

TITLE 9
Offenses
(Reserved)

TITLE 9

Offenses

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CHAPTER 1

General Offenses

Editorial Note: Municipalities are prohibited by law from enacting ordinances covering matters which have been preempted by general law and are prevented from regulating conduct which has been made a violation of any criminal law of the state. See OCGA, Sec. 36-35-6 (a)(2); Ga. Const. of 1982, Art. III, Sec. VI, Para. IV.

State Law Reference: Abandonment of airtight containers, OCGA, Sec. 16-11-100; fireworks, OCGA, Sec. 25-10-1 et seq.; disorderly houses, OCGA, Sec. 16-11-44; peeping toms, OCGA, Sec. 16-11-61; gambling, OCGA, Sec. 16-12-20 et seq.; cruelty to animals, OCGA, Sec. 16-12-4; criminal trespass, OCGA, Sec. 16-7-21.

- § 9-1-1 Disorderly conduct.
- § 9-1-2 Public drunkenness.
- § 9-1-3 Noise; creating unnecessary noise.
- § 9-1-4 Posting signs on poles without consent.
- § 9-1-5 Weapons; discharge in city.

Sec. 9-1-1 Disorderly conduct.

It shall be unlawful and disorderly conduct for any person to:

- (1) act in a violent or tumultuous manner toward another, whereby a reasonable person would be placed in fear of safety for life or limb;
- (2) place the property of another in serious danger of being destroyed or damaged;
- (3) use fighting words directed toward another, who becomes outraged and thus creates a turmoil;
- (4) violently interfere with another's pursuit of a lawful occupation; or
- (5) congregate with others to halt the flow of vehicular or pedestrian traffic and refuse to clear the way when ordered by lawful authority to do so.

Sec. 9-1-2 Public drunkenness.

It shall be unlawful for any person to be on the streets of the city or in any public place in an intoxicated condition.

Sec. 9-1-3 Noise; creating unnecessary noise.

(a) The creating of any unreasonably loud, disturbing and unnecessary noise within the limits of the city is prohibited. Noise of such character, intensity or duration as to be detrimental to the life or health of any individual, or in disturbance of the public peace and welfare, is prohibited.

(b) The following acts, among others, are declared to be loud, disturbing and unnecessary noises and noises in violation of this section, but this enumeration shall not be deemed to be exclusive, namely:

(1) Horns. The sounding of any horn or signal device on any automobile, motorcycle, bus or other vehicle, while not in motion except as a danger signal if another vehicle is approaching apparently out of control, or, if in motion, only as a danger signal; the creation by means of any such signal device of any unreasonably loud or harsh sound or the sounding of that device for an unnecessary or unreasonable period of time.

(2) Musical instruments. The playing of any radio, phonograph or any musical instrument in such a manner or with such volume, particularly during the hours between 12 midnight and 7:00 a.m., as to annoy or disturb the quiet, comfort or repose of persons in any office, hospital or in any dwelling, hotel or other type of residence, or any persons in the vicinity, except this section shall not apply to schools of music between the hours of 7:00 a.m. and 10:00 p.m.

(3) Voices. Yelling, shouting, hooting, whistling or singing on the public streets, particularly between the hours of 12 midnight and 7:00 a.m., or at any time or place so as to annoy or disturb the quiet, comfort or repose of persons in any hospital, dwelling, hotel or other type of residence, or any persons in the vicinity.

(4) Noisy vehicle. The use of any automobile, motorcycle or vehicle so out of repair, so loaded or in any manner as to create loud and unnecessary grating, grinding or rattling, or other noise.

(5) Steam whistles. The blowing of any steam whistle attached to any stationary boiler, except to give notice of the time to begin or stop work, or as a warning of fire or danger, or upon request of proper city authority.

(6) Exhausts. To discharge into the open air the exhaust of any stationary steam engine, stationary internal combustion engine, motor vehicle or motorboat engine, except through a

muffler or other device which will effectively prevent loud or explosive noises therefrom.

(7) Construction work. The erection (including excavating), demolition, alteration or repair of any building in any residential district or section, the excavation of streets and highways in any residential district or section, other than between the hours of 7:00 a.m. and 6:00 p.m. on week days except in cases of urgent necessity, and then only with a permit from the city, which permit may be granted for a period not to exceed 60 days while the emergency continues.

(8) On streets of institutions requiring quiet. The creation of any excessive noise on any street adjacent to any school, institution of learning, church or court while the same are in session, or adjacent to any hospital, which unreasonably interferes with the workings or sessions thereof.

(9) Loudspeakers on vehicles. The use of mechanical loudspeakers or amplifiers on trucks or other moving or standing vehicles for advertising or other purposes.

(10) Animals, birds. The keeping of any animal or bird which shall disturb the comfort or repose of any persons in the vicinity by making long, continual or frequent noise.

