

Chapter 50 - STREETS, SIDEWALKS AND OTHER PUBLIC PLACES

ARTICLE I. - IN GENERAL

Sec. 50-1. - Street specifications.

The specifications and standards for the construction and repair of the public streets of the city shall be as adopted by the mayor and city council from time to time.

Secs. 50-2—50-16. - Reserved.

ARTICLE II. - USE REGULATIONS

DIVISION 1. - GENERALLY

Sec. 50-17. - Skating on sidewalks and streets.

- (a) No person shall ride a bicycle or propel roller skates, skateboards, or other similar devices upon a public street, highway or sidewalk in a manner which would constitute an unreasonable danger to the public or which would disrupt the public's ordinary and customary use of such street, highway or sidewalk.
- (b) No person shall ride a bicycle or propel roller skates, skateboards, or other similar devices on sidewalks which are properly designated for pedestrians only. The chief of police and department of transportation, after approval of the mayor and city council, are authorized to erect or have erected signs on any sidewalk or roadway prohibiting the riding of bicycles or propelling of roller skates, skateboards, or other similar devices. When such signs are in place, no person shall disobey the signs.
- (c) Whenever any person is riding a bicycle or skating upon a sidewalk, that person shall yield the right-of-way to any pedestrian and shall give audible signal before overtaking and passing the pedestrian.
- (d) Any person violating any provision of this section shall be subject to the penalties provided in section 1-12. Provided, however, that any offender under 17 years of age shall be treated as provided by state law as contained in the O.C.G.A. § 15-1-1 et seq. The parent of any child and the guardian of the person of any ward shall not authorize or knowingly permit that child or ward to violate any provision of this section.

Sec. 50-18. - Obstructions upon streets and sidewalks.

No person shall erect any steps, porticos or other obstructions encroaching upon the city streets, sidewalks or other public areas. Such obstructions shall be removed, after a reasonable notice, at the expense of the builder.

Sec. 50-19. - Obstruction with building materials.

No person shall put any lumber, wood, boxes, bricks or other such obstructions in any street, alley or sidewalk without permission of the building inspector.

Sec. 50-20. - Warning signals at obstructions.

Any person who shall cause any obstruction to be placed in any city street, alley or sidewalk shall display at such obstruction a sufficient danger signal or light to warn the traveling public of such obstruction and enable them to avoid injury from the obstruction.

Sec. 50-21. - Damages to streets and sidewalks.

It shall be unlawful for any person to drag or run or cause to be dragged or run any harrow or other implement, engine, machine or tool upon any asphalt, bithulitic, warrenite or other type of permanently paved city street or sidewalk which shall be liable in any way to injure or cut the surface thereof. It shall also be unlawful to injure any dirt street in the same manner.

Sec. 50-22. - Use of gravel near streets and sidewalks.

(a) No person conducting a business adjacent to a highway or sidewalk shall maintain a yard or lot pavement or covering of stones, pebbles or like substances in such manner that the stones, pebbles or other substances are movable upon being walked upon or driven over by vehicles going to and from the place of business and to and from the street or sidewalk, unless so placed and maintained that the stones, pebbles or substances will not get into or upon the adjacent sidewalk or street.

(b) Whenever a condition such as is mentioned in subsection (a) of this section is found to exist, either the owner or his agent in charge shall be notified. If the condition is not corrected within the time directed by the city manager, it shall be sufficient cause for revoking the permit and/or license under which the business is conducted, after notice and hearing before the mayor and city council.

Sec. 50-23. - Hauling refuse; tracking mud.

(a) It shall be unlawful for any person to haul or cause to be hauled over the city streets any dirt, shingles, laths or trash in a wagon or other vehicle, unless the wagon or vehicle is constructed to prevent and does prevent the spilling of dirt, shingles, laths or trash upon the streets.

(b) It shall be unlawful for any person to permit a truck or other vehicle under his control to track mud, in appreciable quantity, on the city streets or sidewalks.

Secs. 50-24—50-34. - Reserved.

DIVISION 2. - TELEPHONE COMPANIES

Sec. 50-35. - Due compensation for companies with end user retail customers within the city.

(a) The city hereby requires due compensation of three percent of actual recurring local service revenues, as defined in O.C.G.A. § 46-5-1(b)(8) and (9); provided, however, that any company which pays in excess of three percent of actual recurring local service revenues pursuant to an existing franchise agreement shall continue to pay in accordance with the agreement until the expiration of the franchise agreement or December 31, 2012, whichever occurs first, and any company which pays in excess of three percent of actual recurring local service revenues in accordance with an occupational license tax arrangement shall continue to pay in accordance with such payment schedule until December 31, 2012.

