

SUPPLEMENT NO. 1  
July 2007

**CODE**

**County of**

**BROOKS, GEORGIA**

**Looseleaf Supplement**

This Supplement contains all ordinances deemed advisable to be included at this time through:

**Ordinance of June 4, 2007.**

See the Code Comparative Table for further information.

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Insert and maintain this instruction sheet in front of this publication. File removed pages for reference.

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1700 Capital Circle, S.W.  
Tallahassee, FL 32316  
(850) 576-3171  
1-800-262-CODE  
Website: [www.municode.com](http://www.municode.com)



OC, CORRECTION 2  
January 2007

**CODE**

**County of**

**BROOKS, GEORGIA**

**Looseleaf Supplement**

This OC, Correction 2, is issued to revise pages appearing in the Brooks County Code. Please remove and insert pages as directed below.

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OC, CORRECTION  
November 2006

**CODE**

**County of**

**BROOKS, GEORGIA**

**Looseleaf Supplement**

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/first/pubdocs/mcc/3/13670\_takes\_tag\_mcc\_3\_btaylor

**CODE  
OF  
BROOKS COUNTY, GEORGIA**

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Published by Order of Board of Commissioners

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**M**  
**C** MUNICIPAL CODE CORPORATION  
Tallahassee, Florida 2006



OFFICIALS  
of  
BROOKS COUNTY, GEORGIA  
AT THE TIME OF THIS CODIFICATION

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Wayne Carroll, Chairman  
Claude Butler, Vice-Chairman  
James Maxwell, Commissioner  
Sanford L. Jones, Commissioner  
Howard Lawson, Commissioner  
*Board of Commissioners*

---

Robert D. O'Barr  
*County Administrator*

---

Vann K. Parrott  
*County Attorney*

---

Patricia A. Wright  
*County Clerk*



## PREFACE

This Code constitutes a codification of the general and permanent ordinances of Brooks County, Georgia.

Source materials used in the preparation of the Code were ordinances adopted by the board of commissioners. The source of each section is included in the history note appearing in parentheses at the end thereof. The absence of such a note indicates that the section is new and was adopted for the first time with the adoption of the Code. By use of the comparative tables appearing in the back of this Code, the reader can locate any ordinance included herein.

The chapters of the Code have been conveniently arranged in alphabetical order, and the various sections within each chapter have been provided catchlines for ease of use by readers. Notes which tie related sections of the Code together and which refer to relevant state law have been included. A table listing the state law citations and setting forth their location within the Code is included at the back of this Code.

### *Chapter and Section Numbering System*

The chapter and section numbering system used in this Code is the same system used in many state and local government codes. Each section number consists of two parts separated by a dash. The figure before the dash refers to the chapter number, and the figure after the dash refers to the position of the section within the chapter. Thus, the second section of chapter 1 is numbered 1-2, and the first section of chapter 6 is 6-1. Under this system, each section is identified with its chapter, and at the same time new sections can be inserted in their proper place by using the decimal system for amendments. For example, if new material consisting of one section that would logically come between sections 6-1 and 6-2 is desired to be added, such new section would be numbered 6-1.5. New articles and new divisions may be included in the same way or, in the case of articles, may be placed at the end of the chapter embracing the subject, and, in the case of divisions, may be placed at the end of the article embracing the subject. The next successive number shall be assigned to the new article or division. New chapters may be included by using one of the reserved chapter numbers. Care should be taken that the alphabetical arrangement of chapters is maintained when including new chapters.

### *Page Numbering System*

The page numbering system used in this Code is a prefix system. The letters to the left of the colon are an abbreviation which represents a certain portion of the volume. The number to the right of the colon represents the number of the page in that portion. In the case of a chapter of the Code, the number to the left of the colon indicates the number of the chapter. In the case of an appendix

to the Code, the letter immediately to the left of the colon indicates the letter of the appendix. The following are typical parts of codes of ordinances, which may or may not appear in this Code at this time, and their corresponding prefixes:

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LOCAL ACTS AND LOCAL CONSTITUTIONAL AMENDMENTS COMPARATIVE TABLE	LALCACT:1
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LOCAL ACTS AND LOCAL CONSTITUTIONAL AMENDMENTS INDEX	LALCAi:1
CODE INDEX	CDi:1

#### *Indexes*

The indexes have been prepared with the greatest of care. Each particular item has been placed under several headings, some of which are couched in lay phraseology, others in legal terminology, and still others in language generally used by local government officials and employees. There are numerous cross references within the indexes themselves which stand as guideposts to direct the user to the particular item in which the user is interested.

#### *Looseleaf Supplements*

A special feature of this publication is the looseleaf system of binding and supplemental servicing of the publication. With this system, the publication will be kept up-to-date. Subsequent amendatory legislation will be properly edited, and the affected page or pages will be reprinted. These new pages will be distributed to holders of copies of the publication, with instructions for the manner of inserting the new pages and deleting the obsolete pages.

Keeping this publication up-to-date at all times will depend largely upon the holder of the publication. As revised pages are received, it will then become the responsibility of the holder to have the amendments inserted according to the attached instructions. It is strongly recommended by the publisher that all such amendments be inserted immediately upon receipt to avoid misplacing them and, in addition, that all deleted pages be saved and filed for historical reference purposes.

### *Acknowledgments*

This publication was under the direct supervision of Roger D. Merriam, Senior Code Attorney, and Linda Watkins, Code Editor, of the Municipal Code Corporation, Tallahassee, Florida. Credit is gratefully given to the other members of the publisher's staff for their sincere interest and able assistance throughout the project.

The publisher is most grateful to the county staff for their cooperation and assistance during the progress of the work on this publication. It is hoped that his efforts and those of the publisher have resulted in a Code of Ordinances which will make the active law of the town readily accessible to all citizens and which will be a valuable tool in the day-to-day administration of the town's affairs.

### *Copyright*

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## Checklist of Up-to-Date Pages

(This checklist will be updated with the printing of each Supplement)

From our experience in publishing Looseleaf Supplements on a page-for-page substitution basis, it has become evident that through usage and supplementation many pages can be inserted and removed in error.

The following listing is included in this Code as a ready guide for the user to determine whether the Code volume properly reflects the latest printing of each page.

In the first column all page numbers are listed in sequence. The second column reflects the latest printing of the pages as they should appear in an up-to-date volume. The letters "OC" indicate the pages have not been reprinted in the Supplement Service and appear as published for the original Code. When a page has been reprinted or printed in the Supplement Service, this column reflects the identification number or Supplement Number printed on the bottom of the page.

In addition to assisting existing holders of the Code, this list may be used in compiling an up-to-date copy from the original Code and subsequent Supplements.

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**\*Editor's note**—This part is a compilation of available local acts and local constitutional amendments relating to the county. The source of each section is indicated by a history note. Obvious misspellings have been corrected without notation. For stylistic purposes, headings and catchlines have been added or made consistent with the new county Code. A consistent scheme of capitalization has also been used. Additions for clarity are indicated by brackets. In addition, the titles of acts, enacting clauses (including those present in sections) and legal status provisions, such as effective dates and repealers, have been deleted. The numbers in catchlines have been editorially supplied. Pursuant to O.C.G.A. § 36-5-20, in the various local acts compiled in this part, the title of the governing authority has been changed from board of commissioners of roads and revenues to board of commissioners. Pursuant to Ga. Const. (1976) art. VI, § VI, ¶ IV, "Ordinary," or "Ordinaries" or the words "Court of Ordinary" or "Courts of Ordinary" are changed to "Judge of the Probate Court" or "Judges of the Probate Court," as appropriate.

## BROOKS COUNTY CODE

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Sec. 333.	Costs.
Sec. 334.	Transfer of pending cases.
Sec. 335.	Criminal prosecutions.
Sec. 336.	Appeals.
Sec. 337.	Juries.
Sec. 338.	Judge.
Sec. 339.	Solicitor.
Sec. 340.	Solicitor pro tem.
Sec. 341.	Clerk.
Sec. 342.	Court reporter.

**ARTICLE I. IN GENERAL****Secs. 1—20. Reserved.****ARTICLE II. BOARD OF COMMISSIONERS****Sec. 21. Established.**

There shall be established a board of county commissioners in and for the County of Brooks, in this state.

(1880 Ga. Laws (Act No. 80), page 518, § I)

**Sec. 22. Members generally.**

(a) The board of commissioners of the county shall consist of five members. The members in office on the effective date of this section shall serve out the remainder of the terms for which they were elected; and their successors shall be elected as provided in this section.

(b) One member shall be elected from each of the five commissioner districts described in subsection (g) of this section. At the general election in 1984 and quadrennially thereafter there shall be elected one member from Commissioner District No. 4 and one member from Commissioner District No. 5. At the general election in 1986 and quadrennially thereafter there shall be elected one member from Commissioner District No. 1, one member from Commissioner District No. 2, and one member from Commissioner District No. 3.

(c) Each member of the board must be at least 25 years of age, must have been a resident of the county for a period of two years next preceding the beginning of his term, and must be a resident of the district he represents. Each member of the board shall be elected by majority vote and by only the voters of the district he represents.

(d) The terms of all members of the board shall be for four years and each such term shall begin on the first day of January next following the members election.

(e) Any vacancy on the board of commissioners shall be filled as provided by general law.

(f) Beginning with the first meeting of the board in January of 1985, a chairman shall be elected at the first meeting of the board in January of each year to serve until the election of his successor in January of the next year.

(g) The five districts for election of members of the board of commissioners of the county are described by the following boundaries:

**COMMISSIONER DISTRICT NO. 1**

Beginning within the City of Quitman, at the intersection of the centerline of U.S. Highway No. 84 with the centerline of Culpepper Street; and running north along the centerline of North Culpepper Street to its intersection with the centerline of East Davis Street; thence east along the centerline of East Davis Street to its intersection with the centerline of North Washington Street; thence north along the centerline of

North Washington Street to its intersection with the original boundary of the City of Quitman; thence east along the city boundary to its intersection with the west boundary line of lands annexed to the City of Quitman by Ordinance No. 155 (Hillsdale Heights Subdivision), a plat of said annex being recorded in Plat Book 5, Page 242, Records of the Clerk of the Superior Court of Brooks County, which is by reference incorporated herein as part of this description; thence northerly, easterly and southerly around the boundary of said annex to the original city boundary which is the intersection of the original boundary line with the west margin of Reddick Street (said annex being bounded on the west by State Route 33, north by the north original land lot line of lot No. 350 of the 12th Land District, and on the east by the City of Quitman Cemetery and Reddick Street); thence east along the northern boundary line of the City of Quitman to its intersection with the centerline of Ga. Highway No. 76; thence northeasterly along said centerline of said highway to its intersection with Okapilco Creek; thence north along Okapilco Creek to its intersection with Ga. Power Transmission line (Thomasville-Pine Grove transmission line); thence west along said transmission line to its intersection with the centerline of County Road No. S-1209 (Tallokas Road); thence north along the centerline of said road to its intersection with the centerline of Ga. Highway No. 122; thence east along the centerline of said highway to its intersection with the centerline of County Road No. 136; thence north along its centerline to its intersection with the Colquitt County line; thence west along the Colquitt-Brooks County line to its intersection with the Thomas County line; thence south along the Thomas-Brooks County line to its intersection with County Road No. 195; thence east along the centerline of said road to its intersection with the centerline of County Road No. 269 (Dry Lake Road); thence east along the centerline of said road to its intersection with the centerline of County Road No. 184; thence south along said centerline of said road to its intersection with the centerline of U.S. Highway No. 84; thence east along the centerline of said highway to its intersection with the centerline of Webster Street; thence north along centerline of said street to its intersection with the centerline of West Bartow Street; thence east along centerline of said street to its intersection with the centerline of North Warren Street; thence south along centerline of said street to its intersection with U.S. Highway No. 84 (Screven Street); thence east along centerline of said highway to its intersection with the centerline of Culpepper Street, the point of beginning.

#### COMMISSIONER DISTRICT NO. 2

Beginning within the City of Quitman at the intersection of the centerline of U.S. Highway No. 84 (Screven Street) with the centerline of the South Georgia Railroad right-of-way; thence north along said centerline of said railroad to its intersection with the northern boundary of the City of Quitman; thence east along the boundary of said city to its intersection with the centerline of Ga. Highway No. 76; thence northerly along said centerline of said road to its intersection with the centerline of County Road S1213 (Trouperville Road); thence easterly along the centerline of said road to its intersection with the centerline of County Road No. 14 (Julian Williams Road); thence

northerly along the centerline of said road to its intersection with County Road No. 30 (Crosby Town Road); thence north along the centerline of said road to its intersection with the centerline of County Road No. 3 (P. Lazarus Road); thence north along the centerline of said road to its intersection with the centerline of County Road No. 10; thence easterly along its centerline to its intersection with the centerline of State Highway No. 94, thence northwesterly along the centerline of said highway to its intersection with Downing Creek; thence easterly along Downing Creek to its intersection with Slaughter Creek and continuing east along the confluence of Slaughter and Downing Creeks to its intersection with the Lowndes County line; thence south along the Lowndes-Brooks County line (Little River and Withlacoochee River) to the Florida State line; thence east along the state line to its intersection with the Withlacoochee River; thence northerly and easterly along the Withlacoochee River back to the Florida State line; thence west along the Florida State line to its intersection with the centerline of U.S. Highway No. 221 (Greenville Highway); thence northerly and easterly along the centerline of said highway to its intersection with the boundary of the City of Quitman; thence easterly along the boundary of the City of Quitman to its intersection with the centerline of the South Ga. Railroad right-of-way; thence north along said centerline of said right-of-way to its intersection with the centerline of U.S. Highway No. 84, the point of beginning.

#### COMMISSIONER DISTRICT NO. 3

Beginning within the City of Quitman at the intersection of the centerline of U.S. Highway No. 84 with the centerline of Culpepper Street and running south along the centerline of South Culpepper Street to its intersection with the centerline of the Seaboard Coastline Railroad right-of-way to its intersection with the centerline of County Road No. S1212 (Grooverville Road); thence running southerly along said centerline of said road to its intersection with the centerline of County Road No. 91; thence running north along the centerline of said road to its intersection with the centerline of County Road No. 56 (Frank Groover Road); thence running west along the centerline of said road to its intersection with County Road No. 78 (B.T. Cook Road); thence running north along the centerline of said road to its intersection with County Road No. 58; thence running west along the centerline of said road to its intersection with the centerline of Georgia Highway No. 364; thence running along the centerline of said highway west to its intersection with the Thomas County line; thence running north along said Thomas-Brooks County line to its intersection with County Road No. 195; thence east along the centerline of said road to its intersection with the centerline of County Road No. 269 (Dry Lake Road); thence east along the centerline of said road to its intersection with the centerline of County Road No. 184; thence south along said centerline of said road to its intersection with the centerline of U.S. Highway No. 84; thence east along the centerline of said highway to its intersection with the centerline of Webster Street; thence north along said centerline of said street to its intersection with the centerline of West Bartow Street; thence east along the centerline of said street to its intersection with the centerline of North Warren Street; thence south

along said centerline of said street to its intersection with U.S. Highway No. 84 (Screven Street); thence east along said centerline of said highway to its intersection with the centerline of Culpepper Street, the point of beginning.

#### COMMISSIONER DISTRICT NO. 4

Beginning at the intersection of the centerline of State Highway No. 76 and Okapilco Creek; thence north along Okapilco Creek to its intersection with Ga. Power Transmission line (Thomasville-Pine Grove transmission line); thence west along said transmission line to its intersection with the centerline of County Road No. S-1209 (Tallokas Road); thence north along said centerline of said road to its intersection with the centerline of Ga. Highway No. 122; thence east along the centerline of said highway to its intersection with the centerline of County Road No. 136; thence north along its centerline to its intersection with the Colquitt County line; thence east and north along the Colquitt-Brooks County line to its intersection with the Cook County line (Little River); thence southeasterly along the Cook-Brooks County line to its intersection with the Lowndes County line; thence along the Lowndes-Brooks County line to its intersection the confluence of the Slaughter and Downing Creeks; thence westerly along said creek to the fork of Downing Creek; thence westerly along Downing Creek to its intersection with the centerline of State Highway No. 94; thence south along said road to its intersection with the centerline of County Road No. 10 (Pauline Church Road); thence southerly along the centerline of said road to its intersection with the centerline of County Road No. 3 (P. Lazarus Road); thence south along the centerline of said road to its intersection with the centerline of County Road No. 30 (Crosby Town Road); thence southerly along the centerline of said road to its intersection with the centerline of County Road No. 14 (Julian Williams Road); thence south along the centerline of said road to its intersection with the centerline of County Road No. S1213 (Trouperville Road); thence southwesterly along the centerline of said road to its intersection with the centerline of State Highway No. 76; thence southerly along its centerline to the Okapilco Creek, the point or place of beginning.

