

AN ORDINANCE  
TO BE ENTITLED

AN ORDINANCE TO AMEND THE CODE OF THE CITY OF SAVANNAH,  
GEORGIA (2003) BY REPEALING CHAPTERS 3 AND 4 OF PART 3 PERTAINING  
TO PUBLIC SAFETY: TO REPLACE CHAPTER 3 WITH AN EMERGENCY AND  
DISASTER MANAGEMENT ORDINANCE; TO PROVIDE FOR EFFECTIVE  
DATES; TO REPEAL ALL ORDINANCES IN CONFLICT HERewith AND FOR  
OTHER PURPOSES

WHEREAS, O.C.G.A §§38-3-27 through 38-3-28 and 38-3-54 through 38-3-56 authorize the City of Savannah to locally manage disasters and emergencies that occur within the City; and

WHEREAS, the Mayor and Aldermen find that an ordinance should be adopted to protect the health and safety of persons and property during an emergency or disasters resulting from manmade or natural causes; and

WHEREAS, the Georgia Emergency Management Agency is the state agency assigned responsibility for the coordination of all organizations for emergency management activities within this state; and

WHEREAS, the Chatham County Emergency Management Agency is an established emergency management agency; and

WHEREAS, to ensure an effective and coordinated response to emergencies and disasters, the City of Savannah wishes to coordinate emergency management activities and response with the Georgia Emergency Management Agency and the Chatham County Emergency Management Agency.

BE IT ORDAINED by the Mayor and Aldermen of the City of Savannah, Georgia, in regular meeting of Council assembled, and pursuant to lawful authority thereof:

SECTION 1: That Chapter 3, Emergency and Rescue, and Chapter 4, Protective Ordinances, of Part 3 pertaining to Public Safety be deleted in their entirety and a new Chapter 3 entitled Emergency and Disaster Management be inserted in lieu thereof as follows:

**CHAPTER 3.- EMERGENCY AND DISASTER MANAGEMENT**

**Sec. 3-3001.- Short title.**

This Chapter shall be known as the “Emergency and Disaster Management Ordinance.”

### Sec. 3-3002. - Definitions.

As used in this Chapter, the term:

- (a) *City* means the City of Savannah, Georgia a municipal corporation existing under the laws of the state of Georgia.
- (b) *City Council* means the Mayor and Aldermen of the City of Savannah.
- (c) *Curfew* means a temporary prohibition against any persons walking, loitering, standing, bicycling or motoring upon any sidewalk, street, public property, vacant premises or any public place within this city, or some designated part or parts thereof, except, however, those persons whose official duties require them to be present during time of an Emergency.
- (d) *Debris* means displaced, broken, or discarded building/construction materials, garbage, vegetative matter, spoiled or ruined household goods or materials, dead fish, or marine flotsam or jetsam.
- (e) *Disaster* means any calamity, including but not limited to, fire, flood, snowstorm, ice, ice storm, heat, tornado, hurricane, windstorm, wave action, oil spill, water contamination, utility failure, hazardous peacetime radiological incident, major transportation accident, hazardous material incident, epidemic, air contamination, drought, infestation, explosion, or hostile military or para-military action, or similar occurrences resulting from terrorist activities, riots, or civil disorders, which threatens or causes injury or death to persons or destruction of property whereby extraordinary measures must be taken to protect the public health, safety, welfare, lives and property of the people of this city.
- (f) *Emergency* means any extraordinary condition in which there exists the threat or actual occurrence of a disaster or event, which may result in the large-scale loss of life, injury, property damage, or destruction, or in the major disruption of routine community affairs or business and government operations, and is of sufficient severity and magnitude to warrant extraordinary assistance by other agencies to supplement the efforts of available public and private resources.
- (g) *Local state of emergency* means a declaration by the mayor pursuant to the Georgia Emergency Management Act of 1981, as amended, and this Chapter, which implements the appropriate emergency or disaster response and recovery measures of the City and authorizes certain actions as described in this Chapter and applicable emergency plans.
- (h) *Private property* means all property that is not owned or controlled by a governmental entity.
- (i) *Private streets, roads, and roadways* means the rights-of-way as well as the improved surface that are not owned or controlled by a governmental entity and which provide access to residential and commercial areas.