(c) None of the foregoing terms or prohibitions shall apply to or be enforced against:

(1) any vehicle of the city while engaged upon necessary public business;

(2) excavations or repairs of bridges, streets or highways, by or on behalf of the city, county or state during the night season, when the public welfare and convenience renders it impossible to perform that work during the day; nor shall the same apply to work performed by public utility companies under like conditions and circumstances, or when there is urgent necessity therefor; and

(3) the reasonable use of amplifiers or loudspeakers in the course of public addresses which are noncommercial in character.

(d) The prohibitions shall not be applicable to any parade, celebration or performance for which a written permit has been obtained prior thereto from the city clerk.

(e) It shall be unlawful to use, maintain or operate loudspeakers, sound trucks, amplifiers or other mechanical or electrical devices for increasing the volume of sound, upon the streets, sidewalks, parks or other public places of the city; provided that nothing in this section shall apply to the United States of America, the state, the county nor the city, nor to public agencies.

Sec. 9-1-4 Posting signs on poles without consent.

It shall be unlawful for any person to post or display in or upon any bridge any sign or advertisement, or to post or display upon any telegraph, telephone or electric company's pole, or upon any public property or the private property of any person any bills, signs or advertisements without the consent in writing of the owner thereof.

Sec. 9-1-5 Weapons; discharge in city.

It shall be unlawful for any person to discharge a firearm, including pistol, rifle and shotgun, or to shoot an air gun, including BB gun and pellet gun, within the city, except by law enforcement officers in the line of duty, and the military when on drill or parade, or at a funeral in honor of the dead; provided, however, it shall not be unlawful for any person to shoot a BB gun upon private property if that person shall have first obtained the express permission of the owner of that property to do so.

CHAPTER 2

Nuisances

State Law Reference: Nuisances, OCGA, Title 41.

- § 9-2-1 Definition.
- § 9-2-2 Jurisdiction to try and abate.
- § 9-2-3 Complaint of nuisance; hearing.
- § 9-2-4 Abatement by city.
- § 9-2-5 Nuisance per se, exception; summary abatement.
- § 9-2-6 Offense; penalty.

Sec. 9-2-1 Definition.

The following conditions may be declared to be nuisances:

- (1) stagnant water on premises;
- (2) any dead or decaying matter, weeds, vegetation or any fruit, vegetable, animal or rodent, upon premises which is odorous or capable of causing disease or annoyance to the inhabitants of the city;
- (3) the generation of smoke or fumes in sufficient amount to cause odor or annoyance to the inhabitants of the city;
- (4) the pollution of public water or the injection of matter into the sewage system which would be damaging thereto;
- (5) maintaining a dangerous or diseased animal or fowl;
- (6) obstruction of a public street, highway or sidewalk without a permit;
- (7) loud or unusual noises which are detrimental or annoying to the public, including without limitation, unusual loud disturbances in or around churches or multiple family complexes such as loud music and other activities in swimming pool and clubhouse areas;
- (8) all walls, trees and buildings that may endanger persons or property;
- (9) any business or building where illegal activities are habitually and commonly conducted in such a manner as to reasonably suggest that the owner or operator of the business or building was aware of the illegal activities and failed to reasonably attempt to prevent those activities;
- (10) unused iceboxes, refrigerators and the like unless the doors, latches or locks thereof are removed;

(11) any trees, shrubbery or other plants or parts thereof, which obstruct clear, safe vision on roadways and intersections of the city; and

(12) any other condition constituting a nuisance under state law.

Sec. 9-2-2 Jurisdiction to try and abate.

The recorder's court shall have full jurisdiction to try and dispose of all questions of nuisance affecting the public health or welfare, and shall also have jurisdiction to try and, in case of conviction, to punish persons failing to abate nuisances, as prescribed in section 1-1-5 of this code.

State Law Reference: Jurisdiction of recorder's court to determine existence of nuisance and order its abatement, OCGA, Sec. 41-2-5.

Sec. 9-2-3 Complaint of nuisance; hearing.

(a) Any official or inhabitant of the city may direct a complaint of nuisance to the city police department, who shall investigate and may place the complaint on the recorder's court docket for a hearing upon the basis of the investigation. The recorder's court after a 10 day notice to the party involved, shall hold a hearing thereon and upon finding that a nuisance does exist shall issue an order to the owner, agent in control of or tenant in possession, stating that a nuisance has been found to exist and that the nuisance must be abated within so many hours or days as the recorder shall deem reasonable, having consideration for the nature of the nuisance and its effect on the public.

(b) Animal control officers, license and building inspectors shall and may also receive complaints, investigate the same and place on the court docket such complaints in the same manner as police officers.

Sec. 9-2-4 Abatement by city.

(a) In any case where the owner, agent or tenant fails to abate the nuisance in the time specified, or where the owner, agent or tenant cannot be served with notice, or where the nature of the nuisance is such, in the opinion of the recorder that it must be immediately abated, the recorder may issue an order to the chief of police directing the nuisance to be abated. The chief of police in such case, shall keep record of the expenses and cost of abating same, and the costs shall be billed against the owner, agent or tenant for collection as for city revenues.

(b) Other city officers and employees shall assist the chief of police as is necessary in abating nuisances hereunder.