#### COMMISSIONER DISTRICT NO. 5

Beginning within the City of Quitman, at the intersection of the centerline of U.S. Highway 84 with the centerline of Culpepper Street; and running north along the centerline of North Culpepper Street to its intersection with the centerline of East Davis Street; thence east along the centerline of East Davis Street to its intersection with the centerline of North Washington Street; thence north along the centerline of North Washington Street to its intersection with the original boundary of the City of Quitman; thence east along the city boundary to its intersection with the west boundary line of lands annexed to the City of Quitman by Ordinance No. 155 (Hillsdale Heights Subdivision), a plat of said annex being recorded in Plat Book 5, Page 242, Records of the Clerk of the Superior Court of Brooks County, which is by reference incorporated herein as part of this description; thence northerly, easterly and southerly around the boundary of said annex to the original city boundary which is the intersection of the original boundary line with the west margin of Reddick Street (said

annex being bounded on the west by State Route 33, north by the north original land lot line No. 350 of the 12th Land District, and on the east by the City of Quitman Cemetery and Reddick Street); thence east along the northern boundary of the City of Quitman to its intersection with the centerline of the South Georgia Railroad right-of-way; thence south along the centerline of said right-of-way to its intersection with the southern boundary of the City of Quitman; thence westerly along the boundary of said city to its intersection with the centerline of U.S. Highway No. 221 (Greenville Highway); thence southerly along the centerline of said highway to its intersection with the Florida State line; thence west along said state line to its intersection with the Thomas County line; thence north along the Thomas-Brooks line to its intersection with the centerline of State Highway 364; thence east along said highway centerline to its intersection with the centerline of County Road No. 58; thence easterly along said centerline to its intersection with the centerline of County Road No. 78 (B.T. Cook Road); thence south along the centerline of said road to its intersection with the centerline of County Road No. 56 (Frank Groover Road); thence south along the centerline of said road to its intersection with the centerline of County Road No. 91; thence south along the centerline of said road to its intersection with the centerline of County Road No. S1212 (Grooverville Road); thence northeasterly along the centerline of said road to its intersection with the centerline of the Seaboard Coastline Railroad right-of-way; thence east along the centerline of said right-of-way to its intersection with the centerline of South Culpepper Street; thence north along the centerline of said street to its intersection with the centerline of U.S. Highway No. 84 (Screven Street), the point or place of beginning.

(1880 Ga. Laws (Act No. 80), page 518, § 2; 1968 Ga. Laws (Act No. 777), page 2397, § 1; 1984 Ga. Laws (Act No. 613), page 3680, § 1)

### **Sec. 23. Compensation.**

The board of county commissioners of the county shall determine the compensation of the chairman and members of the board except that the salary of the chairman shall not exceed \$600.00 per month and the salary of each of the other members of the board shall not exceed \$400.00 per month.

(1955 Ga. Laws (Act No. 197), page 2615, § 1(2A); 1985 Ga. Laws (Act No. 71), page 3706, § 1; 1989 Ga. Laws (Act No. 79), page 3938, § 1)

**State law reference**—Compensation of county governing authorities, O.C.G.A. § 36-5-24.

### **Sec. 24. Powers and duties relative to public property.**

Said board be, and it is hereby, invested exclusively with all the powers and duties of the County Judge of Brooks County, so far as relates to roads, bridges, ferries, public buildings, and other property belonging to said County of Brooks, the management of the county jail and its fees, the care and maintenance of paupers, the assessing and collection of taxes, the

disbursing of public money for county purposes, and the execution of all laws in reference thereto, and so far as the same shall relate to all other county matters over which the inferior court had jurisdiction at the time it was abolished.

(1880 Ga. Laws (Act No. 80), page 518, § III)

**State law reference**—General jurisdiction of county governing authority, O.C.G.A. § 36-5-22.1.

### **Sec. 25. Approval of claims.**

The board of commissioners shall audit and pass upon all claims for and against the county, and the county treasurer of said county shall obey and respect all orders for money, ordered to be paid out by the board; all orders for payment of money shall be signed by the chairman of said board.

(1880 Ga. Laws (Act No. 80), page 518, § IV)

### **Sec. 26. Meetings.**

Said board shall meet at the courthouse in Quitman, said county, on the first Tuesday of the month immediately following the approval of this act [article], for organization, and if for any cause they do not meet on said first Tuesday, then as soon thereafter as practicable; that said board shall elect one of their number as chairman, whose duty it shall be to preside at all meetings of said board, to approve and sign the minutes of each meeting, and to sign all orders and processes of said board. In the absence of such regular chairman the members [elects] one of their number as chairman pro tem., which selection shall appear upon the minutes of that meeting. Said board shall hold regular monthly sessions at the county-site of Brooks County, the time of such monthly session to be fixed at their first meeting, and the time so fixed shall not be changed, except after giving thirty days notice in the paper in which the official advertisements of the county are published, of the time to which the same will be changed. Said board may meet in extra session whenever the public necessity may require it.

(1880 Ga. Laws (Act No. 80), page 518, § V)

### **Sec. 27. Clerk.**

Said board shall appoint, at the regular December meeting of each year, some suitable person as clerk, whose term of office shall be from January 1 through December 31st of each year following that in which he is appointed, unless sooner removed by said board for neglect of duty or malpractice in office, and whose compensation shall be fixed by said board, at said December meeting, to be paid in equal monthly installments out of the county funds as other claims. Such appointee shall qualify as such clerk upon his giving surety bond for \$5,000.00 payable to the board of commissioners for the faithful discharge of his duties as clerk, the premium on said bond to be paid from county funds. It shall be the duty of such clerk to attend all the meetings of said board, and to enter in a well bound book, to be provided at the expense of the county, full and accurate record and minutes of all the transactions of said board; to preserve and file, in the order of their dates, all original orders and papers belonging to said board; to arrange and keep, in the order of their filing, all applications, petitions, or other

papers addressed to said board, and to enter in a book to be kept exclusively for that purpose, all orders for the payment of money passed by said board, and within five days after each regular or call session of said board, said clerk shall furnish the treasurer of said county with an abstract of all orders passed for the payment of money by said board, which abstract shall state the particular fund out of which each order is payable. All books, files and records required by this act to be kept, shall always be open, at the county site of Brooks County, for the inspection of the taxpayers of said county.

(1880 Ga. Laws (Act No. 80), page 518, § VI; 1917 Ga. Laws (Act No. 100), page 312, § 1; 1957 Ga. Laws (Act No. 335), page 3269, § 1; 1963 Ga. Laws (Act No. 178), page 2585, § 1)

**Sec. 28. Oath and annual report.**

Said commissioners, before entering upon their duties, shall each take and subscribe before the judge of the probate court of said county, an oath to faithfully and impartially discharge the duties of their office, which oath shall be filed in the office of said judge of the probate court. Said board shall prepare and submit, through its chairman to the grand jury of said county, at the spring term in each year, a complete statement in writing of the condition of the county property, paupers, and finances. Said board shall, when sitting, have the same power to punish for contempt that is now exercised by judges of the probate court, and shall also have power to compel, by subpoena and attachment, the attendance of witnesses, and to require the sheriff of said county to attend the sittings of said board, and to serve all processes and notices issued by said board, and for serving such notices and processes said sheriff shall receive the same compensation as is allowed by law for like service in the superior court.

(1880 Ga. Laws (Act No. 80), page 518, § VII)

**Secs. 29—50. Reserved.**

### ARTICLE III. OTHER COUNTY OFFICERS

#### DIVISION 1. GENERALLY

**Sec. 51. Office of county treasurer abolished.**

From and after January 1, 1917, the office of county treasurer shall be abolished, and such office shall from and after that date cease to exist.

(1916 Ga. Laws (Act No. 366), page 365, § 1)

**State law reference**—Office of county treasurer may be abolished by act, O.C.G.A. § 36-6-1.

**Secs. 52—70. Reserved.**

## DIVISION 2. PROBATE JUDGE\*

**Sec. 71. Fee system abolished; annual salary to be provided.**

Effective July 1, 1983, the method of compensating the judge of the Probate Court of Brooks County known as the fee system is abolished and in lieu thereof an annual salary for such officer is prescribed as hereinafter provided.

(1983 Ga. Laws (Act No. 378), page 4266, § 1)

**Sec. 72. Salary fixed.**

(a) Effective July 1, 1983, the judge of the Probate Court of Brooks County shall receive an annual salary of not less than the greater of the minimum salary provided in Chapter 9 of Title 15 of the O.C.G.A. [O.C.G.A. § 15-9-1 et seq.] or \$19,500.00.

(b) In the event there is a vacancy in the office of judge of the Probate Court of Brooks County, the county commissioners of Brooks County shall, prior to the vacancy being filled, determine the supplement, if any, to be paid to the judge of the probate court for the remainder of that calendar year. Thereafter, the county commissioners shall set the supplement in accordance with subsection (c) of this section.

(c) On and after July 1, 1983, the county commissioners of Brooks County may supplement the compensation of the probate judge. The amount of such supplement, if any, to be paid from July 1 to December 31, 1983, shall be determined by the county commissioners prior to July 1, 1983. Thereafter the county commissioners shall in December of each year determine the amount of such supplement, if any, to be paid during the following calendar year.

(d) The annual salary and supplement provided for by this act [division] shall be paid in equal biweekly installments from the funds of Brooks County and shall be the sole compensation of the judge of the probate court.

(1985 Ga. Laws (Act No. 72), page 3708, § 2)

**State law reference**—Compensation of probate judge, O.C.G.A. § 15-9-63 et seq.

**Sec. 73. Fees, etc., to become county property.**

Effective July 1, 1983, the judge of the probate court shall diligently and faithfully undertake to collect all fees, fines, forfeitures, commissions, cost allowances, penalties, and funds formerly allowed him as compensation for services in any capacity and shall receive and hold the same in trust for said county as public moneys and shall pay the same into the county treasury on or before the tenth day of each month next following the month in which they were collected or received. At the time of each such monthly payment into the county treasury, the judge of the probate court shall furnish the governing authority of the county a detailed,

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\***State law reference**—Probate courts, O.C.G.A. § 15-9-1 et seq.

itemized statement, under oath, of all such funds received during the preceding month by such officer and paid into the county treasury. The statement shall show the respective amounts of money collected and the source thereof.

(1985 Ga. Laws (Act No. 72), page 3708, § 3)

**Sec. 74. Clerk and salary thereof.**

The judge of the probate court shall have the authority to appoint one clerk who shall receive a monthly salary of not less than \$598.00 per month, payable in equal biweekly installments, the exact amount to be determined by the governing authority of the county, with an annual increase at the sole discretion of the probate judge and governing authority. The judge of the probate court shall have the authority to hire such additional help, as he and the governing authority shall agree upon. It shall be within the sole power and authority of the judge of the probate court, during his term of office, to designate and name the person or persons who shall be employed as clerk, to prescribe the duties and assignment of such clerk, and to remove or replace such clerk at will and within his sole discretion.

(1985 Ga. Laws (Act No. 72), page 3708, § 4)

**Sec. 75. Expenses.**

Necessary operating expenses of the judge of the probate courts office, expressly including the compensation of all personnel and employees, shall be paid from any funds of the county available for such purpose. All supplies, materials, furnishings, furniture, telephones, utilities, and equipment, and the repair, replacement, and maintenance thereof, as may be reasonably required in discharging the official duties of said office, shall be furnished by the county and shall be paid from any funds of the county available for such purpose. The determination of such requirements shall be at the sole discretion of the judge of the probate court and the governing authority of Brooks County.

(1985 Ga. Laws (Act No. 72), page 3708, § 5)

**Secs. 76—96. Reserved.**

**DIVISION 3. COUNTY SHERIFF**

**Sec. 97. Chief deputy.**

(a) The sheriff shall, if he deems it necessary to effectively discharge the official duties of his office, have authority to appoint a chief deputy.

(b) The chief deputy shall be compensated monthly at a rate based on an annual salary scale determined within the discretion of the county governing authority and shall be paid from the funds of Brooks County.

(1966 Ga. Laws (Act No. 63), page 2166, § 4; 1972 Ga. Laws (Act No. 1010), page 2560, § 1; 1977 Ga. Laws (Act No. 557), page 3961, § 1)

**Sec. 98. Fixing amount of salary of sheriff and chief deputy.**

The exact amount of the annual salary of the sheriff, and the salary of the chief deputy as above set out, shall be fixed by the governing authority of Brooks County, except that during the present sheriffs term the sheriffs salary shall be \$9,000.00 per annum; however, at a date no sooner than 90 days, and no later than 60 days immediately prior to the holding of the next general primary in which candidates may qualify for the office of sheriff of Brooks County, and for each term thereafter, the governing authority of said county shall determine and publish the salary schedule of the sheriff, and the chief deputy. The salaries as determined shall not be diminished thereafter during the term of office of the sheriff, but may be increased by unanimous vote of the board of commissioners of said county, if otherwise permissible under the terms of this act.

(1966 Ga. Laws (Act No. 63), page 2166, § 5)

**State law reference**—Minimum salary of sheriff, O.C.G.A. § 15-16-20.

**Sec. 99. Employment powers of sheriff.**

It shall be within the sole power and authority of the sheriff during his term of office, to designate and name the personnel to be employed by his office, and to remove or replace any such employee at his will and within his sole authority. The sheriff shall be authorized to employ such additional personnel, as the governing authority of Brooks County may deem necessary for the efficient management and operation of the sheriffs office.

(1966 Ga. Laws (Act No. 63), page 2166, § 6; 1972 Ga. Laws (Act No. 1010), page 2560, § 2)

**Sec. 100. Vehicles.**

(a) The county shall furnish a suitable vehicle to the sheriff and also his chief deputy, and pay the expenses of operating and maintaining the same, for use in the performance of official duties, all from county funds as might be required from time to time.

(b) All necessary materials and supplies for operating the sheriffs office, the necessity of which shall be left to the sole discretion of the governing authority shall be paid from funds of said county.

(1966 Ga. Laws (Act No. 63), page 2166, § 7)

**Sec. 101. Prisoners.**

The county shall pay all necessary expenses incurred in the keeping of jail inmates. The sheriff shall receive from county funds, for each prisoner confined in the county jail, an amount to be fixed by the board of commissioners of Brooks County to feed said prisoners.

(1966 Ga. Laws (Act No. 63), page 2166, § 8; 1976 Ga. Laws (Act No. 1053), page 3113, § 1)

**Secs. 102—122. Reserved.**

## DIVISION 4. CLERK OF THE SUPERIOR COURT

**Sec. 123. Fee system abolished; salary required.**

Effective April 1, 1984, the method of compensating the clerk of the Superior Court of Brooks County known as the fee system is abolished and in lieu thereof an annual salary for such officer is prescribed as provided in this act [division].

(1984 Ga. Laws (Act No. 618), page 3724, § 1)

**Sec. 124. Determination of salary.**

(a) Effective April 1, 1984, the clerk of the Superior Court of Brooks County shall receive an annual salary to be fixed by the board of commissioners of Brooks County at not less than the minimum salary provided in Article 2 of Chapter 6 of Title 15 of the Official Code of Georgia Annotated [O.C.G.A. § 15-6-50 et seq.].

(b) The annual salary provided for by this act [division] shall be paid in equal biweekly installments from the funds of Brooks County and shall be the sole compensation of the clerk of the Superior Court.

(1993 Ga. Laws (Act No. 377), page 5124, § 2)

**Sec. 125. Fees, fines, etc., to go to county.**

Effective April 1, 1984, the clerk of the Superior Court shall diligently and faithfully undertake to collect all fees, fines, forfeitures, commissions, costs, allowances, penalties, and funds formerly allowed the clerk as compensation for services in any capacity and shall receive and hold the same in trust for Brooks County as public moneys and shall pay the same into the county treasury on or before the tenth day of each month next following the month in which they were collected or received. At the time of each such monthly payment into the county treasury, the clerk of the Superior Court shall furnish the governing authority of the county a detailed, itemized statement, under oath, of all such funds received during the preceding month by such officer and paid into the county treasury. The statement shall show the respective amounts of money collected and the source thereof.

(1993 Ga. Laws (Act No. 377), page 5124, § 3)

**Sec. 126. Deputy clerk.**

The clerk of the Superior Court shall have the authority to appoint one deputy clerk who shall receive a weekly salary of not less than \$200.00 per week, payable weekly, the exact amount to be determined by the governing authority of the county, with an annual increase at the sole discretion of the clerk of the Superior Court and the governing authority. The clerk of the Superior Court shall have the authority to hire such additional help as the clerk and the governing authority shall agree upon. It shall be within the sole power and authority of the clerk of the Superior Court, during the term of office, to designate and name the person or

persons who shall be employed as deputy clerk, to prescribe the duties and assignment of such deputy clerk, and to remove or replace such deputy clerk at will and within the clerks sole discretion.

(1993 Ga. Laws (Act No. 377), page 5124, § 4)

**Sec. 127. Office expenses.**

The necessary operating expenses of the office of the clerk of the Superior Court, expressly including the compensation of all personnel and employees, shall be paid from any funds of the county available for such purpose. All supplies, materials, furnishings, furniture, telephones, utilities, and equipment and the repair, replacement, and maintenance thereof, as may be reasonably required in discharging the official duties of said office, shall be furnished by the county and shall be paid from any funds of the county available for such purpose. The determination of such requirements shall be at the sole discretion of the clerk of the Superior Court and the governing authority of Brooks County.

(1993 Ga. Laws (Act No. 377), page 5124, § 5)

**Secs. 128—148. Reserved.**

**DIVISION 5. LAW ENFORCEMENT OFFICERS**

**Sec. 149. Inactive police authorized.**

The board of commissioners of Brooks County, Georgia, or whatever governing authority that may have control of the fiscal affairs of the county, is authorized and directed to create and/or continue the job of inactive county policemen for any person who has served as a law-enforcing officer in Brooks County, Georgia, and has been totally disabled in line of duty.

(1985 Ga. Laws (Act No. 72), page 3708, § 3)

**Sec. 150. Blindness defined.**

Blindness is construed to mean total disability for the purpose of this act [division].

(1985 Ga. Laws (Act No. 72), page 3708, § 3)

**Sec. 151. Temporary disability payments.**

Any law-enforcing officer who is or has been totally disabled in line of duty shall receive a sum of \$100.00 per month until such time as such law-enforcing officer shall become qualified to receive and receives compensation or benefits under any act of the General Assembly of Georgia, providing benefits for the peace officers of Georgia.

(1985 Ga. Laws (Act No. 72), page 3708, § 3)

**Secs. 152—172. Reserved.**

## DIVISION 6. TAX COMMISSIONER

**Sec. 173. Offices of tax receiver and tax collected consolidated.**

The offices of tax receiver and tax collector of Brooks County, Georgia, are hereby consolidated into one office on January 1, 1953.

