within the city during a state of emergency shall be as set forth in the county's emergency operations plan (EOP), as amended from time to time, and in this article. A copy of the county plan shall be available in the office of the city clerk.

(Ord. No. 2026-01, 6-15-2026)

Sec. 20-59. Overcharging prohibited.

In order to preserve, protect, or sustain the life, health, or safety of persons or their property, it shall be unlawful during the duration of a state of emergency, or subsequent recovery period in which the city has been designated as a disaster area, for any person located or doing business in the city to overcharge for any goods, materials, services or housing sold within the city.

(Ord. No. 2026-01, 6-15-2026)

Sec. 20-60. Unlawful acts during emergencies.

It shall be unlawful for any person to commit any of the following acts during an emergency:

- (1) To willfully obstruct, hinder or delay any member of the emergency management corps in the enforcement of any lawful rule or regulation issued pursuant to this article or in the performance of any duty imposed by virtue of this article.
- (2) To do any act forbidden by any lawful rules or regulations issued pursuant to this article if such act is of such a nature as to give assistance to the enemy, imperil the life or property of any inhabitant of this city, or prevent, hinder or delay the defense or protection of the city.
- (3) To wear, carry or display, without authority, any mark or identification specified by the emergency management agency.

State law reference(s)—Authority for local rules and regulations for emergency management, O.C.G.A. § 38-3-28.

(Ord. No. 2026-01, 6-15-2026)

(Supp. No. 12)

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Sec. 20-61. Meetings of city council.

Upon proclamation by the appropriate state official of an emergency or disaster of manmade or natural causes or enemy attack impending on or affecting the state or the United States, the affairs and business of the city may be conducted at places other than the regular or usual place thereof, within or outside of the city, when it is not prudent, expedient or possible to conduct business at the regular location. When such meetings occur outside of the city, all actions taken by the city council shall be as valid and binding as if performed within the city. The presiding officer or any two members of the council may call such meetings without regard to or compliance with time-consuming procedures and formalities otherwise required by law.

State law reference(s)—Operation of local governing authority during emergencies, O.C.G.A. § 38-3-54.

Sec. 20-62. Purchasing and public works contracts.

Upon the declaration of a state of emergency by the governor, or upon the determination by the city council, or its designee, or the board of commissioners of the county, of the existence of an emergency or disaster, the city council, its designee or the emergency interim successor may contract for public works without letting such contract out to the lowest, responsible bidder and without advertising and posting notification of such contract for four weeks; provided, however, that any public works contract entered into pursuant to this section shall be entered on the minutes of the city as soon as practical and the nature of the emergency described therein.

(Ord. No. 2026-01, 6-15-2026)

Sec. 20-63. Code enforcement.

Upon the declaration of a state of emergency by the governor, or upon the determination by the city council or its designee or the board of commissioners of White County of the existence of an emergency or disaster, the city council, its designee or the emergency interim successor may temporarily suspend the enforcement of this Code or any portion thereof, if:

- (1) The emergency or disaster is of such nature that immediate action outside the Code is required;
- (2) Suspension is consistent with the protection of the public health, safety and welfare; and
- (3) Suspension is not inconsistent with any federal or state statutes or regulations.

(Ord. No. 2026-01, 6-15-2026)

Sec. 20-64. Temporary dwellings.

Upon the declaration of a state of emergency by the governor, or upon the determination by the city council, its designee, or the board of commissioners of White County of the existence of an emergency or disaster, the city council, its designee or the emergency interim successor may issue a temporary mobile home, trailer, recreational vehicle or other temporary dwelling structures or parks in any zoning district while the primary dwelling is being repaired provided that such temporary dwelling or park permit is designed by an engineer and the plans are approved by the county health department and building and inspections department. The temporary permit shall not exceed six months in duration. In the case of continuing hardship and in the discretion of the city council or its designee, the permit may be extended for a period for an additional six months. Upon expiration of the temporary permit or an extension, the temporary dwelling shall be removed.

(Supp. No. 12)

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(Ord. No. 2026-01, 6-15-2026)

Sec. 20-65. Curfew.

