

AN ORDINANCE TO AMEND THE CODE OF ATHENS-CLARKE COUNTY, GEORGIA WITH RESPECT TO **OBSTRUCTING PUBLIC SIDEWALKS AND STREETS**; AND FOR OTHER PURPOSES.

The Commission of Athens-Clarke County, Georgia, hereby ordains as follows:

SECTION 1. Chapter 3-5 of the Code of Athens-Clarke County, Georgia, is hereby amended by deleting the present Section 3-5-23, currently entitled “*Obstructing public sidewalks and streets; prowling*” and replacing it with a new Section 3-5-23, to be titled “*Interference with sidewalks, streets, and other public areas; prowling*” and which section now reads as follows:

Sec. 3-5-23. Interference with sidewalks, streets, and other public areas; prowling.

(a) *Interference with sidewalks, streets, and other public areas.*

- (1) Definitions. The following words, terms, and phrases, when used in this section, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:

Bridge shall mean a structure, including the approaches thereto, erected in order to afford passage over any obstruction in any public road, railroad, or other right-of-way; or to afford passage under or over existing public roads, railroads, or other rights-of-way. As used in this section, the definition of the term "bridge" includes a controlled access highway overpass as defined herein.

Controlled access highway overpass shall mean a crossing of two controlled access highways or of a controlled access highway and other public road, pedestrian path, railroad or public right-of-way at different levels where clearance to traffic on the lower level is obtained by elevating the higher level.

Interference with ingress or egress shall mean storing personal property, standing, sitting, lying down, using personal property, or performing any other activity where such activity materially interferes with the ingress into or egress from buildings or any other real property that has a limited number of entrances or exits, regardless of whether the property is owned in whole or in part by the Unified Government, a private owner, or another public entity, unless having received the prior express written permission of the property owner, or interferes with the passage along driveways, streets, sidewalks, alleys, rights-of-way, roadway shoulders, remnants of rights-of-way, or public areas.

Public area shall mean an area to which the public or a substantial group of persons has access, including, but not limited to, streets, highways, roadways (including shoulders and medians), rights-of-way, roadway shoulders, remnants of rights-of-way, bridges, the area above and below any bridge, sidewalks, alleys, parking lots and decks, plazas, parks, public greenspace areas, playgrounds, schools, transportation facilities, within a public-transportation vehicle, an area owned in whole or in part by, operated by, for, or under the custody and control of the Unified Government and other public property, including property owned or under control of the Unified Government and any other property where public gatherings occur on a regular basis, and any other property where public meetings are conducted.

Storing personal property shall mean leaving one's personal effects, including, but not limited to, clothing, bedrolls, cookware, sleeping bags, luggage, knapsacks, backpacks, wagons, or shopping carts, unattended for more than one hour. This term shall not include reasonably-parked bicycles

(b) *Prohibited acts.* Unless acting under a valid permit issued by the Unified Government or otherwise authorized by the Unified Government, it shall be unlawful for any person to interfere with ingress or egress of any building, private property, or public area.

(c) *Exceptions.* Behavior excepted from this section includes, but is not limited to, the following:

- (1) Persons sitting or lying down as a result of a medical emergency;
- (2) Persons sitting in wheelchairs in public parks, public streets, or other public areas;
- (3) Persons sitting down while attending events for which valid permits have been issued;
- (4) Persons sitting down while patronizing sidewalk cafes;
- (5) Persons sitting on chairs or benches supplied by a public agency or abutting private property owner;
- (6) Persons sitting in bus zones occupied by people waiting for the bus;
- (7) Persons sitting or lying down while waiting in an orderly line outside a box office to purchase tickets or patron any sporting event, concert, performance, or other event or activity that requires persons to queue;
- (8) Persons sitting or lying down while waiting in an orderly line awaiting entry into any building, including shelters, or awaiting social services, such as provision of meals;
- (9) Children sleeping anywhere while being carried by a supervising adult or while sitting or lying in a stroller or baby carriage; or
- (10) Authorized Unified Government employees and/or agents acting in the performance of their official duties.

(d) *Warning for first offense.* No person may be issued a citation for violating this section until that person has received a verbal or written warning to cease the unlawful conduct. If the person fails to promptly comply with the warning issued, then that person may be issued a citation.

(e) *Other remedies for prohibited acts.* Notwithstanding the issuance of a citation of a person violating this section, any personal property being stored, as defined above, may be deemed abandoned by the Unified Government or the Athens-Clarke County Police Department and may be confiscated by them without prior warning. The Unified Government or the Athens-Clarke County Police Department shall retain the property in a manner consistent with the handling of other confiscated or abandoned property.