(1952 Ga. Laws (Act No. 651), page 2402, § 1)

**Sec. 174. Office of tax commissioner created.**

The office of tax commissioner of Brooks County, Georgia, is hereby created in lieu of said abolished offices, and that the rights, duties and liabilities of the said office of tax commissioner of Brooks County shall be the same as the rights, duties and liabilities of the tax receiver and tax collector of said county and that all laws applicable to said offices shall be applicable to the tax commissioner of said county, so far as same can apply.

(1952 Ga. Laws (Act No. 651), page 2402, § 2)

**Sec. 175. No travel required.**

The tax commissioner shall not be required to leave his office or to make rounds for the purpose of receiving returns or collecting taxes.

(1959 Ga. Laws (Act No. 312), page 3013, § 1(2A))

**Sec. 176. Prior taxes and fi. fas.**

The taxes now due and payable, and all tax fi. fas. heretofore issued by the tax collector of Brooks County, Georgia, shall have full force and effect and be collectible as issued.

(1952 Ga. Laws (Act No. 651), page 2402, § 3)

**Sec. 177. Fees to be paid to board of commissioners.**

All fees, commissions and all other compensation now allowed to the tax receiver and tax collector of Brooks County, Georgia, from both state, county and special taxes shall be collected by the tax commissioner and paid into the county depository of said county and the same shall be placed to the credit of the board of commissioners for Brooks County.

(1952 Ga. Laws (Act No. 651), page 2402, § 4)

**Sec. 178. First election; term of office.**

The first election of county tax commissioner of Brooks County shall be held at the same time and under the same laws as other county officers are now elected at the general election for county officers in the year 1952, and quadrennially thereafter, and that the person so elected shall enter upon the duties of the office hereby created on January 1, 1953, and shall serve for a term of four years. If a vacancy shall occur, then the office shall be filled in the same manner as vacancies are filled in other county offices.

(1952 Ga. Laws (Act No. 651), page 2402, § 5)

**State law reference**—Election of tax commissioner, O.C.G.A. § 48-2-210.

**Sec. 179. Oath and bond.**

Before entering upon the duties of his office the said county tax commissioner shall take the oath now prescribed by law for the tax receiver and tax collector and shall give bond as now required of the tax collector, the cost of said bond to be paid by the board of commissioners for Brooks County.

(1952 Ga. Laws (Act No. 651), page 2402, § 7)

**Secs. 180—200. Reserved.****ARTICLE IV. QUITMAN-BROOKS COUNTY AIRPORT AUTHORITY****Sec. 201. Short title.**

This act [article] may be cited as the Quitman-Brooks County Airport Authority Act.  
(1971 Ga. Laws (Act No. 593), page 3402, § 1)

**Sec. 202. Definitions.**

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

- (a) The word authority shall mean the Quitman-Brooks County Airport Authority as created by the provisions of this act [article].
- (b) The word project shall be deemed to mean and include the acquisition, construction, equipping, maintenance, improving and operation of public airports and landing fields for the use of aircraft, and related buildings and the usual and convenient facilities appertaining to such undertakings and extensions and improvements of such facilities, acquiring the necessary property, both real and personal, and the lease and sale of any part or all such facilities, including real and personal property so as to assure the efficient and proper development, maintenance and operation of such airports, and landing fields for the use of aircraft, deemed by the authority to be necessary, convenient or desirable.
- (c) The term cost of project shall embrace the cost of construction, the cost of all lands, properties, rights, easements and franchises acquired, the cost of all machinery, equipment, financing charges, interest prior to and during construction, the cost of engineering, architectural, fiscal and legal expenses, and the cost of plans and specifications, and such other expenses as may be necessary or incident to the financing herein authorized, the construction of any project and improving the same, and the placing of the same in operation. Any obligation or expense incurred for any of the foregoing purposes shall be regarded as a part of the cost of the project and may be paid or reimbursed as such out of any funds of the authority including the proceeds from any revenue bonds issued under the provisions of this act [article] for any such project or projects.

- (d) The terms revenue bonds, bonds, and obligations as used in this act [article], shall mean revenue bonds as defined and provided for in the Revenue Bond Law [O.C.G.A. § 36-82-60 et seq.], approved February 14, 1957 (Ga. L. 1957, p. 36), as amended, amending the law formerly known as the Revenue Certificate Law of 1937, approved March 31, 1937 (Ga. L. 1937, p. 761), as amended; and such type of obligations may be issued by the authority as authorized under said Revenue Bond Law and any amendments thereto, and in addition shall also mean obligations of the authority the issuance of which are hereinafter authorized in this act [article].
- (e) Any project shall be deemed self-liquidating, if, in the judgment of the authority, the revenues and earnings to be derived by the authority therefrom and all properties used, leased and sold in connection therewith will be sufficient to pay the cost of operating, maintaining and repairing, improving and extending the project and to pay the principal and interest of the revenue bonds which may be issued to finance, in whole or in part, the cost of such project or projects.

(1971 Ga. Laws (Act No. 593), page 3402, § 6)

**Sec. 203. Created; general status and powers.**

There is hereby created a body corporate and politic to be known as the Quitman-Brooks County Airport Authority, which shall be deemed to be a political subdivision of the State of Georgia and a public corporation by that name, style and title, and said body may contract and be contracted with, sue and be sued, implead and be impleaded, complain and defend in all courts of law and equity, except that the authority or the trustee acting under the trust indenture herein provided for shall in no event be liable for any torts committed by any of the officers, agents and employees of the authority. The authority shall have perpetual existence.

(1971 Ga. Laws (Act No. 593), page 3402, § 2)

**Sec. 204. Membership.**

The Quitman-Brooks County Airport Authority shall be composed of seven members. One member shall be appointed by the mayor and city commissioners of the City of Quitman from among the members thereof. One member shall be appointed by the board of commissioners of Brooks County from among the members thereof. One member shall be appointed by the Brooks County legislative delegation to the General Assembly of Georgia from among the members thereof. Two members shall be appointed by the mayor and commissioners of the City of Quitman from among the citizens of said city. Two members shall be appointed by the board of commissioners of Brooks County from among the citizens thereof. All members shall hold a term of office of four years, and until their successors are duly appointed and qualified. Any member appointed by the mayor and commissioners of the City of Quitman, the board of commissioners of Brooks County, or the Brooks County legislative delegation to the general assembly, from among the members thereof, who shall cease to be a member of such body, shall immediately vacate his membership on said authority, and said vacancy shall be filled by the appropriate appointing body. Any person appointed to fill a vacancy on the authority, occurring due to death, resignation, withdrawal, disqualification or otherwise, shall serve for the

unexpired term of the person whose membership has been vacated. Initial members shall be appointed within 30 days following the effective date of this act [article] and shall serve for an initial term expiring on July 1, 1975. Thereafter all members shall take office on July 1 following their appointment.

(1971 Ga. Laws (Act No. 593), page 3402, § 3)

**Sec. 205. Meetings.**

The authority shall hold their first regular meeting after this act [article] becomes effective, and the first regular meeting of each year thereafter shall be in July. The authority shall meet at such times as may be necessary to transact the business coming before it, but not less than quarterly. At its first meeting in July of each year thereafter, the authority shall elect one of its members as its chairman and another member as secretary-treasurer. Only one person shall hold the office of secretary-treasurer. These officers shall be elected for a term ending on June 30th of the year following the year in which they were elected or until their successors are elected and qualified. Four members of the authority shall constitute a quorum for the transaction of all business coming before it. The members of the authority shall receive no compensation for their services. They shall be reimbursed, however, for all actual expenses incurred in the performance of their duties.

(1971 Ga. Laws (Act No. 593), page 3402, § 4)

**Sec. 206. Vacancies in office.**

In the event of a vacancy on the authority by reason of death, resignation or otherwise, the vacancy shall be filled in the same manner in which the member vacating his membership was appointed to membership, and the person so appointed shall serve for the remainder of the unexpired term.

(1971 Ga. Laws (Act No. 593), page 3402, § 5)

**Sec. 207. Powers.**

The authority shall have the following powers:

- (a) To have a seal and alter the same at pleasure;
- (b) To acquire by purchase, lease or otherwise, and to hold, lease, and dispose of real and personal property of every kind and character for its corporate purposes;
- (c) To acquire in its own name by purchase, gift or otherwise, on such terms and conditions and in such manner as it may deem proper, real property or rights of easements therein or franchise necessary or convenient for its corporate purposes, and to use the same so long as its corporate existence shall continue, and to lease or make contracts with respect to the use of, or disposition of, the same in any manner it deems to be the best advantage of the authority;
- (d) To appoint, select and employ officers, agents and employees including engineering, architectural and construction experts, fiscal agents and attorneys, and fix their respective compensation;

- (e) To make contracts, leases and to execute all instruments necessary or convenient, including contracts for construction of projects or lease of projects or contracts with respect to the use of projects which it causes to be erected or acquired, and any and all persons, firms and corporations and any and all political subdivisions, departments, institutions, or agencies of the state are hereby authorized to enter into contracts, leases or agreements with the authority upon such terms and for such purposes as they may deem advisable. The said authority is further granted the authority to make contracts and leases and to execute all instruments necessary or convenient, with the United States Government or any agency or department thereof concerning the projects of the authority, subject to the rights and interests of the holder of any of the bonds or obligations authorized to be issued hereunder, and by the resolution or trust indenture of the authority authorizing the issuance of any of its bonds or obligations as provided in section 221 of this act [article];
- (f) To construct, erect, acquire, own, repair, remodel, maintain, add to, extend, improve, equip, operate and manage projects, as hereinabove defined, the cost of any such project to be paid in whole or in part from the proceeds of revenue bonds or other funds of the authority or from such proceeds or other funds and any grant from the United States of America or any agency or instrumentality thereof;
- (g) To accept loans and grants, or to accept loans or grants of money or materials or property of any kind from the United States of America or any agency, instrumentality or political subdivision thereof or from any other source, upon such terms and conditions as the United States of America or such agency, instrumentality or other source may impose;
- (h) To accept loans and grants, or to accept loans or grants of money or materials or property of any kind from the State of Georgia or any agency, instrumentality or political subdivision thereof or from any other source, upon such terms and conditions as the State of Georgia or such agency, instrumentality or political subdivision or any other source may impose;
- (i) To borrow money for any of its corporate purposes, to execute evidences of such indebtedness and to secure the same, and to issue negotiable revenue bonds payable solely from funds pledged for that purpose, and to provide for the payment of the same and for the rights of the holders thereof;
- (j) To exercise any powers usually possessed by private corporations performing similar functions, which are not in conflict with the constitution and laws of this state;
- (k) The authority and the trustee acting under the trust indenture are specifically authorized to sell, lease, grant, exchange or otherwise dispose of any surplus property, both real or personal, or interest therein, not required in the normal operation of the authority and usable in the furtherance of the purpose for which the authority was created, except as such right and power may be limited as provided in section 203 and section 221 hereof;

(l) To do all things necessary or convenient to carry out the powers especially given in this act [article].

(1971 Ga. Laws (Act No. 593), page 3402, § 7)

**Sec. 208. Revenue bonds.**

The authority, or any authority or body which has succeeded, or which may in the future succeed, to the powers, duties and liabilities vested in the authority created hereby, shall have the power, and is hereby authorized, to provide by resolution for the issuance of negotiable revenue bonds, for the purpose of paying all or any part of the cost as herein defined of any one or more projects. The principal and interest of such revenue bonds shall be payable solely from the special fund herein provided for such payment. The bonds of each issue shall be dated, shall bear interest at such rate or rates as may be authorized by the authority, shall be payable semiannually, shall mature at such time or times not exceeding thirty years from their date or dates, shall be payable in such medium of payment as to both principal and interest as may be determined by the authority, and may be made redeemable before maturity at the option of the authority, at such price or prices and under such terms and conditions as may be fixed by the authority in the resolution providing for the issuance of the bonds. Such revenue bonds or obligations shall be issued pursuant to, and in conformity with, the Revenue Bond Law [O.C.G.A. § 36-62-80 et seq.], approved February 14, 1957 (Ga. L. 1957, p. 36), amending the law formerly known as the Revenue Certificate Law of 1937, approved March 31, 1937 (Ga. L. 1937, p. 761), as amended. All procedures pertaining to such issuance and the conditions thereof shall be the same as those contained in said Revenue Bond Law and any amendments thereto.

(1971 Ga. Laws (Act No. 593), page 3402, § 8)

**Sec. 209. Form, denominations, registration, place of payment.**

The authority shall determine the form of the bonds and the place or places of payment of principal thereto, and shall fix the denomination or denominations of the bonds and the place or places of payment of principal and interest thereof, which may be at any bank or trust company within or without the state. The bonds may be issued in coupon or registered form, or both. The authority may make provisions for the registration of any coupon bond, as to principal alone, or to both the principal and interest.

(1971 Ga. Laws (Act No. 593), page 3402, § 9)

**Sec. 210. Signatures, seal.**

In case any officer whose signature shall appear on any bonds, or whose facsimile signature shall appear on any coupon, shall cease to be such officer before the delivery of such bonds, such signature shall nevertheless be valid and sufficient for all purposes the same as if he had remained in office until such delivery. All such bonds shall be signed by the chairman of the authority and attested by the secretary-treasurer of the authority, and the official seal of the authority shall be affixed thereto. Any coupons attached thereto shall bear the facsimile signatures of the chairman and secretary-treasurer of the authority. Any bond may be signed,

sealed and attested on behalf of the authority by such persons as shall be duly authorized or hold the proper office, at the actual time of the execution of such bonds, although such persons may not have been so authorized or shall not have held such office on the date of delivery and payment of such bonds.

(1971 Ga. Laws (Act No. 593), page 3402, § 10)

**Sec. 211. Negotiability, exemption from taxation.**

All revenue bonds issued under the provisions of this act [article] shall have, and are hereby declared to have, all the qualities and incidents of negotiable instruments under the negotiable instruments law of the state. Such bonds are declared to be issued for an essential public and governmental purpose, and said bonds, their transfer, and the income thereof shall be exempt from all taxation within the state.

(1971 Ga. Laws (Act No. 593), page 3402, § 11)

**Sec. 212. Sale, price.**

The authority may sell such bonds in such manner and for such price as it may determine to be for the best interest of the authority, but no such sale shall be made at a price less than par, as provided in the Revenue Bond Law (O.C.G.A. § 36-82-60 et seq.), unless said Revenue Bond Law be hereafter amended to permit the sale of such bonds at less than par.

(1971 Ga. Laws (Act No. 593), page 3402, § 12)

**Sec. 213. Proceeds of bonds.**

The proceeds of such bonds shall be used solely for the payment of the cost of the project or projects, and unless otherwise provided in the resolution authorizing the issuance of the bonds or in the trust indenture, additional bonds may in like manner be issued to provide the amount of any deficit for the cost of the project or projects, which, unless otherwise provided in the resolution authorizing the issuance of the bonds or in the trust indenture, shall be deemed to be of the same issue and shall be entitled to payment from the same fund without preference or priority of the bonds first issued for the same purposes. If the proceeds of the bonds of any issue shall exceed the amount required for the purpose for which such bonds are issued, the surplus shall be paid into a sinking fund or used for additional construction as may be provided in the resolution authorizing the issuance of the bonds or in the trust indenture.

(1971 Ga. Laws (Act No. 593), page 3402, § 13)

**Sec. 214. Interim receipts and certificates or temporary bond.**

Prior to the preparation of definitive bonds, the authority may, under like restrictions, issue interim receipts, interim certificates or temporary bonds, with or without coupons exchangeable for definitive bonds upon the issuance of the latter.

(1971 Ga. Laws (Act No. 593), page 3402, § 14)

**Sec. 215. Replacement of lost or mutilated bonds.**

The authority may also provide for the replacement of any bond, which shall become mutilated or be destroyed or lost.

(1971 Ga. Laws (Act No. 593), page 3402, § 15)

**Sec. 216. Conditions precedent to issuance, object of issuance.**

Such revenue bonds may be issued without any other proceedings or the happening of any other conditions or things than those proceedings, conditions and things which are specified or required by this act [article]. In the discretion of the authority, revenue bonds of a single issue may be issued for the purpose of any particular project. Any resolution, providing for the issuance of revenue bonds under the provisions of this act [article] shall become effective immediately upon its passage and need not be published or posted, and any such resolution may be passed at regular, special, or adjourned meeting of the authority by a majority vote of the quorum as provided in this act [article].

**Sec. 217. Credit not pledged.**

Revenue bonds issued under the provisions of this act [article] shall not be deemed to constitute a debt of the City of Quitman or Brooks County. Such bonds shall be payable solely from the fund hereinafter provided for, and the issuance of such revenue bonds shall not directly, indirectly or contingently obligate the said city or county to levy or to pledge any form of taxation whatever therefore or to make any appropriation for the payment of such bonds. All such bonds shall contain recitals on their face substantially covering the foregoing provisions of this section.