Sec. 9-2-5 Nuisance per se, exception; summary abatement.

Nothing contained in this chapter shall prevent the mayor from summarily and without notice ordering the abatement of or abating any nuisance that is a nuisance per se in the law or where the case is an urgent one and the health and safety of the public or a portion thereof is in imminent danger.

Sec. 9-2-6 Offense; penalty.

It is hereby declared to be an offense for any owner, agent or tenant to maintain or allow a nuisance to exist. Each day a nuisance is continued shall constitute a separate offense.

State Law Reference: Failure to abate nuisance after order to do so is a state crime, OCGA, Sec. 41-1-6.

CHAPTER 3

Animals

Cross Reference: Noise created by animals, Sec. 9-1-3(b)(10).

ARTICLE A

General Provisions

- § 9-3-1 Bird sanctuary; wildlife.
- § 9-3-2 Fowl or livestock running at large prohibited.
- § 9-3-3 Enclosures for animals and fowl.
- §§9-3-4 through 9-3-10 reserved.

ARTICLE B

Dogs

- § 9-3-11 Leash law.
- § 9-3-12 Vicious or diseased dogs.
- § 9-3-13 Rabies treatment required.
- § 9-3-14 Summons.
- § 9-3-15 Penalties.

ARTICLE A

General Provisions

Sec. 9-3-1 Bird sanctuary; wildlife.

(a) The entire area embraced within the corporate limits of the city is designated as a bird sanctuary.

(b) It shall be unlawful to trap, hunt, molest or kill any wild bird or to rob any wild bird's nest; provided, however, if nuisance birds such as starlings are found to be congregating in such numbers in a particular locality so as to constitute a nuisance or a menace to health or property in the opinion of the mayor and council, those birds may be destroyed as humanely as possible, under the supervision of the police department, in such numbers and in such manner as is deemed advisable by the mayor and council.

(c) It shall be unlawful to trap, hunt, molest or kill any other wild game in the city except by order of the chief of police.

Sec. 9-3-2 Fowl or livestock running at large prohibited.

It shall be unlawful for any owner or person in control of any domestic fowl or livestock to allow that domestic fowl or livestock to run at large within the city.

Sec. 9-3-3 Enclosures for animals and fowl.

Any housing or enclosure used for the keeping of animals or fowl shall be well drained, free from accumulations of animal excrement and objectionable odors, and otherwise clean and sanitary.

Secs. 9-3-4 through 9-3-10 reserved.

ARTICLE B

Dogs

Sec. 9-3-11 Leash law.

(a) It shall be unlawful for any owner or possessor of any dog to allow the dog to run at large, whether wearing a collar and tag or not, within the city. Any and all such dogs found running at large, whether wearing a collar and tag or not, shall be immediately impounded by officers of the city.

(b) Any dog is considered running at large and not under immediate control if it is not on a leash, not at heel, or not beside a competent person and obedient to that person's commands. A dog is under control when it is in a vehicle driven or parked, or confined within the property limits of his or her owner.

Sec. 9-3-12 Vicious or diseased dogs.

(a) Any dog that has attacked and bitten a person or other animal without provocation or has attempted to bite a person or other animal without provocation shall be deemed a vicious dog.

(b) It shall be unlawful for any person to cause, permit, accompany or be responsible for the presence of any vicious or diseased dog on the streets or public places of the city or allow the dog to run on the premises of another, at any time; unless and in addition to the other requirements of this chapter the dog shall be securely muzzled to effectively prevent it from biting any person or other animal.

Sec. 9-3-13 Rabies treatment required.

(a) All persons residing within the city limits who own, have and keep dogs within the city limits, are hereby required to have those dogs treated for rabies by some licensed veterinarian, and to keep a valid certificate of inoculation as proof of vaccination.

(b) Impounding. If the owner of any dog or dogs, after 10 days' notice to him, fails or refuses to have his dog or dogs so treated, the chief of police or any member of the police department of the city shall impound the dog or dogs. After dogs are so impounded an impounding fee as fixed from time to time by the mayor and council shall be collected by the police for a period of up to five (5) days, after which, if said dog or dogs are unclaimed they may be destroyed by the police of the city.

(c) Tag required. All owners of dogs shall be required to secure a tag from the veterinarian treating the dog or dogs, which tag shall be attached to the collar of the dog at all times.

Sec. 9-3-14 Summons.

A city officer, at his discretion, may elect not to impound a dog or other animal found in violation of any section of this chapter, but to issue or cause to be issued a summons directed to the owner or possessor of the dog to appear before the recorder's court on a certain day to stand trial for the violation of this chapter.

Sec. 9-3-15 Penalties.

Any person violating this chapter may be punished as provided in section 1-1-5 of this code.