(b) Regarding any telephone company that does not have retail, end user customers located within the city's municipal boundaries, the payment by such company to a municipal authority in accordance with the rates set by regulations promulgated by the department of transportation for the use of its rights of way shall be considered the payment of due compensation.

Sec. 50-36. - Authorized designee.

The city manager shall, on behalf of the city, exercise day-to-day administrative duties necessary to fulfill the regulatory authority of the city under O.C.G.A. § 46-5-1 et seq. and shall perform the following duties:

- (1) Review application information submitted by a telephone company to the city and, if an application is incomplete, notify the telegraph or telephone company within 15 business days of the receipt of such application, identifying in such notice all application deficiencies.
- (2) Report the receipt of a completed application to the council within 60 calendar days of the receipt of such completed application.
- (3) Review payments of due compensation submitted by the company to ensure compliance with the provisions of the amended law and this division.
- (4) Provide a coordination function between a telephone company and all city departments on any matter relating to the amended law and this division.
- (5) Arrange and evaluate, no more than once a year, a comprehensive review of the records of a company which is reasonably related to the calculation and payment of due compensation.
- (6) Provide to all telegraph and telephone companies located in its rights-of-way written notice of annexation and changes in municipal corporate boundaries.

Secs. 50-37—50-60. - Reserved.

ARTICLE III. - STREETLIGHT DISTRICTS

Sec. 50-61. - 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:

Lot means any single tract or land which falls within any of the zoning classifications, as defined by the zoning and planning ordinance of city as amended; provided, however, that in areas zoned for purposes other than single-family residential, different criteria may be adopted by the city water and sewer department for the payment of energy costs and retirement of construction costs.

Lot owner means only that individual or corporation registered with the city water and sewer department as a customer shall be considered as an owner although the customer may not be vested with exclusive title.

Sec. 50-62. - Lighting cost declared a service.

The governing authority of the city does hereby declare that the cost and service for creation of streetlight district or street lighting hereafter created shall be a service and not a tax, as authorized by Ga. Const. art. IX, § IV, ¶ II.

Sec. 50-63. - Responsibility for cost; retirement of existing contracts.

(a) The cost of providing and maintaining streetlight service in streetlight districts, and in streetlight districts hereafter created, shall be borne by the residents, lot owners and property located within the boundaries of a particular subdivision. The charge therefor shall be determined by the water and sewer director and approved by the city council and shall be posted and open for public inspection in the offices of the water and sewer director. The charge in the proposed streetlight district to be created petition shall be included on the petition circulated through the proposed district. In the event of excessive vandalism to streetlights within a district which results in the city being billed for repairs, the city may prorate those repair bills and add a pro rata share to those bills to the charge.

(b) In those districts now in existence, or which may hereafter be created in which there is construction cost, the same shall be retired as per agreement or contract, with the public utility or other person to whom the indebtedness is owed, and shall be billed accordingly per lot.

Sec. 50-64. - Payment date; delinquencies.

The due date for the payment of the service and the sums herein provided for shall be the same date of each month as water bills. As amended, is hereby adopted as the standard for the installation and operation of lighting in the service area of the city water and sewer department with the following exceptions:

- (1) Lighting fixtures installed within the public rights-of-way to be operated for the purpose of street illumination shall comply with the standards set forth in this subsection. The minimum average horizontal footcandle illumination level by roadway classification shall be:

Roadway Classification	Commercial Area	Intermediate Area	Residential Area
Major	1.2	0.9	0.6
Collector	0.8	0.6	0.4
Local or residential	0.6	0.5	0.3

The uniformity of illumination shall be such that the point of lowest illumination shall have at least one-third of the average horizontal footcandle required illumination level, except that on local or residential streets it may be not less than one-sixth of this average.

- (2) Any party requesting permission to install or operate lighting fixtures within public rights-of-way shall furnish plans and specifications to the water and sewer director for approval showing that the proposed lighting meets the standards, and no lighting shall be installed or operated without this approval. Should the water and sewer director disapprove the request to install or operate lighting fixtures within any public rights-of-way, he shall communicate the disapproval in writing to the party requesting approval. The written communication shall include the specific reasons for disapproval. Any disapproval of a light or lighting system by the water and sewer director may be appealed to the city council. If any party desires to appeal an adverse decision by the water and sewer director, a notice of appeal shall be filed with the water and sewer director within 30 days from the date following the written notice of disapproval. It shall be the responsibility of the water and sewer director to transmit forthwith to the city council all papers and allied documents constituting the record upon which the action appealed from was taken, and to ensure that the appeal is promptly placed upon the agenda of the city council for its determination. The city council may reverse or affirm, wholly or partly, or may modify, the order, requirement, decision or determination appealed from.