- (j) *State declared emergency* means a declaration by the governor pursuant to the Georgia Emergency Management Act of 1981, as amended.
- (k) *Unavailable* means either that a vacancy in an office exists as the result of any local emergency and there is no deputy or other successor authorized to exercise all of the powers and discharge all of the duties of the office, or that the lawful incumbent of the office, including any deputy exercising the powers and discharging the duties of an office because of a vacancy, and his duly authorized deputy are absent or unable to exercise the powers and discharge the duties of the office.

**Sec. 3-3003. – State of emergency.**

- (a) *Existence.* For purposes of this Chapter, a state of emergency exists when either, the President of the United States, the Governor of the State of Georgia, the Chair of the Chatham County Commission, or the Mayor of the City declares a state of emergency that applies to the city, or when an emergency situation exists or is imminent in the city that impacts the health, safety, and welfare of the public.
- (b) *Grant of authority.* The mayor may declare a local state of emergency in the event of an actual or threatened occurrence of a disaster or emergency.
- (c) *Duration.* The duration of a state of local emergency shall be limited to 30 days unless extended by the mayor.
- (d) *Notice.* Upon the declaration of a state of local emergency, the city manager shall, if practicable, post a written notice of such declaration upon the bulletin board at City Hall, and shall, as promptly as practicable, file in the office of the city clerk a notice of a declared state of local emergency, or emergency measure declared or ordered and promulgated by virtue of state law or this Chapter. The city manager shall notify the local media and residents as soon as possible.
- (e) *Confirmation of emergency by City Council.* Any declaration of a local emergency and all emergency regulations activated under the provisions of this Chapter shall be confirmed by the City Council by resolution at a special meeting or at its next regularly scheduled meeting. Confirmation of the emergency declaration shall disclose the reasons for, anticipated impacts of, actions proposed and taken to manage the emergency and other pertinent data relating to the emergency requiring the declaration. The City Council may review, and if necessary, revise any emergency orders issued by the mayor and shall take whatever actions as may be necessary in respect to any such emergency.
- (f) *Continuance of local state of emergency.* The mayor may, by resolution, end a state of local emergency at any time. The city manager shall execute and file with the city clerk a document marking the end of the local state of emergency. No state of local emergency shall continue for longer than 30 days, unless renewed by the mayor.

- (g) *Form of declaration.* Upon the declaration of local emergency by the mayor, an official “Declaration of Local Emergency” in substantially the same form set forth below, shall be signed and filed in the office of the city clerk and shall be communicated to the public of the affected area using the most effective and efficient means available. The declaration shall state the nature of the emergency or disaster, the conditions that require the declaration any section of this Chapter which shall be in effect.

#### DECLARATION OF LOCAL EMERGENCY

WHEREAS, the City of Savannah, Chatham County, Georgia has experienced an incident of critical significance as a result of [*description of event*] on [*date*];

WHEREAS, the Governor [*has/has not*] declared a state of emergency for Chatham County or the City of Savannah;

WHEREAS, the Chair of the Chatham County Commission [*has/has not*] declared a state of emergency for Chatham County or the City of Savannah.

WHEREAS, in the judgment of the Mayor of the City of Savannah, with advice from the City Manager, there exist emergency circumstances located in [*describe geographic location*] requiring extraordinary and immediate corrective actions for the protection of the health, safety, and welfare of the citizens of the City of Savannah, including individuals with household pets and service animals; and

WHEREAS, to prevent or minimize injury to people and damage to property resulting from this event, certain actions are required.

NOW, THEREFORE, pursuant to the authority vested in me by local and state law;

IT IS HEREBY DECLARED that a local state of emergency exists and shall continue until the conditions requiring this declaration are abated.

THEREFORE, IT IS ORDERED:

(1) That the City Manager shall activate the Emergency Operations Plan;

(2) That the following sections of the Code of Ordinances be implemented [*If deemed appropriate, choose from the following*]:

- ( ) Section 3-3007 Activation of City’s Emergency Operations Plan
- ( ) Section 3-3008 Authority to Waive Procedures and Fee Structures
- ( ) Section 3-3011 Registration of Building and Repair Services (effective only if the Governor declares a state of Emergency)

- ( ) Section 3-3012 Curfew and Closed or Restricted Areas
- ( ) Section 3-3013 Price overcharging prohibited
- ( ) [*Any other Emergency management actions, such as an Emergency purchasing ordinance, etc.*]

(3) That the following measures also be implemented:

ENTERED at [time] on [date].

