

**OFFICIAL MINUTES
COMMISSION OF THE CITY OF BRUNSWICK, GEORGIA
REGULAR MEETING
WEDNESDAY, MAY 16, 2007 AT 6:30 P. M.
OLD CITY HALL
1229 NEWCASTLE STREET, 2ND FLOOR**

PRESENT: His Honor Mayor Bryan Thompson, Commissioners Jonathan Williams, Cornell Harvey, Mark Spaulding and James H. Brooks, Sr.

CALL TO ORDER: Mayor Bryan Thompson called the meeting to order.

INVOCATION: Commissioner Mark Spaulding gave the invocation.

PLEDGE OF ALLEGIANCE: Everyone in attendance recited the Pledge of Allegiance in unison.

PUBLIC HEARING – LAND USE

1. Subdivision Petition No. 07-04 for 314 & 312 Wolfe Street – Arne Glaeser, City Planner.

Arne Glaeser and staff recommended granting the requested subdivision making 314 Wolfe Street parcel larger by moving the property line 15 feet to the south. The re-subdivision would take 15 feet from the 312 Wolfe Street parcel which would make this parcel smaller.

Mayor Thompson asked if anyone would like to speak for or against the subdivision petition.

There were no objections to the subdivision petition.

Following a discussion, Commissioner Spaulding made a motion and Commissioner Harvey seconded the motion approving an increase in the property line at 314 Wolfe Street by 15 feet to the South taking the 15 feet from 312 Wolfe Street to make that lot smaller. The motion passed by vote of 4 to 0. Commissioner Williams did not vote.

2. Variance Petition No. 07-03 for H & H Lifestyles Store located in Glynn Isles Market.

Arne Glaeser and staff recommended granting a portion of the requested variance and recommends against the remainder of the variance requests. The side sign cannot be seen on Spur 25 and staff recommends denial of side sign. He recommended allowing the pruning to happen and discuss the side sign again. H& H Lifestyles was granted a variance to allow two wall signs to be larger than 32 square feet in size. New signs were installed and the owners of H & H Lifestyles installed a 150.5 square foot wall sign above the main entrance and an 80 square foot wall sign for the side of the building facing the spur.

The owner believes the new signs are too small and would like to increase the size of all wall signs.

Mayor Thompson asked if anyone would like to speak for or against the variance petition.

Ken Tollison
W. F. Brunson

For the increase in size of signs
For the increase in size of signs

Following a lengthy discussion, Commissioner Spaulding made a motion Commissioner Brooks seconded the motion approving the variance petition to increase the size of all wall signs. The motion passed by vote of 5 to 0.

ITEM(S) TO CONSIDER FOR APPROVAL

3. Minutes from the May 2, 2007 meeting. (G. Marion)

Commissioner Brooks made a motion and Commissioner Spaulding seconded the motion approving the minutes of the meeting of May 2, 2007. The motion passed by vote of 5 to 0.

ALCOHOL BEVERAGE LICENSE(S)

4. Pranzo Portside, Deli Café, located at 1430 Newcastle Street to retail beer and wine on premises. Owner is L. Tyler Robertson and Manager is Kay Brown.

Police Captain Larry Bruce recommended granting an alcoholic beverage license to the owners of Pranzo Portside, Deli Café to retail beer and wine on premises at 1430 Newcastle Street.

Commissioner Brooks made a motion and Commissioner Williams seconded the motion granting an alcoholic beverage license to retail beer and wine on premises at Pranzo Portside, Deli Café' located at 1430 Newcastle Street. The motion passed by vote of 5 to 0.

5. Amendment Five (5) to the JPSCD Agreement in reference to Disciplinary Appeal Process – Bonnie Roberts, City of Brunswick Human Resource Department on behalf of Jim Crichton, Director of E911.

The Director of Human Resources recommended approving amendment five.

Following a discussion, Commissioner Harvey made a motion and Commissioner Spaulding seconded the motion unanimously approving the following amendment:

**JOINT PUBLIC SAFETY
COMMUNICATIONS DEPARTMENT AGREEMENT**

AMENDMENT NO. 5

WHEREAS, on March 20, 2002, the City of Brunswick and Glynn County entered into an Agreement for a Joint Public Safety Communications Department (JPSCD); and

WHEREAS, the JPSCD Oversight Committee has recommended certain changes in operating policies that require an amendment to the Agreement; and

WHEREAS, the City of Brunswick agrees to the amendments as stated herein; and

WHEREAS, Glynn County agrees to the amendments as stated herein;

NOW THEREFORE, for the mutual benefit of the emergency communications service and for good and valuable consideration, the receipt of which is hereby acknowledged, the parties agree to amend the JPSCD Agreement as follows:

Section III, Administration, Paragraph E, is amended to delete the existing subparagraph 3 in its entirety and to replace it with a new subparagraph 3 as follows:

3. All employees of the JPSCD shall be covered under and subject to the Glynn County Human Resources Policy and all policies, practices and procedures of the Glynn County Board of Commissioners. Employees shall report to the Director or his/her designee. For purposes of disciplinary proceedings or adverse actions, the Director shall be considered the department director for review under the Glynn County Human Resources Policy. Appeals from major disciplinary or adverse actions shall follow Section 9.6.6, Appeal, or its successor provision, of the Glynn County Human Resources Policy. Should the Director or an employee of the JPSCD wish to appeal the decision of the Appeal Panel, the Director or employee may appeal the decision under Section 9.6.7, Executive Review, or its successor provision, of the Glynn County Human Resources Policy. The appeal shall be heard by the Oversight Committee that will sit as a committee-of-the-whole in the role of Review Officer. A majority vote of the Oversight Committee shall constitute a final decision in any human resources matter.

IN WITNESS WHEREOF, Glynn County and the City of Brunswick, have caused this Agreement to be executed by their duly authorized officers and have caused their representative seals to be hereunto impressed and attested on this _____ day of _____, 2007.

GLYNN COUNTY, GEORGIA:

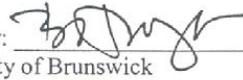
By:  _____, Chairman
Glynn County Board of Commissioners

ATTEST:

By:  _____, Clerk
Glynn County Board of Commissioners

(SEAL)

CITY OF BRUNSWICK, GEORGIA:

By:  _____, Mayor
City of Brunswick

ATTEST:

By:  _____, Clerk
Brunswick City Commissioners

(SEAL)

6. Fourth of July Fireworks Contract – Heather Heath, Manager of the Ritz Theatre and Mary Ross Waterfront Park.

Heather Heath requested approval of proposal for fire works for the annual Old Fashioned Fourth of July celebration on Wednesday July 4, 2007 in the amount of \$8,500.00.

Following a discussion, Commissioner Spaulding made a motion and Commissioner Brooks made a motion approving the proposal for fire works for the Fourth of July celebration in the amount of \$8,500.00. The motion passed by vote of 5 to 0.

7. Execution of contracts with the Georgia Department of Transportation for the following:

- “N” Street Improvements

Burton Carter submitted contract for “N” Street and various locations Phase II – Drainage improvements in the amount of \$349,999.62. He requested authorization for the Mayor to execute document and for the City Clerk to do the same and affix the seal.

- Street resurfacing

Burton Carter submitted contract for resurfacing of 9 various streets in the City of Brunswick in the amount of 116,771.04. He requested authorization for the Mayor to execute the document and the City Clerk to do the same and affix the seal.

Following a discussion, Commissioner Brooks made a motion and Commissioner Williams seconded the motion authorizing the Mayor and City Clerk to execute the above documents and affix the seal. The motion passed by vote of 5 to 0.

8. Budget amendment for the Fire Department – Lee Stewart, Fire Chief.

The Fire Chief requested to amend the fire department budget to transfer \$22,400.00 from salary line item to capital expenditures.

Commissioner Harvey made a motion and Commissioner Williams seconded the motion to approve the Fire Department budget amendment transferring \$22,400.00 from salary to capital expenditures. The motion passed by vote of 5 to 0.

9. Execution of Water Meter Contract – Steve Belcher, Stantec.

This item was deferred until the next meeting.

CITY MANAGER’S ITEM(S)

10. Howard Coffin Aquatic Center.

The Recreation Director discussed the grand opening of the Aquatic Center on Saturday, May 26, 2007. The Commission discussed opening the Aquatic Center on Sundays and Holidays. The Recreation Director was instructed to submit information on opening the pool on Sundays and Holidays.

CITY ATTORNEY’S ITEM(S)

11. Amendments to the following City Ordinances:

- #987 – Open Container Law

Following a discussion, Commissioner Spaulding made a motion and Commissioner Brooks seconded the motion unanimously adopting the following ordinance:

ORDINANCE 987

AN ORDINANCE TO AMEND THE ALCOHOLIC BEVERAGES ORDINANCE OF THE CITY OF BRUNSWICK (CHAPTER 3 OF THE MUNICIPAL CODE OF ORINANCES), PARTICULARLY RELATING TO PROHIBITION OF CONSUMPTION OF ALCOHOL ON CITY STREETS; TO ESTABLISH CERTAIN LIMITED AREAS WHERE CONSUMPTION ON CITY STREETS IS ALLOWED; TO ESTABLISH RULES PERTAINING TO SUCH AREAS; TO PROHIBIT OPEN CONTAINERS IN VEHICLES; TO PROHIBIT OUTSIDE DELIVERY OF ALCOHOLIC BEVERAGES; TO PROVIDE FOR SEVERABILITY; TO REPEAL CONFLICTING ORDINANCES; TO PROVIDE AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

BE IT ORDAINED BY THE COMMISSION OF THE CITY OF BRUNSWICK:

WHEREAS Mayor Thompson and Commissioner Spaulding have sponsored and supported an effort to promote restaurants in downtown Brunswick; now therefore the City of Brunswick adopts the following ordinance.