(f) *Prowling.* A person commits the offense of prowling when he or she is in a place, at a time or in a manner not usual for law-abiding individuals under circumstances that warrant a justifiable and reasonable alarm or immediate concern for the safety of persons or property in the vicinity.

- (1) The circumstances which may be considered in determining whether alarm or concern is warranted include, but are not limited to, the following: the fact that the person takes flight upon the appearance of a law enforcement officer; refuses to identify himself or herself; or manifestly endeavors to conceal himself or any object.
- (2) Unless flight by the person or other circumstances makes it impractical, a law enforcement officer shall, prior to arrest for an offense under this section, afford the person an opportunity to dispel any alarm or immediate concern which would otherwise be warranted by requesting the person to identify himself or herself and explain his or her presence and conduct.
- (3) No person shall be convicted of an offense under paragraph (b) if the law enforcement officer failed to comply with the foregoing procedure or if it appears at trial that the explanation given by the person was true and would have dispelled the alarm or immediate concern.

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

SECTION 3. The Clerk of Commission is authorized, in consultation with the Athens-Clarke County Attorney, to correct any scrivener's errors that may be found herein after the adoption and approval hereof.

SECTION 4. The provisions of this ordinance are severable, and should any part of this ordinance be deemed by a court of competent jurisdiction to be invalid, such invalidity shall not affect the validity of the ordinance as a whole, or any part thereof other than the part declared to be invalid.

SECTION 5. This ordinance shall become effective once approved by the Mayor or as otherwise set forth in Section 2-204 of the Charter of the Unified Government of Athens-Clarke County, Georgia.

AN ORDINANCE TO AMEND THE CODE OF ATHENS-CLARKE COUNTY, GEORGIA,
WITH RESPECT TO **DEFINITIONS, SERVICE CATEGORIES, CUSTOMER
CLASSIFICATION**; AND FOR OTHER PURPOSES.

The Commission of Athens-Clarke County, Georgia, hereby ordains as follows:

SECTION 1. Section 5-2-2 of the Code of Athens-Clarke County, Georgia, entitled “*Definitions, service categories, customer classification; special customer,*” is hereby amended by inserting a new paragraph into subsection (a) between the definition of “*Prohibited waste list*” and “*Receptacle*” that shall read as follows:

Public area shall mean an area to which the public or a substantial group of persons has access, including, but not limited to, streets, highways, roadways (including shoulders and medians), rights-of-way, roadway shoulders, remnants of rights-of-way, bridges, the area above and below any bridge, sidewalks, alleys, parking lots and decks, plazas, parks, public greenspace areas, playgrounds, schools, transportation facilities, within a public-transportation vehicle, an area owned in whole or in part by, operated by, for, or under the custody and control of the Unified Government and other public property, including property owned or under control of the Unified Government and any other property where public gatherings occur on a regular basis, and any other property where public meetings are conducted.

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

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SECTION 5. This ordinance shall become effective once approved by the Mayor or as otherwise set forth in Section 2-204 of the Charter of the Unified Government of Athens-Clarke County, Georgia.

AN ORDINANCE TO AMEND THE CODE OF ATHENS-CLARKE COUNTY, GEORGIA WITH RESPECT TO **ABANDONMENT OF PERSONAL PROPERTY WITHIN PUBLIC RIGHTS-OF-WAY**; AND FOR OTHER PURPOSES.

The Commission of Athens-Clarke County, Georgia, hereby ordains as follows:

SECTION 1. Chapter 5-2 of the Code of Athens-Clarke County, Georgia, is hereby amended by deleting the present Section 5-2-20, entitled “*Abandonment of personal property within public rights-of-way*” and replacing it with a new Section 5-2-20, which section now reads as follows:

Sec. 5-2-20. Abandonment of personal property within public rights-of-way.

Except as otherwise provided for by statute or ordinance, including but not limited to section 3-5-23 of the Code of Athens-Clarke County, whenever personal property remains on the driveways, streets, sidewalks, alleys, rights-of-way, roadway shoulders, remnants of rights-of-way, or public areas within the confines of Athens-Clarke County for more than 24 hours, said property shall be deemed to be abandoned and shall be disposed of by the appropriate department. Nothing in this section shall prevent immediate removal of items that reasonably appear to pose a threat to public safety.

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

SECTION 3. The Clerk of Commission is authorized, in consultation with the Athens-Clarke County Attorney, to correct any scrivener’s errors that may be found herein after the adoption and approval hereof.

SECTION 4. The provisions of this ordinance are severable, and should any part of this ordinance be deemed by a court of competent jurisdiction to be invalid, such invalidity shall not affect the validity of the ordinance as a whole, or any part thereof other than the part declared to be invalid.