(3) Roadway or street lighting luminaries or fixtures installed within the public rights-of-way as security lights or for the purpose of lighting areas other than the public streets, shall be oriented in such a manner to ensure that the lateral light distribution pattern is parallel to the street and the vertical light distribution, at the initial light source, is perpendicular to the street, so as to protect the users of the street from the objectionable glare. The city water and sewer department is subject to the same penalties for late payment and for failure to pay. Any service provided by the city water and sewer department may be discontinued for late payment or nonpayment, as herein provided.

Sec. 50-65. - City responsible for collections.

The billing, accounting, collecting and receiving of the monies herein provided for is hereby declared to be the responsibility of the city.

Sec. 50-66. - Conformance by subdivision developer; acceptance of public ways.

(a) The owner, developer or other person developing a subdivision is required to provide streetlight services and shall be required to conform to all of the standards herein provided for and, in addition thereto, shall be required to obtain a permit from the city prior to commencing any construction of any streetlight facilities.

(b) The owner, developer or other person developing a shopping center, industrial park, office park or like development, shall install streetlights along public rights-of-way adjoining that property in conformance with the standards herein provided for; and, in addition thereto, shall be required to obtain a permit from the city prior to commencing any construction of any streetlight facilities.

(c) The city shall not accept any facilities of the city proposed to be dedicated until such time as the provisions hereof have been complied with.

Sec. 50-67. - Lighting in areas other than single-family residential.

Street lighting in districts other than single-family residential shall be permitted only:

- (1) With the approval of the city subject to the safety, economic and other factors involved;
- (2) Upon final approval by the city; and
- (3) Upon compliance with the standards herein provided for.

Sec. 50-68. - Installation and operation standards adopted; exceptions.

(a) In order to ensure adequate illumination of public rights-of-way and promote safety and security, the American National Standard Practice for Roadway Lighting of the Illumination Society, as approved by the American National Standards Institute (1983), approval of the city shall be obtained before installation of these lights.

(b) Other lighting fixtures to be installed within or outside of public rights-of-way for whatever purpose shall be installed and operated in such a manner to prevent glare from being a hazard to or interfering with the normal use of the public rights-of-way.

Sec. 50-69. - Petition for creation of district.

(a) Any lot owner within the service area of the city may present a request for the creation of a streetlight district to the city. Upon receipt of the request, the city shall determine the appropriate boundaries for a streetlight district, which will serve the lot owner presenting the request and neighboring lot owners. The city shall then prepare a plat showing this proposed streetlight district and a petition for the creation of the proposed streetlight district shall then be circulated among the lot owners in the proposed district. That petition shall provide space for the lot owners in the proposed district to sign showing whether it is their reference that the proposed district be created. Once a petition has been returned to the city, there shall be no changes in the preferences recorded thereon, and the petition shall clearly state the same. If 75 percent of the lot owners in the proposed district sign the petition for the creation of a streetlight district, the city shall determine whether or not to create the proposed streetlight district. Safety and economic factors shall be the prime consideration in making such determination.

(b) The petition for creation of the proposed streetlight district must be returned to the city within 90 days after it is obtained from their office; provided, however, that the city may, in their discretion, for good cause shown, extend the time for the return of the petition an additional 30 days for a total of 120 days, when a request for such extension is made to the city before expiration of the original 90 days.

Sec. 50-70. - Creation of districts under special conditions.

In areas where special conditions as to safety, security, land topography, economic and other factors may be involved, the city may create special streetlight districts and provide for special street lighting under such terms and conditions as may be determined by the city, and other provisions of this article to the contrary notwithstanding.

Sec. 50-71. - City to contract with public utilities.

The city may contract with the public utilities for the purpose of carrying out the terms of this article.

Sec. 50-72. - Exceptions to terms of article.

The city may grant exceptions to the literal terms of this article where special conditions or hardships exist.

Sec. 50-73. - Federal, state laws to prevail in conflicts.

If any provision of this article is in conflict with any state or federal law, or with any rule, regulation or order of any state or federal agency having jurisdiction of the subject matter of this article, it is hereby deemed to be the intention of the city that the state or federal law or rule regulation or order, as the case may be, shall be deemed to be in full force and effect.

Sec. 50-74. - Right of appeal.

Any person or agency dissatisfied with any decision or action of the city shall have the right to appeal in writing from said decision to the city manager or his designee within 30 days from the date of such decision or action.

Sec. 50-75. - Copies, availability of provisions.