(1971 Ga. Laws (Act No. 593), page 3402, § 16)

**Sec. 218. Trust indenture as security.**

In the discretion of the authority any issue of such revenue bonds may be secured by a trust indenture by and between the authority and a corporate trustee, which may be any trust company or bank having the powers of a trust company within or outside of the state. Such trust indenture may pledge or assign fees, tolls, revenues and earnings to be received by the authority, including the proceeds derived from the sale of any surplus property of the authority, both real and personal. Either the resolution providing for the issuance of revenue bonds or such trust indenture may contain such provisions for protecting and enforcing the rights and remedies of the bondholders as may be reasonable and proper and not in violation of law, including covenants setting forth the duties of the authority in relation to the acquisition of property, the construction of the project, the maintenance, operation, repair and insurance of the property, and the custody, safeguarding and application of all monies, including the proceeds derived from the sale of property of the authority, both real and personal, and may also provide that any project shall be constructed and paid for under the supervision and approval of consulting engineers or architects employed or designated by the authority, and satisfactory to the original purchasers of the bonds issued therefore and may also require that the security given by contractors and by any depository of the proceeds of the bonds or

revenues or other monies be satisfactory to such purchasers, and may also contain provisions concerning the conditions, if any, upon which additional revenue bonds may be issued. It shall be lawful for any bank or trust company incorporated under the laws of this state to act as such depository and to furnish such indemnifying bonds or pledge such securities as may be required by the authority. Such indenture may set forth the rights and remedies of the bondholders and of the trustee, and may restrict the individual right of action of bondholders as is customary in trust indentures securing bonds and debentures of corporations. In addition to the foregoing, such trust indenture may contain such other provisions, as the authority may deem reasonable and proper for the security of the bondholders. All expenses incurred in carrying out such trust indenture may be treated as a part of the cost of maintenance, operation and repair of the project affected by such indenture.

(1971 Ga. Laws (Act No. 593), page 3402, § 19)

**Sec. 219. To whom proceeds of bonds shall be paid.**

The authority shall, in the resolution providing for the issuance of revenue bonds or in the trust indenture, provide for the payment of the proceeds of the sale of the bonds to any officer or person who, or any agency, bank or trust company, which shall act as trustee of such funds and shall hold and apply the same to the purposes hereof, subject to such regulations as this act [article] and such resolutions or trust indentures may provide.

(1971 Ga. Laws (Act No. 593), page 3402, § 19)

**Sec. 220. Sinking fund.**

The revenues, fees, tolls and earnings derived from any particular project or projects, regardless of whether or not such fees, earnings and revenues were produced by a particular project for which bonds have been issued, and any monies derived from the sale of any properties, both real and personal, of the authority, unless otherwise pledged and allocated, may be pledged and allocated by the authority to the payment of the principal and interest on revenue bonds of the authority as the resolution authorizing the issuance of the bonds or the trust instrument may provide. Such funds so pledged from whatever source received, which said pledge may include funds received from one or more or all sources, shall be set aside at regular intervals, as may be provided in the resolution or trust indenture, into a sinking fund. Said sinking fund shall be pledged to and charged with the payments of: (1) the interest upon such revenue bonds as such interest shall fall due, (2) the principal of the bonds as the same shall fall due, (3) the necessary charges of paying agent or agents for paying interest and principal, and (4) any premium upon bonds retired by call or purchase as hereinabove provided. The use and disposition of such sinking fund shall be subject to such regulations as may be provided in the resolution authorizing the issuance of the revenue bonds or in the trust indenture, but, except as may otherwise be provided in such resolution or trust indenture, such sinking fund shall be a fund for the benefit of all revenue bonds without distinction or priority of one over another. Subject to the provisions of the resolution authorizing the issuance of the

bonds or in the trust indenture, surplus monies in the sinking fund may be applied to the purchase or redemption of bonds, and any such bonds so purchased or redeemed shall forthwith be cancelled and shall not again be issued.

(1971 Ga. Laws (Act No. 593), page 3402, § 20)

**Sec. 221. Remedies of bondholders.**

Any holder of revenue bonds issued under the provisions of this act [article] or any of the coupons appertaining thereto, and the trustee under the trust indenture, if any, except to the extent the rights herein given may be restricted by resolution passed before the issuance of the bonds or by the trust indenture, may, either at law or in equity, by suit, action, mandamus, or other proceedings protect and enforce any and all rights under the laws of the State of Georgia or granted hereunder or under such resolution or trust indenture, and may enforce and compel performance of all duties required by this act [article] or by such resolution or trust indenture, to be performed by the authority, or any officer thereof, including the fixing, charging and collecting of revenues, fees, tolls and other charges for the use of the facilities and services furnished.

(1971 Ga. Laws (Act No. 593), page 3402, § 21)

**Sec. 222. Refunding bonds.**

The authority is hereby authorized to provide by resolution for the issuance of revenue refunding bonds issued under the provisions of this act [article] and then outstanding, together with accrued interest thereon. The issuance of such revenue refunding bonds, the maturities and all other details thereof, the rights of the holders thereof, and the duties of the authority in respect to the same shall be governed by the foregoing provisions of this act [article] insofar as the same may be applicable.

(1971 Ga. Laws (Act No. 593), page 3402, § 22)

**Sec. 223. Validation.**

Bonds of the authority shall be confirmed and validated in accordance with the procedures of the Revenue Bond Law [O.G.G.A. § 36-82-60 et seq.]. The petition for validation shall also make any municipality, county, authority, subdivision or instrumentality of the State of Georgia or the United States Government or any department or agency of the United States Government, if subject to be sued, which has contracted with the authority for the services and facilities of the project for which bonds are to be issued and sought to be validated, a party-defendant of such action. Such municipality, county, authority, subdivision or instrumentality shall be required to show cause, if any, why such contract or contracts and the terms and conditions thereof should not be inquired into by the court and the validity of the terms thereof be determined and the contract or contracts adjudicated as security for the payment of any such bonds of the authority. The bonds, when validated, and the judgment of validation shall be final and conclusive with respect to such bonds, against the authority issuing the

same, and any municipality, county, authority, subdivision or instrumentality of the United States Government if a party to the validation proceedings, contracting with the said Quitman-Brooks County Airport Authority.

(1971 Ga. Laws (Act No. 593), page 3402, § 23)

**Sec. 224. Venue and jurisdiction.**

Any action to protect or enforce any rights under the provisions of this act [article] or any suit or action against such authority shall be brought in the Superior Court of Brooks County, Georgia, and any action pertaining to validation of any bonds issued under the provisions of this act [article] shall likewise be brought in said court, which shall have original jurisdiction of such actions.

(1971 Ga. Laws (Act No. 593), page 3402, § 24)

**Sec. 225. Interest of bondholders protected.**

While any of the bonds issued by the authority remain outstanding, the powers, duties or existence of said authority or of its officers, employees or agents shall not be diminished or impaired in any manner that will adversely affect the interest and rights of the holders of such bonds, and no other entity, department, agency or authority shall be created which will compete with the authority to such an extent as to adversely affect the interest and rights of the holders of such bonds, nor will the state itself so compete with the authority. The provisions of this act [article] shall be for the benefit of the state, the authority and the holders of any such bonds, and upon the issuance of bonds under the provisions hereof, shall constitute a contract with the holders of such bonds.

(1971 Ga. Laws (Act No. 593), page 3402, § 25)

**Sec. 226. Monies considered trust funds.**

All monies received pursuant to the authority of this act [article], whether as proceeds from the sale of revenue bonds, as grants or other contributions, or as revenues, income, fees and earnings, shall be deemed to be trust funds to be held and applied solely as provided in this act [article].

(1971 Ga. Laws (Act No. 593), page 3402, § 26)

**Sec. 227. Purpose of authority.**

Without limiting the generality of any provisions of the act [article] the general purpose of the authority is declared to be that of acquiring, constructing, equipping, maintaining, improving and operating airports and landing fields for the use of aircraft, including any related buildings and the usual and convenient facilities appertaining to such undertakings and extensions and improvements of such facilities, acquiring the necessary property therefore, both real and personal, and to lease or sell any or all of such facilities, including real

property, and to do any and all things deemed by the authority to be necessary, convenient or desirable for, and incident to, the efficient and proper development and operation of such types of undertakings.

(1971 Ga. Laws (Act No. 593), page 3402, § 27)

**Sec. 228. Rates, charges and revenues; use.**

The authority is hereby authorized to prescribe, fix and collect rates, fees, tolls and charges, and to revise, from time to time, and collect such rates, fees, tolls and charges for the services, facilities and commodities furnished, including leases, concessions or subleases of its lands or facilities, and in anticipation of the collection of the revenues and income of such undertakings or projects.

(1971 Ga. Laws (Act No. 593), page 3402, § 28)

**Sec. 229. Rules and regulations for operation of projects.**

It shall be the duty of the authority to prescribe rules and regulations for the operation of the project or projects constructed under the provisions of this act [article], including the basis on which airports and landing fields for the use of aircraft shall be furnished.

(1971 Ga. Laws (Act No. 593), page 3402, § 29)

**Sec. 230. Powers declared supplemental and additional.**

The foregoing sections of this act [article] shall be deemed to provide an additional and alternative method for the doing of the things authorized thereby and shall be regarded as supplemental and additional to powers conferred by other laws, and shall not be regarded as in derogation of any powers now existing.

(1971 Ga. Laws (Act No. 593), page 3402, § 26)

**Sec. 231. Liberal construction.**

This act [article], being for the purpose of promoting the health, morals and general welfare of the citizens of the United States, of the State of Georgia, of the City of Quitman and Brooks County, shall be liberally construed to effect the purposes hereof.

(1971 Ga. Laws (Act No. 593), page 3402, § 31)

**Sec. 232. Eminent domain.**

Through the use and power of eminent domain, the authority shall have the right, power, privilege and authority to condemn real property, rights-of-way or easement for the purpose of carrying out the provisions of this act [article]. Any such condemnation shall be conducted in accordance with the laws of this state.

(1971 Ga. Laws (Act No. 593), page 3402, § 32)

**Sec. 233. Jurisdiction.**

All property, the title to which shall vest in said authority, shall be subject to the jurisdiction of the county wherein such property shall lie.

(1971 Ga. Laws (Act No. 593), page 3402, § 33)

**Sec. 234. Severability.**

In the event any section, subsection, sentence, clause or phrase of this act [article] shall be declared or adjudged invalid or unconstitutional, such adjudication shall in no manner affect the other sections, subsections, sentences, clauses, or phrases of this act [article], which shall remain of full force and effect, as if the section, subsection, sentence, clause or phrase so declared or adjudged invalid or unconstitutional was not originally a part hereof.

(1971 Ga. Laws (Act No. 593), page 3402, § 34)

**Secs. 235—255. Reserved.****ARTICLE V. DEVELOPMENT AUTHORITY****DIVISION 1. GENERALLY****Sec. 256. Created; powers, membership, etc. (local constitutional amendment).**

(a) There is hereby created a body corporate and politic to be known as the "Brooks County Development Authority" which shall be deemed to be an instrumentality of the State of Georgia and a public corporation, its scope and jurisdiction to be limited to the territory embraced by Brooks County. The County of Brooks may contract with the authority as a public corporation as provided by the Constitution of Georgia.

(b) Brooks County is authorized to levy a tax on all the taxable property therein not to exceed one mill for the purpose of securing a fund to be set aside and used by said authority for the general purposes hereinafter prescribed.

(c) The members of the authority, their qualifications, terms, and the method of election or appointment shall be prescribed by law by the general assembly. The authority shall have such duties, powers, and authority as shall be prescribed by law and the general assembly may pass all other necessary legislation for the implementation of this amendment.

(d) All lands and improvements thereon, the title to which is vested in the authority, and all debentures and revenue bonds issued by the authority shall be exempt from state and local taxation. The exemptions from taxation herein provided shall not include exemptions from sale and use taxes on property purchased by the authority or for use by the authority.

(e) Said authority is created for the purpose of developing, promoting, and expanding, for the public good and general welfare, industry, agriculture, commerce, natural resources, and vocational training and for the making of long-range plans for the coordination of such development, promotion and expansion within its territorial limits. The authority shall not be

empowered or authorized in any manner to create a debt as against the State of Georgia or the County of Brooks. The authority is created for nonprofit purposes and all property acquired by the authority and any funds realized by the authority shall be used continually and exclusively for the purposes for which the authority is created.

(1966 Ga. Laws (Act No. 64) page 870, § 1)

**Editor's note**—The above amendment to Ga. Const. (1945), art. VII, § V, ¶ I was continued in full force and effect by 1986 Ga. Laws (Act No. 1171), page 4739, § 1.

**Secs. 257—277. Reserved.**

**DIVISION 2. IMPLEMENTING LEGISLATION**

**Sec. 278. Definitions.**

As used in this act [article], the following terms shall have the following meanings:

- (1) Authority shall mean the Brooks County Industrial Development Authority created hereby.
- (2) Project shall mean an industrial building, which shall include such lands, fixtures, machineries, and accessories as will create a plant for the particular purpose of manufacturing or processing.
- (3) Bonds, revenue bonds, or revenue anticipation certificates shall mean obligations issued under the provisions of the Revenue Certificate Law of 1937 (Ga. L. 1937, p. 761), as amended [See now O.C.G.A. § 36-83-60 et seq.].

(1967 Ga. Laws (Act No. 33), p. 2097, § 7)

**Sec. 279. Composition.**

Pursuant to the provisions of Article VII, Section V, Paragraph I of the Constitution, authorizing the general assembly to enact legislation to implement the Brooks County Development Authority, authorized by an amendment to the Constitution, proposed by a Resolution found in Ga. L. 1966, p. 870, and ratified in the General Election of 1966, the Brooks County Development Authority is hereby declared to be a body corporate and politic, a public corporation created for the development of industries of Brooks County, and for the improving of the general welfare of the people of Brooks County. The authority shall consist of seven members appointed by the governing authority of Brooks County, as hereinafter provided. The members of the authority shall serve without compensation, but shall be reimbursed for actual expenses incurred in carrying out their official duties.

(1967 Ga. Laws (Act No. 33), p. 2097, § 1)

**Sec. 280. Districts.**

For the purpose of selecting members of the Brooks County Development Authority, Brooks County is hereby divided into six districts.

District No. 1, shall be composed of militia district No. 1230 (Drylake) and militia district No. 1712 (Williams).

District No. 2, shall be composed of militia district No. 659 (Nankin) and that portion of militia district No. 1199 (Quitman) which lies outside the corporate limits of the City of Quitman.

District No. 3, shall be composed of militia district No. 1492 (Dixie), militia district No. 1198 (Grooverville), militia district No. 1412 (Hickory Head) and militia district No. 1718 (Empress).

District No. 4, shall be composed of militia district No. 1571 (Barney) and militia district No. 790 (Tallokas).

District No. 5, shall be composed of militia district No. 660 (Morven) and militia district No. 1650 (Briggs).

District No. 6, shall be composed of the corporate limits of the City of Quitman.  
(1967 Ga. Laws (Act No. 33), p. 2097, § 2)

### **Sec. 281. Appointment of members and terms.**

(a) The governing authority of Brooks County shall appoint seven members to the authority by selecting one outstanding citizen of Brooks County from each of the six districts provided for above, with the exception of District No. 6, from which there shall be selected two members. At the first meeting of the authority after the initial appointments are made, the members shall by drawing lots determine the initial terms of office of the authority members. Two of the members shall serve for an initial term of office of four years, and two shall serve for a term of three years, two shall serve for a term of two years, and one shall serve for a term of one year.

(b) All initial appointees shall serve for their respective terms of office and until their successors are duly appointed and qualified. Thereafter, successors to the initial appointees shall be appointed to terms of office of four years and until their successors are duly appointed and qualified.

(1967 Ga. Laws (Act No. 33), p. 2097, § 3)

### **Sec. 282. Powers and duties.**

The authority shall have the following powers and duties:

- (1) To contract and be contracted with, sue and be sued, implead or be impleaded and complain and defend in all courts of law and equity.
- (2) To have a seal and alter the same at pleasure.
- (3) To acquire by purchase, lease or otherwise, and to hold, lease and dispose of real and personal property of every kind and character for its corporate purposes.
- (4) To acquire in its own name by purchase on such terms and conditions, and in such manner as it may deem proper, or by condemnation in accordance with the provisions of any and all existing laws applicable to the condemnation of property for public use, real property or rights of easement therein or franchises necessary or convenient for its corporate purposes, and to use the same so long as its corporate existence shall

continue and to lease or make contracts with respect to the use of or dispose of the same in any manner it deems to the best advantage of the authority, the authority being under no obligation to accept and pay for any property condemned under the authority of this act [article] except from funds provided under the authority of this act [article], and in any proceedings to condemn, such orders may be made by the court having jurisdiction of the suit, action or proceeding as may be just to the authority and to the owners of the property to be condemned, and no property shall be acquired under the provisions of this act [article] upon which any lien or other encumbrance exists, unless at the time such property is so acquired a sufficient sum of money to be deposited in trust to pay and redeem the fair value of such lien or encumbrance.

- (5) To appoint and select officers, agents and employees, including engineering, architectural and construction experts, fiscal agents, and attorneys, and fix their compensation.
- (6) To make contracts and leases, and to execute all instruments necessary or convenient, including contracts for construction of a project and leases of a project or contracts with respect to the use of a project which it causes to be erected or acquired.
- (7) To construct, erect, acquire, own, repair, remodel, maintain, add to, extend, equip and sell any project, to be located on property owned by or leased by the authority, the cost of such project to be paid in whole or part from the proceeds of the revenue bonds of the authority.
- (8) To exercise all the powers, rights and privileges of and be subject to the same liabilities as a municipality under the provisions of the Revenue Certificate Law of 1937 (Ga. L. 1937, p. 761), with reference to the issuance of revenue anticipation certificates insofar as such pertain to the corporate purposes of the authority.
- (9) To borrow money for any of its corporate purposes and to issue negotiable revenue bonds payable solely from funds or property pledged for that purpose, and to provide for the payment of the same and for the rights of the holders thereof.
- (10) To use the rents, profits and proceeds from the projects erected, leased or sold, to provide maintenance for such projects, and to discharge the principal and interest of revenue bonds issued by the authority.
- (11) To do all things within its powers to encourage the industrial development of Brooks County, and to encourage the location of new industries in said county.
- (12) To exercise any power usually possessed by private corporations performing similar functions, which is not in conflict with the Constitution and laws of this state.
- (13) To do all things necessary and convenient to carry out the powers expressly given in this act [division].