SECTION ONE

Chapter Three of the City Code of Brunswick is amended by addition of Section Twelve, which shall provide as follows.

Sec. 3-12. Consumption of alcohol on city streets prohibited; limited in certain area.

(a) Except as provided in paragraph (b) below, it shall be unlawful for any licensed establishment to dispense any alcoholic beverage in an open container for removal from the premises, and it shall be unlawful for any person to remove from an alcoholic beverage establishment any open container of alcoholic beverage or to drink or attempt to drink any alcoholic beverage from any open container or to possess in any open container any alcoholic beverage on the streets, sidewalks, rights-of-way, and parking lots, whether public or private, within the corporate limits of the City of Brunswick.

(b) In connection with an event sponsored or cosponsored by the City of Brunswick or the Downtown Development Authority, or an event obtaining the specific approval of the City Commission, open containers of alcoholic beverages shall be permitted on Newcastle Street or its sidewalks within the area of the city bounded on the north by "G" Street, and on the south by Mansfield Street, and to include the entirety of East and West Jekyll Park,

East and West Machen Park and the northern half of Queen Square; the following regulations shall apply:

(1) Any establishment licensed to dispense alcoholic beverages by the drink for consumption on the premises is authorized to dispense an alcoholic beverage in a paper or plastic cup, or other container other than a can, bottle, or glass, for removal from the premises; provided, however, that no establishment shall dispense to any person more than one such alcoholic beverage at a time for removal from the premises, and no person shall remove at one time more than one such alcoholic beverage from the licensed premises.

(2) No container in which an alcoholic beverage is dispensed and removed from the licensed premises shall exceed 16 fluid ounces in size. No person shall hold in possession on the streets and sidewalks, in parks and squares, or in other public places within the defined area any open alcoholic beverage container which exceeds 16 fluid ounces in size.

(3) It shall be unlawful for any person to drink or attempt to drink any alcoholic beverage from a can, bottle, or glass or to possess in an open can, bottle, or glass any alcoholic beverage on the streets, sidewalks, rights-of-way, and parking lots, whether public or private.

(c) It shall be unlawful for any person to consume any alcoholic beverages while in the confines of a motor vehicle when the vehicle is parked on any city street, alley, way or parking lot.

(d) It shall be unlawful for any person to possess an open container of an alcoholic beverage while operating a vehicle in the city or while a passenger in or on a vehicle being operated in the city.

(1) As used in this article, "open container" means any container which is immediately capable of being consumed from, or the seal of which has been broken.

(2) An open container shall be considered to be in the possession of the operator of a vehicle if the container is not in the possession of a passenger and is not located in a locked glove compartment, locked trunk, or other locked nonpassenger area of the vehicle.

(3) An open container shall be considered to be in the possession of a passenger of a vehicle if the container is in the physical control of the passenger.

(4) Exceptions:

(a) A passenger of a vehicle in which the driver is operating the vehicle pursuant to a contract to provide transportation for passengers and such driver holds a valid chauffeur's license pursuant to Georgia law or any other state;

(b) A passenger of a bus in which the driver holds a valid chauffeur's license pursuant to Georgia law or any other state; or

(c) A passenger of a self-contained motor home which is in excess of 21 feet in length.

SECTION TWO

Chapter Three of the City Code of Brunswick is amended by addition of Section Thirteen, which shall provide as follows.

Sec. 3-13. Outside Delivery of Drinks Prohibited.

Retail consumption dealers under this Chapter shall not sell or permit the sale of alcoholic beverages except within the physical confines of the licensed premises. The sale or delivery of alcoholic beverages through any window, door, or other opening in the license premises to person outside the physical confines of the structure, and any sale or delivery of beverage alcohol upon the street, sidewalk, or grounds outside the license premises is prohibited.

SECTION THREE

All ordinances or parts of ordinances in conflict with this ordinance are hereby repealed.

SECTION FOUR

If any section, clause, sentence, or phrase of this Ordinance is held to be invalid or unconstitutional by any court of competent jurisdiction, then said holding shall in no way effect the validity of the remaining portions of this Ordinance.

SECTION FIVE

This Ordinance shall be effective immediately upon its adoption by the City Commission.

**SO ORDAINED BY THE CITY COMMISSION OF BRUNSWICK THIS
16th DAY OF MAY 2007.**

By: /s/ Bryan Thompson
Bryan Thompson, Mayor

Attest: /s/ Georgia Marion
Georgia Marion, City Clerk

- #988 – Boating Regulations

Following a discussion, Commissioner Williams made a motion and Commissioner Brooks seconded the motion unanimously adopting the following ordinance:

ORDINANCE 988

AN ORDINANCE TO AMEND CHAPTER 8 OF THE MUNICIPAL CODE OF ORDINANCES, PARTICULARLY TO PROVIDE RULES, REGULATIONS, AND PROHIBITIONS REGARDING THE OPERATION OF WATERCRAFT WITHIN THE CITY LIMITS; TO PROVIDE DEFINITIONS, TO PROVIDE CLASSIFICATIONS OF VESSELS AND REQUIRED EQUIPMENT; TO PROVIDE RESTRICTIONS ON OPERATION OF PERSONAL WATERCRAFT; TO PROVIDE RULES FOR OPERATION OF WATERCRAFT BY MINORS; TO PROVIDE RULES RELATING TO BOATING UNDER THE INFLUENCE OF ALCOHOL OR DRUGS; TO PROVIDE FOR DRUG AND ALCOHOL TESTING; TO PROVIDE BOATING SAFETY ZONES; TO PROVIDE RULES RELATING TO TOWING PERSONS ON WATER SKIS OR SIMILAR DEVICES; TO PROVIDE SPEED AND LOAD RESTRICTIONS; TO PROVIDE RULES OF THE ROAD; TO PROVIDE FOR ENFORCEMENT AND PENALTIES; TO PROVIDE FOR SEVERABILITY; TO REPEAL CONFLICTING ORDINANCES; TO PROVIDE AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

BE IT ORDAINED BY THE COMMISSION OF THE CITY OF BRUNSWICK:

SECTION ONE

Chapter Eight of the City Code of Brunswick is amended by the addition of Article I, Sections One through Thirteen, which shall provide as follows.

Sec. 8-1. Title

(a) This article shall be known and may be cited as the Brunswick Boat Safety Ordinance. This article is enacted pursuant to and in compliance with the Georgia Boat Safety Act, O.C.G.A § 52-7-21.

(b) It is not the intent of the City of Brunswick in enacting this article to abrogate or in any way impair or interfere with the existing provisions of the Georgia Boat Safety Act, O.C.G.A. § 52-7-1 et seq. This article shall be interpreted to always be in compliance with the Georgia Boat Safety Act and all Department of Natural Resources rules and regulations passed pursuant to the Act.

Sec. 8-2. Definitions

As used in this article, the term:

- (1) "Blind point" means that portion of any of the waters of this state in which there is a natural or man-made obstruction which prevents the operator of a vessel from seeing vessels approaching from the opposite side of the obstruction, thus creating a safety hazard which could result in a boating accident.
- (2) "Board" means the Board of Natural Resources.
- (3) "Boat livery" means a business which holds any vessel for renting, leasing, or chartering.
- (4) "Commissioner" means the commissioner of natural resources.
- (5) "Dealer" means any person engaged in the business of manufacturing vessels or selling new or used vessels at an established place of business.
- (6) "Department" means the Department of Natural Resources.
- (7) "Discharged" means, and shall include, spilled, leaked, pumped, poured, emitted, or dumped.
 - (7.1) "Hazardous area" means any area which the commissioner has designated as such because of conditions which create a threat to the safety and welfare of boaters who may operate in such area.
- (8) "Holding tank" means any container which is designed to receive and hold sewage and other wastes discharged from a marine toilet and which is constructed and installed in such a manner that it can only be emptied by pumping out the contents of such holding tank.
 - (8.1) "Homemade vessel" means any vessel that is built by an individual for personal use from raw materials that does not require the assignment of a federal hull identification number by a manufacturer pursuant to federal law. A person furnishing raw materials under a contract may be considered the builder of a homemade vessel. Antique boats, boats reconstructed from existing boat hulls, and rebuilt or reconstructed vessels are not considered homemade vessels.
 - (8.2) "Hull identification number" or "HIN" means a number assigned to vessels by the manufacturer of the vessel or by the issuing

authority of a state as required by the United States Coast Guard in accordance with federal law.

(9) "Idle speed" means a slow speed maintained by the operator of a mechanically propelled vessel reached by engaging the engine of the vessel into said speed by reducing the throttle to a minimum.

(9.1) "Issuing authority" means, as to this state, the Department of Natural Resources; and, as to other states, the state if it has a numbering system approved by the United States Coast Guard or the United States Coast Guard if the state that does not have an approved numbering system.