Upon the declaration of a state of emergency by the governor, or upon the determination by the city council, its designee, or the board of commissioners of White County of the existence of an emergency or disaster, the city council, its designee or the emergency interim successor may adopt a resolution instituting a curfew when it is determined necessary to protect and safeguard the people and the property of the city. All of the territory of the city shall be subject to the terms of the curfew, unless otherwise specified in the resolution. The resolution instituting the curfew shall include the dates and hours that the curfew shall be in effect.

(Ord. No. 2026-01, 6-15-2026)

Sec. 20-66. Prohibition of appearance in public places.

It shall be prohibited for any person, other than exempt individuals, to appear in public in the territory subject to the curfew, including, but not limited to, streets, highways, alleys, sidewalks, vacant lots, parks, public buildings or any other public places in all or any other delineated part of the city during the stated hours of the curfew.

(Ord. No. 2026-01, 6-15-2026)

Sec. 20-67. Continuity of city operations; essential and nonessential employees.

To promote civil stability and to provide basic services to the city in the case of emergencies or hazardous inclement weather, it is essential that the city be able to maintain an adequate workforce. Toward that end, the following rules shall apply during any state of emergency declared by authorized state, county, or city officials:

- (1) Essential employees shall be required to report to work at their regular shifts unless called in early by their immediate supervisors or the mayor.
- (2) The mayor, in consultation as necessary with city department heads and county emergency management officials, shall decide whether to open the city hall and other city work facilities. It shall be their responsibility to notify city officers if city hall is to be closed. If city hall is open, all employees in all offices are expected to report for their assigned shifts. If city hall is not opened for business at the regular opening hour, all employees are required to check in periodically for updates.
- (3) Any employee not able to report for his assigned shift may take annual leave for those hours. If an employee reports for work and is then sent home by the closing of the city hall, the employee will be paid for the remainder of the day.

(Ord. No. 2026-01, 6-15-2026)

Secs. 20-68—20-92. Reserved.

ARTICLE IV. EMERGENCY POWERS OF MAYOR

(Supp. No. 12)

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Sec. 20-93. Authority to declare local state of emergency.

The mayor shall have the right to declare an emergency to exist when, in his opinion, one or more of the following conditions exists:

- (1) Extreme danger or likelihood of destruction of life or property due to unusual conditions;
- (2) Unusual or extreme weather conditions or public areas difficult or impossible;
- (3) Civil unrest, commotion, or uprising is imminent or exists;
- (4) Stoppage or loss of electrical power affecting a major portion of the city.

(Comp. Ords. 1970, § 3-106)

Sec. 20-94. Area of emergency to be exactly defined.

The declaration of an emergency as to a portion of the city shall specify with exactness the area in which the emergency is declared to exist.

(Comp. Ords. 1970, § 3-109)

Sec. 20-95. Powers of mayor after declaration of and during state of emergency.

After declaration of emergency, the mayor shall have the right to exercise any or all of the following powers:

- (1) The power to use employees of the city to assist in providing for the safety of the community and preserving the lives, health, and property of its citizenry;
- (2) The power to close streets and sidewalks and to delineate areas within the city wherein an emergency exists;
- (3) The power to impose emergency curfew regulations;
- (4) The power to close business establishments within the affected area;
- (5) The power to close any and all municipally owned buildings and other facilities to the use of the general public;
- (6) The power to do any and all acts necessary and incidental to the preservation of the lives, health, and property of the citizenry of the city.

(Comp. Ords. 1970, § 3-106)

Sec. 20-96. Duration of emergency powers.

- (a) The emergency powers authorized in this article shall be exercised only in the event of an emergency as herein contemplated and only for such periods of time as the actual emergency exists or for such shorter period as provided in this section. Furthermore, said powers shall only be invoked after a declaration and proclamation of an emergency.
- (b) No emergency power, as set forth herein, shall be effective for more than 72 hours following the declaration of an emergency by the mayor. However, upon declaration of a second or further emergency, the emergency powers set forth herein may be exercised during such further emergency period or periods, but never for more than 72 hours in one declared emergency period.

(c) No emergency period shall extend beyond the next regular or called meeting of the city council.

(Comp. Ords. 1970, §§ 3-105, 3-107, 3-108)

Sec. 20-97. Severability

If any phrase, clause, sentence, paragraph or section of this chapter shall be declared unconstitutional, invalid or unenforceable by a court of competent jurisdiction, it shall not affect any of the remaining phrases, clauses, sentences, paragraphs, and sections of this Code.