[Signed]  
Mayor, City of Savannah

**Sec. 3-3004. – Mayor’s emergency management powers and duties.**

- (a) The mayor may declare a state of local emergency when the conditions in section 3-3002 exist.
- (b) When the state of local emergency is declared, the mayor shall exercise all powers granted to him or her under state law and under Section 2-201 of the City Charter and, in doing so, may waive any requirement of any law or rule that impedes the emergency efforts being undertaken by the City. Specifically the mayor may:
  - 1. Delegate his or her authority to the city manager;
  - 2. Issue evacuation and curfew orders;
  - 3. Call emergency meetings of the City Council;
  - 4. Issue orders necessary for the protection of life and property, establishment of public order, and control of adverse conditions affecting public welfare resulting from an emergency, and implement orders issued by federal, state or county emergency management agencies;
  - 5. Suspend or limit the sale, dispensing or transportation of alcoholic beverages, explosives and or combustibles; provided, however, that for purposes of this paragraph, the terms “explosives” and “combustibles” shall not include firearms or ammunition or any component thereof;
  - 6. Direct and compel the evacuation of all or part of the population from any stricken or threatened area, for the preservation of life or other disaster mitigation, response or recovery;

7. Authorize the use of public property when necessary to cope with the emergency or disaster or when there is compelling necessity for the protection of lives, health, and welfare, and/or the property of citizens;
8. Perform such other functions, powers, and duties as may be deemed necessary to promote and secure the safety and protection of the civilian population, including individuals with household pets and service animals prior to, during, and following a major disaster or emergency; and
9. Exercise all powers granted in O.C.G.A. §§38-3-27 through 38-3-28 and 38-3-54 through 38-3-56, as amended.

**Sec. 3-3005. – City manager’s emergency management powers and duties.**

The city manager shall:

1. Exercise all powers delegated to him/her by the mayor, when the declaration of state of emergency is issued, and take all prudent and lawful actions necessary to protect the health, safety and welfare of the community and the public;
2. Exercise the power granted to the mayor in Sec.3-3003 if the mayor is unavailable or where delay in the exercise of such powers would be contrary to the public interest;
3. Coordinate with other governmental entities to ensure the City’s actions are consistent with federal, state and county emergency management plans;
4. Utilize all available resources of the City as reasonably necessary to cope with the emergency or disaster to include relieving employees of normal duties and temporarily reassign them to other emergency or disaster-related duties;
5. Suspend any ordinance, resolution, order, rule or regulation prescribing the procedures for conduct of City business, or the orders, rules or regulations of any City department, if strict compliance with any ordinance, resolution, order, rule or regulation would in any way prevent, hinder or delay necessary action in coping with the emergency or disaster;
6. Recommend funding to the City Council for the creation and maintenance of an emergency response capability as provided in this Chapter;
7. Develop and manage the City’s emergency awareness public information program;
8. Apply for public assistance or other disaster relief funding;
9. Expend funds of the City as necessary to cope with the emergency;
10. Enter into contracts addressing situations arising out of the emergency;

11. Provide benefits to citizens upon execution of an intergovernmental agreement for grants to meet disaster-related necessary expenses or serious needs of individuals or families adversely affected by an emergency or disaster in cases where the individuals or families are unable to meet the expenses or needs from other means, provided that such grants are authorized only when matching state or federal funds are available for such purposes;
12. Perform and exercise such other functions, powers, and duties as may be deemed necessary to promote and secure the safety and protection of the civilian population, including individuals with household pets and service animals prior to, during, and following a major disaster or emergency; and
13. If a state of disaster or emergency is declared by the governor, assign and make available for duty the employees, property, or equipment of the City within or outside the geographical limits of the city as ordered by the governor.

**Sec. 3-3006. – When emergency orders effective; contents and publication of orders.**

Any emergency order issued by the mayor or city manager shall become effective immediately upon issuance and shall be reduced to writing as soon as practicable thereafter, and filed with the city clerk. Such orders upon being reduced to writing shall state the nature of the emergency, the length of time such orders are to remain in effect, and shall call attention to the penalty for violation thereof. Such emergency orders shall not initially exceed thirty (30) days, but may be extended in thirty-day increments if necessary.

**Sec.3-3007. - Activation of emergency plans.**

A declaration of an emergency or a declaration of local emergency shall activate the City's Emergency Operations Plan which shall be the authority for deployment of personnel and use of any forces to which the plan applies and for use or distribution of any supplies, equipment, materials, and facilities assembled, stockpiled or arranged to be made available pursuant to the Georgia Emergency Management Act or any other laws applicable to emergencies or disasters.