(10) "Marine toilet" includes any equipment for installation on board a vessel which is designed to receive, retain, treat, or discharge sewage and any process to treat such sewage. A marine toilet must be equipped with a holding tank which can be emptied only by pumping out.

(11) "Mechanically propelled vessel" means, for the purpose of determining fire extinguisher requirements, those vessels propelled by machinery using a volatile liquid for fuel.

(12) "Nonmotorized vessel" means any vessel other than a sailboat which has no motor attached in a manner to make it readily available for operation.

(13) "No wake" means that the wake or wash created by the movement of the vessel through the water is minimal.

(14) "Operate" means to navigate or otherwise use a vessel which is not at anchor or moored, including vessels which are being paddled, are drifting, or are being powered by machinery.

(15) "Operator" means the person who operates or has charge of the navigation or use of a vessel.

(16) "Owner" means a person, other than a lienholder, having the property in or title to a vessel. The term includes a person entitled to the use or possession of a vessel subject to an interest in another person reserved or created by agreement and securing payment or performance of an obligation but the term excludes a lessee under a lease not intended as security.

(17) "Person" means an individual, partnership, firm, corporation, association, or other legal entity.

(18) "Personal flotation device" means any lifesaving device classified and approved as Type I, Type II, Type III, Type IV, or Type V (Hybrid) by the United States Coast Guard.

(19) "Portable marine toilet" means any device which is movable or portable and is not permanently installed on a vessel and which is designed to receive and temporarily retain sewage.

(20) "Power boat" means any boat, vessel, or water-going craft which is propelled by mechanical rather than manual means whether or not such propulsion device forms an integral part of the structure thereof.

(21) "Protected fresh waters" means the waters of Lake Allatoona, Lake Blackshear, Clarks Hill Lake, Hartwell Lake, Lake Sidney Lanier, Lake Oconee, Lake Seminole, Lake Sinclair, Russell Lake, Walter F. George Reservoir, and West Point Lake.

(22) "Reportable boating accident" means an accident, collision, or other casualty involving a vessel subject to this article which results in loss of life, injury sufficient to cause incapacitation for at least 24 hours, or actual physical damage to property, including vessels, in excess of \$2,000.00.

(22.1) "Sailboard" means any sailboat whose unsupported mast is connected by a swivel or a flexible universal joint to a hull similar to the hull of a surfboard.

(23) "Sewage" means human body wastes and the waste from toilets and other receptacles intended to receive or retain body wastes.

(24) "Undocumented vessel" means a vessel which is not required to have and does not have a valid marine document issued by the United States Coast Guard or federal agency successor thereto.

(25) "Vessel" means every description of watercraft, other than a seaplane on the water or a sailboard, used or capable of being used as a means of transportation on water and specifically includes, but is not limited to, inflatable rafts and homemade vessels; provided, however, Section 8-11 relating to rules of the road for boat traffic, shall be applicable to sailboards.

(26) "Waters of this state" means any waters within the territorial limits of this state and the marginal sea adjacent to this state and the high seas when navigated as a part of a journey or ride to or from the shore of this state. This definition shall not include privately owned ponds or lakes not open to the public.

Sec 8-3. Classification of vessels; required equipment

(a) Classification. Vessels subject to the provisions of this article shall be divided into four classes as follows:

- (1) Class A..... Less than 16 feet in length
- (2) Class 1..... 16 feet or over and less than 26 feet in length

(3) Class 2..... 26 feet or over and less
than 40 feet in length

(4) Class 3..... 40 feet or more in length

(b) Lights. Every vessel in all weathers from sunset to sunrise shall carry and exhibit lights as provided by regulations of the board.

(c) Whistle or horn. Every vessel of Class 2 or 3 shall be provided with an efficient whistle or horn or other sound-producing mechanical appliance capable of producing signals required by the rules for the prevention of collision enacted by Congress.

(d) Lifesaving devices.

(1) Every vessel shall be equipped with and carry aboard, at all times, at least one Type I, II, III, or V (hybrid) personal flotation device for each person on board; provided, however, Type V (hybrid) devices are acceptable only when worn and securely fastened. In addition to the individual personal flotation device, each vessel 16 feet or more in length, except for canoes and kayaks, must at all times be equipped with at least one Type IV (throwable) device.

(2) No person may use a vessel upon the waters of this state unless the personal flotation devices as required in paragraph (1) of this subsection are readily accessible to the occupants of the vessel, are in good and serviceable condition, are legibly marked with the United States Coast Guard approved number, and are of an appropriate size for the occupants of the vessel for whom they are intended; provided, however, that provisions of this subsection shall not apply to racing sculls, racing shells, and racing sweeps.

(3) No person shall operate a moving vessel upon the waters of this state with a child under age ten on board such vessel unless the child is wearing an appropriately sized personal flotation device, as required by this subsection to be on board the vessel. This requirement shall not apply when the child is within a fully enclosed roofed cabin or other fully enclosed roofed compartment or structure on the vessel.

(e) Fire extinguishers.

(1) Every mechanically propelled Class A and Class 1 vessel, constructed so as to have enclosed areas which permit entrapment of gases or vapors, shall carry aboard one Type B-I United States Coast Guard approved hand portable fire extinguisher unless there is a United States Coast Guard approved fixed fire-extinguishing system installed in the machinery space. When such a fixed fire-extinguishing system

is installed in the machinery space, no hand portable fire extinguisher will be required.

(2) Every mechanically propelled Class 2 vessel, regardless of construction, shall carry aboard two Type B-I or one Type B-II United States Coast Guard approved hand portable fire extinguisher. When a United States Coast Guard approved fixed fire-extinguishing system is installed in the machinery space, one less Type B-I hand portable fire extinguisher is required.

(3) Every mechanically propelled Class 3 vessel, regardless of construction, shall carry aboard three Type B-I or one Type B-I and one Type B-II United States Coast Guard approved hand portable fire extinguisher. When a United States Coast Guard approved fixed fire-extinguishing system is installed in the machinery space, one less Type B-I hand portable fire extinguisher is required.

(4) The carriage of any dry stored pressure fire extinguishers not fitted with pressure gauges or indicating devices or any vaporizing liquid fire extinguishers containing carbon tetrachloride, chlorbomethane, or any other toxic vaporizing liquids is prohibited.

(5) The carriage of any United States Coast Guard approved hand portable fire extinguisher or any fixed fire extinguishing system which is not fully charged shall be prohibited.

(f) Equipment exemptions in authorized races. Subsections (c) and (e) of this Code section shall not apply to vessels while competing in any race conducted pursuant to O.C.G.A. § 52-7-19 or, if such vessels are designed and intended solely for racing, while engaged in such navigation as is incidental to the tuning up of the boats and engines for the race.

(g) Flame arrester for carburetor. Every vessel shall have the carburetor or carburetors of every engine therein, except outboard motors using gasoline as fuel, equipped with an efficient United States Coast Guard approved flame arrester, backfire trap, or other similar device.

(h) Ventilation. Every such vessel, except open boats, using as fuel any liquid of a volatile nature, shall be provided with means for properly and efficiently ventilating the bilges of the engine and fuel tank compartments so as to remove any explosive or flammable gases.

(i) Rules and regulations. No person shall operate or give permission for the operation of a vessel which is not equipped as required by this article or the rules and regulations of the department made pursuant thereto.

(j) Sale of personal flotation devices. It shall be unlawful for any person to sell or offer for sale within this state any personal flotation device which is not United States Coast Guard approved unless such device is clearly marked as follows: "Notice: This personal flotation device is not United States Coast Guard approved." As used in this Code section, the words "personal flotation device" shall not include flotation devices such as plastic toys, rafts, and other devices used for recreational purposes in or around swimming pools, lakes, or beaches when such devices are easily recognizable as not being designed or intended for use as lifesaving devices. Any person who violates this Code section shall be guilty of a misdemeanor.

Sec 8-4. Restrictions on operation of personal watercraft

(a) As used in this Code section, the term:

(1) "Accompanied by" means in the physical presence within the vessel of a person who is not under the influence of alcohol or drugs to a degree which would constitute a violation of Section 8-6 were such person operating the vessel.

(2) "Class A vessel" means a boat less than 16 feet in length.

(3) "Personal watercraft" means a Class A vessel which:

(A) Has an outboard motor or which has an inboard motor which uses an internal combustion engine powering a water jet pump as its primary source of motive propulsion;

(B) Is designed with the concept that the operator and passenger ride on the outside surfaces of the vessel as opposed to riding inside the vessel; and

(C) Has the probability that the operator and passenger may, in the normal course of use, fall overboard.

Such term includes, without limitation, any vessel where the operator and passenger ride on the outside surfaces of the vessel, even if the primary source of motive propulsion is a propeller, and any vessels commonly known as a "jet ski."

(4) "Under the direct supervision" means within sight of and within 400 yards of a person who is not under the influence of alcohol or drugs to a degree which would constitute a violation of Section 8-6 were such person operating the vessel and who is aware of his or her supervisory responsibility.

(b) No person shall operate or give permission to operate personal watercraft on the waters of this state unless each person aboard such personal watercraft is wearing a United States Coast Guard approved personal flotation device, Type I, Type II, Type III, or Type V. Each

such personal flotation device must be properly fastened, in good and serviceable condition, and the proper size for the person wearing it.