A copy of this section shall be documented in the official minutes of the city is hereby required to post a copy of the same in the offices of the city and to provide copies thereof for persons desiring the same.

Sec. 50-76. - Availability of adopted standards.

The American National Standard Practice for Roadway Lighting of the Illumination Engineering Society, as approved by the American National Standard Institute (1983), as amended, shall be made available by the city for public reference.

Sec. 50-77. - Procedure to be followed by subdivision developers.

Streetlights shall be required to be provided by the developers of all new subdivisions except, however, subdivisions containing only lots which are five acres or larger are exempted from the requirement of the submission of the final plat, the developer shall:

- (1) Submit a final streetlight layout prepared by the utility company which will provide the lighting service showing exact location of streetlights within the subdivision. This drawing must be approved by the city prior to obtaining any building permit within that subdivision. Fixtures and standards/poles installed or used shall be approved by the utility company which will be responsible for the maintenance of the facilities and by the city. The fixtures shall be mounted a minimum of 25 feet above the ground, and shall have appropriate arm length to place the light over the street. No arm shall be less than 2½ feet long. One light shall be located at each street intersection within the subdivision.
- (2) Pay all costs for standards/poles, fixtures, and any other related items or materials necessary for the installation.
- (3) Submit proof of payment for complete installation to the city.
- (4) Submit a copy of an executed agreement with the utility company for complete maintenance of all installations.

Sec. 50-78. - Subdivisions with underground electric.

In subdivisions utilizing underground cable for electrical service, the developers shall be required to accomplish the same items listed in the preceding section hereof.

Secs. 50-79—50-99. - Reserved.

ARTICLE IV. - SIDEWALKS

DIVISION 1. - GENERALLY

Sec. 50-100. - Placement of obstruction.

Except as provided for outdoor dining for restaurants, no person shall be allowed or permitted to obstruct any sidewalk in this city by putting any box, table, steps, merchandise or any other thing thereon at a greater distance from the inside wall than two and one-half feet, except by special permission from the mayor and city council.

Sec. 50-101. - Permit for outdoor dining on sidewalk.

The owner of a currently licensed restaurant, with no open violations, within the City of Canton may utilize public sidewalk rights of way for outdoor dining for restaurant sales only after obtaining a permit. Outdoor dining on private property within these districts is also allowed subject to compliance with these regulations except as noted herein.

Sec. 50-102. - Application requirements; criteria for granting of permit.

The application for a permit to utilize the public sidewalk for outdoor dining shall include the following:

- (1) A drawing of the proposed sidewalk utilization identifying placement of all tables, chairs and any other item to be placed on the sidewalk must accompany the application. The outdoor dining seating area must adhere to International Fire Codes and must not interfere with the circulation of pedestrian or vehicular traffic on the adjoining streets or on the sidewalk. The outdoor dining seating area shall leave open an unobstructed area of the sidewalk for pedestrian travel, with a minimum width of three feet or the minimum distance specified by ADA for pedestrian traffic, whichever is greater. The unobstructed pedestrian area shall be located between the outdoor dining area and the curb or nearest obstacle. There shall be a divider between the seating area and the pedestrian area of the sidewalk, and the outdoor dining seating area shall be completely enclosed by the divider. The application shall include a statement as to the type of divider to be utilized.

Sec. 50-103. - Regulations of use of sidewalk for outdoor dining.

- (a) All kitchen equipment and refuse containers used to service the sidewalk cafe shall be located inside the primary restaurant. The restaurant owner/operator shall be responsible for maintaining the sidewalk café in a clean, neat, orderly and safe condition. No plastic chairs or tables may be used. All materials must be made from sturdy materials, like metal or wood. All debris and litter shall be removed daily. Private trash containers in the sidewalk café dining area are prohibited. Public sidewalk trash containers shall not be used as a means of disposing of table waste generated by restaurant consumers.
- (b) The hours of operation for the sidewalk café shall be no greater than that of the principal restaurant and may be less as determined in the review process.
- (c) The applicant must acknowledge by signature his awareness that food and alcoholic beverages may be sold outdoors only under the provisions of the permit granted under this article, and only within the arrangement as defined and under the following conditions:
 - (1) Sales shall occur only within an area of the zoned premises approved by the City of Canton and that limits access to the outdoor dining area.
 - (2) Approved signage must be displayed within said area to advise patrons that alcoholic beverages cannot be removed from the outdoor dining area under any circumstances.
 - (3) Any alcohol sold by the permittee cannot be served in bottles, cans, plastic cups, or any other disposable containers, but only in approved glass containers, except during special events as approved by the Main Street director.
- (d) The use of the space by the permittee must conform to the drawing which was approved as part of the application process.
- (e) All tables and furniture shall be kept in good state of repair and maintained in a clean, safe, and sanitary condition and in accordance with Cherokee County Health Department Regulations.
- (f) The use of umbrellas must be approved by the fire marshall and satisfy all fire codes. Umbrellas may not contain any writing. In the Historic Downtown Canton, as defined in section 6-211(4), umbrellas may only be black, burgundy, or off-white, and the color shall be approved by the Main Street director.
- (g) Smoking shall not be permitted in the outdoor dining area.