(1967 Ga. Laws (Act No. 33), p. 2097, §4)

**Sec. 283. Tax exemption.**

It is hereby found, determined and declared that the creation of the authority, and the carrying out of its corporate purpose is in all respects for the benefit of the people of Brooks County, as well as for the benefit of the people of this state, and is a public purpose, and the authority will be performing an essential governmental function in the exercise of the powers conferred upon it by this act [article], and that the authority shall be required to pay no taxes or assessments upon any of the property acquired or leased by it or under its jurisdiction, control, possession or supervision or upon its activities in the operation or maintenance of the buildings erected or acquired by it or any fees, rentals, other charges for the use of such buildings, proceeds from the sale of such project, or any other income received by the authority, and that the bonds of the authority, their transfer, and the income therefrom shall at all times be exempt from taxation within the state.

(1967 Ga. Laws (Act No. 33), p. 2097, § 5)

**Sec. 284. Rights of bondholders.**

The authority may be abolished, or its powers may be limited, extended, or altered at any time by appropriate action by the general assembly, provided that no such change in the authority or its powers shall abridge the rights of the bondholders of the authority to enforce their rights under such bonds in any property which may have belonged to the authority.

(1967 Ga. Laws (Act No. 33), p. 2097, § 6)

**Secs. 285—303. Reserved.****ARTICLE VI. FIRE PROTECTION DISTRICTS****Sec. 304. Authorized.**

(a) The governing authority of Brooks County is hereby authorized to establish special fire protection districts throughout the county and to levy, subject to subsection (b) of this section, upon the taxable property therein for the purpose of constructing, obtaining, and maintaining fire protection facilities therefore.

(b) In each special fire protection district, the number of acres of any taxpayer subject to the tax authorized by subsection (a) of this section shall be limited to 200 acres.

(1979 Ga. Laws (Act No. 297), page 4087, § 1; 1983 Ga. Laws (Act No. 49), page 3695, § 1)

**Sec. 305. Tax rate.**

The tax levied under this act [article] in any district shall not exceed one mill unless a higher rate is approved at a referendum held in the affected district under the provisions of the Georgia Election Code.

(1982 Ga. Laws (Act No. 973), page 4038, § 1(1.1))

**Sec. 306. Referendum required.**

The said authority, when it deems it to be in the best interest of the county, shall propose fire protection districts, and the qualified voters in each such district shall be afforded an opportunity to vote on the question as to whether or not they wish to have special fire protection and to pay taxes for the purpose of constructing, obtaining, and maintaining fire protection facilities. The ballot in each such election shall specify the mill rate of ad valorem taxation, which it is estimated will be levied in the special district during the first year after its creation. A majority of the qualified voters voting in any such district election shall have to vote in favor of the proposal in order for the governing authority to be authorized to implement the authority granted in section 1 of this act [article]. Any election held pursuant to this act [article] shall be conducted in accordance with the requirements of Title 34 of the Code of Georgia [See now O.C.G.A. § 21-1-1 et seq.].

(1979 Ga. Laws (Act No. 297), page 4087, § 2)

**Secs. 307—327. Reserved.****ARTICLE VII. STATE COURT****Sec. 328. Created.**

There is created the State Court of Brooks County which shall have the power, jurisdiction, and method of procedure as provided by Chapter 7 of Title 15 of the Official Code of Georgia Annotated [O.C.G.A. § 15-7-1 et seq.].

(1993 Ga. Laws (Act No. 377), page 5124, § 1)

**Sec. 329. Location.**

The State Court of Brooks County shall be located in the City of Quitman in Brooks County and shall have territorial jurisdiction within the limits of said county.

(1993 Ga. Laws (Act No. 377), page 5124, § 2)

**Sec. 330. Jurisdiction.**

(a) The State Court of Brooks County shall have jurisdiction as provided in Title 15 of the Official Code of Georgia Annotated [O.C.G.A. § 15-1-1 et seq.].

(b) In all criminal cases, the judge of said court shall be the judge of both questions of fact and of law unless the person subject to be tried shall, before pleading to the charge against him or her, or the state shall demand a jury trial. The purpose of this subsection is to eliminate trial by jury unless demanded by the person charged or by the state. Upon either such timely demand being made, such person shall be tried by jury as provided in this act [article].

(c) In all civil cases, the judge shall be the judge of all questions of fact and of law unless either party to such proceeding shall, before the time expires for filing defensive pleadings, file a written demand for a jury trial. Upon such demand being timely filed, the case shall be tried

by a jury as provided in this act [article] unless such demand for trial by jury is withdrawn before the call of the case for trial. When a demand for trial by jury is filed, the same shall not be withdrawn without the consent of the opposite party.

(1993 Ga. Laws (Act No. 377), page 5124, § 3)

**Sec. 331. Practice and procedure.**

The State Court of Brooks County shall have such rules of practice and procedure as provided by Chapter 7 of Title 15 of the Official Code of Georgia Annotated [O.C.G.A. § 15-7-1 et seq.].

(1993 Ga. Laws (Act No. 377), page 5124, § 4)

**Sec. 332. Terms of court.**

The State Court of Brooks County shall have four terms per annum, which shall begin on the first Monday in January, April, July, and October at the Brooks County courthouse in the City of Quitman. Each such term shall remain open for the transaction of business until the next succeeding term. If the date fixed for the convening of any term is a legal holiday, then that term shall begin on the next day thereafter, which is not a legal holiday. The court shall at all times be open for the purpose of conducting jury trials, nonjury trials, and hearings, receiving pleas of guilty in criminal cases and passing sentence thereon, and for the transaction of civil business before the court.

(1993 Ga. Laws (Act No. 377), page 5124, § 5)

**Sec. 333. Costs.**

(a) In all civil proceedings in the State Court of Brooks County, when the principal amount, excluding interest and fees, is not more than \$200.00, the total costs shall be not more than \$46.00.

(b) In all other cases, costs shall be the same as in the Superior Court of Brooks County.

(1993 Ga. Laws (Act No. 377), page 5124, § 6)

**Sec. 334. Transfer of pending cases.**

Any case of a civil nature pending in the Superior Court of Brooks County, on October 1, 1993, or thereafter, of which the State Court of Brooks County has jurisdiction under this act [article] may be transferred by the judge of the Superior Court to the State Court of Brooks County by consent of counsel of all parties and shall thereafter stand for trial in said court as though originally filed therein.

(1993 Ga. Laws (Act No. 377), page 5124, § 7)

**Sec. 335. Criminal prosecutions.**

All prosecutions in criminal cases instituted in the State Court of Brooks County shall be by written accusation made by the solicitor, based upon affidavit, setting forth plainly the offense charged in terms of the law, upon which shall be entered the name of the prosecutor, if any; but

the solicitor may make such accusation and proceed to trial thereon without affidavit as the basis, therefore, as provided by general law. Notwithstanding the foregoing provision of this section, any prosecution for violation of an ordinance which has been transferred from the Magistrate Court of Brooks County to the State Court of Brooks County for a jury trial as provided in Code Section 15-10-61 of the Official Code of Georgia Annotated [O.C.G.A. § 15-10-61] may be upon citation, as well as by accusation, as provided in Code Sections 15-10-62 and 15-10-63 of the Official Code of Georgia Annotated [O.C.G.A. §§ 15-10-62 and 15-10-63].

(1993 Ga. Laws (Act No. 377), page 5124, § 8)

**Sec. 336. Appeals.**

Any case tried in the State Court of Brooks County shall be subject to review by the Court of Appeals or the Supreme Court of Georgia, whichever court has jurisdiction, in the same manner and under the same rules of appellate procedure as apply to cases in the Superior Court.

(1993 Ga. Laws (Act No. 377), page 5124, § 9)

**Sec. 337. Juries.**

(a) Jurors shall be drawn, selected, chosen, and summoned for service in the State Court of Brooks County from the traverse jury list prepared by the board of jury commissioners of Brooks County for the Superior Court, and in the same manner as is done in the Superior Court. Jurors in the State Court shall receive the same per diem amount as compensation for service therein as in the Superior Court of Brooks County and shall be paid by Brooks County in the same manner as out-of-like funds as jurors are paid in the Superior Court.

(b) The jury for the trial of all civil and criminal cases tried in the State Court of Brooks County shall be composed of six members. Said trial jury shall be selected from a panel of 12 jurors. Each side in all civil actions being tried by a jury shall be entitled to three peremptory strikes from such panel of 12 and the remaining six jurors shall serve as the trial jury. In all criminal matters being tried by a jury, the state shall be entitled to two peremptory strikes and the defendant shall be entitled to four peremptory strikes from such panel of 12 jurors and the remaining six jurors shall serve as the trial jury.

(1993 Ga. Laws (Act No. 377), page 5124, § 10)

**Sec. 338. Judge.**

(a) There shall be a judge of the State Court of Brooks County who shall be elected by the qualified voters of Brooks County, Georgia, and shall assume office on the first day of January following his or her election as provided by Chapter 7 of Title 15 of the Official Code of Georgia Annotated [O.C.G.A. § 15-7-1 et seq.]; provided, however, that the first judge shall be appointed by the Governor for a term of office beginning October 1, 1993, and ending December 31, 1996.

(b) The judge of said court shall have such qualifications and shall be subject to such restrictions and discipline as provided in Chapter 7 of Title 15 of the Official Code of Georgia Annotated [O.C.G.A. § 15-7-1 et seq.]. The judge shall be vested with all the power and authority of judges of the Superior Courts as to all matters, except as are exclusively conferred upon the judges of the Superior Court by the constitution and laws of this state.

(c) The judge shall be a part-time judge. The judge shall receive a salary of not less than \$14,500.00 per annum, to be set by the board of county commissioners. Said salary shall be payable monthly out of the funds of Brooks County. The salary of such judge shall be an expense of said court. The part-time judge of the State Court may engage in the private practice of law in other courts, but may not practice in his or her own court or appear in any matter to which that judge has exercised any jurisdiction.

(1993 Ga. Laws (Act No. 377), page 5124, § 11)

#### **Sec. 339. Solicitor.**

(a) There shall be a solicitor of the State Court of Brooks County. The district attorney of the Southern Judicial Circuit shall appoint a qualified assistant district attorney to serve as solicitor of said court.

(b) The solicitor shall have such qualifications as provided by Chapter 7 of Title 15 of the Official Code of Georgia Annotated [O.C.G.A. § 15-7-1 et seq.].

(1993 Ga. Laws (Act No. 377), page 5124, § 12)

#### **Sec. 340. Solicitor pro tem.**

In the absence of the solicitor of the State Court of Brooks County for any reason, said solicitor may appoint a solicitor pro tempore who shall have the same authority while so acting as said solicitor and shall be paid from the funds of Brooks County such reasonable amount for the service as the solicitor shall determine.

(1993 Ga. Laws (Act No. 377), page 5124, § 13)

#### **Sec. 341. Clerk.**

The clerk of the Superior Court of Brooks County shall be, by virtue of such office, the clerk of the State Court of Brooks County and the sheriff of said county shall likewise be the sheriff of said State Court; and each shall receive compensation for services in said court as are allowed them by law. The clerk shall provide all necessary dockets, writs, minute books, printed forms, and the like as may be necessary for said court which shall be paid for by Brooks County in like manner as such items in the Superior Court.

(1993 Ga. Laws (Act No. 377), page 5124, § 14)

**Sec. 342. Court reporter.**

The judge of the State Court of Brooks County may appoint an official court reporter for said court who shall report such cases as the court may require. The reporter shall receive the same fees as allowed for similar service in the Superior Court, which shall be taxed and enforced as in the Superior Court.

(1993 Ga. Laws (Act No. 377), page 5124, § 15)

**LOCAL ACTS AND LOCAL CONSTITUTIONAL AMENDMENTS  
COMPARATIVE TABLE**

This table shows the location in the Local Acts and Local Constitutional Amendments of locals acts, including those that are local constitutional amendments.

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**PART II**

**CODE OF ORDINANCES**

Chapter 1

**GENERAL PROVISIONS**

Sec. 1-1.	How Code designated and cited.
Sec. 1-2.	Definitions and rules of construction.
Sec. 1-3.	Catchlines of sections, effect of history notes, references in Code.
Sec. 1-4.	Effect of repeal of ordinances.
Sec. 1-5.	Amendments to Code; effect of new ordinances; amendatory language.
Sec. 1-6.	Supplementation of Code.
Sec. 1-7.	General penalty; continuing violations.
Sec. 1-8.	Severability of Code.
Sec. 1-9.	Provisions considered as continuations of existing ordinances.
Sec. 1-10.	Prior offenses, penalties, contracts or rights not affected by adoption of Code.
Sec. 1-11.	Certain ordinances not affected by Code.



**Sec. 1-1. How Code designated and cited.**

The ordinances embraced in this and the following chapters shall constitute and be designated "The Code of Brooks County, Georgia," and may be so cited.

**State law reference**—Codification requirements, O.C.G.A. § 36-80-19.

**Sec. 1-2. Definitions and rules of construction.**

In the construction of this Code and of all ordinances, the rules of construction and definitions set out in this section shall be observed. The rules of construction and definitions set out in this section shall not be applied to any section of this Code which shall contain any express provisions excluding such construction or where the subject matter or context of such section may be repugnant thereto.

*Generally.* The ordinary signification shall be applied to all words, except words of art or words connected with a particular trade or subject matter when they shall have the signification attached to them by experts in such trade or with reference to such subject matter. In all interpretations the courts shall look diligently for the intention of the council, keeping in view, at all times, the old law, the evil and the remedy. Grammatical errors shall not vitiate, and a transposition of words and clauses may be resorted to when the sentence or clause is without meaning as it stands. In addition, scrivener's errors shall be ignored.

**State law reference**—Similar provisions, O.C.G.A. § 1-3-1(a), (b).

*As soon as possible.* The term "as soon as possible" means within a reasonable time, having due regard to all the circumstances.

**State law reference**—Similar provisions, O.C.G.A. § 1-3-3(5).

*Board of commissioners.* The term "board of commissioners" means the board of commissioners of Brooks County, Georgia.

*Code.* The term "Code" means Code of Brooks County, Georgia, as designated in section 1-1.

*Computation of time.* When a number of days is prescribed for the exercise of any privilege or the discharge of any duty, only the first or last day shall be counted. If the last day shall fall on Saturday or Sunday, the party having such privilege or duty shall have through the following Monday to exercise such privilege or to discharge the duty. When the last day prescribed for such action shall fall on a public or legal holiday as set forth in state law, the party having such privilege or duty shall have through the following business day to exercise such privilege or to discharge the duty. When the period of time prescribed is less than seven days, an intermediate Saturday, Sunday and legal holiday shall be excluded in the computation.

**State law reference**—Similar provisions, O.C.G.A. § 1-3-1(3).

*Conjunctions.* Where a provision involves two or more items, conditions, provisions or events connected by the conjunction "and," "or" or "either . . . or," the conjunction shall be interpreted as follows, provided in appropriate cases the terms "and" and "or" are interchangeable:

- (1) The term "and" indicates that all the connected items, conditions, provisions or events shall apply.

- (2) The term "or" indicates that the connected items, conditions, provisions or events may apply singly or in any combination.
- (3) The term "either . . . or" indicates that the connected items, conditions, provisions or events shall apply singly, but not in combination.

*County.* The term "County" means Brooks County, Georgia.

*Delegation of authority.* Whenever a provision appears requiring a county officer or county employee to do some act, it is to be construed to authorize the officer or employee to designate, delegate and authorize subordinates to perform the required act.

*Following.* The term "following" means next after.

**State law reference**—Similar provisions, O.C.G.A. § 1-3-3(8).

*Gender.* Words of one gender include words of all other genders.

**State law reference**—Gender, O.C.G.A. § 1-3-1(4).

*Joint authority.* A joint authority given to any number of persons or officers may be executed by a majority of them, unless it is otherwise declared.

**State law reference**—Similar provisions, O.C.G.A. § 1-3-1(5).

*Keeper and proprietor.* The terms "keeper" and "proprietor" means persons, whether acting by themselves or acting as a servant, agent or employee.

*Liberal construction; minimum requirements; overlapping provisions.* All general provisions, terms, phrases and expressions contained in this Code shall be liberally construed in order that the true intent and meaning of the board of commissioners may be fully carried out. In the interpretation and application of any provision of this Code, they shall be held to be the minimum requirements adopted for the promotion of the public health, safety, comfort, convenience and general welfare. Where any provision of this Code imposes greater restrictions upon the subject matter than the other provisions of this Code, the provision imposing the greater restriction or regulation shall be deemed to be controlling. The specific controls over the general.

*May.* The term "may" is to be construed as being permissive.

**State law reference**—Definition of "may," O.C.G.A. § 1-3-3(10).

*Month.* The term "month" means a calendar month.

**State law reference**—Similar provisions, O.C.G.A. § 1-3-3(11).

*Must.* The term "must" is to be construed as being mandatory.

*Number.* The singular and plural number includes the other, unless expressly excluded.

**State law reference**—Similar provisions, O.C.G.A. § 1-3-1(6).

*Oath.* The term "oath" includes an affirmation.

**State law reference**—Similar provisions, O.C.G.A. § 1-3-3(12).

*O.C.G.A.* The abbreviation "O.C.G.A." means the Official Code of Georgia Annotated, as amended.

*Officials, employees, boards, commissions or other agencies.* Whenever reference is made to officials, employees, boards, commissions or other agencies by title only, the reference refers to the officials, employees, boards, commissions or other agencies of the county.

*Ordinance.* The terms "ordinance" and "resolution" are interchangeable.

*Owner.* The term "owner," as applied to a building or land, includes any part owner, joint owner, tenant in common, tenant in partnership or joint tenant of the whole or of a part of the building or land.