(c) No person shall rent, lease, or let for hire a personal watercraft to any person under the age of 16 years.

(d) No person shall operate a personal watercraft on the waters of this state after sunset or before sunrise unless such person is engaged in the enforcement of the laws of this state or this nation.

(e) No person shall operate a personal watercraft on the waters of this state unless such personal watercraft is equipped with a self-circling device or a lanyard-type engine cutoff switch.

(f) No person shall operate on the waters of this state a personal watercraft which has been equipped by the manufacturer with a lanyard-type engine cutoff switch unless the lanyard and the switch are operational and unless the lanyard is attached to the operator, the operator's clothing, or a personal flotation device worn by the operator.

(g) No person shall operate on the waters of this state a personal watercraft which has been equipped by the manufacturer with a self-circling device if the self-circling device or the engine throttle has been altered in any way that would prohibit the self-circling device from operating in its intended manner.

(h) It shall be unlawful for any person who owns a personal watercraft or who has charge over or control of a personal watercraft to authorize or knowingly to permit such personal watercraft to be operated in violation of this Code section or of Section 8-5.

(i) The provisions of this Code section shall not apply to vessels engaged in any activity authorized under O.C.G.A. § 52-7-19.

(j) No person shall operate a personal watercraft on the waters of this state at a speed greater than idle speed within 100 feet of any moored or anchored vessel, any vessel adrift, or any wharf, dock, pier, piling, bridge structure or abutment, person in the water, or shoreline adjacent to a full-time or part-time residence, public park, public beach, public swimming area, marina, restaurant, or other public use area.

(k) It shall be unlawful for any person to operate a personal watercraft on the waters of this state while towing a person or persons on water skis, aquaplanes, surfboards, tubes, or any similar device; provided, however, that the provisions of this subsection shall not apply to any personal watercraft designed by the manufacturer to carry three or more persons, provided that such personal watercraft has on board a competent observer in addition to the operator at any time that a person is being towed.

(l) On and after June 1, 1995, no person under the age of 16 years shall operate a personal watercraft on the waters of this state; provided, however, that a person age 12 through 15 years may operate a personal watercraft if he or she is accompanied by an adult age 18 or over or he or she has successfully completed a personal watercraft safety program approved by the department or is under direct supervision by an adult age 18 or over. The department may, but shall not be required to, conduct or provide personal watercraft safety courses to the public.

(m) On and after July 1, 1995, it shall be unlawful for any person to cause or knowingly permit such person's child or ward who is less than 12 years of age or the child or ward of another over whom such person has a permanent or temporary responsibility of supervision if such child or ward is less than 12 years of age to operate a personal watercraft.

(n) It shall be unlawful for any person to cause or knowingly permit such person's child or ward who is age 12 through 15 years or the child or ward of another over whom such person has a permanent or temporary responsibility of supervision if such child or ward is age 12 through 15 years to operate a personal watercraft other than in compliance with the provisions of subsection (l) of this Code section.

Sec. 8-5. Operation of watercraft; identification; operation by minors

(a) A person age 16 or over may operate any vessel or personal watercraft on any of the waters of this state, and such person shall have in such vessel proper identification.

(b) A person age 14 or 15 may operate:

(1) A personal watercraft or nonmotorized Class A vessel on any of the waters of this state in compliance with the provisions of this article; and

(2) Any other vessel if such person:

(A) Is accompanied by an adult age 18 or over who is authorized to operate such vessel under the provisions of subsection (a) of this Code section;

(B) Has completed a safe boating course approved by the department; or

(C) Is under direct supervision by an adult age 18 or over.

(c) A person age 12 or 13 may operate any Class A vessel utilizing mechanical means of propulsion not exceeding 30 horsepower, under the conditions set forth in subparagraphs (b)(2)(A) through (b)(2)(C) of this Code section. Such person may operate a personal watercraft in compliance with Section 8-4, and such person may operate nonmotorized Class A vessels without restriction.

(d) No person under the age of 12 shall operate any Class 1, 2, or 3 vessel or any personal watercraft on any of the waters of this state, and no such person shall operate any Class A vessel utilizing mechanical means of propulsion exceeding 30 horsepower. Such person may operate a Class A vessel, other than a personal watercraft, utilizing mechanical means of propulsion not exceeding 30 horsepower only where such person is accompanied by an adult age 18 or over who is authorized to operate such vessel under the provisions of subsection (a) of this Code section.

(e) As used in this Code section, the term:

(1) "Accompanied by" means in the physical presence within the vessel of a person who is not under the influence of alcohol or drugs to a degree which would constitute a violation of Section 8-6 were such person operating the vessel.

(2) "Proper identification" shall have the same meaning as in subsection (d) of O.C.G.A. § 3-3-23, relating to furnishing of alcoholic beverages.

(3) "Under the direct supervision" means within sight of and within 400 yards of a person who is not under the influence of alcohol or drugs to a degree which would constitute a violation of Section 8-6 were such person operating the vessel and who is aware of his or her supervisory responsibility.

(f) No person having ownership or control of a vessel shall permit another person to operate such vessel in violation of this Code section.

Sec. 8-6. Operation of watercraft while under influence of alcohol or drugs; legal drug use not exempted; blood and other chemical tests; test refusal; owner's liability for allowing another to operate while intoxicated; civil and criminal actions; child endangerment

(a) No person shall operate, navigate, steer, or drive any moving vessel, or be in actual physical control of any moving vessel, nor shall any person manipulate any moving water skis, moving aquaplane, moving surfboard, or similar moving device while:

(1) Under the influence of alcohol to the extent that it is less safe for the person to operate, navigate, steer, drive, manipulate, or be in actual physical control of a moving vessel, moving water skis, moving aquaplane, moving surfboard, or similar moving device;

(2) Under the influence of any drug to the extent that it is less safe for the person to operate, navigate, steer, drive, manipulate, or be in actual physical control of a moving vessel, moving water skis, moving aquaplane, moving surfboard, or similar moving device;

(3) Under the combined influence of alcohol and any drug to the extent that it is less safe for the person to operate, navigate, steer, drive, manipulate, or be in actual physical control of a moving vessel, moving water skis, moving aquaplane, moving surfboard, or similar moving device;

(4) The person's alcohol concentration is 0.10 grams or more at any time within three hours after such operating, navigating, steering, driving, manipulating, or being in actual physical control of a moving vessel, moving water skis, moving aquaplane, moving surfboard, or similar moving device from alcohol consumed before such operating, navigating, steering, driving, manipulating, or being in actual physical control ended; or

(5) Subject to the provisions of subsection (b) of this Code section, there is any amount of marijuana or a controlled substance, as defined in O.C.G.A. § 16-13-21, present in the person's blood or urine, or both, including the metabolites and derivatives of each or both without regard to whether or not any alcohol is present in the person's breath or blood.

(b) The fact that any person charged with violating this Code section is or has been legally entitled to use a drug shall not constitute a defense against any charge of violating this Code section; provided, however, that such person shall not be in violation of this Code section unless such person is rendered incapable of operating, navigating, steering, driving, manipulating, or being in actual physical control of a moving vessel, moving water skis, moving aquaplane, moving surfboard, or similar moving device safely as a result of using a drug other than alcohol which such person is legally entitled to use.

(c) Upon trial of any civil or criminal action or proceeding arising out of acts alleged to have been committed by any person while operating, navigating, steering, driving, manipulating, or being in actual physical control of a moving vessel, moving water skis, moving aquaplane, moving surfboard, or similar moving device while under the influence of alcohol or drugs, evidence of the amount of alcohol or drug in a person's blood, urine, breath, or other bodily substance at the alleged time, as determined by a chemical analysis of the person's blood, urine, breath, or other bodily substances, shall be admissible. Where such chemical test is made, the following provisions shall apply:

(1) Chemical analysis of the person's blood, urine, breath, or other bodily substance, to be considered valid under this Code section, shall have been performed according to methods approved by the Division of Forensic Sciences of the Georgia Bureau of Investigation and by an individual possessing a valid permit issued by the Division of Forensic Sciences for this

purpose. The Division of Forensic Sciences of the Georgia Bureau of Investigation is authorized to approve satisfactory techniques or methods to ascertain the qualifications and competence of individuals to conduct analyses and to issue permits, which shall be subject to termination or revocation at the discretion of the Division of Forensic Sciences;

(2) When a person shall undergo a chemical test at the request of a law enforcement officer under subsection (e) of this Code section, only a physician, registered nurse, laboratory technician, emergency medical technician, or other qualified person may withdraw blood for the purpose of determining the alcoholic content therein, provided that this limitation shall not apply to the taking of breath or urine specimens. No physician, registered nurse, laboratory technician, emergency medical technician, or other qualified person or employer thereof shall incur any civil or criminal liability as a result of the medically proper obtaining of such blood specimens when requested in writing by a law enforcement officer;

(3) The person tested may have a physician or a qualified technician, chemist, registered nurse, or other qualified person of his or her own choosing administer a chemical test or tests in addition to any administered at the direction of a law enforcement officer. The justifiable failure or inability to obtain an additional test shall not preclude the admission of evidence relating to the test or tests taken at the direction of a law enforcement officer; and

(4) Upon request of the person who shall submit to a chemical test or tests at the request of a law enforcement officer, full information concerning the test or tests shall be made available to such person or such person's attorney. The arresting officer at the time of arrest shall advise the person arrested of his or her rights to a chemical test or tests according to this Code section.