CITY OF SARDIS
ORDINANCE TO ADOPT PUBLIC RIGHT-OF-WAY REGULATIONS
ORDINANCE NO. 912A

AN ORDINANCE TO CREATE REGULATIONS IN ORDER TO ADMINISTER AND REGULATE THE PUBLIC RIGHT-OF-WAY IN THE PUBLIC INTEREST, AND TO PROVIDE FOR ISSUANCE AND REGULATION OF RIGHT-OF-WAY PERMITS; TO PROVIDE FOR CODIFICATION; TO PROVIDE SEVERABILITY; TO PROVIDE FOR PENALTIES; TO PROVIDE FOR REPEAL OF CONFLICTING ORDINANCES; TO PROVIDE AN ADOPTION AND EFFECTIVE DATE; AND TO PROVIDE FOR OTHER LAWFUL PURPOSES.

WHEREAS, the duly elected governing authority of the City of Sardis, Georgia is authorized under Article 9, Section 2, Paragraph 3 of the Constitution of the State of Georgia to adopt reasonable ordinances to protect and improve the public health, safety, and welfare of the citizens of the City of Sardis, Georgia;

WHEREAS, the duly elected governing authority of the City of Sardis, Georgia is the Mayor and Council thereof;

WHEREAS, Official Code of Georgia Annotated (O.C.G.A.) Section 36-35-3 provides cities the power to adopt clearly reasonable ordinances, resolutions or regulations relating to the cities' property and affairs, for which no general law has been provided;

WHEREAS, pursuant to O.C.G.A. § 36-76-1, *et seq.* known as the "Consumer Choice for Television Act" of 2007 the City retains regulatory powers over certain activity of cable and video providers with respect to public rights-of-way within or belonging to the City;

WHEREAS, pursuant to O.C.G.A. § 46-5-1, *et seq.* telephone companies shall comply with all applicable local laws and regulations, including municipal ordinances and regulations, regarding the placement and maintenance of facilities in the public rights of way that are reasonable, nondiscriminatory, and applicable to all users of the public rights of way within or belonging to the City;

WHEREAS, the City desires to establish reasonable nondiscriminatory regulations for the installation, construction, maintenance, renewal, removal and relocations of Utility Facilities that are not more restrictive than equivalent regulations promulgated by the Georgia Department of Transportation with respect to Utilities on the state highway system under authority of O.C.G.A. § 32-4-70;

NOW THEREFORE BE IT ORDAINED AND IT IS HEREBY ORDAINED by the Mayor and Council of the City of Sardis that the Code of Ordinances of the City of Sardis, be amended by adding a new Title as follows:

Section 1. Title.

This Ordinance shall be known and referred to as the Ordinance to adopt Title 10 of The Code of the City of Sardis, Georgia.

Section 2. Purpose.

To adopt Title 10 of The Code of the City of Sardis, Georgia regarding public right-of-ways.

Section 3. Amendment of City Code; Title 10.

The Code of the City of Sardis, Georgia is hereby amended by adding a new Title 10, Chapters 1-9, entitled "Public Right-of-Way Regulations", as follows:

"Title 10

PUBLIC RIGHT-OF-WAY REGULATIONS

CHAPTER 1. DECLARATION OF FINDINGS AND PURPOSE, SCOPE, DEFINITIONS

Sec. 10-1-1. Intent and Purpose.

The City of Sardis (the "City") is vitally concerned with the use, construction within, and occupancy of all Rights of Way in the City as such Rights of Way are a valuable and limited resource which must be utilized to promote the public health, safety, welfare, economic development of the City and to protect public work infrastructure. Therefore, the City, under the authority of the Laws and Constitution of the State of Georgia, including but not limited to Article 9, Section 1, paragraphs 2 and 3 of the Georgia Constitution, O.C.G.A. § 36-1-20 and O.C.G.A. § 32-4-42(6), has adopted this ordinance for the purpose of regulating public and private entities which use the City Rights of Way.

Sec. 10-1-2. Scope.

The provisions of this Chapter shall apply to all Utilities and Facilities occupying the Rights of Way as provided herein.

Sec. 10-1-3. Definitions.

For the purposes of this Chapter, the following terms, phrases, words, and their derivations have the meanings set forth herein. The words "shall" and "will" are mandatory and "may" is permissive. Words not defined shall be given their common and ordinary meaning. References hereafter to "Sections" are, unless otherwise specified, references to Sections in this Chapter. Defined terms remain defined terms whether or not capitalized.

- (a) *City* means the City of Sardis, Georgia.
- (b) *Codified Ordinances* means The Code of the City of Sardis, Georgia.
- (c) *Construct* means, but shall not be limited to, dig, bore, tunnel, trench, excavate, obstruct, install or remove signs, or Facilities, other than landscaping or ornamental plantings, in, on, above, within, over, below, under, or through any part of the Rights of Way. Construct shall also include the act of opening and/or cutting into the surface of any paved or improved surface that is any part of the Right of Way.
- (d) *Construction* means, but shall not be limited to, the act or process of digging, boring, tunneling, trenching, excavating, obstructing, installing or removing signs or Facilities, other than landscaping or ornamental plantings, in, on, above, within, over, below, under, or through any part of the Rights of Way. Construction shall also include the act of opening, boring and/or cutting into the surface of any part of the Right of Way.