*Person.* The term "person" includes any association, club, society, firm, corporation, limited liability company, partnership or body politic and corporate, as well as an individual.

**State law reference**—Definition of "person," O.C.G.A. § 1-3-3(14).

*Personal property.* The term "personal property" includes every species of property except real property.

*Preceding.* The term "preceding" means next before.

**State law reference**—Similar provisions, O.C.G.A. § 1-3-3(15).

*Property.* The term "property" includes real and personal property.

**State law reference**—Similar provisions, O.C.G.A. § 1-3-3(16).

*Public place.* The term "public place" includes any place that the public is invited or permitted to go or congregate.

*Real property.* The term "real property" includes lands, tenements and hereditaments.

*Shall.* The term "shall" is to be construed as being mandatory.

*Sidewalk.* The term "sidewalk" means any portion of a street between the curbline and the adjacent property line, intended for the use of pedestrians, excluding parkways.

*Signature or subscription.* The terms "signature" and "subscription" include the mark of an illiterate or infirm person.

**State law reference**—Similar provisions, O.C.G.A. § 1-3-3(19).

*State.* The term "state" means the State of Georgia.

*Street or road.* The terms "street" and "road" include any street, avenue, boulevard, road, alley, lane, viaduct and any other public highway in the county, including, but not limited to, the paved or improved surfaces thereof.

*Tenant or occupant.* The term "tenant" or "occupant," applied to a building or land, includes any person holding a written or oral lease of or who occupies the whole or a part of a building or land, either alone or with others.

*Tense.* Words used in the past or present tense include the future, as well as the past and present.

**State law reference**—Tense of words, O.C.G.A. § 1-3-1(7).

*Week.* The term "week" means seven days.

*Will.* The term "will" is to be construed as being mandatory.

*Writing.* The term "writing" includes printing and all numerals.

**State law reference**—Similar provisions, O.C.G.A. § 1-3-3(23).

*Year.* The term "year" means a calendar year.

**State law reference**—Similar provisions, O.C.G.A. § 1-3-3(24).

**Sec. 1-3. Catchlines of sections, effect of history notes, references in Code.**

(a) The catchlines of the several sections of this Code in boldface type are intended as mere catchwords to indicate the contents of the sections and shall not be deemed or taken to be titles of such sections nor as any part of such sections nor, unless expressly so provided, shall they be so deemed when any of such sections, including the catchlines, are amended or reenacted.

(b) The history or source notes appearing in parentheses after sections in this Code are not intended to have any legal effect but are merely intended to indicate the source of matter contained in the section. Editor's notes, cross references, and state law references which appear after sections or subsections of this Code or which otherwise appear in footnote form are provided for the convenience of the user of this Code and have no legal effect.

(c) All references to chapters, articles, divisions, subdivisions or sections are to chapters, articles, divisions, subdivisions or sections of this Code, unless otherwise specified.

**Sec. 1-4. Effect of repeal of ordinances.**

The repeal of an ordinance shall not revive any ordinance in force before or at the time the ordinance repealed took effect. The repeal of an ordinance shall not affect any punishment or penalty incurred before the repeal took effect or any suit, prosecution or proceeding pending at the time of the repeal for an offense committed or cause of action arising under the ordinance repealed.

**Sec. 1-5. Amendments to Code; effect of new ordinances; mandatory language.**

(a) All ordinances adopted subsequent to this Code that amend, repeal or in any way affect this Code may be numbered in accordance with the numbering system of this Code and printed for inclusion in this Code. The subsequent ordinances as numbered and printed or omitted, in the case of repeal, shall be *prima facie* evidence of these subsequent ordinances or resolutions until such time that this Code and subsequent ordinances numbered or omitted are readopted as a new Code.

(b) Amendments to any of the provisions of this Code may be made by amending those provisions by specific reference to the section number of this Code in the following language: "Section \_\_\_\_\_ of The Code of Brooks County, Georgia, is hereby amended to read as follows: . . ." The new provisions may then be set out in full as desired.

(c) If a new section not heretofore existing in the Code is to be added, the following language may be used: "The Code of Brooks County, Georgia, is hereby amended by adding a section (or chapter, article, division or subdivision, as appropriate) to be numbered \_\_\_\_\_, that reads as follows: . . ." The new material may then be set out in full as desired.

(d) All sections, subdivisions, divisions, articles or chapters desired to be repealed should be specifically repealed by section, subdivision, division, article or chapter number, as the case may be, or by setting them out at length in the repealing ordinance.

**Sec. 1-6. Supplementation of Code.**

(a) Supplements to this Code shall be prepared and printed whenever authorized or directed by the county. A supplement to the Code shall include all substantive permanent and general parts of ordinances adopted during the period covered by the supplement and all changes made thereby in the Code. The pages of a supplement shall be so numbered that they will fit properly into the Code and will, where necessary, replace pages which have become obsolete or partially obsolete, and the new pages shall be so prepared that, when they have been inserted, the Code will be current through the date of the adoption of the latest ordinance included in the supplement.

(b) In preparing a supplement to this Code, all portions of the Code that have been repealed shall be excluded from the Code by the omission thereof from reprinted pages.

(c) When preparing a supplement to this Code, the person authorized to prepare the supplement may make formal, nonsubstantive changes in ordinances or resolutions and parts of ordinances or resolutions included in the supplemental, insofar as it is necessary to do so to embody them into a unified code. For example, the person may:

- (1) Organize the ordinance material into appropriate subdivisions.
- (2) Provide appropriate catchlines, headings and titles for sections and other subdivisions of the Code printed in the supplement and make changes in such catchlines, headings and titles.
- (3) Assign appropriate numbers to sections and other subdivisions to be inserted in the Code and, where necessary to accommodate new material, change existing section or other subdivision numbers.
- (4) Change the words "this ordinance" or words of the same meaning to "this chapter," "this article," "this division," etc., as the case may be, or to "sections \_\_\_\_\_ to \_\_\_\_\_" (inserting section numbers to indicate the sections of the Code that embody the substantive sections of the ordinance incorporated into the Code).
- (5) Make other nonsubstantive changes necessary to preserve the original meaning of ordinances inserted into the Code.

(d) In no case shall the person make any change in the meaning or effect of ordinance material included in the supplement or already embodied in the Code.

**Sec. 1-7. General penalty; continuing violations.**

- (a) In this section, the term "violation of this Code" means:
  - (1) Doing an act that is prohibited or made or declared unlawful, an offense or a misdemeanor by ordinance or by rule or regulation authorized by ordinance;
  - (2) Failure to perform an act that is required to be performed by ordinance or by rule or regulation authorized by ordinance; or
  - (3) Failure to perform an act if the failure is declared a misdemeanor or an offense or unlawful by ordinance or by rule or regulation authorized by ordinance.
- (b) In this section, the term "violation of this Code" does not include the failure of a county officer or county employee to perform an official duty, unless it is provided that failure to perform the duty is to be punished as provided in this section or it is clear from the context that it is the intent to impose the penalty provided for in this section upon the officer or employee.
- (c) Except as otherwise provided:
  - (1) A person convicted of a violation of this Code shall be punished by a fine not exceeding \$1,000.00 or imprisonment for a term not exceeding 60 days, or any combination thereof.
  - (2) With respect to violations of this Code that are continuous with respect to time, each day the violation continues is a separate offense.
  - (3) With respect to violations of this Code that are not continuous with respect to time, each act is a separate offense.
- (d) The imposition of a penalty does not prevent revocation or suspension of a license, permit or franchise or other administrative sanctions.
- (e) Violations of this Code that are continuous with respect to time are a public nuisance and may be abated by injunctive or other equitable relief and by such other means as are provided by law. The imposition of a penalty does not prevent equitable relief.

(Ord. of 8-3-1999, § 1)

**State law reference**—Limitations on penalties, O.C.G.A. § 36-1-20(b).

**Sec. 1-8. Severability of Code.**

The sections, paragraphs, sentences, clauses and phrases of this Code are severable, and if any phrase, clause, sentence, paragraph or section of this Code shall be declared unconstitutional, invalid or otherwise unenforceable by the valid judgment or decree of any court of competent jurisdiction, that unconstitutionality, invalidity or unenforceability shall not affect any of the remaining phrases, clauses, sentences, paragraphs or sections of this Code, since they would have been enacted without the incorporation in this Code of the unconstitutional, invalid or unenforceable phrase, clause, sentence, paragraph or section.

**Sec. 1-9. Provisions considered as continuations of existing ordinances.**

The provisions appearing in this Code, insofar as they are the same as those of ordinances and resolutions existing at the time of adoption of this Code, shall be considered as continuations thereof and not as new enactments.

**Sec. 1-10. Prior offenses, penalties, contracts or rights not affected by adoption of Code.**

(a) Nothing in this Code or the ordinance adopting this Code shall affect any offense or act committed or done or any penalty or forfeiture incurred or any contract or right established or accruing before the effective date of this Code.

(b) The adoption of this Code shall not be interpreted as authorizing or permitting any use or the continuance of any use of a structure or premises in violation of any ordinance or resolution in effect on the date of adoption of this Code.

**Sec. 1-11. Certain ordinances not affected by Code.**

Nothing in this Code or the ordinance adopting this Code affects the validity of any of the following ordinances or portions of ordinances, which ordinances or portions of ordinances continue in full force and effect to the same extent as if published at length in this Code:

- (1) Promising or guaranteeing the payment of money or authorizing the issuance of bonds or other instruments of indebtedness.
- (2) Authorizing or approving any contract, deed, or agreement.
- (3) Granting any right or franchise.
- (4) Making or approving any appropriation or budget.
- (5) Providing for salaries or other employee benefits not codified in this Code.
- (6) Adopting or amending the comprehensive plan.
- (7) Levying or imposing any special assessment.
- (8) Dedicating, establishing naming, locating, relocating, opening, paving, widening, repairing or vacating any street, sidewalk or alley.
- (9) Dedicating, accepting or vacating any plat or subdivision or regulating the subdivision of land.
- (10) Levying, imposing or otherwise relating to taxes not codified in this Code.
- (11) Pertaining to zoning.
- (12) That is temporary, although general in effect.
- (13) That is special, although permanent in effect.
- (14) The purpose of which has been accomplished.



## Chapter 2

### **ADMINISTRATION\***

#### **Article I. In General**

Sec. 2-1. Personnel provisions not affected by Code.  
Secs. 2-2—2-30. Reserved.

#### **Article II. Board of Commissioners**

##### Division 1. Generally

Sec. 2-31. Chairman.  
Sec. 2-32. Vice-chairman.  
Sec. 2-33. Committees.  
Sec. 2-34. Open meetings.  
Sec. 2-35. Organizational meetings.  
Sec. 2-36. Regular meetings.  
Sec. 2-37. Special meetings and rescheduled regular meetings.  
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Sec. 2-45. Order of business.  
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Sec. 2-77. Subsidiary motions.  
Sec. 2-78. Privileged motions.  
Sec. 2-79. Incidental motions.  
Sec. 2-80. Supplementary main motions.

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**\*State law references**—County government generally, O.C.G.A. § 36-1-1 et seq.; home rule for counties, Ga. Const. art. IX, § II, ¶ I.

## BROOKS COUNTY CODE

Secs. 2-81—2-100. Reserved.

### Division 3. Legislation

- Sec. 2-101. Legislative authority generally.
- Sec. 2-102. Ordinances, resolutions, contracts and interlocal agreements.
- Sec. 2-103. Preparation of ordinances.
- Sec. 2-104. Required elements of ordinances.
- Sec. 2-105. Introduction of ordinances, resolutions and other matters.
- Sec. 2-106. Action restricted; emergencies.
- Sec. 2-107. Subject matter of ordinances.
- Sec. 2-108. Adoption of ordinances.
- Sec. 2-109. Effective date of resolutions.
- Secs. 2-110—2-130. Reserved.

## Article III. Finance

### Division 1. Generally

Secs. 2-131—2-150. Reserved.

### Division 2. Purchasing, Sale and Contracts

- Sec. 2-151. Purchasing generally.
- Sec. 2-152. Contracts for public works.
- Sec. 2-153. Bidding procedures.
- Sec. 2-154. Sale of surplus personal property.
- Sec. 2-155. Sale of small parcels of surplus real property.
- Sec. 2-156. County contracts.

## ARTICLE I. IN GENERAL

### **Sec. 2-1. Personnel provisions not affected by Code.**

Nothing in this Code or in the ordinance adopting this Code shall affect any ordinance relating to the county's personnel classification system, employee pay plan, retirement plan, or employee benefits. All such ordinances are hereby recognized as continuing in full force and effect to the same extent as if set out in this Code.

### **Secs. 2-2—2-30. Reserved.**

## ARTICLE II. BOARD OF COMMISSIONERS

### DIVISION 1. GENERALLY

#### **Sec. 2-31. Chairman.**

The chairman shall act as chairman of the board of commissioners and is responsible for the orderly conduct of the meeting. In order to fulfill this duty, the chairman shall enforce the rules of procedure that are adopted by the board of commissioners. The chairman shall be impartial and conduct the meetings in a fair manner. The chairman may not introduce motions or second a motion except that the chairman may introduce or second a motion to go into executive session as authorized by section 2-39. The chairman shall not vote except to break a tie.

#### **Sec. 2-32. Vice-chairman.**

(a) The board of commissioners shall select a vice-chairman from the commissioners at the beginning of each calendar year. The vice-chairman shall fulfill the duties of the chairman if the chairman is not in attendance.

(b) If the chairman and the vice-chairman are absent and a quorum is present, the remaining commissioners shall select a commissioner to serve as temporary chairman of the meeting until either the chairman or vice-chairman is present at the meeting.

#### **Sec. 2-33. Committees.**

The chairman, with the concurrence of the board of commissioners, may create committees of members of the board of commissioners to study any issue before the board of commissioners. Any such committees may make recommendations to the board, but no committee shall be empowered to make any final decision on any matter before it for consideration. In addition to commissioners, committees may include other county officials, staff or citizens at large. Whenever a committee is created, its duties, any litigation on the scope of its duties, and the times, places and periods of time for which the committee may operate shall be determined by the chairman with the concurrence of the board of commissioners. The chairman shall serve as an ex officio member of all committees.

**Sec. 2-34. Open meetings.**

All meetings of the board of commissioners shall be held in accordance with the provisions of O.C.G.A. § 50-14-1 et seq. The public shall at all times be afforded access to all meetings other than executive sessions.

**Sec. 2-35. Organizational meetings.**

The board of commissioners shall hold an organizational meeting on or before the second Monday in January. The meeting shall be called to order by the county clerk, and the oath of office shall be administered to the newly elected members of the board of commissioners whose terms of office shall begin January 1. The commissioners shall also elect a chairman and vice-chairman.

**Sec. 2-36. Regular meetings.**

The time and location for the regular monthly meetings shall be established at the organization meeting held each year. A notice containing the foregoing information shall be posted and maintained in a conspicuous place available to the general public at the regular meeting place of the board of commissioners.

**Sec. 2-37. Special meetings and rescheduled regular meetings.**

A regular meeting may be canceled, rescheduled or moved to a new location within the county by the chairman for any reason. Other special meetings may be called as provided by state law. Whenever a rescheduled regular meeting or any other special meeting is to be held at a time or place other than the regularly scheduled time or place, written notice of the change shall be posted for at least 24 hours at the place of the regular meetings. In addition, written or oral notice shall be given by the clerk at least 24 hours in advance of the meeting to either the legal organ of the county or a newspaper having a general circulation at least equal to that of the legal organ and to each member of the board of commissioners.

**Sec. 2-38. Emergency sessions.**

When emergency circumstances occur, the board of commissioners may hold a meeting with less than 24 hours' notice to the public. When such meetings are to be held, the clerk shall provide notice to the legal organ of the county or a newspaper with a general circulation at least equal to that of the legal organ and to each member of the board of commissioners as soon as possible. The notice shall include the subjects expected to be considered at the meeting. In addition, the minutes shall reflect the reason for the emergency meeting and the nature of the notice given to the media.

**Sec. 2-39. Executive sessions.**

(a) Executive sessions of the board of commissioners may be held for the purpose of conducting business excepted from public access requirements as authorized by O.C.G.A. §§ 50-14-2 and 50-14-3. Where a meeting of the board of commissioners is devoted in part to

matters within the authorized exceptions to public access requirements, any portion of the meeting not subject to any such exceptions shall be open to the public. No executive session shall be held except pursuant to a majority affirmative vote of the board of commissioners taken in a public meeting.

(b) The minutes of the public meeting shall reflect the names of the commissioners present, those voting for the executive session and the specific reasons for the executive session. Minutes of the executive session may be maintained by the county clerk at the direction of the chairman. Any such minutes shall be maintained in a confidential file and shall not be subject to disclosure, except that disclosures of such portions of minutes identifying real estate to be acquired by the board of commissioners may only be delayed until such time as the acquisition of the real estate has been completed, terminated or abandoned or court proceedings have been initiated.

**Sec. 2-40. Quorum.**

A quorum must be present for conducting meetings of the board of commissioners. A quorum is a majority of all of the commissioners then in office. It is the duty of the chairman to enforce this rule. Any commissioner may raise a point of order directed to the chairman if he believes that a quorum is not present. If, during the course of a meeting, a commissioner leaves and a quorum no longer exists, the meeting cannot continue. If a quorum is not attained within 30 minutes, the meeting will be rescheduled by the chairman with the approval of the commissioners present.

**Sec. 2-41. Voting; majority.**

Passage of a motion shall require the affirmative vote of a majority of commissioners present and voting at a meeting at which a quorum is present. Unless otherwise specified in these procedures, a majority shall mean more than half of the commissioners present excluding abstentions. Where a two-thirds majority is specified, a majority vote shall mean at least two-thirds of the commissioners present excluding abstentions. In the event of a tie vote, the chairman shall vote to break the tie.