(d) Upon the trial of any civil or criminal action or proceeding arising out of acts alleged to have been committed by any person while operating, navigating, steering, driving, manipulating, or being in actual physical control of a moving vessel, moving water skis, moving aquaplane, moving surfboard, or similar moving device while under the influence of alcohol, the amount of alcohol in the person's blood at the time alleged, as shown by chemical analysis of the person's blood, urine, breath, or other bodily substance, shall give rise to the following presumptions:

(1) If there was at that time an alcohol concentration of 0.05 grams or less, it shall be presumed that the person was not under the influence of alcohol, as prohibited by paragraphs (1), (2), and (3) of subsection (a) of this Code section;

(2) If there was at that time an alcohol concentration in excess of 0.05 grams but less than 0.08 grams, such fact shall not give rise to any presumption that the person was or was not under the influence of alcohol, as prohibited by paragraphs (1), (2), and (3) of subsection (a) of this Code section, but such fact may be considered with other competent evidence in determining whether the person was under the influence of alcohol, as prohibited by paragraphs (1), (2), and (3) of subsection (a) of this Code section;

(3) If there was at that time an alcohol concentration of 0.08 grams or more, it shall be presumed that the person was under the influence of alcohol, as prohibited by paragraphs (1), (2), and (3) of subsection (a) of this Code section; and

(4) If there was at that time or within three hours after operating, navigating, steering, driving, manipulating, or being in actual physical control of a moving vessel, moving water skis, moving aquaplane, moving surfboard, or similar moving device from alcohol consumed before such operating, navigating, steering, driving, manipulating, or being in actual physical control ended an alcohol concentration of 0.10 or more grams, the person shall be in violation of paragraph (4) of subsection (a) of this Code section.

(e) The State of Georgia considers that persons who are under the influence of alcohol or drugs while operating a vessel on the waters of this state constitute a direct and immediate threat to the welfare and safety of the general public. Therefore, any person who operates a vessel upon the waters of this state shall be deemed to have given consent, subject to subsections (c) and (d) of this Code section, to a chemical test or tests of his or her blood, breath, or urine or other bodily substances for the purpose of determining the alcoholic or drug content of his or her blood if arrested for any offense arising out of acts alleged to have been committed while the person was operating, navigating, steering, driving, manipulating, or in actual physical control of a moving vessel, moving water skis, moving aquaplane, moving surfboard, or similar moving device while under the influence of alcohol or any drug. The test or tests shall be administered at the request of a law enforcement officer having reasonable grounds to believe that the person has been operating or was in actual physical control of a vessel upon the waters of this state while under the influence of alcohol or any drug. Subject to subsections (c) and (d) of this Code section, the requesting law enforcement officer shall designate which of the aforesaid tests shall be administered.

(f) Any person who is dead, unconscious, or otherwise in a condition rendering him or her incapable of refusal shall be deemed not to have withdrawn the consent provided by subsection (e) of this Code section, and the test or tests may be administered subject to subsections (c) and (d) of this Code section.

(g) If a person refuses, upon the request of a law enforcement officer, to submit to a chemical test designated by the law enforcement officer as provided in subsection (e) of this Code section, no test shall be given; however, such refusal shall be admissible in evidence.

(h) In the event of a boating accident involving a fatality, the investigating coroner or medical examiner having jurisdiction shall direct that a chemical blood test to determine blood alcohol concentration (BAC) or the presence of drugs be performed on the dead person or persons and that the results of such test be properly recorded in his or her report.

(i) It shall be unlawful for the owner of any vessel knowingly to allow or authorize any person to operate such vessel or to manipulate any water skis, aquaplane, surfboard, or similar device being towed by such vessel when the owner knows or has reasonable grounds to believe that said person is intoxicated or under the influence of alcohol or drugs in violation of this Code section.

(j) In any civil or criminal action or proceeding arising out of acts alleged to have been committed by any person in violation of subsection (k) of this Code section, if there was at that time or within three hours after operating, navigating, steering, driving, or being in actual physical control of a moving vessel or personal watercraft from alcohol consumed before such operating, navigating, steering, driving, or being in actual physical control ended an alcohol concentration of 0.02 grams or more in the person's blood, breath, or urine, the person shall be in violation of subsection (k) of this Code section.

(k)(1) A person under the age of 21 shall not operate, navigate, steer, drive, or be in actual physical control of any moving vessel, moving water skis, moving aquaplane, moving surfboard or similar moving device, or personal watercraft while the person's alcohol concentration is 0.02 grams or more at any time within three hours after such operating, navigating, steering, driving, or being in actual physical control from alcohol consumed before such operating, navigating, steering, driving, or being in actual physical control ended.

(2) No plea of nolo contendere shall be accepted for any person under the age of 21 charged with a violation of this Code section.

(l) A person who violates this Code section while transporting in a moving vessel or personal watercraft or towing on water skis, an aquaplane, a surfboard or similar device a child under the age of 14 years is guilty of the separate offense of endangering a child by operating a moving vessel or personal watercraft under the influence of alcohol or drugs. The offense of endangering a child by operating a moving vessel or personal watercraft under the influence of alcohol

or drugs shall not be merged with the offense of operating a vessel under the influence of alcohol or drugs for the purposes of prosecution and sentencing. An offender who is convicted of a violation of this subsection shall be punished in accordance with the provisions of subsection (d) of O.C.G.A. § 16-12-1, relating to the offense of contributing to the delinquency, unruliness, or deprivation of a child.

Sec. 8-7. Ordering drug or alcohol tests; implied consent notice; reports; suspension; hearing; certificate of inspection

(a) The test or tests required under Section 8-6 shall be administered as soon as possible at the request of a law enforcement officer having reasonable grounds to believe that the person has been operating or was in actual physical control of a moving vessel upon the waters of this state in violation of Section 8-6 and the officer has arrested such person for a violation of Section 8-6, any federal law in conformity with Section 8-6, or any local ordinance which is identical to Section O.C.G.A. § 52-7-12 in accordance with O.C.G.A. 52-7-21 or the person has been involved in a boating accident resulting in serious injuries or fatalities. Subject to Section 8-6, the requesting law enforcement officer shall designate which test shall be administered, provided that the officer shall require a breath test or a blood test and may require a urine test.

(b) At the time a chemical test or tests are requested, the arresting officer shall select and read to the person the appropriate implied consent warning from the following:

(1) Implied consent notice for suspects under age 21:

"Georgia law requires you to submit to state administered chemical tests of your blood, breath, urine, or other bodily substances for the purpose of determining if you are under the influence of alcohol or drugs. If you refuse this testing, your privilege to operate a vessel on the waters of this state will be suspended for a minimum period of one year. Your refusal to submit to the required testing may be offered into evidence against you at trial. If you submit to testing, the results of that test or tests may be used against you. If the results of such test or tests indicate an alcohol concentration of 0.02 grams or more or the presence of any illegal drug, your privilege to operate a vessel on the waters of this state may be suspended for a minimum period of one year. After first submitting to the required state tests, you are entitled to additional chemical tests of your blood, breath, urine, or other bodily substances at your own expense and from qualified personnel of your own choosing. Will you submit to the state administered chemical tests of your (designate which tests) under the implied consent law?"; or

(2) Implied consent notice for suspects age 21 or over:

"Georgia law requires you to submit to state administered chemical tests of your blood, breath, urine, or other bodily

substances for the purpose of determining if you are under the influence of alcohol or drugs. If you refuse this testing, your privilege to operate a vessel on the waters of this state will be suspended for a minimum period of one year. Your refusal to submit to the required testing may be offered into evidence against you at trial. If you submit to testing, the results of that test or tests may be used against you. If the results of such test or tests indicate an alcohol concentration of 0.10 grams or more or the presence of any illegal drug, your privilege to operate a vessel on the waters of this state may be suspended for a minimum period of one year. After first submitting to the required state tests, you are entitled to additional chemical tests of your blood, breath, urine, or other bodily substances at your own expense and from qualified personnel of your own choosing. Will you submit to the state administered chemical tests of your (designate which tests) under the implied consent law?"

If any such notice is used by a law enforcement officer to advise a person of his or her rights regarding the administration of chemical testing, such person shall be deemed to have been properly advised of his or her rights under this Code section and under O.C.G.A. § 52-7-16.2 and the results of any chemical test, or the refusal to submit to a test, shall be admitted into evidence against such person. This notice shall be deemed sufficient if such notice read by an arresting officer is substantially complied with.

(c) Subsection (b) of this Code section shall apply to any case wherein the request for chemical testing is made regarding an offense committed on or after June 1, 1998. Subsection (b) of this Code section shall not apply to any case wherein the request for chemical testing was made regarding an offense committed prior to June 1, 1998, in which case those provisions of former O.C.G.A. § 52-7-12 governing the admissibility of evidence of results of chemical testing or refusal to submit to chemical testing which were in effect at the time the offense was committed shall apply.