- (e) *Director* means the City Clerk of the City of Sardis, Georgia, or his or her designee.
- (f) *Emergency* means a condition that poses a clear and immediate danger to life, health, or safety of a person, or of significant damage or loss of real or personal property.
- (g) *Facility* or *Facilities* means any tangible thing, including but not limited to pipes, mains, conduits, cables, wires, poles, towers, traffic and other signals, and other equipment, appurtenances, appliances and future technology of any Utility in, on, along, over, or under any part of the Rights of Way within the City.
- (h) *Facilities Representative(s)* means the specifically identified agent(s)/employee(s) of a Utility who are authorized to direct field activities of that Utility and serve as official notice agent(s) for Facilities related information. Utility shall be required to make sure at least one (1) of its Facilities Representatives is available at all times to receive notice of, and immediately direct response to, Facilities related emergencies or situations.
- (i) *FCC* means the Federal Communications Commission or any successor thereto.
- (j) *Permit* means an authorization which grants permission to conduct specific regulated activities on, in, over, under or within any public right-of-way, and which may be subject to conditions specified in a written agreement with the City or in a related provision of this Code of Ordinances.
- (k) *Right(s) of Way* means the surface and space in, on, above, within, over, below, under or through any real property in which the City has an interest in law or equity, whether held in fee, or other estate or interest, or as a trustee for the public, including, but not limited to any public street, boulevard, road, highway, freeway, lane, alley, court, sidewalk, parkway, or any other place, area, or real property owned by or under the legal or equitable control of the City, now or hereafter, that consistent with the purposes for which it was dedicated, may be used for the purposes of constructing, operating, repairing or replacing Facilities.
- (l) *Service(s)* means the offering of any service by a Utility for a fee directly to the public, or to such classes of users as to be effectively available directly to the public, or alternatively, the provision of any service by a Utility between two or more points for a proprietary purpose to a class of users other than the general public.
- (m) *Service Agreement* means a valid license agreement, service agreement, franchise agreement, or operating agreement issued by the City or state pursuant to Law and accepted by a Utility or entered into by and between the City and a Utility, which

allows such Utility to operate or provide service within the geographic limits of the City.

- (n) *Street* or *Streets* means the surface of, as well as the spaces above and below, any and all the streets, alleys, avenues, roads, bridges, tunnels and public places of the City within the corporate limits of the City, as the same now exist or may be hereafter extended or altered, and any location thereon, thereover or thereunder, and any portion thereof.
- (o) *Transfer* means the disposal by the Utility, directly or indirectly, by gift, assignment, sale, merger, consolidation, or otherwise, of more than fifty percent (50%) at one time of the ownership or controlling interest in the Facilities, or of more than fifty percent (50%) cumulatively over the term of a written approval of Registration of such interests to a corporation, partnership, limited partnership, trust, or association, or person or group of persons acting in concert.
- (p) *Unused Facilities* means Facilities located in the Rights of Way which have remained unused for twelve (12) months and for which the Utility is unable to provide the City with a plan detailing the procedure by which the Utility intends to begin actively using such Facilities within the next twelve (12) months, or that it has a potential purchaser or user of the Facilities who will be actively using the Facilities within the next twelve (12) months, or, that the availability of such Facilities is required by the Utility to adequately and efficiently operate its Facilities.
- (q) *Utility* or *Utilities* means all privately, publicly, or cooperatively owned systems for producing, transmitting, or distributing communication, data, information, telecommunication, cable television, video services, power, electricity, light, heat, gas, oil, crude products, water/sewer, steam, fire and police signals, traffic control devices, and street lighting systems, and housing or conduit for any of the foregoing, which directly or indirectly serve the public or any part thereof. The term "utility" may also be used to refer to the owner, operator, Utility, service, contractor or subcontractor, or any agent thereof, of any above-described utility or utility facility.

CHAPTER 2. UTILITY REGISTRATION

Sec. 10-2-1. Registration Required.

Each Utility who occupies, uses or has Facilities in the Rights of Way at the time of passage of this Ordinance, including by lease, sublease or assignment, to operate Facilities located in the Rights of Way, unless specifically exempted by state or federal law or this Code, shall file a Registration Statement with the Director within ninety (90) days of the effective date of this Ordinance.

Sec. 10-2-2. Registration Procedure.

The Registration information provided to the City shall be on a form approved by the City and include, but not be limited to:

- (a) The name, legal status (i.e. partnership, corporation, etc.), street address, email address, and telephone and facsimile numbers of the Utility filing the Registration Statement (the "Registrant"). If the Registrant is not the owner of the Facility in the Right of Way, the Registration shall include the name, street address, email address if applicable, and telephone and facsimile numbers of the owner;
- (b) The name, street address, email address if applicable and telephone and facsimile numbers of one (1) or more Facilities Representative(s). Current information regarding how to contact the Facilities Representative(s) in an Emergency shall be provided at the time of filing a Registration and shall be updated as necessary to assure accurate contact information is available to the City at all times;
- (c) A copy, if requested, of the Utility's certificate of authority (or other acceptable evidence of authority to operate) from the Georgia Public Service Commission and/or the FCC and any other similar approvals, permits, or agreements.
- (d) A copy, if requested, of the Service Agreement, if applicable or other legal instrument that authorizes the Utility to use or occupy the Right of Way for the purpose described in the Registration.