SECTION 5. This ordinance shall become effective once approved by the Mayor or as otherwise set forth in Section 2-204 of the Charter of the Unified Government of Athens-Clarke County, Georgia.

Ad Hoc Committee: Right of Way Use Commission Report

SUBJECT: Right-of-Way Use Ad Hoc Committee Report: Recommendation for Proposed Ordinance Language Updates

DATE: November 21, 2025

EXECUTIVE SUMMARY: The Right-of-Way Use Ad Hoc Committee (ROWUAHC) recommends adoption of ordinance language updates pertaining to the definition of a public area, interference with passage along the breadth of public rights-of-way, and the storage and abandonment of personal property within public rights of way.

PURPOSE: This report provides the Mayor and Commission with a recommendation from the Right-of-Way Use Ad Hoc Committee regarding amendments to ordinances pertaining to the definition of a public area, interference of passage along public rights-of-way, and to the storage and abandonment of personal property within public rights-of-way.

HISTORY:

1. On September 2, 2025, Mayor Girtz assigned an Ad Hoc Committee comprised of Commissioners Davenport, Fisher, and Myers the topic, "Work with the ACC Attorney and Manager to bring forward to the full Mayor and Commission no later than the November Voting Meeting:
 - Ordinance language updates clarifying the definition of "Public Right-of-Way" and allowable uses thereof in a manner that provides common understanding for ACC staff and the public about that definition such that:
 - The entire breadth of public right-of-way is considered (e.g. vehicular lanes, sidewalks, bike lanes, etc.)
 - The danger in laying upon or sitting upon the right-of-way is reduced or eliminated for the public safety of pedestrians, cyclists, and motorists alike.
 - Similarly, debris and material storage upon public rights-of-way is reduced or eliminated.
 - First amendment rights and the operation of Special Events is considered.
 - Any related operational and fiscal needs are considered."
2. At the September 23, 2025, ROWUAHC meeting, the Mayor shared his charge, and staff from the Athens-Clarke County Police Department (ACCPD) and other departments shared feedback and insights regarding interference in the public rights-of-way and safety issues. The Attorney's Office offered preliminary potential actions the M&C could take regarding ordinance language updates.

3. At the October 3, 2025, ROWUAHC meeting, ACCPD provided an overview of enforcement data related to sidewalk obstruction under County Ordinance 3-5-23, staff discussed how various departments currently handle and dispose of abandoned property, and the Committee reviewed how long property must remain unattended currently before being considered abandoned. The Attorney's Office reviewed existing ordinances referencing public rights-of-way, and shared examples from other communities that define "public" areas more comprehensively.
4. At the October 10, 2025, meeting, the ROWUAHC's discussion began with updates from the Solicitor's Office regarding data on sidewalk obstruction citations provided by Municipal Court. Citations numbers are low, with most violations occurring downtown, and ACCPD noted that many potential violations are resolved informally when individuals comply with verbal requests to move. Committee members reviewed proposed updates to the ordinance Sec. 5-2-2 which expand the definition of a public area and clarify what qualifies as obstructing or interfering with sidewalks, bridges, and rights-of-way, with the intent to address both pedestrian safety and abandoned personal property in public spaces. Committee members emphasized the importance of fairness, and avoiding language that could result in profiling or unnecessary citations.

The Committee reviewed language under Sec. 5-2-20 regarding storing personal property in public areas. Outreach staff from the Athens Homeless Coalition shared feedback they gathered from 15 people downtown and 6 participants in a Lived Experience Session who are currently experiencing homelessness, regarding storage of their personal belongings. The feedback they provided included a general consensus that if property was in a public space, the owner was watching it, or if it was out of their eyesight, then they had discarded it. Athens Homeless Coalition staff also shared an example from Lancaster, PA, which has developed lockers for people experiencing homelessness to store their belongings. Committee members acknowledged public complaints about loitering and storage of materials at bus stops and benches, and also stressed the need for compassionate enforcement. Committee members also noted the importance of balancing public safety with reasonable public use of public rights of way and free speech rights.

5. At the October 28, 2025, ROWUAHC meeting, the Attorney's Office shared and the Committee reviewed the proposed draft ordinance language updates, and removed language related to the option to arrest to ensure enforcement is focused on compliance and public safety rather than criminalization. With feedback from staff and a discussion regarding current procedures and staffing capacity, the Committee recommended updating Sec. 5-2-20 from a ninety-six to a twenty-four-hour timeline for removal and disposal of property deemed to be abandoned. This will allow for faster disposal of abandoned personal property by appropriate departments. The Committee also discussed potentially developing a partnership with a nonprofit or other group to pilot storage lockers for people experiencing homelessness to store their personal

property.