**Sec. 3-3008. - Authority to waive procedures and fees.**

- (a) *City business.* Upon declaration of an emergency, the affairs and business of the City may be conducted at places other than the regular or usual location, 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. Such meetings may be called by the presiding officer or any two members of the City Council without regard to or compliance with time-consuming procedures and formalities otherwise required by law.
- (b) *Public works contracts.* Upon declaration of an emergency, the city manager 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 the emergency must be of such nature that immediate action is required and that the action is necessary for the protection of the public health, safety and welfare. Any public works contract entered into pursuant to this subsection shall be entered on the minutes of the city as soon as practical and the nature of the emergency described therein in accordance with O.C.G.A. § 36-91-22(e), as amended. Any E-Verify or Systematic Alien Verification for Entitlements (“SAVE”) affidavit shall be obtained from any contractor if otherwise required by law.

- (c) *Procurement.* Upon declaration of an emergency, the city manager may suspend purchasing ordinances, regulations, or policies. City officials shall exercise reasonable efforts to obtain the best prices during the state of emergency.
- (d) *Code enforcement.* Upon declaration of a state of emergency, the city manager may temporarily suspend the enforcement of the ordinances of the City, or any portion thereof, where the emergency is of such nature that immediate action outside the code is required, such suspension is consistent with the protection of the public health, safety and welfare, and such suspension is not inconsistent with any federal or state statutes or regulations.
- (e) *Fees.* Upon declaration of a state of emergency, the city manager may temporarily reduce or suspend any permit fees, application fees or other rate structures as necessary to encourage the rebuilding of areas impacted by the disaster or emergency. The term “fees” includes fees or rates charged by the City for building permits, land disturbance permits, zoning applications, special land use permits, temporary land use permits and other fees relating to the reconstruction, repair and cleanup of areas impacted by the disaster or emergency. The term “fees” does not include fees collected by the City on behalf of the state or federal government or fees charged by the City pursuant to a state or federal statute or regulation.
- (f) *Temporary dwellings.* Upon the declaration of a state of emergency, the city manager may issue temporary permits for mobile homes, trailers, recreational vehicles or other temporary dwelling structures in any zoning district, even though not otherwise permitted by development code, while the primary dwelling is being repaired, provided that such temporary dwellings are designed by an engineer and the plans are approved by the county health department and the City’s Development Services Department. The temporary permit shall not exceed six months in duration. In the case of a continuing hardship, and in the discretion of the city manager or his/her designee, the permit may be extended for a period of up to an additional six months. Upon expiration of the temporary permit and/or extension, the temporary dwelling must be removed.

**Sec. 3-3009. – Emergency management coordinator.**

- (a) *Appointment.* The city manager may employ an emergency management coordinator who shall be responsible for the administration, planning, coordination and operation of emergency management activities in the city.

(b) *Duties and responsibilities.* In addition to having the responsibility for the development and coordination of all emergency response services and disaster preparedness within the city, the emergency management coordinator shall have the specific duties and responsibilities:

1. Prepare and update the City's Emergency Operations Plan and other contingency plans. City emergency planning shall provide for interagency coordination and guide the emergency response activities for the City;
2. Coordinate the City's emergency management efforts and response measures with those at the federal, state and county levels and adjacent jurisdictions;
3. Serve as the City's contact for damage assessment information;
4. Coordinate the use and activities of volunteer personnel and public and private agencies engaged to augment the personnel facilities and/or emergency or disaster relief programs of the City;
5. Through public information programs, educate the public as to actions necessary and required for the protection of persons and property in case of emergency or disaster;
6. Conduct alerts, exercises and training to insure the efficient operation of the City's emergency organization;
7. Assist the city manager in negotiating mutual aid agreements;
8. Oversee implementation of all functions necessary during an emergency or disaster in accordance with the emergency response plan;
9. Coordinate all preparedness activities, including maintaining primary and alternate emergency operations centers; and
10. Identify mitigation opportunities within the city and encourage departments/agencies to implement mitigation measures.

**Sec. 3-3010. – Building official and code enforcement; powers.**

(a) *Authority.* During a state of emergency, the City's building official has full jurisdiction over any construction site and can issue any orders deemed appropriate which can be enforced by the city attorney, police, or code enforcement personnel.