Sec. 50-104. - Indemnification of the city.

- (a) As a condition of issuance, the approved applicant and any person acting under or pursuant to said approval, agrees to indemnify, hold harmless, release and defend (even if the allegations are false, fraudulent, or groundless) to the maximum extent allowed by law, the city manager, Main Street director, the City of Canton, its city council, and each member thereof, and its officers, employees, advisory board members and representatives, from and against any and all liability, loss, suits, claims, damages, costs, judgments and expenses (including attorney's fees and costs of litigation) which in whole or in part result from, arise out of, or are claimed to result from or to arise out of any acts, negligence, errors, or omissions of approved applicant, its employees, representatives, contractors, subcontractors, or agents by reason of or arising out of, or in any matter connected with, any and all acts,

operations, privileges authorized, allowed or undertaken pursuant to the use approval under their ordinance including, without limitation, any condition or property used in operations.

(b) This agreement of indemnity includes, but is not limited to, personal injury, (including death at any time) and property or other damage sustained by any person or persons (including, but not limited to, companies, corporations, approved applicant and its employees or agents, and members of the general public).

(c) As a further condition of issuance of the approval, the approved applicant covenants not to sue the city manager or designee, city, its city council and each member thereof, and its employees, agents and representatives and shall cause its insurers to waive subrogation against the same with respect to any action, claim or demand in any way resulting from or connected with any or all undertakings and operations conducted pursuant to the use approval.

Secs. 50-105—50-128. - Reserved.

DIVISION 2. - ASSESSMENT OF FEES

Sec. 50-129. - Purpose.

(a) The various properties designated in and created by this division are adopted for the purpose, among others, to:

- (1) Promote the health, safety, morals, convenience, order, prosperity and the general welfare of the city;
- (2) Lessen congestion in the streets;
- (3) Improve and protect the aesthetic appearance of the city;
- (4) Improve and protect the quality of life.

(b) The various properties designated in and created by this division shall all be in accordance with the city comprehensive land use plan.

Sec. 50-130. - Designation of assessment districts.

The following fees shall be assessed for the construction of sidewalks in the following locations:

District	Cost	Linear Feet	Assessment Fee Per Linear Foot of Owner's Property Footage
Medical district*	\$280,000.00	3,705	\$75.57

Meridian/Edward	52,500.00	1,525	34.42
John T. Petit	50,400.00	1,680	30.00
S.R. 5	219,500.00	12,230	17.94
Sunset/Ivey Drive	96,250.00	3,570	26.96
Oakdale Road	88,040.00	2,640	33.34
Main Street	73,300.00	2,640	27.76

*The medical district streets include Hospital Road, Hospital Drive and Medical Lane.

Sec. 50-131. - Administration.

(a) All new construction and all new development projects within any of the designated districts enumerated in this division shall, as a condition precedent to the issuance of a building permit, be required to pay a sidewalk assessment fee which shall be calculated by the director of planning and zoning, based upon the linear footage of the project as identified on the development site plan.

(b) The director of planning and zoning shall have the authority to verify any linear footage measurement submitted by the applicant.

Secs. 50-132—50-160. - Reserved.

ARTICLE V. - EXCAVATIONS

Sec. 50-161. - Permit required.

Any person desiring to make any excavation or other opening in any public street, alley, sidewalk or other public way in the city shall first obtain a permit therefor from the city.

Sec. 50-162. - Bond.

Before any permit shall issue under this article, the applicant therefor shall deposit with the city a cash bond in an amount equal to the cost of filling and resurfacing the street, alley, sidewalk or other public way in which the excavation is desired to be made.

Sec. 50-163. - Work by city.

In lieu of making an excavation as provided in this article, the person desiring to have an excavation or other opening made in any street, alley, sidewalk or other public way may request the city to perform the work. In such event, such person shall pay all costs and expenses incurred by the city in performing the work.

Sec. 50-164. - Protection of public.

Every excavation or other opening in any street, alley, sidewalk or other public way in the city shall be protected by barricades, lights or lanterns and other devices which shall give notice of such work to the public.

Sec. 47-27. - Penalty provisions.