6. At the November 17, 2025, ROWUAHC meeting, the Attorney's Office shared and the Committee reviewed a clean draft of the ordinance language updates. With input from ACCPD and staff, Committee members recommended adding exception language to the twenty-four-hour timeline in Sec. 5-2-20, allowing for the immediate removal of dangerous or hazardous items from public-rights-of-way. The Committee also expressed their support for continued discussion of potential locker storage solution pilot for people experiencing homelessness, and voted to move forward with making recommendations regarding ordinance language changes to the Mayor & Commission in the December agenda setting meeting and January regular meeting.

RECOMMENDATIONS:

The Right-of-Way Use Ad Hoc Committee recommends that the Mayor and Commission adopt the recommended text amendments to Sec. 3-5-23 (Interference with sidewalks, streets, and other public areas; prowling) (**Attachment #1**), Sec 5-2-2 (Definitions service categories, customer classification; special customer) (**Attachment #2**), and Sec. 5-2-20 (Abandonment of personal property within public rights-of-way) (**Attachment #3**).

ADDITIONAL INFORMATION/COMMENTS:

The Right of Way Use Ad Hoc Committee will continue discussion of a potential partnership with a non-profit or other group towards a locker storage solution pilot for people experiencing homelessness.



Ilka McConnell, Interim Assistant
Manager

12/9/25

Date:

ATTACHMENTS:

Attachment #1: Recommended Text Amendment to Sec. 3-5-23 (Interference with sidewalks, streets, and other public areas; prowling)

Attachment #2: Recommended Text Amendment to Sec 5-2-2 (Definitions service categories, customer classification; special customer)

Attachment #3: Recommended Text Amendment to Sec. 5-2-20 (Abandonment of personal property within public rights-of-way)

Sec. 3-5-23. ~~Obstructing public sidewalks and streets~~ Interference with sidewalks, streets, and other public areas; prowling.

~~(a) *Obstructing public sidewalks or streets.* It shall be unlawful for any person to remain upon any public sidewalk, street or road so as to obstruct, hinder, or impede free passage upon or along same or to obstruct, hinder or impede free ingress or egress to or from any place of business, institution, or public building or property, after having been directed by a police officer to move away therefrom, depart or give free passage.~~

(a) *Interference with sidewalks, streets, and other public areas.*

- (1) Definitions. The following words, terms, and phrases, when used in this section, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:

Bridge shall mean a structure, including the approaches thereto, erected in order to afford passage over any obstruction in any public road, railroad, or other right-of-way; or to afford passage under or over existing public roads, railroads, or other rights-of-way. As used in this section, the definition of the term "bridge" includes a controlled access highway overpass as defined herein.

Controlled access highway overpass shall mean a crossing of two controlled access highways or of a controlled access highway and other public road, pedestrian path, railroad or public right-of-way at different levels where clearance to traffic on the lower level is obtained by elevating the higher level.

Interference with ingress or egress shall mean storing personal property, standing, sitting, lying down, using personal property, or performing any other activity where such activity materially interferes with the ingress into or egress from buildings or any other real property that has a limited number of entrances or exits, regardless of whether the property is owned in whole or in part by the Unified Government, a private owner, or another public entity, unless having received the prior express written permission of the property owner, or interferes with the passage along driveways, streets, sidewalks, alleys, rights-of-way, roadway shoulders, remnants of rights-of-way, or public areas.

Public area shall mean an area to which the public or a substantial group of persons has access, including, but not limited to, streets, highways, roadways (including shoulders and medians), rights-of-way, roadway shoulders, remnants of rights-of-way, bridges, the area above and below any bridge, sidewalks, alleys, parking lots and decks, plazas, parks, public greenspace areas, playgrounds, schools, transportation facilities, within a public-transportation vehicle, an area owned in whole or in part by, operated by, for, or under the custody and control of the Unified Government and other public property, including property owned or under control of the Unified Government and any other property where public gatherings occur on a regular basis, and any other property where public meetings are conducted.

Storing personal property shall mean leaving one's personal effects, including, but not limited to, clothing, bedrolls, cookware, sleeping bags, luggage, knapsacks, backpacks, wagons, or shopping carts, unattended for more than one hour. This term shall not include reasonably-parked bicycles

(b) *Prohibited acts.* Unless acting under a valid permit issued by the Unified Government or otherwise authorized by the Unified Government, it shall be unlawful for any person to interfere with ingress or egress of any building, private property, or public area.