(b) *Hurricane inspections.*

1. During a state of emergency or once the five-day forecast cone from the National Hurricane Center predicts that the city will be impacted by a tropical storm or hurricane, best efforts shall be used by owners and/or any occupants of real property to secure all

furniture, fabric awnings, display racks, materials and similar loose objects exposed in outdoor locations, including loose materials or equipment on construction sites. The City shall give oral or written orders to any person on the premises most logically responsible for maintenance and such orders shall be carried out before winds of tropical storm velocity begin. The City shall also attempt to give notice to a contractor in responsible charge of a construction site, if practicable.

2. Failure to comply with the requirements of subsection (1) will subject the property owner and/or contractor to the following fines:
  - A. A property owner who fails to remove or secure furniture, display racks, materials and similar loose objects in exposed outdoor locations, \$1,000 per day, through the duration of the storm;
  - B. A property owner who fails to remove or secure loose materials or equipment at a construction site, including items in dumpsters, \$1,000 per day, through the duration of the storm;
  - C. A contractor who fails to remove or secure loose materials or equipment at a construction site, including items in dumpsters, \$1,000 per day, through the duration of the storm; and
  - D. If damage is caused to property due to the property owner's or contractor's failure to remove or secure loose materials or equipment at a construction site, a fine of up to \$1,000 may be issued.

**Sec. 3-3011. - Registration of building and repair services.**

- (a) *Permit required.* In accordance with O.C.G.A. §38-3-56, as amended, before building, constructing, repairing, renovating or making improvements to any real property, including dwellings, homes, buildings, structures or fixtures within an area of the city designated in a declared emergency or disaster, any person, firm, partnership corporation or other entity must register with the City's Development Services Department and secure a building permit, which shall be posted at the work site. Each day any such entity does business in areas of the city without complying with this ordinance constitutes a separate offense.
- (b) *Registration fee.* The cost of registration fees in a declared emergency or disaster is fixed at \$150 per annum. Registration is nontransferable. The cost of the emergency building permit shall be equal to the cost for a building permit under existing regulations. The permit shall only be authorized for repairs.
- (c) *Content of application.* When registering, any person, partnership, corporation or other entity making application must, under oath, complete an application, providing the following information:
  1. Name of applicant;

2. Permanent address and phone number of applicant;
3. Last four digits of applicant's Social Security number or federal Employer Identification number;
4. If applicant is a corporation, the state and date of incorporation;
5. Tag registration information for each vehicle to be used in the business;
6. List of cities and/or counties where the applicant has conducted business within the past 12 months;
7. Georgia sales tax number or authorization;
8. Georgia business license number, if required;
9. Copy of license from the Secretary of State, if required;
10. A signed and sworn affidavit verifying the applicant's legal presence in the United States as required by O.C.G.A. § 50-36-1, as amended; and
11. At least one secure and verifiable document as defined in O.C.G.A. § 50-36-2, as amended.

(d) *Effective Date.* This section shall become effective only upon a declaration of emergency by the governor and a local declaration stating this section is in effect. Unless otherwise specified in the declaration of emergency or otherwise extended by the City Council, the provisions of this Code section shall remain in effect during the state of emergency and for a subsequent recovery period of six months.

**Sec. 3-3012. - Closed or restricted areas and curfews during an emergency.**

- (a) *Unlawful to violate curfew.* To preserve, protect or sustain the life, health, welfare or safety of persons, or their property, within a designated area under a declaration of emergency, it shall be unlawful for any person to travel, loiter, wander or stroll in or upon the public streets, highways, roads, lanes, parks or other public grounds, public places, public buildings, places of amusement, eating places, vacant lots or any other place during a declared emergency between hours specified by the mayor or city manager until the curfew is lifted.
- (b) *Authority to impose.* To promote order, protect lives, minimize the potential for looting and other crimes, and facilitate recovery operations during an emergency, the mayor or city manager shall have discretion to impose re-entry restrictions on certain areas. The mayor or city manager shall exercise such discretion in accordance with the City's emergency operations plan, which shall be followed during emergencies.

(c) *Exceptions.* The provisions of this section shall not apply to persons acting in the following capacities:

1. Authorized and essential law enforcement personnel;
2. Authorized and essential health care providers;
3. Authorized and essential personnel of the City;
4. Authorized National Guard or federal military personnel;
5. Authorized and essential firefighters;
6. Authorized and essential Emergency response personnel;
7. Authorized and essential personnel or volunteers working with or through the City;
8. Authorized and essential utility repair crews;
9. Citizens seeking to restore order to their homes or businesses while on their own property or place of business; and
10. Other authorized and essential persons as designated on a list compiled by the City.