Sec. 10-2-3. Incomplete Registration.

If a Registration is incomplete, the Director shall notify the Registrant and shall provide a reasonable period of time in which to complete the Registration. If a Registration is complete, the Director shall so notify the Utility in writing.

Sec. 10-2-4. Acceptance of the Registration.

Acceptance of Registration shall not convey title in the Rights of Way. Acceptance of the Registration is only the nonexclusive, limited right to occupy Rights of Way in the City for the limited purposes stated in the Acceptance. Acceptance of the Registration does not excuse a Utility from obtaining Permits required by City ordinances nor from obtaining appropriate access or pole attachment agreements before using the Facilities of others, including the City. Acceptance of the Registration does not excuse a Utility from notifying the City of Construction as required herein.

Sec. 10-2-5. Facilities in Place without Registration.

Beginning one year after the effective date of this Chapter, any Facilities or part of a Facility found in a Right of Way for which registration is required but has not been obtained unless specifically exempted by law, and for which no valid Service Agreement exists with the City, may be deemed to be a nuisance and an unauthorized use of the Rights of Way. The City may exercise any remedies or rights it has at law or in equity, including, but not limited to abating the nuisance; taking possession of the Facilities, evicting the Utility from the Right of Way; prosecuting the violator; and/or any other remedy provided by City ordinance or otherwise allowed in law or in equity.

CHAPTER 3. CONSTRUCTION PERMITS

Sec. 10-3-1. Permit Required.

It shall be unlawful for any Utility to excavate or to construct, install, maintain, renew, remove or relocate Facilities in, on, along, over or under the public roads of the City without a Utility permit from the Director in accordance with the terms of this Chapter.

Sec. 10-3-2. Permit Procedure.

Utility Permits shall be obtained from the Director (or such other person as the City Clerk may designate) upon application made on forms prescribed by the Director. The written application shall include the following:

- (a) The name and address of the Utility;
- (b) The nature, extent, and location of any work proposed to be done, along with satisfactory plans as attachments showing in detail the location of the proposed Facility or operations as described in the Permit application. The plans shall show the size or capacity of Facilities to be installed; their relationship to Street features such as right-of-way lines, pavement edge, structures, etc., horizontal and vertical clearance to critical elements of the roadway and any other information necessary to evaluate the impact on the Street and its operation;
- (c) The name and address of the person or firm who is to do such work;
- (d) The name, street address, email address if applicable and telephone and facsimile numbers of one (1) or more Facilities Representative(s).
- (e) The projected dates for the work to be started and finished;
- (f) An indemnity bond or other acceptable security in an amount to be set by the City to pay any damages to any part of the City road system or other City property or

to any city employee or member of the public caused by activity or work of the Utility performed under authority of the permit issued;

- (g) A copy, if requested, of the Registrant's certificate of authority (or other acceptable evidence of authority to operate) from the Georgia Public Service Commission and/or the FCC and any other similar approvals, permits, or agreements; and
- (h) A copy, if requested, of the service agreement, if applicable or other legal instrument that authorizes the Utility to use or occupy the Right of Way for the purpose described in the application.

Sec. 10-3-3. Permit Fees.

Fees shall be determined by the Director, subject to the approval by resolution of the City Council. A fee schedule shall be available at the office of the City Clerk and open for public inspection.

Sec. 10-3-4. Issuance of Permit.

If the Director determines the Applicant has satisfied the following requirements, the Director may issue a permit.

- (a) Whether issuing of the approval will be consistent with this Chapter; and
- (b) Whether Applicant has submitted a complete Application and has secured all certificates and other authorizations required by law, if applicable, in order to construct Facilities in the manner proposed by the Applicant; and
- (c) The impact on safety, visual quality of the streets, traffic flow, and other users of the right of way and the difficulty and length of time of the Project, construction or maintenance.

Sec. 10-3-5. Emergency Situations.

- (a) Each Utility shall, as soon as reasonably practicable, notify the Director of any event regarding its Facilities which it considers to be an Emergency. The Utility may proceed to take whatever actions are necessary in order to respond to the Emergency. A Utility who engages in an emergency excavation shall take all reasonable precautions to avoid or minimize damage to any existing facilities.
- (b) In the event that the City becomes aware of an Emergency regarding Utility Facilities, the City may attempt to contact the affected Utility or Facilities Representative. The City may take whatever action it deems necessary in order to respond to the Emergency, including cut or move any of the wires, cables,

amplifiers, appliances, or other parts of the Facilities. The City shall not incur any liability to the Utility, for such emergency actions, and the cost of such shall be paid by each Utility affected by the Emergency.

Sec. 10-3-6. Effective Period of Permit.