(c) *Exceptions.* Behavior excepted from this section includes, but is not limited to, the following:

- (1) Persons sitting or lying down as a result of a medical emergency;
- (2) Persons sitting in wheelchairs in public parks, public streets, or other public areas;
- (3) Persons sitting down while attending events for which valid permits have been issued;
- (4) Persons sitting down while patronizing sidewalk cafes;
- (5) Persons sitting on chairs or benches supplied by a public agency or abutting private property owner;
- (6) Persons sitting in bus zones occupied by people waiting for the bus;
- (7) Persons sitting or lying down while waiting in an orderly line outside a box office to purchase tickets or patron any sporting event, concert, performance, or other event or activity that requires persons to queue;
- (8) Persons sitting or lying down while waiting in an orderly line awaiting entry into any building, including shelters, or awaiting social services, such as provision of meals;
- (9) Children sleeping anywhere while being carried by a supervising adult or while sitting or lying in a stroller or baby carriage; or
- (10) Authorized Unified Government employees and/or agents acting in the performance of their official duties.

(d) *Warning for first offense.* No person may be issued a citation for violating this section until that person has received a verbal or written warning to cease the unlawful conduct. If the person fails to promptly comply with the warning issued, then that person may be issued a citation .

(e) *Other remedies for prohibited acts.* Notwithstanding the issuance of a citation of a person violating this section, any personal property being stored, as defined above, may be deemed abandoned by the Unified Government or the Athens-Clarke County Police Department and may be confiscated by them without prior warning. The Unified Government or the Athens-Clarke County Police Department shall retain the property in a manner consistent with the handling of other confiscated or abandoned property.

(f) *Prowling.* A person commits the offense of prowling when he or she is in a place, at a time or in a manner not usual for law-abiding individuals under circumstances that warrant a justifiable and reasonable alarm or immediate concern for the safety of persons or property in the vicinity.

- (1) The circumstances which may be considered in determining whether alarm or concern is warranted include, but are not limited to, the following: the fact that the person takes flight upon the appearance of a law enforcement officer; refuses to identify himself or herself; or manifestly endeavors to conceal himself or any object.
- (2) Unless flight by the person or other circumstances makes it impractical, a law enforcement officer shall, prior to arrest for an offense under this section, afford the person an opportunity to dispel any alarm or immediate concern which would otherwise be warranted by requesting the person to identify himself or herself and explain his or her presence and conduct.

- (3) No person shall be convicted of an offense under paragraph (b) if the law enforcement officer failed to comply with the foregoing procedure or if it appears at trial that the explanation given by the person was true and would have dispelled the alarm or immediate concern.

(Ord. of 7-6-2004, § 1)

Editor's note(s)—Section 1 of an ordinance adopted July 6, 2004, deleted former § 3-5-23 of the Code in its entirety and added new provisions as § 3-5-23 as herein set out. Former § 3-5-23 pertained to loitering or prowling and derived from an ordinance adopted Aug. 4, 1992, § 6; an ordinance adopted March 2, 1993, § 1; and an ordinance adopted Aug. 1, 2000, § 1.

Sec. 5-2-2. Definitions, service categories, customer classification; special customer.

- (a) *General terms defined:* Words not defined here shall be construed to have their common dictionary definition.

Athens-Clarke means the area within the General Services District Boundary.

Bulky waste shall mean solid waste with weights or volumes which exceed the designated capacity of solid waste storage or collection containers. Such waste includes but is not limited to tree limbs, mattresses, and other large items.

Collect includes storage, transportation or disposal.

Commercial collection means the collection of solid waste from:

- (1) A nonresidential source;
- (2) A multifamily residence of five (5) or more units;

Compensation means and includes:

- (1) Any type of consideration paid for service, including, without limitation, rent, lease payments and any other direct or indirect provision of payment of money, goods, services or benefits by owners, tenants, lessees, occupants or similar persons;
- (2) The exchange of services between persons; and
- (3) The flow of consideration from the person owning or possessing the solid waste or recyclable material to the person providing the service or from the person providing the service to the person owning or possessing the solid waste material.

Construction and demolition waste shall mean a type of solid waste consisting of waste building materials and rubble resulting from construction, remodeling, repair and demolition operations on pavement, houses, commercial buildings and other structures. Construction and demolition debris includes trees, stumps, and brush removed from property during construction, maintenance or repair of structures.

Construction and demolition waste does not include any of the following, which is defined under this ordinance as solid waste even if it results from construction, remodeling, repair and demolition of structures: (a) garbage, (b) furniture and (c) solid waste resulting from a processing technique that renders individual waste components unrecognizable, such as pulverizing or shredding. It also does not include any of the following, which may require special disposal considerations: (a) asbestos waste, (b) drums and containers, (c) fuel tanks, (d) corrugated container board, and (e) appliances.