(d) *Enforceability.* This section shall be enforced by officers of the law enforcement personnel approved to provide aid and assistance during the emergency. Nothing contained in this section shall prohibit a law enforcement officer from bringing other charges under state law.

(e) *Effective Date.* This section shall become effective only upon the signing of a declaration of emergency, stating this section is in effect.

**Sec. 3-3013. - Price overcharging prohibited.**

(a) The health, safety and welfare of the citizens of the city depend upon the availability and affordability of certain essential commodities and reasonable access to shelter. During certain periods of emergency, resulting from natural or manmade disasters, the public is at risk from dramatic and unjustified increases in the prices of certain essential goods, materials, services and housing. Such increases in prices may be excessive and unconscionable during an emergency and may delay recovery. Legislation is necessary to prohibit any person from raising prices for goods, materials, services and housing to excessive, unconscionable or unfair levels during an Emergency or subsequent recovery period. Limitations on price overcharging an emergency are authorized pursuant to the police powers of the City of Savannah, Georgia and O.C.G.A. §38-3-28, as amended.

- (b) In order to preserve, protect or sustain the life, health or safety of persons or their property, within the disaster area, it shall be unlawful, during the duration of the emergency or subsequent recovery period, for any person, firm, or corporation located or doing business in the city to overcharge for any goods, materials, services, motel rooms, temporary lodging or houses, sold or rented, within the City of Savannah. For the purposes of this Chapter, the term "overcharging" means charging prices for goods, materials, foods, equipment, supplies, services, labor or housing which are substantially in excess of the customary charges by 25% or, in applicable cases, substantially in excess of the suppliers' or providers' costs for such goods, materials, foods, equipment, supplies, services, labor or housing by 25%. The existence of overcharging shall be presumed from a 25% increase in the price at which the merchandise or cost/rental of housing was offered in the usual course of business immediately prior to the onset of the emergency, but shall not include increases in cost to the supplier directly attributable to the higher cost of material, supplies, and labor costs resulting from the emergency.
- (c) *Subsequent recovery period.* The term "subsequent recovery period" is defined as that period during which the emergency continues to cause disruptions in the disaster area, but shall not exceed six months after the emergency declaration has been terminated.

**Sec. 3-3014. - Clearing of debris from private streets, roads, roadways, and other private property after a disaster.**

- (a) Collection and removal of disaster debris, generally.
1. *Responsibility.* Disaster-generated debris located on private roads and private property is the responsibility of the property owner.
  2. *Removal only from public and private rights-of-way.* The City will only remove disaster debris piles from public and private rights-of-way if the city manager determines in consultation with FEMA, pursuant to Sec. 3-3014(b), that the presence of disaster debris throughout the city is so widespread or of such a severe nature as to pose a serious and immediate threat to life, health and/or safety as defined in Sec. 3-3014(b).
  3. *Compliance with laws and City Code.* All actions of property owners, or their agents, to collect, reduce, remove or otherwise dispose of disaster debris shall comply with all provisions of federal and state law, and with this Chapter.
  4. *Removal of only disaster debris.* Burning of disaster debris is prohibited at all times. The City will not remove large stumps or limbs or any debris that is not a direct result of the disaster, including debris generated by land clearing operations, house cleaning efforts or other attempts to have the City remove debris that is not disaster debris.
  5. Nonresidential areas will be cleared if, in the opinion of the city manager in consultation with FEMA, the clearance will significantly and substantially aid the city's recovery operations or significantly and substantially aid the health, safety, or welfare of the residents of the city.