**Sec. 2-42. Abstentions.**

A commissioner shall vote on all motions unless he has a conflict of interest that would prevent him from making a decision in a fair and legal manner. If a conflict of interest does exist, the commissioner shall explain for the record his decision to abstain on any vote.

**Sec. 2-43. Agenda.**

(a) The county administration, with the advice of the chairman and the commissioners, shall prepare an agenda of subjects to be acted on for each meeting. Requested items for the agenda need to be submitted by Wednesday at noon and the finalized agenda will be available by Friday at noon. The agenda shall be made available to the commissioners at least one business day before every board of commissioners meeting.

(b) Members of the public may request that a particular subject be placed on the agenda for the following meeting. To be considered, this request must be submitted in writing to the county administration and received at least three business days before the meeting.

(c) The order of the agenda may be changed during a meeting by a majority vote of the board of commissioners. A new subject that requires urgent attention may be added to the agenda during a meeting by a majority vote of the board of commissioners.

(d) A copy of the minutes and a list of those members present shall be made available to the public for inspection within two business days of the adjournment of any meeting.

**Sec. 2-44. Minutes.**

(a) The county clerk shall promptly record the minutes for each board of commissioners meeting. The minutes serve as the official written record of the board of commissioners meeting and shall be open for public inspection once approved as official by the board of commissioners but in no case later than immediately following the next regular meeting of the board of commissioners. The minutes shall specify the names of commissioners present at the meeting, a description of each motion or other proposal made at the meeting, the commissioner who proposed each motion, the commissioner who seconded each motion, and a record of all votes. In the case of a roll-call vote, the name of each commissioner voting for or against a proposal shall be recorded. It shall be presumed that a commissioner has voted in the affirmative unless the minutes show otherwise. More detailed information may be included in the minutes at the request of the board of commissioners.

(b) The board of commissioners must approve the minutes before they can be considered as an official record of the board of commissioners. A copy of the minutes from the previous meeting shall be distributed to the commissioners at least one business day before the following meeting. The minutes of the previous meeting shall be corrected and approved by the board of commissioners at the beginning of each meeting. A majority vote is required for approval. Conflicts about the content of the minutes shall be decided by majority vote. Upon being approved, the minutes shall be signed by the chairman and attested to by the county clerk.

**Sec. 2-45. Order of business.**

All regular board of commissioners meetings shall follow an established order of business. The order is as follows:

- (1) Call to order;
- (2) Minutes;
- (3) Invited guests;
- (4) Reports from committees and departments;
- (5) Consent agenda;

- (6) Old business;
- (7) New business;
- (8) Public comments;
- (9) Adjournment.

**Sec. 2-46. Decorum.**

(a) All commissioners must conduct themselves in a professional and respectful manner. All remarks should be directed to the chairman and not to individual commissioners, staff or citizens in attendance. Personal remarks are inappropriate. A commissioner is not allowed to speak at a meeting until he has been recognized by the chairman. All comments made by a commissioner shall address the motion that is being discussed.

(b) The chairman shall enforce these rules of decorum. If a commissioner believes that a rule has been broken, he can raise a point of order. A second is not required. The chairman can rule on the question or he may allow the board of commissioners to debate the issue and decide the issue by majority vote.

**Sec. 2-47. Public participation.**

Public participation in meetings of the board of commissioners shall be permitted in accordance with the provisions of this section:

- (1) *Public comments.* The final agenda item of the meeting shall be reserved for comments from the public. All members of the public who wish to address the board of commissioners must submit their name and the topic of their comments to the county clerk at least three business days before the board of commissioners meeting. These individuals will be allotted five minutes to make their comments and their comments must be limited to their chosen topic. These limits can be waived by a majority vote of the board of commissioners.
- (2) *Public participation on agenda items.* By a majority vote, the board of commissioners may allow public comment on an agenda item at the time the item is being considered by the board of commissioners. These comments must be limited to the subject that is being debated. Members of the public may speak for five minutes and may only speak once. These limits may be waived by a majority vote of the board of commissioners. Anyone wishing to speak at any board of commissioners meeting must be recognized by the chairman before addressing the board of commissioners.
- (3) *Decorum.* Members of the public shall not make inappropriate or offensive comments at a board of commissioners meeting and are expected to comply with the rules of decorum that are established for commissioners. Individuals who violate any rules of the board of commissioners may be ruled out of order by the chairman or on a point of order made by a commissioner. A majority vote of the board of commissioners will rule on the point of order. An individual who violates the rules of decorum may be removed from the meeting at the direction of the chairman.

(4) *Public hearings.* The board of commissioners may schedule public hearings for the purpose of soliciting public comment on any subject of interest to the board of commissioners. Hearings may be held immediately prior to or following a meeting of the board of commissioners or at such other places and times as the board of commissioners may determine. No official action shall be taken at any such public hearing.

**Sec. 2-48. Amendments to rules.**

Any amendments to the rules of order must be submitted by a commissioner in writing to the county clerk three business days before a regular meeting of the board of commissioners. The proposed amendment shall be included in the agenda for that meeting and distributed to all commissioners. All amendments require a majority vote of the board of commissioners to be adopted.

**Sec. 2-49. Suspending the rules of order.**

Rules of order may be suspended in the case of an emergency. A motion to suspend the rules requires a second, is debatable and requires a vote of the board of commissioners. Rules governing quorum, voting methods and requirements, the notification to commissioners of meetings, and rules necessary for compliance with state law cannot be suspended.

**Sec. 2-50. Visual and sound recordings.**

Visual, sound, and visual and sound recordings may be permitted for all public meetings.

**Secs. 2-51—2-70. Reserved.**

**DIVISION 2. PARLIAMENTARY PROCEDURE**

**Sec. 2-71. Rules of procedure.**

Unless otherwise provided in this Code, procedures for meetings of the board of commissioners shall follow an edition of Robert's Rules of Order prescribed by the chairman.

**Sec. 2-72. Parliamentarian.**

The county attorney shall serve as the parliamentarian for the board of commissioners meetings.

**Sec. 2-73. Main motion.**

In order for the board of commissioners to take any official action on any subject, a commissioner must propose a main motion. A proposed main motion will not be recognized by the chairman until another commissioner agrees to second the motion. A second does not

require the commissioner seconding the motion to support the motion. A commissioner may withdraw a main motion that he has made at any time before the board of commissioners has voted on that motion.

**Sec. 2-74. Debate.**

(a) After the main motion is recognized by the chair, the board of commissioners shall debate the motion. The debate shall be managed by the chairman in a manner that is fair to all members of the board of commissioners. Commissioners may participate in the debate only when they are recognized by the chairman.

(b) During the course of debate, commissioners may introduce subsidiary motions that propose that the board of commissioners take a particular action on a motion. There are two classes of subsidiary motions: debatable subsidiary motions and undebatable subsidiary motions. Debatable subsidiary motions consist of motions to postpone indefinitely, amend, refer to committee, and postpone to a time certain. Debatable subsidiary motions require a second before they can be voted on or debated. There are three undebatable subsidiary motions: limit debate, vote immediately, and lay on the table. They require a second and cannot be debated.

(c) Commissioners may also introduce privileged motions. Privileged motions facilitate the running of the meeting and can be introduced during the course of debate. Privileged motions consist of a motion to raise a question of privilege and motions to recess and adjourn. The motions to recess and adjourn require a second. Debate is not allowed on privileged motions.

**Sec. 2-75. Voting; procedure.**

Voting on debatable motions and voting on undebatable motions shall take place in accordance with the following provisions:

- (1) *Debatable motions.* In the case of debatable motions, the vote can be proposed in one of two ways:
  - a. If debate has been completed and no other commissioner wishes to speak, the chairman can call for the vote. If there are no objections then the chairman can proceed with the vote;
  - b. If the chairman calls for the vote and there is an objection, a member of the board of commissioners may move to vote immediately ("move the previous question"). If this motion is seconded and approved by a two-thirds vote, debate will stop. The chairman will then read the proposed motion to the board of commissioners and ask for the votes of the commissioners.
- (2) *Undebatable motions.* In the case of undebatable motions, the vote shall occur immediately after the motion is recognized by the chairman. The chairman shall read the proposed motion to the board of commissioners and then call for the vote.

**Sec. 2-76. Ranking of motions.**

(a) Each subsidiary and privileged motion is assigned a specific rank. A motion of higher precedence can interrupt a motion of lower precedence. The higher motion must be decided before the board of commissioners returns to consider the motion of lower precedence.

(b) A main motion has the lowest rank and does not take precedence over any other motion. A motion to adjourn has the highest rank and will take precedence over all other subsidiary and privileged motions. The order of precedence of motions shall be in accordance with this section. Motions at the bottom of the following list take precedence over motions at the top of the list.

- (1) Main motion (lowest rank);
- (2) Subsidiary motions (debatable):
  - a. Postpone indefinitely;
  - b. Amend;
  - c. Refer to committee (commit);
  - d. Postpone to a time certain (postpone definitely).
- (3) Subsidiary motions (undebatable):
  - a. Limit debate or extend limits;
  - b. Vote immediately (previous question);
  - c. Lay on the table (postpone temporarily).
- (4) Privileged motions (undebatable):
  - a. Question of privilege;
  - b. Recess;
  - c. Adjourn (highest rank).

**Sec. 2-77. Subsidiary motions.**

During the course of debate, commissioners may introduce motions that propose that the board of commissioners take a particular action on a main motion. These motions are called subsidiary motions and they allow a board of commissioners to reach a conclusion on the main motion. Subsidiary motions require a second before they can be voted on or debated. Three subsidiary motions: amend, limit debate and vote immediately, also may apply to other subsidiary motions:

- (1) *Postpone indefinitely.* If a commissioner believes that the main motion should not be considered by the board of commissioners, that commissioner may move to postpone the consideration of the main motion indefinitely. If the motion is successful, consideration of the main motion stops and the main motion is tabled. A motion to postpone indefinitely may be debated, but it cannot be amended. A majority vote is required for the motion to pass.

- (2) *Amend.* If a commissioner believes that a main motion that is on the table should be changed in order to make it more acceptable, he can move to amend the motion:
  - a. Amendments must be closely related to the original motion and must not change the nature of the motion that they amend.
  - b. Motions to refer, amend, postpone to a time certain and the motion to recess can also be amended.
  - c. A motion cannot be amended more than two times.
  - d. Debate is allowed on a motion to amend only if the original motion is debatable.
  - e. A majority vote is required for the board of commissioners to adopt an amendment.
  - f. If the amendment is adopted then the board of commissioners shall consider the amended version of the motion.
- (3) *Refer to a committee (commit).* If a commissioner believes that further information is needed before the board of commissioners can act on a main motion, he may propose that the motion be referred to a specific committee or department for further study. If an appropriate committee does not already exist, then a committee may be formed as a part of the motion. A motion to refer should specify the date that the committee or department will report back to the board of commissioners. This motion is debatable and amendable. A majority vote is required for the motion to pass.
- (4) *Postpone to a time certain (postpone definitely).* A motion to postpone to a certain time may be proposed if a commissioner believes that the main motion should not be considered until a future time. This motion shall set a particular time for the main motion to be considered again. It is debatable and can be amended. If this motion is passed, the chairman will bring the original motion back to the board of commissioners for consideration at the specified time. A majority vote is required for the motion to pass.
- (5) *Limit or extend limits of debate.* A motion to limit debate places a time constraint on the length of debate. The details of such a motion are to be decided by the commissioner who makes the motion. This motion can also be used to extend the limits of debate if a limit on debate already exists. Debate is not allowed on this motion and a two-thirds vote is required.
- (6) *Vote immediately (previous question).* If a commissioner believes that the motion that is being considered should be voted on, the commissioner may move to vote immediately. The motion is undebatable and a vote of two-thirds of the board of commissioners is required for the motion to pass.
- (7) *Lay on the table (postpone temporarily).* A motion to lay on the table proposes that the consideration of a main motion be postponed until a later time in the meeting. The motion can be brought up for consideration only if a motion to resume consideration is

accepted by the board of commissioners during the same meeting. The motion will die if it is not taken up during the meeting. Debate is not allowed on this motion and the motion is not amendable. A majority vote is required for the motion to pass.

### **Sec. 2-78. Privileged motions.**

Privileged motions facilitate the running of the meeting. They do not address or relate to a main motion and can be introduced whether or not there is a main motion under consideration. Privileged motions take precedence over all subsidiary motions. Debate is not allowed on these motions.

- (1) *Questions of privilege.* A formal question addressed to the chairman concerning the rights of a commissioner or of the board of commissioners as a whole is referred to as a question of privilege. It does not require a second and cannot be debated or amended. The chairman is required to make a ruling on the question.
- (2) *Recess.* A motion to recess proposes that the meeting be suspended for a particular amount of time. The motion must specify the length of the recess. The motion must also be seconded. Debate is not allowed on this motion but the motion can be amended. A majority vote is required for the motion to pass.
- (3) *Adjourn.* In order for a meeting to come to a close, a commissioner must make a motion to adjourn. The motion to adjourn has the highest rank of any motion and as a result it can be introduced at any time. The motion requires a second, but is not debatable or amendable. A majority vote is required for the motion to pass.

### **Sec. 2-79. Incidental motions.**

Incidental motions allow commissioners to exert their rights as a member of the board of commissioners. Incidental motions can be introduced at any time during a meeting:

- (1) *Appeal.* If a commissioner disagrees with a decision that is made by the chairman, that commissioner may appeal the decision. If the appeal is seconded, the appeal will be considered by the board of commissioners. The chairman has the opportunity to explain the ruling that has been challenged. The board of commissioners may then debate the appeal. The board of commissioners shall decide by majority vote if the chairman's decision is to be upheld or overturned. An appeal is high in precedence and can only be interrupted by a privileged motion or by a motion to lay on the table.
- (2) *Parliamentary inquiry.* If a commissioner has a question about the rules of order, he may ask the chairman to give an opinion on that question. This question should take the form of a parliamentary inquiry and should relate to the current business of the board of commissioners. This motion takes precedence over all motions except privileged motions. This motion does not require a second and is not debatable or amendable.
- (3) *Point of order (question of order).* If a commissioner believes that a violation of the rules of parliamentary procedure has occurred, he can raise a point of order. A second

is not required. The chairman can make a ruling on the question or can allow the board of commissioners to debate and then rule on the question by majority vote. A point of order can only be interrupted by a privileged motion or a motion to lay on the table.

(4) *Point of information (request for information).* If a commissioner has a question about the facts of a particular issue that is being considered, he may ask a point of information. This motion is addressed first to the chairman and then to the appropriate person. A second is not required and the motion is not debatable or amendable.

**Sec. 2-80. Supplementary main motions.**

Three motions allow the board of commissioners to act on a main motion that has either been passed or tabled by the board of commissioners. These motions are considered to be main motions but differ from usual main motions in the ways specified:

- (1) *Reconsider.* The motion to reconsider allows the board of commissioners to debate whether or not to overturn a decision made at the meeting that is in progress. It allows the board of commissioners to consider new information that may affect the decision that has already been made. Any commissioner may make a motion to reconsider and any commissioner may second the motion. The motion is debatable but it cannot be amended. A majority vote of the board of commissioners is required for the motion to pass. If a motion to reconsider is passed, the original decision will be voided and the board of commissioners will return to debate and revote the original motion.
- (2) *Recind.* A motion to rescind proposes that the board of commissioners overturn a motion passed at a previous meeting. A motion to rescind can be made by any commissioner. It is in order as long as the original motion has not been implemented. An announcement of the intention to rescind a motion may be made at the meeting where the decision was made, or the commissioner seeking to rescind may place the matter on the agenda for the next meeting pursuant to section 2-43. The motion to rescind will then be placed on the agenda for the next meeting. At the next meeting, the motion to rescind will formally be made. If it is seconded, then the board of commissioners shall debate and vote on rescission. A majority vote is required for the motion to pass. If a motion to rescind is passed, the original decision will be voided.
- (3) *Resume consideration.* The motion to resume consideration allows the board of commissioners to consider a motion that has been temporarily postponed. This motion requires a second and is not debatable or amendable. It is a main motion but ranks higher than any debatable motion. A majority vote is required for the motion to pass.

**Secs. 2-81—2-100. Reserved.**

**DIVISION 3. LEGISLATION**

**Sec. 2-101. Legislative authority generally.**

The board of commissioners shall exercise the legislative functions of the county, and may pass any ordinance or resolution that it deems best for the government of the county; however, such ordinance or resolution is not in conflict with state law, the state constitution, or the constitution or the laws of the United States.

**Sec. 2-102. Ordinances, resolutions, contracts and interlocal agreements.**

Unless otherwise provided in this Code, all ordinances, resolutions, contracts and interlocal agreements of the county shall be prepared, approved, introduced and adopted in the manner provided in this division.

**Sec. 2-103. Preparation of ordinances.**

Whenever possible, all ordinances shall be prepared by the county attorney.

**Sec. 2-104. Required elements of ordinances.**

All ordinances passed by the board of commissioners shall contain the following items, which shall be set forth in the ordinance in the following order:

- (1) Ordinance number.
- (2) Title and purpose.
- (3) Enacting clause.
- (4) Body of ordinance by sections.
- (5) Severability clause.
- (6) Penalty clause.
- (7) Repealing clause.
- (8) Adoption date.
- (9) Effective date.
- (10) Authentication of county clerk.

**Sec. 2-105. Introduction of ordinances, resolutions and other matters.**

Ordinances, resolutions and other matters of subjects requiring action by the board of commissioners must be introduced and sponsored by a member of the board of commissioners.

**Sec. 2-106. Action restricted; emergencies.**

No ordinance shall be put on its final passage on the same day on which it is introduced, except that where an emergency exists and public health and safety require it, an ordinance containing a full statement of the facts and reasons for the emergency may be made effective upon its adoption, if approved by the board of commissioners.