Cost of service shall mean cost of personnel, services, supplies, other services and charges, maintenance and repair, capital equipment, fringe benefits, supervision, overhead and other costs related to providing service.

Customer shall mean the local person responsible for the serviced location who receives and/or pays for solid waste service from a franchisee.

Director is the director of the solid waste department, or his or her duly authorized representative or agent.

Disposal facility means any facility or location where any treatment, utilization, processing, deposition or disposition of solid waste occurs.

Disposal site means the location where the final deposition or disposition of solid waste occurs.

Dropoff station means an established area approved by Athens-Clarke County where any person may deposit recyclable materials specified by Athens-Clarke County.

Dumpster shall mean a large metal bulk container which has capacity of no less than two (2) nor more than eight (8) cubic yard storage, and is a design approved by the solid waste department.

Fees paid service shall mean the routine service provided for by the solid waste department to customers for a fee determined by the schedule of fees as set forth in article 2 of this chapter.

Food service establishment shall include any establishment used for the preparation, packaging and serving of meals, lunches, short orders, sandwiches, frozen desserts, food samples or other edible products.

Franchise means a solid waste collection franchise awarded by Athens-Clarke County and contractually agreed to between Athens-Clarke County and the franchisee allowing them to engage in activities of a franchise as defined in and governed by this chapter.

Franchisee shall mean any person, persons or entity granted a franchise from Athens-Clarke County who, under agreements for compensation by those receiving services, is engaged in whole or in part in the business of collecting, transporting, delivering, or disposing of solid waste materials, other than industrial waste, within Athens-Clarke County. "Franchisee" includes any employees or other persons authorized to act on behalf of the Franchisee. "Franchisee" has a meaning identical to that of "grantee" as used in the franchise agreement.

Garbage means all household or domestic waste, including waste from the preparation and cooking of food, vegetables, fruit and meat scraps, ashes, cans and bottles, paper, floor sweepings, cardboard, and other such material to be disposed of from residences, houses of worship, schools, office buildings, business establishments and similar places.

Garbage can shall mean a container of a capacity not less than 20 gallons and not to exceed 96 gallons and where solid waste is placed for collection. Such a can shall have two (2) handles upon the sides of the can, or a bail by which it may be lifted and shall have a tightfitting metal, plastic, or rubber top.

Hazardous waste shall mean solid waste that is harmful to human or environmental health. Such waste includes, but is not limited to, solids, semisolids, liquids, and gases that are or may become toxic, caustic, infectious, contagious, flammable, or explosive and other items described as being hazardous in federal, state, or local government codes and regulations, except radioactive waste materials as provided in the Rules of the Department of Human Resources, Chapter 270-5-20, entitled, "Radioactive Materials."

Industrial waste means solid waste generated by manufacturing or industrial processes that is not a hazardous waste regulated under the Hazardous Waste Management Act and regulations promulgated by the Board of Natural Resources, Chapter 391-3-11. Such waste includes, but is not limited to, wastes resulting from the following manufacturing processes: Electric power generation; fertilizer/agricultural chemicals; food and related products/byproducts; inorganic chemicals; iron and steel manufacturing; leather and leather products; nonferrous metals manufacturing/foundries; organic chemicals; plastics and resins manufacturing; pulp and paper industry; rubber and miscellaneous plastic products; stone, glass, clay, and concrete products; textile manufacturing; transportation equipment; and water treatment. This term does not include mining waste or oil and gas waste.

Inert wastes shall mean wastes which will not, or are not likely to, cause production of leachate of environmental concern. Such wastes are limited to earth and earth-like products, concrete, cured asphalt, rock, bricks, yard trimmings, stumps, limbs, and leaves. This definition excludes industrial and demolition wastes not specifically listed herein.

Infectious waste shall mean a solid waste capable of producing an infectious disease. The types of waste designated as infectious are: microbiological waste, pathological waste, blood products, and sharps.

Leaf and limb materials shall mean leaf or limb materials resulting from normal yard maintenance, such as leaves, brush, grass clippings, shrub and tree prunings, discarded Christmas trees, nursery and greenhouse vegetative residuals, and vegetative matter resulting from landscaping development or other garden activities. This term does not include stumps, logs, pallets, agricultural wastes, animal waste, roots, sewage sludge or garbage.

Litter shall mean misplaced or improperly discarded "solid waste" as defined herein.

Person shall mean any individual, partnership, firm, company, corporation, association, joint stock company, representative, agent, or assignee. Regarding customers of the solid waste department, "person" shall mean:

- (1) The occupant of the structure serviced by the solid waste department;
- (2) The local manager in charge of operations within the structure serviced by the solid waste department;
or
- (3) The owner of the structure serviced by the solid waste department.