(d) If a person under arrest or a person who was involved in any boating accident resulting in serious injuries or fatalities submits to a chemical test upon the request of a law enforcement officer and the test results indicate that a suspension of the privilege of operating a vessel on the waters of this state is required under this Code section, the results shall be reported to the department. Upon the receipt of a sworn report of the law enforcement officer that the officer had reasonable grounds to believe the arrested person had been operating or was in actual physical control of a moving vessel upon the waters of this state in violation of Section 8-6 or that such person had been operating or was in actual physical control of a moving vessel upon the waters of this state and was involved in a boating accident involving serious injuries or fatalities and that the person submitted to a chemical test at the request of the law enforcement officer and the test results indicate either an alcohol concentration of 0.10 grams or

more or, for a person under the age of 21, an alcohol concentration of 0.02 grams or more, and the vessel being operated was a motorized vessel having ten or more horsepower or was a sailboat more than 12 feet in length, the department shall suspend the person's privilege to operate a vessel upon the waters of this state pursuant to O.C.G.A. § 52-7-12.6, subject to review as provided for in this Code section.

(e) If a person under arrest or a person who was involved in any boating accident resulting in serious injuries or fatalities refuses, upon the request of a law enforcement officer, to submit to a chemical test designated by the law enforcement officer as provided in subsection (a) of this Code section, no test shall be given; but the law enforcement officer shall report the refusal to the department. Upon the receipt of a sworn report of the law enforcement officer that the officer had reasonable grounds to believe the arrested person had been operating or was in actual physical control of a moving vessel upon the waters of this state in violation of Section 8-6 or that such person had been operating or was in actual physical control of a moving vessel upon the waters of this state and was involved in a boating accident which resulted in serious injuries or fatalities and that the person had refused to submit to the test upon the request of the law enforcement officer, and the vessel being operated was a motorized vessel having ten or more horsepower or was a sailboat more than 12 feet in length, the department shall suspend the person's privilege of operating a vessel on the waters of this state for a period of one year.

(f)(1) The law enforcement officer, acting on behalf of the department, shall personally serve the notice of intention to suspend or disqualify the privilege of operating a vessel on the waters of this state of the arrested person or other person refusing such test on such person at the time of the person's refusal to submit to a test or at the time at which such a test indicates that suspension or disqualification is required under this Code section. The officer shall forward to the department the notice of intent to suspend and the sworn report required by subsection (d) or (e) of this Code section within ten calendar days after the date of the arrest of such person. The failure of the officer to transmit the sworn report required by this Code section within ten calendar days shall not prevent the department from accepting such report and utilizing it in the suspension of an operator's privilege as provided in this Code section.

(2) If notice has not been given by the arresting officer, the department, upon receipt of the sworn report of such officer, shall suspend the person's privilege to operate a vessel and, by regular mail, at the last known address, notify such person of such suspension. The notice shall inform the person of the grounds of suspension, the effective date of the suspension, and the right to review. The notice shall be deemed received three days after mailing.

(g)(1) A person whose operator's privilege is suspended pursuant to this Code section shall request, in writing, a hearing within ten business days from the date of personal notice or receipt of notice sent by certified mail or statutory overnight delivery, return receipt requested, or the right to said hearing shall be deemed waived. Within 30 days after receiving a written request for a hearing, the department shall hold a hearing as is provided in Chapter 13 of Title 50, the "Georgia Administrative Procedure Act." The hearing shall be recorded.

(2) The scope of the hearing shall be limited to the following issues:

(A)(i) Whether the law enforcement officer had reasonable grounds to believe the person was operating or in actual physical control of a moving vessel while under the influence of alcohol or a controlled substance and was lawfully placed under arrest for violating Section 8-6.

(ii) Whether the person was involved in a vessel accident or collision resulting in serious injury or fatality;

(B) Whether at the time of the request for the test or tests the officer informed the person of the person's implied consent rights and the consequence of submitting or refusing to submit to such test and:

(i) Whether the person refused the test; or

(ii) Whether a test or tests were administered and the results indicated an alcohol concentration of 0.10 grams or more or, for a person under the age of 21, an alcohol concentration of 0.02 grams or more; and

(C) Whether the test or tests were properly administered by an individual possessing a valid permit issued by the Division of Forensic Sciences of the Georgia Bureau of Investigation on an instrument approved by the Division of Forensic Sciences or a test conducted by the Division of Forensic Sciences, including whether the machine at the time of the test was operated with all its electronic and operating components prescribed by its manufacturer properly attached and in good working order, which shall be required. A copy of the operator's permit showing that the operator has been trained on the particular type of instrument used and one of the original copies of the test results or, where the test is performed by the Division of Forensic Sciences, a copy of the crime lab report shall satisfy the requirements of this subparagraph.

(3) The hearing officer shall, within five calendar days after such hearing, forward a decision to the department to rescind or sustain the suspension of the person's privilege to operate a vessel on the waters of this state. If no hearing is requested within the ten business days specified in paragraph (1) of this subsection, and the failure to request such hearing is due in whole or in part to the reasonably avoidable fault of the person, the right to a hearing shall have been waived. The request for a hearing shall not stay the suspension of the person's privilege to operate a vessel on the waters of this state; provided, however, that if the hearing is timely requested and is not held within 60 days and the delay is not due in whole or in part to the reasonably avoidable fault of the person, the suspension shall be stayed until such time as the hearing is held and the hearing officer's decision is made.

(4) In the event the person is acquitted of a violation of Section 8-6 or such charge is initially disposed of other than by a conviction or plea of nolo contendere, then the suspension shall be terminated. An accepted plea of nolo contendere shall be entered on the operator's record and shall be considered and counted as a conviction for purposes of any future violations of Section 8-6.

(h) If the suspension is sustained after such a hearing, the person whose privilege to operate a vessel on the waters of this state has been suspended under this Code section shall have a right to file for a judicial review of the department's final decision, as provided for in Chapter 13 of Title 50, the "Georgia Administrative Procedure Act"; while such appeal is pending, the order of the department shall not be stayed.

(i) Each time an approved breath-testing instrument is inspected, the inspector shall prepare a certificate which shall be signed under oath by the inspector and which shall include the following language:

"This breath-testing instrument (serial no.) was thoroughly inspected, tested, and standardized by the undersigned on (date) and all of its electronic and operating components prescribed by its manufacturer are properly attached and are in good working order."

When properly prepared and executed, as prescribed in this subsection, the certificate shall, notwithstanding any other provision of law, be self-authenticating, shall be admissible in any court of law, and shall satisfy the pertinent requirements of paragraph (1) of subsection (c) of Section 8-6 and subparagraph (g)(2)(C) of this Code section.

Sec. 8-8. Boating safety zones; restrictions on use of motors and operation of houseboats on certain lakes; exceptions

(a)(1) The following are established as boating safety zones from May 1 through the following September 30:

(A) The ocean waters adjacent to Jekyll Island, which shall include all those waters for a distance of 1,000 feet from the high-water mark on Jekyll Beach from the northernmost point to the southernmost point of Jekyll Island;

(B) The ocean waters adjacent to Tybee Island Beach, which shall include all those waters for a distance of 1,000 feet from the high-water mark on Tybee Island Beach from the northernmost point to the southernmost point of Tybee Island Beach;

(C) The ocean waters adjacent to Saint Simons Island, which shall include all those waters for a distance of 1,000 feet from the high-water mark on Saint Simons Island from the northernmost point to the southernmost point of Saint Simons Island; and

(D) The ocean waters adjacent to Sea Island, which shall include all those waters for a distance of 1,000 feet from the high-water mark on Sea Island from the northernmost point to the southernmost point of Sea Island.

(2) The following are established as boating safety zones at all times of the year:

(A) The area within the marked boundary of any designated swimming area; and

(B) The area within the marked boundary upstream or downstream of any dam designated by the commissioner.

(b) Except for lifesaving, emergency, law enforcement, or dam operation and maintenance craft, it shall be unlawful to launch, float, or operate:

(1) Any power boat within the boundaries of those boating safety zones defined in subsection (a) of this Code section; or

(2) Any vessel within the boundaries of those boating safety zones defined in subparagraphs (a)(2)(A) and (a)(2)(B) of this Code section, provided such zones are marked in accordance with the uniform waterway marking system.

(c) With the exception of law enforcement crafts, no motor in excess of 9.9 horsepower shall be used on any vessel being operated on the Ogeechee River from the point where it crosses State Highway No. 119 to its point of origin.

(d) The operation of any vessel, specifically including a houseboat, with a marine toilet, galley, or sleeping quarters shall be prohibited on

Lake Burton, Bull Sluice Lake, Goat Rock Lake, Lake Harding, Lake Jackson, North Highlands Lake, Lake Oliver, Lake Rabun, Seed Lake, Tallulah Falls Lake, Tugalo Lake, Lake Oconee, and Yonah Lake.

(e)(1) No person shall operate or use any vessel within an area designated and appropriately marked as a "hazardous area" unless each person aboard such vessel is wearing a United States Coast Guard approved personal flotation device, which device is designated as a Type I, Type II, Type III, or Type V device. Such device must be properly fastened, in good and serviceable condition, and the proper size for the person wearing the device.

(2) The provisions of this subsection shall not affect regulations promulgated by any agency of the federal government related to activities that may or may not be conducted within designated hazardous areas which are located within the jurisdiction of such agency.

(f) With the exception of law enforcement or scientific research or dam operation and maintenance craft, no motor in excess of 25 horsepower shall be used on any vessel being operated on Tugalo Lake.