6. When the City performs the removal of debris as contemplated herein on private roads and private rights-of-way, or clears private property as provided herein, when reasonably possible the city manager or his designee shall contact the private property owner and have the property owner agree to indemnify and hold harmless to the maximum extent provided by law, the federal, state and local government and all, contractors, employees, officers and agents of the City, connected with the rendering of such service.
  7. Nothing herein shall preclude a first response by the City to clear debris from all roadways (both public and private) as necessary for the movement of emergency vehicles including police, fire and ambulance within the first seventy-two (72) hours after a disaster declaration.
  8. Nothing herein shall require the City to remove debris from private property other than private streets, roads and roadways as defined above except where the severity of the situation is of such magnitude or the debris is so widespread that it is determined by the city manager, after consulting with FEMA, to be a significant immediate serious threat to the health, safety and welfare of the city and in the overriding public interest of the City to remove debris from such areas.
  9. *Promulgation of rules and forms.* The city manager shall promulgate any rules and forms necessary to detail determinations made pursuant to this Section.
- (b) Determination of immediate threat to life, health or safety.
- 1) *Elimination of serious and immediate threat.* It is in the public interest to remove disaster debris where City action is necessary to eliminate an immediate threat to life and/or public health and/or public safety.
  - 2) *Determination.* The city manager shall determine, based upon his or her assessment of the seriousness and immediacy of threats to life, health and/or safety posed by disaster debris, whether it is in the public interest to remove disaster debris anywhere in the city. The city manager shall consider the presence and/or imminent development of any of the following dangers or aggravating factors in assessing whether the removal of disaster debris from public property is in the public interest:
    - A. Whether there is a significant likelihood that rescue vehicles will be significantly hindered from rendering emergency services to residential and commercial property should the debris be allowed to remain in place absent city removal;
    - B. The type of debris is such that it may reasonably cause illness, sickness or disease which could injure or adversely affect the health, safety, or general welfare of those residing and working in the area if it is allowed to remain;

- C. The clearing is necessary to effectuate orderly and expeditious restoration of power, water, sewer, telephone, and other utilities;
  - D. The debris is determined by the fire marshal to be dangerous or hazardous;
  - E. The debris prevents garbage collection thereby creating a public health hazard;
  - F. The debris contains contaminants which have a reasonable likelihood of leeching into the soil and/or ground water;
  - G. The debris has a substantially negative impact in preventing or adversely affecting emergency repairs to buildings and/or property;
  - H. The debris presents a reasonable danger of being transported by wind and/or water into surrounding waters and thereby increasing the cost of recovery and removal;
  - I. The debris poses a significant likelihood that, if left over time, would produce mold which would be injurious to public health;
  - J. The presence of the debris adversely impacts the city's recovery efforts;
  - K. The debris significantly interferes with drainage or water runoff, so as to be a significant hazard in the event of significant rainfall;
  - L. The sheer volume of the debris is such that it is impractical and unreasonable to remove in an orderly and efficient manner absent action by the City; and
  - M. The type, extent and nature of the debris is such that it would cause much greater damage if the debris was not removed prior to another significant storm event.
- (c) Access for emergency response and disaster debris removal.
1. *Access.* Upon declaration of a state of emergency affecting the city or the declaration of a state of local emergency by the City, and until the state of emergency and/or state of local emergency has been lifted or otherwise ceased, communities with private rights-of-way, whether gated or ungated, shall allow unlimited access through all community entrances to the City and its agents for response to emergencies and circumstances that pose serious and immediate threats to the life, health and/or safety of the public.
  2. *Facilitation of access.* To facilitate unlimited access throughout communities with private rights-of-way:
    - A. Community entrances with gatehouses that are staffed shall provide access to the City's agents and vehicles upon display of proper identification;

- B. Community entrances with gatehouses that are staffed less than 24 hours a day shall keep gates open when the gatehouses are not staffed; and
- C. Community entrances without staffed gatehouses shall keep gates open 24 hours a day.

(d) Removal of disaster debris from residential property.

1. *Responsibility.* Residential property owners are responsible for the collection and removal of disaster debris from their property, except to the extent the City is responsible for removal of disaster debris from private rights-of-way as provided in this Chapter.
2. *Piling requirement.* As provided for by this Chapter, the City may remove disaster debris collected from residential property. Residential property owners desiring the City to remove disaster debris shall collect and locate in piles all disaster debris before the City's Last Pass for removal of disaster debris. Disaster Debris piles put out for removal after the City makes its Last Pass will not be removed by the City.
3. *Segregation requirement.* Residential property owners must segregate structural debris piles from vegetative debris piles, and these piles must be segregated from household waste. Household waste shall be bagged and placed in garbage receptacles/bins. Structural debris and vegetative debris shall not be bagged, except that loose vegetative debris shall be placed in standard metal or plastic refuse containers of capacity no greater than 32 gallons and weighing no more than 40 pounds or in brown biodegradable paper yard waste bags.
4. *Placement of piles.* Residential property owners shall place disaster debris piles:
  - A. In front of their residence immediately adjacent to the edge of the public or private roadway; and
  - B. In such a manner as to allow ingress and egress to all residential properties.
5. *Damage to sidewalks or mailboxes.* The City and its agents shall not be responsible for damage to sidewalks or mailboxes when disaster debris is placed on or adjacent thereto.
6. *City determination.* If the City determines that:
  - A. Residential property owner's structural debris, vegetative debris and/or household waste is commingled, or has not been collected in accordance with this Chapter, the residential property owner shall have 48 hours to properly segregate the disaster debris. If the residential property owner fails to properly segregate his or her disaster debris within 48 hours, then the residential property owner is required to remove and dispose of the disaster debris at his or her expense;

- B. Any disaster debris from nonresidential property, including community property, has been commingled with the disaster debris of a residential property owner, then the City will not remove the disaster debris and the residential property owner is required to remove the disaster debris piles at his or her expense; or

(e) Removal of disaster debris from nonresidential property.