- (a) Each permit shall have a set commencement and expiration date based on information provided in the applicant's permit application.
- (b) The Permit shall remain in place until Construction is completed or until its expiration date unless the Utility is in default. The Director may give written notice of default to a Utility if it is determined that a Utility has:
 - (1) Violated any provision or requirement of the issuance or acceptance of a Permit application or any law of the City, state, or federal government;
 - (2) Attempted to evade any provision or requirement of this Chapter;
 - (3) Practiced any fraud or deceit upon the City; or
 - (4) Made a material misrepresentation or omission of fact in its Permit application.

Sec. 10-3-7. Cancellation for Cause.

If a Utility fails to cure a default within twenty (20) Working Days after such notice is provided to the Utility by the City, then such default shall be a material breach and City may exercise any remedies or rights it has at law or in equity to terminate the Permit. If the Director decides there is cause or reason to terminate, the following procedure shall be followed:

- (a) City shall serve a Utility with a written notice of the reason or cause for proposed termination and shall allow a Utility a minimum of fifteen (15) calendar days to cure its breach.
- (b) If the Utility fails to cure within fifteen (15) calendar days, the City may declare the Permit terminated.

Sec. 10-3-8. Expiration of Permit.

If work is not begun within six (6) months of the date of issuance, the permit will automatically expire.

CHAPTER 4. REQUIRED MINIMUM STANDARDS

Sec. 10-4-1. Utility Accommodation Manual Adopted.

The 2009 Utility Accommodation Policy and Standards manual, including all references contained therein to codes, rules, regulations, schedules, forms and appendix items, except Appendix B (Permit Forms and supporting Documents), promulgated by the State of Georgia Department of Transportation, as may be amended from time to time is hereby adopted by reference and incorporated in this article as if fully set forth herein, subject to the amendments and modification contained in this Chapter. A copy of the manual shall be maintained at the office of the Director or her designee and open for public inspection. Any conflicts between the provisions of this ordinance and the manual shall be resolved in favor of the manual. References to State personnel, agencies, and fees shall be interpreted, where required, as meaning the City of Sardis municipal equivalents.

Sec. 10-4-2. Protection of Traffic and Roadway.

Unless specifically provided in the Permit, no Utility may occupy the City Rights of Way unless sufficient space is available so that the free flow and safety of traffic and other capacity considerations are not unduly impaired and the installation does not prevent the City from reasonably maintaining the streets, structures, traffic control devices and other appurtenant facilities, and further provided that maintenance and operations of the Facilities do not jeopardize the traffic, street structure, other users of the right of way or the right of way itself.

Sec. 10-4-3. Grading.

If the grades or lines of any street within the City Right of Way are changed at any time by the City during the term of the permit and this change involves an area in which the Utility's Facilities are located, then the Utility shall, at its own cost and expense and upon the request of the City upon reasonable notice, protect or promptly alter or relocate the Facilities, or any part thereof, so as to conform with such new grades or lines. In the event the Utility refuses or neglects to so protect, alter, or relocate all or part of the Facilities, the City shall have the right to break through, remove, alter, or relocate all or any part of the Facilities without any liability to the Utility and the Utility shall pay to the City the costs incurred in connection with such breaking through, removal, alteration, or relocation.

Sec. 10-4-4. Installation of Poles and Other Wireholding Structures and Relocation.

Unless otherwise provided in a valid service agreement, no placement of any pole or wireholding structure of the Utility is to be considered a vested interest in the Right of Way, and such poles or structures are to be removed, relocated underground, or modified by the Utility at its own expense whenever the City determines that the public

convenience would be enhanced thereby. The Facilities shall be so located and installed as to cause minimum interference with the rights and convenience of property owners.

Sec. 10-4-5. Georgia Utility Facility Protection Act.

As provided in O.C.G.A § 25-9-6 (the Georgia Utility Facility Protection Act) and other applicable state law currently in place or as amended, no Utility shall commence, perform, or engage in blasting or in excavating with mechanized excavating equipment unless and until the Utility planning the blasting or excavating has given 48 hours' notice by submitting a locate request to the Utility Protection Center, notice beginning the next Working Day after such notice is provided, excluding hours during days other than Working Days.

CHAPTER 5. RESTORATION OF PROPERTY

Sec. 10-5-1. Right-of-Way Facility Repairs.

Each Utility shall be responsible for the cost of repairing any Facilities in the Rights of Way and adjoining property or other Facilities which it or its Facilities damage.

Sec. 10-5-2. Street Facility Repairs.

A Utility shall be liable, at its own cost and expense, to replace, restore or repair, any Street, Facilities or property or structure thereon, thereunder, thereover or adjacent thereto that may become disturbed or damaged as a result of the Construction or installation, operation, upgrade, repair or removal of Facilities to a condition as good as or better than its condition before the work performed by the Utility that caused such disturbance or damage. If the Utility does not commence such replacement or repair after twenty (20) Working Days following written notice from the City, the City or the owner of the affected structure or property may make such replacement or repair and the Utility shall pay the reasonable and actual cost of the same.