(g) The operation of any of the following vessels on Lake Oconee shall be prohibited:

(1) Any motorized vessel greater than 30 feet six inches in length; except for law enforcement, scientific research, or dam operation and maintenance craft or a vessel not greater than 40 feet in length used for conducting group tours on behalf of the owner or operator of a REAP certified by the Department of Community Affairs under O.C.G.A. § 50-8-192; or

(2) Any vessel equipped with any type of bypass mechanism that reduces or eliminates the effectiveness of the muffler or baffler system required by O.C.G.A. § 52-7-10.

(h) The operation of any of the following vessels on Lake Burton, Seed Lake, Lake Rabun, Lake Tugalo, Tallulah Falls Lake, and Lake Yonah shall be prohibited:

(1) Any motorized vessel greater than 30 feet six inches in length; except for law enforcement, scientific research or dam operation and maintenance craft; or

(2) Any vessel equipped with any type of bypass mechanism that reduces or eliminates the effectiveness of the muffler or baffler system required O.C.G.A. § 52-7-10.

(i) The provisions of this Code section shall not apply to vessels engaged in any activity authorized under O.C.G.A. § 52-7-19.

Sec. 8-9. Towing persons on water skis, aquaplanes, surfboards or similar device

(a) No person shall operate a vessel on any of the waters of this state for towing a person or persons on water skis, aquaplane, surfboard, or any similar device unless the vessel is equipped with a wide-angle mirror mounted in such a manner as to permit the operator of the vessel to observe at all times the person or persons being towed or unless there is in such vessel a competent person, in addition to the operator, in a position to observe at all times the person or persons being towed.

(b) No person shall operate any vessel on any of the waters of this state for towing a person or persons on water skis, aquaplane, surfboard, or similar devices nor shall any person or persons engage in water skiing, aquaplaning, surfboarding, or similar activities unless such person or persons being towed are wearing a ski belt, ski jacket, or a Type I, II, or III United States Coast Guard approved personal flotation device.

(c) No person shall operate a vessel on any waters of this state towing a person or persons on water skis, aquaplane, surfboard, or similar devices nor shall any person engage in water skiing, aquaplaning, surfboarding, or similar activity at any time between the hours from sunset to sunrise.

(d) Subsections (a), (b), and (c) of this Code section do not apply to a performer engaged in a professional exhibition or a person or persons engaged in an activity authorized under O.C.G.A. § 52-7-19.

Sec. 8-10. Speed and load restrictions; riding of bow or gunwale of vessel

(a) The speed of each vessel shall at all times be regulated so as to avoid danger or injury or damage or unnecessary inconvenience, directly or by the effect of the wash or wave raised by the vessel, while in the vicinity of swimming areas, docks, floating boat houses, moored boats, or boats engaged in fishing activities.

(b) No vessel shall be loaded beyond the recommended capacity.

(c) No person operating any vessel shall allow any person or persons to ride the bow or gunwale of any vessel nor shall any person or persons ride on the bow or gunwale of any vessel unless the vessel is equipped with a railing or some other retaining device on the bow or gunwale, so located that any person or persons might hold to such railing or other retaining device to avoid falling or being thrown overboard. For the purposes of this Code section, eyes or cleats shall not be considered retaining devices.

(d) No vessel shall be operated at a speed greater than is reasonable and prudent under the conditions, and such vessel's operator shall have regard for the actual and potential hazards then existing.

Sec. 8-11. Rules of the road for boat traffic

(a) All vessels operating on the coastal waters of this state shall conform to the "Steering and Sailing Rules" established by Section II, Rules 11 through 18, of the International Navigation Rules Act of 1977, as amended.

(b) All vessels operating on the inland waters of this state shall conform to the "Steering and Sailing Rules" established by Subpart II, Rules 11 through 18, of the Inland Navigation Rules Act of 1980, as amended.

(c) It shall be the duty of each operator to keep his vessel to the starboard or right side of the center of any channel, stream, or other narrow body of water; provided, however, this provision shall not give to the operator of a sailing vessel the right to hamper, in a narrow channel, the safe passage of another vessel which can navigate only inside that channel.

(d) Powered vessels approaching nonpowered vessels shall reduce their speed so that their wake shall not endanger the life or property of those occupying the nonpowered vessel.

(e) Whenever a vessel approaches a bend, point, or other blind area, it shall be the duty of the operator to:

(1) Move as far to the right or starboard as possible;

(2) Reduce speed to allow for an unexpected stop if necessary; and

(3) Sound a blast of eight to ten seconds' duration on a sounding device if such a device is carried.

(f) No person shall operate any vessel or tow a person or persons on water skis, an aquaplane, a surfboard, or any similar device on the waters of this state at a speed greater than idle speed within 100 feet of any vessel which is moored, anchored, or adrift outside normal traffic channels, or any wharf, dock, pier, piling, bridge structure or abutment, person in the water, or shoreline adjacent to a full-time or part-time residence, public park, public beach, public swimming area, marina, restaurant, or other public use area. This subsection shall not be interpreted to prohibit any person from initiating or terminating water skiing from any wharf, dock, or pier owned by such person or used by such person with the permission of the owner of said wharf, dock, or pier nor shall it be interpreted to prohibit the immediate return of a tow vessel to a downed water skier.

(g) No vessel shall run around or within 100 feet of another vessel at a speed greater than idle speed unless such vessel is overtaking or meeting such other vessel in compliance with the rules of the road for vessel traffic.

(h) No vessel shall be operated in such a manner as to ride or jump the wake of another vessel within 100 feet of such other vessel unless the vessel is overtaking or meeting such other vessel in compliance with the rules of the road for vessel traffic and, having passed or overtaken such other vessel, the operator of the passing or overtaking vessel shall not change or reverse course for the purpose of riding or jumping the wake of such other vessel within 100 feet of such other vessel.

(i) Subsections (f), (g), and (h) of this Code section shall not apply to ocean-going ships or to tugboats or other powered vessels which are assisting ocean-going ships during transit or during docking or undocking maneuvers.

Sec. 8-12. Enforcement of article

(a) Any person empowered to enforce this article and any rule or regulation adopted pursuant hereto shall have the authority to stop and board any vessel subject to this article or any such regulation for the purpose of inspection or determining compliance with this article and is empowered to issue a summons for appearance in court or before a magistrate for all violations of this article or of the rules and regulations prescribed hereunder. Vessels of law enforcement personnel shall be marked to identify them as designated enforcement vessels.

(b) An officer empowered to enforce this article shall have the power:

(1) To arrest on view for any violation relating to boating and all rules and regulations prescribed by the board under this article;

(2) To execute all warrants and search warrants for violations of the boat laws and regulations;

(3) To serve subpoenas issued for the examination, investigation, and trial of all offenses against the laws and regulations relating to boats;

(4) To board vessels in use, for purposes of examining any documents and safety equipment, and to search without warrant any vessel which is not at its regular mooring or berth when he believes that any law of this state or any rule or regulation of the Board of Natural Resources relating to boating has been violated;

(4.1) To board vessels in use or floating, whether moored or not, for purposes of examining any marine toilets, holding tanks, and documents related to them, including records of pump-out and certificates of compliance, and to search without warrant any such vessel to determine compliance with the provisions of this article related to marine toilets when the

officer believes that any of said provisions of this article relating to marine toilets have been violated;

(5) To detain the vessel and arrest the operator of a suspected stolen vessel;

(6) To enter upon any land or water in the performance of his duty;

(7) To demand and secure proper assistance in case of emergency;

(8) To exercise the powers and duties of peace officers; and

(9) To investigate any boating accident which occurs on the waters of this state.

(c) Every vessel subject to this article if underway and upon being hailed by a designated law enforcement officer shall stop immediately and lay to or shall maneuver in such a way as to permit the officer to come aboard.

(d) Any person employed or elected by this state or a political subdivision thereof, whose duty it is to preserve the peace or to make arrests or to enforce the law, including, but not limited to, members of the sheriffs' departments, state patrolmen, and conservation rangers, are empowered to enforce this article. The Department of Natural Resources shall be primarily responsible for enforcement of this article and the rules and regulations issued under this chapter.

(e) It shall be unlawful for any person to resist or interfere by force, menace, threat, or in any other manner with any arrest for violation of this article. It shall also be unlawful for any person to refuse to go with any law enforcement officer of this state after an arrest has been made or to interfere with the officer in the performance of his duty.

(f) The department is authorized and empowered to identify by appropriate signs and markers those public waters in which certain activities may be prohibited or restricted.

Sec. 8-13. Penalty

Except as otherwise provided in this article, any person who violates this article or any rule or regulation promulgated hereunder shall be guilty of a misdemeanor.

SECTION TWO

All ordinances or parts of ordinances in conflict with this ordinance are hereby repealed.

SECTION THREE

If any section, clause, sentence, or phrase of this Ordinance is held to be invalid or unconstitutional by any court of competent jurisdiction, then said

holding shall in no way effect the validity of the remaining portions of this Ordinance.

SECTION FOUR

This Ordinance shall be effective immediately upon its adoption by the City Commission.