Premises shall mean a parcel of land, including any buildings or structures located thereon, within Athens-Clarke County used for residential, commercial, industrial, agricultural or institutional purposes either separately or in combination to which a separate street address, postal address or box, tax map description, or other similar identification has been assigned or which is in use by a person having control of the area.

Prohibited waste shall mean any waste that cannot be included in the solid waste set out for collection from any premises located within Athens-Clarke County.

Prohibited waste list shall mean a list of banned waste established by the director of solid waste.

Public area shall mean an area to which the public or a substantial group of persons has access, including, but not limited to, streets, highways, roadways (including shoulders and medians), rights-of-way, roadway shoulders, remnants of rights-of-way, bridges, the area above and below any bridge, sidewalks, alleys, parking lots and decks, plazas, parks, public greenspace areas, playgrounds, schools, transportation facilities, within a public-transportation vehicle, an area owned in whole or in part by, operated by, for, or under the custody and control of the Unified Government and other public property, including property owned or under control of the Unified Government and any other property where public gatherings occur on a regular basis, and any other property where public meetings are conducted.

Receptacle shall mean any container (dumpster, garbage can, roll cart or bag) approved by the solid waste department for use in the temporary storage, collection and disposal of solid waste, including containers used for recycling service.

Recyclable or recovered material shall mean material(s) which have known use, reuse, or recycling potential; can be feasibly used, reused or recycled; and have been diverted or removed from the solid waste stream for sale, use, reuse, or recycling, whether or not requiring subsequent separation and processing.

Recycling means the series of activities including collection, separation, and processing, by which products or other materials are recovered from or otherwise diverted from the solid waste stream (1) for use in the form of raw materials in the manufacture of new products other than fuel and (2) in the case of source separated wood waste which has no material use, for use as fuel. Recycling includes composting of source separated organics but not composting of mixed waste.

Refuse means trash, rubbish or items or materials no longer fit for their original intended use.

Residence means any dwelling unit that is a four-plex or smaller that is occupied by either an owner or tenant.

Resident means any person living in a "residence."

Routine service shall mean the collection, transfer and disposal of refuse from receptacles on a pre-established schedule and route serviced by a franchisee.

Scavenger shall mean any person engaged in the uncontrolled picking, separating or reclaiming of discarded solid waste and/or recyclable materials from the receptacle of another.

Self-haul means the collection and transportation of nonresidential solid waste, at a level not to exceed five (5) tons per month, or residential solid waste, at a level not to exceed one-quarter tons per month, that is generated by tenants, homeowners, manufacturing operations, or other facilities owned by the hauler by the living unit owner or his or her direct employee, doing so without charge or reimbursement for such services.

Service means the collection and transportation of solid waste by persons for compensation.

Servicing shall mean the physical or mechanical act of collateral transferring and loading of solid waste from approved receptacles by a franchisee.

Service provider shall mean a franchisee.

Serviceability shall mean the ability for the franchisee to have access to and service receptacles.

Solid waste means any garbage or refuse; sludge from a wastewater treatment plant, water supply treatment plant, or air pollution control facility; and other discarded material including but not limited to solid, liquid, semisolid, or contained gaseous material resulting from industrial, commercial, mining, and agricultural operations and from community activities, but does not include recovered materials; solid or dissolved materials in domestic sewage; solid or dissolved materials in irrigation return flows or industrial discharges that are point sources subject to permit under 33 U.S.C. Section 1342; or source, special nuclear, or byproduct material as defined by the federal Atomic Energy Act of 1954, as amended (68 Stat. 923).

Solid waste handling shall mean the physical or mechanical act of storing, collecting, transporting, treating, utilizing, processing, or disposing of solid waste or any combination of such activities.

Source-separated materials shall mean recyclable or leaf and limb materials are substantially separated from other solid waste and kept segregated in some form from solid waste.

Targeted materials list shall mean the list established by the director of solid waste of all recyclable materials that are to be collected by the franchisee. A copy of the list is available for public inspection in the Office of the Clerk of Commission and Office of the Director of Solid Waste. Such list, as amended from time to time, is incorporated into this ordinance by reference.

Tipping fee shall mean the fee to be charged upon delivery of solid waste, recyclable materials or leaf and limb materials to an Athens-Clarke County facility.

Transfer station shall mean a facility used to transfer solid waste from one (1) route collection vehicle to another bulk transfer vehicle or trailer for transportation to a disposal facility or landfill.