1. *Commingling*. The City will not remove disaster debris that has come from or been commingled with disaster debris from:
  - A. Nonresidential property;
  - B. Landscaped medians or cul-de-sacs in communities with private rights-of-way;  
or
  - C. Privately owned parks or other privately owned properties that are not residential.
2. *Disposal of all disaster debris*. Nonresidential property owners, including entities owning community property, shall collect, reduce, remove and otherwise dispose of all disaster debris on their property within 60 days of the end of the Disaster.
3. *Prohibition of commingling*. Nonresidential property owners, including entities owning community property, shall not:
  - A. Move disaster debris from their property to residential property ; or
  - B. Collect their disaster debris and commingle it with a residential property owner's disaster debris piles.
4. *Tub grinding operations*. Tub grinding operations or any other operation to reduce disaster debris from nonresidential property must be conducted at least 200 feet away from residential property.

(f) Indemnification, defense and hold harmless.

Prior to the City, or the City's authorized agent, entering private rights-of-way to clear and/or remove disaster debris, the owner of the private rights-of-way shall execute the City's standard form Agreement for Disaster Removal agreeing to indemnify, defend and hold the federal government and the City and their agencies, employees, officers and agents, harmless for claims arising from the City's removal of disaster debris. The mayor and the city manager are authorized to execute the City's standard form Agreement for Disaster Debris Removal on behalf of the City.

**Sec. 3-3015. - Enforcement and remedies.**

- (a) *Right of entry.* No person shall refuse entry or access to any authorized representative or agent of the City who requests entry for purposes of evaluating sites involved with emergency management functions to protect the public's health, safety, or welfare, and who presents appropriate credentials. Nor shall any person obstruct, hamper, or interfere with any such representative while that individual is in the process of carrying out his or her official duties.
- (b) *Enforcement.* Except as otherwise provided for herein, and in accordance with O.C.G.A. § 38-3-4, as amended, the City's police department, emergency management coordinator and code enforcement personnel shall be authorized, within the corporate limits of the city, to enforce the orders, rules and regulations contained in this Chapter and/or implemented by the mayor, City Council or city manager during a declared emergency.
- (c) *Penalties.* Failure to comply with any of the requirements or provisions of the regulations contained in this Chapter, or with any code section, order, rule or regulation made effective by the mayor, City Council or city manager upon or after the declaration of an emergency shall constitute a violation of the provisions of this ordinance. Any person who violates any provision in this ordinance shall, upon conviction thereof, be guilty of a misdemeanor punishable by a fine not to exceed \$1,000, imprisonment for a term not exceeding 60 days, or both such fine and imprisonment, for each violation. Each person assisting in the commission of a violation shall be guilty of separate offenses. Each day during which a violation or failure to comply continues shall constitute a separate violation.
- (d) *Injunctive Relief.* In accordance with O.C.G.A. § 38-3-5, as amended, in addition to the remedies prescribed in this section, the city attorney is authorized to obtain an injunction to restrain violation of laws, code sections, orders, rules and regulations that are contained in the Georgia Emergency Management Act and/or this ordinance, and/or are implemented by the mayor, City Council or city manager during a declared emergency.

**Sec. 3-3016. - Regulations continued in effect.**

All ordinances, resolutions, motions, and orders pertaining to emergency management and disaster relief that are not in conflict with this Chapter are continued in full force and effect. Such ordinances, etc., are on file in the office of the city clerk.

SECTION 2: All ordinances or parts of ordinances in conflict herewith are hereby repealed.

SECTION 3: To the extent any portion of this chapter may be declared unenforceable or invalid, the remainder will remain enforceable and valid.

ADOPTED AND APPROVED: \_\_\_\_\_

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Eddie W. DeLoach, Mayor

\_\_\_\_\_  
Clerk of Council

PROPOSED