**SO ORDAINED BY THE CITY COMMISSION OF BRUNSWICK THIS
16th DAY OF MAY 2007.**

By: /s/ Bryan Thompson
Bryan Thompson, Mayor

Attest: /s/ Georgia Marion
Georgia Marion, City Clerk

- #989 – False Fire and Burglar Alarms

Following a discussion, Commissioner Spaulding made a motion and Commissioner Williams seconded the motion unanimously adopting the following ordinance:

ORDINANCE 989

AN ORDINANCE TO AMEND CHAPTER 10 OF THE CODE OF THE CITY OF BRUNSWICK PERTANING TO FIRE PROTECTION; TO PROVIDE FOR DEFINITONS OF FALSE ALARMS; TO PROHIBIT CERTAIN ACTIVATES; TO PROVIDE REQUIREMENTS FOR ALARM SYSTEMS; TO PROVIDE PENALTIES; TO PROVIDE FOR SEVERABILITY; TO REPEAL CONFLICTING ORDINANCES; TO PROVIDE AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

BE IT ORDAINED BY THE COMMISSION OF THE CITY OF BRUNSWICK:

SECTION ONE

Chapter Ten of the City Code of Brunswick is amended by the addition of Section Eight, which shall provide as follows.

Sec. 10-8. False Alarms

(a). The following definitions shall apply in the interpretation and enforcement of this Section, unless otherwise specifically stated.

"Alarm Contractor" shall mean any person who installs, maintains, repairs, alters, monitors or services alarm systems for compensation.

"Alarm Signal" shall mean the audible sound or a transmission of a signal or a message as the result of the activation of an alarm system or an audible alarm.

"Alarm System" shall mean any mechanical or electrical or radio-controlled device which is designed to be used for the detection of smoke or fire or of any unauthorized entry into a building, structure or facility, or for alerting others of the commission of an unlawful act within a building, structure or facility, or both, which emits a sound or transmits a signal or message when activated. Alarm systems include audible, silent, fire and panic alarms and proprietor alarms.

"Audible Alarm" shall mean a device designed for the detection of fire or smoke or of unauthorized entry on premises which generates an audible sound when it is activated.

"False Alarm" shall mean an alarm signal which is responded to by the Police or Fire Departments of the City of Brunswick and which is caused by other than an emergency situation, or which is not caused by the activation of either an alarm system or audible alarm as the result of fire or smoke, a burglary, robbery, assault, forced entry or attempted forced entry into the premises protected by such alarm or any other criminal act on the premises. An alarm will be deemed to be a false alarm (i) when there is not substantial physical evidence which would clearly indicate that smoke, fire, or a criminal act was the sole reason for activation of the alarm signal, (ii) when the alarm system was intentionally activated by an individual under circumstances where there was no reasonable basis to believe that a fire, crime or other emergency, warranting immediate response by the appropriate authorities, had occurred or was occurring, or (iii) when the alarm signal is activated due to failure of the alarm system to be maintained in proper working condition . A false alarm shall not be deemed to have occurred when the responding agency is notified that no response is necessary before any act of response is substantially completed. Only those false alarms occurring in the City of Brunswick are punishable by this Ordinance.

"Person" shall mean any individual, association, partnership, firm or corporation, or any combination of one or more of them, and includes any officer, employee, department, agency or instrumentality of the State.

(b). The following rules shall govern the use of alarm systems within the City of Brunswick.

(1) No person shall make, cause to be made or suffer to be made any false alarm from any location in the City of Brunswick.

(2) No person shall allow, sound or permit the sounding of any burglar or fire alarm or any motor vehicle burglar alarm in the City of Brunswick, which is audible outside the building or vehicle it is

installed in unless such alarm is automatically terminated within fifteen (15) minutes of activation.

(3) No company or individual shall connect or cause to be connected, by any means whatsoever any alarm system or alarm that transmits directly into the Glynn-Brunswick 911 Center or to any telephone line located at Brunswick Fire Department, Brunswick Police Department or Lanier Plaza substation, PROVIDED, HOWEVER, it shall not be a violation of this ordinance for an alarm system to be connected or to transmit directly to any phone number maintained by the Brunswick Fire Department or Glynn-Brunswick 911 Center for such purpose.

(4) No individual or company shall test or cause to be tested any alarm system in the City of Brunswick without at least thirty (30) minutes prior notification of the test to the Glynn-Brunswick 911 Center. Failure to make such prior notifications will be subject to a \$300.00 fine for each occurrence.

(c). Responsibility for false alarms under this chapter shall be borne by the person or persons occupying or having the right to occupy the premises, unless otherwise stated herein. Violations of this Ordinance will be returned to the City of Brunswick Municipal Court for resolution and disposition.

(d). The following penalties will be assessed for each violation:

(1) First and Second false Alarms Written warning

(2) Third false alarm \$25.00

(3) Fourth false alarm \$50.00

(4) Fifth and later false alarms \$100.00

Written warnings for first and second false alarms shall be hand delivered or mailed to the location of the false alarm. Failure to make, deliver, mail or receive any warning shall not affect any subsequent enforcement efforts or the penalty for any subsequent false alarm.

(e). False Alarms: Requirements and Penalties for Alarm Contractors

(1) Shall provide each alarm customer with a copy of this Ordinance and shall obtain a written acknowledgment of receipt of a copy of this False Alarm Ordinance signed by the customer.

(2) Shall retain on file for the duration of each Alarm Contract a copy of this Ordinance containing the signed acknowledgment of the customer.

(3) Penalty for failure to comply: For each occurrence of a violation of this section of the False Alarm Ordinance after the fifth one the fine shall be \$250.00 per violation.

(f). Each and every time a violation occurs, it shall be deemed a separate offense. No provision of this Ordinance shall be construed to impair any common law or statutory cause of action, or legal remedy there from of any person for injury or damage arising from any violation of this Ordinance or other law.

(g). Any person charged with a violation of this False Alarm Ordinance may offer proof at any hearing relating to such violation that the false alarm in question was caused by:

(1) A lightening strike or other Act of God;

(2) The act of some third party whom the person could not control; or

(3) Failure of an alarm contractor to repair the alarm system which made the false alarm after being employed by the person to make such repair; PROVIDED HOWEVER, the person has again made a good faith attempt to have the alarm system repaired after the false alarm which is the subject of the charge.

SECTION THREE

All ordinances or parts of ordinances in conflict with this ordinance are hereby repealed.

SECTION FOUR

If any section, clause, sentence, or phrase of this Ordinance is held to be invalid or unconstitutional by any court of competent jurisdiction, then said holding shall in no way effect the validity of the remaining portions of this Ordinance.

SECTION FIVE

This Ordinance shall be effective immediately upon its adoption by the City Commission.

**SO ORDAINED BY THE CITY COMMISSION OF BRUNSWICK THIS
16th DAY OF MAY 2007.**

By: /s/ Bryan Thompson
Bryan Thompson, Mayor

Attest: /s/ Georgia Marion
Georgia Marion, City Clerk

COMMISSIONER BROOKS' ITEM(S)

12. Bruce Carracker and Davey Patel, owners of Jay's Package Store located at 1411 "L" Street, to discuss fire incident on May 9, 2007.

Robert Holland, Manager of Jay's Package Store, 1411 "L" Street discussed the fire that burned two houses in the 1400 Block of "L" Street and Jay's Package Store. The Commission instructed the City Manger and the Fire Chief to setup a meeting with the owner of Jay's Package Store and staff.

COMMISSIONER SPAULDING'S ITEM(S)

13. Harold E. Jennings Memorial Plaque

Ken Tollison requested to place a plaque at the current walking trail at Howard Coffin Park in memoriam of Harold Jennings and rename the walking trail the Harold E. Jennings Wellness Park. Mr. Tollison stated that funds would be raised for the installation of the Plaque.

Jeff Kilgore stated that the class of 1967 unanimously approved the memorial plaque for Harold E. Jennings and the Recreation Director agreed to find a place to put the plaque.

The City Manager stated that there are funds available in SPLOST IV for upgrading the apparatus.

Following a discussion, Commissioner Spaulding made a motion and Commissioner Williams seconded the motion approving placing a plaque in memoriam of Harold E. Jennings at Howard Coffin Park and to rename the walking trail the Harold E. Jennings Wellness Park. The motion passed by vote of 5 to 0.

14. State of the Cemeteries.

The Commission discussed citizens should be notified by placing signs at the cemeteries when the water is being turned off.

DISCUSSION

15. Howard Coffin Park Soil Testing.

Mayor Thompson stated that an old trash pile was found at Howard Coffin Park and the City will handle removing the trash by the EPD guidelines.

EXECUTIVE SESSION

Commissioner Spaulding made a motion and Commissioner Brooks seconded the motion to hold an Executive Session to discuss Personnel Issues and Land Acquisition. The motion passed by vote of 5 to 0.

Back in Session.

Commissioner Brooks made a motion and Commissioner Harvey seconded the motion unanimously increasing the Commission salary 25% effective January 2008 as follows:

Mayor's annual salary \$16,625.00	Mayor's monthly salary \$1,410.42
Commissioner's annual salary \$12,150.00	Commissioner's monthly salary \$1,033.33
Mileage (travel expense) Mayor \$300.00	
Commissioners \$250.00.	

Commissioner Spaulding made a motion and Commissioner Williams seconded the motion to pay the City Manager retroactive from July 2006 for an increase he would have received for signing an employment agreement contract.

MEETING ADJOURNED

/s/ Bryan Thompson
Bryan Thompson, Mayor

Attest: /s/ Georgia Marion
Georgia Marion, City Clerk