Volume-based fee system shall mean a fee system, used by the franchisee to charge customers for services, that meet requirements to encourage waste reduction, reuse, recycling and processing through reduced rates for smaller containers or numbers of containers of solid waste. The components of the fee system shall include a fixed monthly base charge plus a disposal charge based on the number and size of the containers.

(b) *Service categories.* Services provided to residential and commercial customers are defined below:

- (1) *Bag service.* Collection of solid waste contained in a sealed disposable bag.
- (2) *Backyard service.* Collection of solid waste from garbage cans, located adjacent to and at the side or rear of the structure being served. Receptacles shall not be located within the public right-of-way nor at any other locations readily visible from such public right-of-way, other than on scheduled collection days.
- (3) *Curbside service.* Collection of solid waste or recycling materials from garbage cans or recycling containers, respectively, located within 15 feet of the curb.
- (4) *Dead animals services.* Collection of a dead household pet or other small animal which is placed in a plastic bag outside the premises at the property boundary and/or curb, and disposing of same at a landfill.

- (5) *Dumpster service.* Collection of garbage or recycling materials from solid waste department approved dumpsters by a specially designed and compatible top-loading collection vehicle, dumping and returning dumpster to its authorized location.
 - (6) *Leaf and limb service.* Collection of bagged leaves and bundled limbs at preannounced times and places.
 - (7) *Roll cart service.* Collection of refuse and garbage or recycling materials from approved roll carts located adjacent to the structure or temporarily placed at the curb as specified by the franchisee.
 - (8) *Special/unscheduled service.* Nonroutine collection of furniture, moving boxes, auto parts, construction materials, leaf and limb, or solid waste weighing less than 100 pounds per item by the franchisee at the expense of the owner or occupant of the premises.
- (c) *Customer classification defined.* Customers of the franchisee shall be classified as either residential or commercial.
- (1) *Residential customers.* Single-family detached, duplex, and four-plex dwelling structures occupied by either an owner or tenant. All such residential customers within the Urban Service District (USD), as set forth in section 7-301(a) of the Charter, shall use the Athens-Clarke County Solid Waste Department as their franchisee for the collection and disposal of their garbage. All such residential customers within the Riverbend Parkway Urban Service District, as set forth in this Code, shall use the Athens-Clarke County Solid Waste Department as their franchisee for the collection and disposal of their garbage effective as of December 31, 2019.
 - (2) *Commercial locations.* Structures that house more than four families or businesses that are otherwise engaged in profit, nonprofit or public service activities. These structures include, but are not limited to, the following:
 - a. *Multifamily structures.* Multifamily structures include fraternity houses, sorority houses, hotels, motels, trailer parks, townhouses, and apartment or condominium complexes with more than four attached family dwelling units.
 - b. *Business structures.* Facilities housing wholesale and retail businesses that provide goods and services not otherwise defined in this chapter.
 - c. *Restaurant structures.* Eating establishments having seating capacity for their customers to consume food on the premises.
 - d. *Food concession structures or facilities.* Food concession structures or facilities including structures, stands, and carts from which fast food is purchased by individuals for consumption and which do not provide seating for customers.
 - e. *Industrial structures.* Structures which shelter employees, or clientele who are engaged in the manufacturing or processing of goods and materials.
 - f. *Institutional structures.* Facilities owned and/or operated by an organization having a governmental, educational, civic, or religious purpose such as a school, hospital, nursing home, correctional facility, church, or similar establishment or facility.
- (d) *Special customers defined.* Residential and commercial customers who request unscheduled services or services other than routine services. The franchisee shall have the right to accept or reject the performance of such unscheduled services and levy fees on a cost of service basis. The franchisee shall determine services and fees for special customers.

(Ord. of 4-4-95, § 1; Ord. of 6-3-97, § 1; Ord. of 2-3-2004, § 2; Ord. of 7-5-2006, § 1; Ord. of 4-7-2009, §§ 1, 2; Ord. of 11-7-2012, §§ 1, 2; Ord. of 11-7-2012, §§ 1, 2; Ord. of 11-5-2019(1), § 1)

Sec. 5-2-20. Abandonment of personal property within public rights-of-way.

Except as otherwise provided for by statute or ordinance, including but not limited to section 3-5-23 of the Code of Athens-Clarke County, whenever personal property remains on the driveways, streets, and sidewalks, alleys, rights-of-way, roadway shoulders, remnants of rights-of-way, or public areas within public rights-of-way within the confines of Athens-Clarke County for more than 9624 hours, said property shall be deemed to be abandoned and shall be disposed of by the appropriate department. Nothing in this section shall prevent immediate removal of items that reasonably appear to pose a threat to public safety.

(Ord. of 4-4-95, § 1)