CHAPTER 6. INSPECTION

Sec. 10-6-1. Site Available.

The Utility shall make the Construction site available to the Director or her designee and to all others as authorized by Law for inspection at all reasonable times during the execution and upon completion of the Construction.

Sec. 10-6-2. Stop Work Order.

At any time, including the time of inspection, the Director may order the immediate cessation of any work which poses a serious threat to the health, safety, or welfare of the public, violates any law, or which violates the terms and conditions of the

Permit and/or this Title or issue an order to correct work which does not conform to the Permit and/or applicable standards, conditions or codes.

Sec. 10-6-3. Notice.

When the Construction under any Permit is completed, the Utility shall notify the City.

CHAPTER 7. OTHER APPROVALS, PERMITS AND AGREEMENTS

Sec. 10-7-1. Additional Permits Required.

The Utility shall obtain all construction, building or other permits or approvals as according to City ordinance, state or federal law. In addition, a Permittee shall comply with all requirements of laws, shall complete work in a way as to not cause any unnecessary or unauthorized obstructions of sidewalks, streets, waterways or railways, and is responsible for all work done in the Rights of Way regardless of who performs the work. No Rights of Way obstruction or excavation may be performed when seasonally prohibited or when conditions are unreasonable for such work, except in the case of an Emergency as outlined in Chapter 3, Section 10-3-5.

CHAPTER 8. PENALTIES

Sec. 10-8-1. Penalties.

Every Utility convicted of a violation of any provision of this chapter shall be punished by a fine not exceeding one thousand dollars (\$1,000.00) per violation. Each act of violation and each day upon which any such violation shall occur shall constitute a separate offense. In addition to the penalty prescribed above, the City may pursue other remedies such as abatement of nuisances, injunctive relief and revocation of licenses or permits.

CHAPTER 9. OTHER PROVISIONS

Sec. 10-9-1. Reservation of Regulatory and Police Powers.

The City by issuing a written approval of Registration under this Chapter, does not surrender or to any extent lose, waive, impair, or lessen the lawful powers and rights, which it has now or may be hereafter vested in the City under the Constitution and Laws of the United States, State of Georgia and the City Charter, and under the provisions of the City's Code of Ordinances to regulate the use of the Rights of Way. The Utility by applying for and being issued a written Permit, is deemed to acknowledge that all lawful powers and rights, regulatory power, or police power, or otherwise as are or the same may be from time to time vested in or reserved to the City, shall be in full force and effect and subject to the exercise thereof by the City at any time. A Utility is deemed to

acknowledge that its interests are subject to the regulatory and police powers of the City to adopt and enforce general ordinances necessary to the safety and welfare of the public and is deemed to agree to comply with all applicable general laws enacted by the City pursuant to such powers. In particular, all Utilities shall comply with City land use requirements pertaining to the placement and specifications of Facilities.

Sec. 10-9-2. Compliance.

No Person shall be relieved of its obligation to comply with any of the provisions of this Title by reason of any failure of City to enforce compliance.

Sec. 10-9-3. Appeal of Administrative Decisions.

All appeals provided for by this Title and any notification to the City required by this Title shall be in writing and sent via certified mail to the Director as specified in this Title.

Sec. 10-9-4. Chapter Headings.

Title and Chapter headings are for convenience only and shall not be used to interpret any portion of this Title.”

Section 4. Codification.

This Ordinance shall be codified in a manner consistent with the laws of the State of Georgia and the City of Sardis.

Section 5. Repealer.

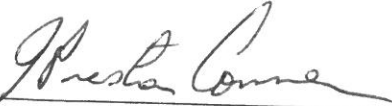
All City Code provisions, ordinances, parts of ordinances, or resolutions in conflict with the provisions of this Ordinance are hereby repealed.

Section 6. Severability.

If any part of this Ordinance is determined by a Court of competent jurisdiction to be invalid, only such part of this Ordinance declared to be invalid shall become void and all other parts shall remain valid and enforceable.

SO ORDAINED this 12th day of September, 2017.

Mayor and City Council of Sardis, Burke County, Georgia.



J. PRESTON CONNER, Mayor

Resigned

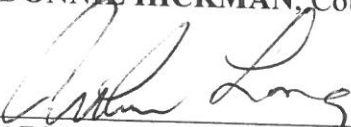
LINDA EDMONDS, Councilmember



ARTHUR FREEMAN, Councilmember



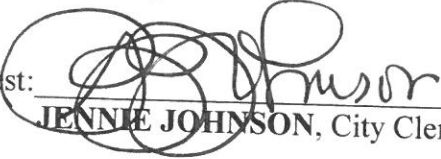
DONNIE HICKMAN, Councilmember



ARTHUR LONG, Councilmember



VALCHESTER PRESCOTT, Councilmember

Attest: 

JENNIE JOHNSON, City Clerk

First Reading: 8/08/17
Second Reading: 9/12/17

**ORDINANCE
DISPOSITION TABLE**