**Sec. 2-107. Subject matter of ordinances.**

No ordinance shall relate to more than one subject, which shall be clearly expressed in its title; and no ordinance, or section of such ordinance, shall be amended or repealed unless the new ordinance contains the title of the ordinance or section amended or repealed. When practicable, all ordinances shall be introduced as amendments to this Code.

**Sec. 2-108. Adoption of ordinances.**

An ordinance shall be deemed adopted or approved when it receives an affirmative vote of a majority of the whole board of commissioners.

**Sec. 2-109. Effective date of resolutions.**

Resolutions which do not provide for their taking effect at a different time shall take effect immediately after their passage, or as otherwise provided by law.

**Secs. 2-110—2-130. Reserved.****ARTICLE III. FINANCE****DIVISION 1. GENERALLY****Secs. 2-131—2-150. Reserved.****DIVISION 2. PURCHASING, SALE AND CONTRACTS****Sec. 2-151. Purchasing generally.**

Operating under the oversight of the county administrator and the supervision of the director of financial services, all purchases for the county shall be made in accordance with the provisions of the county financial management plan, any other requirements established by the board of commissioners, and any requirements contained in the laws of the state. If there is any conflict in such requirements, the laws of the state shall control.

**Sec. 2-152. Contracts for public works.**

All contracts to build or repair any public building, bridge, causeway, road or other public work shall be let and contracted for in the manner prescribed by O.C.G.A. title 36, ch. 10.

**Sec. 2-153. Bidding procedures.**

All purchases which are required to be made by competitive bid shall be made in accordance with formal competitive bidding procedures as set forth in the county financial management plan and the laws of the state. In the event of any conflict in the procedures in the county financial management plan and the laws of the state, the procedures set out in the laws of the state shall control.

**Sec. 2-154. Sale of surplus personal property.**

The director of financial services shall have the authority to sell personal property of the county which has become unsuitable for use; provided, that surplus, unusable or obsolete supplies and equipment shall be sold only upon the adoption of a resolution by the board of commissioners specifying the manner in which such sale shall be conducted.

**Sec. 2-155. Sale of small parcels of surplus real property.**

The county shall have the authority to sell and convey parcels of small or narrow strips of land, so shaped or so small as to be incapable of being used independently as zoned or under applicable subdivision or other development ordinances or land use plans, or as streets, whether owned in fee or used by easement, to abutting property owners upon the following terms and conditions:

- (1) Such sale and conveyance facilitates the enjoyment of the highest and best use of the purchaser's abutting property;
- (2) The property has been declared by the board of commissioners to be surplus real property;
- (3) Each owner of property which abuts the surplus property has been notified, at least 14 calendar days prior to such conveyance, by certified mail, return receipt requested, that the surplus property is being offered for sale and is given the opportunity to purchase such property under the terms and conditions set out in this section;
- (4) The sale has been authorized by resolution of the board of commissioners;
- (5) Title to the surplus real property shall be conveyed by quit claim deed or limited warrant deed as the board of commissioners shall determine;
- (6) The purchase price shall be payable in cash at closing, which closing shall occur within 30 days of the approval of the sale by the board of commissioners; and
- (7) The purchaser shall be responsible for payment of all costs associated with the purchase of the surplus property, including, but not limited to, any attorney's fees, surveyor's fees and recording fees in connection therewith.

**Sec. 2-156. County contracts.**

(a) *Execution.* Unless otherwise specified by a majority of the entire board of commissioners, the chairman or, in his absence the vice-chairman, shall execute all contracts to be entered into by the county. The clerk or, in his absence any deputy clerk, may attest the signature.

(b) *Authorization.* All contracts entered into by the board of commissioners shall be authorized as required by section 2-102.

Chapters 3—5

**RESERVED**



## Chapter 6

### **ALCOHOLIC BEVERAGES\***

#### **Article I. In General**

Secs. 6-1—6-18. Reserved.

#### **Article II. Malt Beverages and Wine**

##### Division 1. Generally

Sec. 6-19. Definitions.

Sec. 6-20. Excise tax on malt beverages.

Secs. 6-21—6-43. Reserved.

##### Division 2. Licenses

Sec. 6-44. Granting of licenses.

Sec. 6-45. Annual license fee.

Sec. 6-46. Renewal, operation and revocation of licenses.

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**\*State law references**—Alcoholic beverages, O.C.G.A. § 3-1-1 et seq.; local regulation of alcoholic beverages, O.C.G.A. § 3-3-2.



**ARTICLE I. IN GENERAL**

**Secs. 6-1—6-18. Reserved.**

**ARTICLE II. MALT BEVERAGES AND WINE\*****DIVISION 1. GENERALLY****Sec. 6-19. Definitions.**

The following words, terms and phrases, when used in this article shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Establishment* means any physical location for the sale of malt beverages and wines in Brooks County.

*License* means the permit granted to licensee for the operation of an establishment for the sale of malt beverage or wine in Brooks County.

*Licensee* means any person engaged in selling, at retail, any malt beverage or wine in Brooks County.

*Licensor* means the board of commissioners of Brooks County, or other authority having control of the fiscal affairs of the county.

*Malt beverage* means malt beverages as defined in O.C.G.A. § 3-1-2.

*Wine* means wine as defined in O.C.G.A. § 3-1-2.

(Res. of 9-8-1982, § I)

**Sec. 6-20. Excise tax on malt beverages.**

The following excise taxes are hereby levied:

- (1) *Tap or draft beer.* Where malt beverages, commonly known as tap or draft beer, are sold in or from a barrel or container, a tax of \$6.00 on each container sold containing not more than 15.5 gallons and a proportionate tax at the same rate on all fractional parts of 15.5 gallons.
- (2) *Bottles, cans or other containers.* Where malt beverages are sold in bottles, cans or other containers, except barrel or bulk containers, a tax of \$0.05 per 12 ounces and a proportionate tax at the same rate on all fractional parts of 12 ounces.

**State law reference**—Above tax required to be levied, O.C.G.A. § 3-5-80.

**Secs. 6-21—6-43. Reserved.**

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\***State law references**—Malt beverages, O.C.G.A. § 3-5-1 et seq.; wine, O.C.G.A. § 3-6-1 et seq.

## DIVISION 2. LICENSES

**Sec. 6-44. Granting of licenses.**

(a) *Compliance with division.* No person shall operate an establishment involving the sale of malt beverages or wine in the county without having first complied with the provisions of this resolution.

(b) *Location.* No license shall be granted to any person for the operation of an establishment involving the sale of malt beverages or wine in any area prohibited by law or by valid zoning ordinance.

(c) *Felony conviction.* No license shall be granted to any person for the operation of an establishment involving the sale of malt beverages or wine who has been convicted of a felony or who has been convicted within the last five years of a misdemeanor involving the offense of gambling or violation of the Georgia Controlled Substance Act (O.C.G.A. § 16-13-20 et seq.).

(d) *Application; required information.* Any person desiring to obtain a license for the operation of an establishment involving the sale of malt beverages or wine in the county shall submit an application therefore which shall contain the following information:

- (1) Full name of the applicant, including any aliases or trade names, and, in the case of a partnership, firm, association or corporation, the name of the individual or agent who shall be held responsible for compliance with the provisions of this resolution. In the event the applicant is a partnership or firm, the names and addresses of all members of the partnership or firm shall be furnished; and in the event the applicant is an association or corporation, the names and addresses of its principal officers, directors and the three stockholders owning the largest amounts of stock shall be furnished.
- (2) The complete mailing and location address of the applicant and the address of the establishment for the sale of malt beverages and wine.
- (3) The type of establishment to be operated and the category of related functions in which such establishment will be engaged.
- (4) The names and addresses of all employees of the establishment at the time of making the application.
- (5) The name and address of the nearest church.
- (6) The name and address of the nearest school.
- (7) Whether or not the applicant or any person listed under subsection (a) of this section has previously been refused a license. If the answer is in the affirmative, state the month and year of such refusal, the jurisdiction refusing the license and the circumstances surrounding such refusal.

- (8) Has applicant or any person named in subsection (1) of this section, having previously obtained a license, had the same revoked? If the answer is in the affirmative, state the month and year of such revocation, the jurisdiction revoking the license and the circumstances surrounding such revocation.
- (9) Has applicant or any person identified in subsection (a) of this section been convicted within the last five years of a misdemeanor involving the offense of gambling?
- (10) Has applicant or any person identified in subsection (a) of this section been convicted within the last five years of an offense involving violation of the Georgia Controlled Substance Act?
- (11) A consent statement by the applicant that all necessary investigation reports on applicant and any employees in the applicant's establishment including, but not limited to, credit reports and reports from law enforcement agencies, may be obtained; that any information in such reports may be furnished to the licensor; and that applicant will be responsible for the cost thereof. If so requested, applicant shall also obtain such consent forms from each employee who will be employed in applicant's establishment. Licensor may, at its option, require fingerprinting and/or photographs of applicant and applicant's employees for the purpose of conducting its investigation.

The truth of the information contained in said application shall be sworn to by the applicant before a person authorized to administer oaths.

(e) *Funds to be submitted with application.* The applicant shall attach, with his application, certified funds in the amount of the annual license fee.

(f) *Grant or referral of license.* In determining the question of the granting or refusal of the license provided for hereunder, licensor shall consider: the location of the establishment; the uses of the surrounding property; the integrity of the applicant and his employees; the conviction of the applicant or his employees for the violation of any criminal statutes; and other relevant factors deemed by the licensor to have a reasonable relationship to the desirability of the issuance of a license to the applicant for the establishment provided for in this resolution. (Res. of 9-8-1982, § II)

**Sec. 6-45. Annual license fee.**

The annual license fee for the license provided in this resolution shall be the sum of \$250.00 for packaging only \$350.00, for consumption on the premises. Such licenses shall run from January 1 to December 31 of each year, and the fee shall be paid on or before January 1 of each year, for such year. Such license fees shall be prorated if granted after January 1 of any year. (Res. of 9-8-1982, § III)

**State law reference**—License fees authorized, O.C.G.A. §§ 3-5-42, 3-6-40.

**Sec. 6-46. Renewal, operation and revocation of licenses.**

As a condition subsequent to the granting of said license and the possession thereof, compliance with the following regulations shall be mandatory:

- (1) Licenses granted hereunder shall be prominently displayed in the licensee's establishment, and shall be, together with the establishment, subject to inspection at any time by licensor or any law enforcement agency having jurisdiction of the area of licensee's establishment.

- (2) Licensee shall not employ in the operation of said establishment any person who has been convicted of a felony within the last five years.
- (3) Licensee shall not employ in the operation of said establishment any person who has been convicted of a misdemeanor involving the offense of gambling or violation of the Georgia Controlled Substance Act (O.C.G.A. § 16-13-20 et seq.) within the last five years.
- (4) Licensee shall pay the annual renewal fee for such license before January 1 of each succeeding year.
- (5) The sale of all malt beverages and wines shall be in compliance with the laws of the state and the regulations promulgated by the Department of Revenue of the state.
- (6) Each licensee shall maintain for a period of 12 months records of all deliveries made to the licensee's establishment of malt beverages and wines by all wholesalers, which said records shall include copies of the wholesaler's invoice accompanying said delivery. Licensee shall make available to the licensor all such records upon request of the licensor.
- (7) No licensee shall permit consumption, on the premises of the licensee's establishment, of any malt beverage or wine between the hours of 1:00 a.m. and 7:00 a.m.:
  - a. Failure of licensee to comply with any of the provisions herein set forth in this section shall be grounds for revocation of said license.
  - b. Upon information to licensor concerning violation of any of the provisions outlined in this section, licensor shall serve notice upon licensee, by registered or certified mail addressed to the licensee's establishment, requiring him to appear before the licensor and show cause why his license should not be revoked. Such hearing shall not be held sooner than three days from the giving of such notice, and shall set forth with particularity the date, time and place of the hearing on said matter; such notice shall also state the condition alleged which could, if sustained, result in revocation of the licensee's license.
  - c. Within three days of the hearing on such matter, licensor shall render a decision on the matter, notifying licensee, in writing, of its decision, by registered or certified mail, or by personally delivering the same to the licensee. In the event of a revocation no rebate shall be made on any portion of any license fee paid.
- (8) After revocation of any license granted hereunder, no person, formerly holding such license, shall operate an establishment for the sale of malt beverages or witness in the county without first obtaining a valid license.

(Res. of 9-8-1982, § IV)

Chapter 7

**RESERVED**



## Chapter 8

### **ANIMAL CONTROL**

#### **Article I. In General**

Secs. 8-1—8-20. Reserved.

#### **Article II. Reserved**

Secs. 8-21—8-60. Reserved.

#### **Article III. Dangerous Dog Control**

- Sec. 8-61. Definitions.
- Sec. 8-62. Exemption.
- Sec. 8-63. Jurisdiction.
- Sec. 8-64. Investigations, notice of classification.
- Sec. 8-65. Procedures for classification; notice; hearing.
- Sec. 8-66. Requirements for possession; registration; insurance; notice; enforcement of article.
- Sec. 8-67. Restrictions on permitting dogs to be outside proper enclosure.
- Sec. 8-68. Confiscation of dog; grounds; disposition.
- Sec. 8-69. Violations; penalties.

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## ARTICLE I. IN GENERAL

**Secs. 8-1—8-20. Reserved.**

## ARTICLE II. RESERVED

**Secs. 8-21—8-60. Reserved.**

## ARTICLE III. DANGEROUS DOG CONTROL

### **Sec. 8-61. Definitions.**

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Dangerous dog* means any dog, that according to the records of an appropriate authority:

- (1) Inflicts a severe injury on a human being without provocation on public or private property at any time; or
- (2) Aggressively bites, attacks, or endangers the safety of humans without provocation after the dog has been classified as a potentially dangerous dog and after the owner has been notified of such classification.

*Dangerous dog control officer* means an individual selected by the county commissioner to aid in the administration and enforcement of this article. The dangerous dog control officer shall not be authorized to make arrests.

*Owner* means any natural person or any legal entity, including but not limited to, a corporation, partnership, firm or trust owning, possessing, harboring, keeping or having custody of a dangerous dog or potentially dangerous dog within this county.

*Potentially dangerous dog* means any dog that without provocation bites a human being on public or private property.

*Proper enclosure* means an enclosure for keeping a dangerous dog or potentially dangerous dog while on the owner's property securely confined indoors or in a securely enclosed and locked pen, fence, or structure, suitable to prevent the entry of young children and designed to prevent the dog from escaping. Any such pen or structure shall have secure sides and a secure top, and shall be of sufficient height and the bottom of the fence shall be constructed or secured in such a manner as to prevent the dog's escape either from over or under the fence. Any such enclosure shall also provide protection from the elements for the dog.

*Records* means records of any state or county agency; records of any county board of health; records of any federal, state, or local court; or records of the dangerous dog control officer provided for in this article.

**Sec. 8-62. Exemption.**

A dog that inflicts any injury upon a person when the dog is being used by a law enforcement officer to carry out the law enforcement officer's official duties shall not be a dangerous dog or potentially dangerous dog within the meaning of this article. A dog shall not be a dangerous dog or potentially dangerous dog within the meaning of this article if the injury inflicted by the dog was sustained by a person who at the time, was committing a willful trespass or other tort or was tormenting, abusing, or assaulting the dog or had in the past been reported to have tormented, abused, or assaulted the dog or was committing or attempting to commit a crime.

**Sec. 8-63. Jurisdiction.**

This article shall govern the unincorporated area of the county.

**Sec. 8-64. Investigations, notice of classification.**

(a) Upon receiving a report of a dangerous dog within a dog control officer's jurisdiction from a law enforcement agency, animal control agency, rabies control officer, or county board of health, the dog control officer shall make such investigations and inquiries with regard to such report as may be necessary to carry out the provisions of this article.

(b) When the dangerous dog control officer classifies a dog as a dangerous dog or reclassifies a potentially dangerous dog as a dangerous dog, the dangerous dog control officer shall notify the dog's owner in writing by certified mail to the owner's last known address of such classification or reclassification. Such notice shall be complete upon its mailing.

**Sec. 8-65. Procedures for classification; notice; hearing.**

(a) As applied to the owners of potentially dangerous dogs, the procedures provided for in this section shall be carried out as a necessary condition for the enforcement of the provisions of this article against such owners. As applied to the owners of dangerous dogs, the procedures provided for in this section shall not be an essential element of any crime provided for in this article.

(b) When a dangerous dog or potentially dangerous dog is classified as such, the dog control officer shall notify the dog's owner of such classification.

(c) The notice to the owner shall meet the following requirements:

- (1) The notice shall be in writing and mailed by certified mail to the owner's last known address;
- (2) The notice shall include a summary of the dangerous dog control officer's findings that form the basis for the dog's classification as a dangerous dog or potentially dangerous dog;
- (3) The notice shall be dated and shall state that the owner, within 15 days after the date shown on the notice, has a right to request a hearing on the dog control officer's determination that the dog is a dangerous dog or potentially dangerous dog;

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- (4) The notice shall state that the hearing, if requested shall be before the county commissioner;
- (5) The notice shall state that if a hearing is not requested, the dangerous dog control officer's determination that a dog is a dangerous dog or potentially dangerous dog will become effective for all purposes under this article on a date specified in the notice, which shall be after the last day on which the owner has a right to request a hearing; and
- (6) The notice shall include a form to request a hearing before the county commissioner and shall provide specific instructions on mailing or delivering such requests to the county commissioner.
  - (d) When the county commissioner receives a request for a hearing as provided in subsection (c) of this section, he shall schedule such hearing within 30 days after receiving the request. The commissioner shall notify the dog owner in writing by certified mail of the date, time and place of the hearing. At the hearing, the owner of the dog shall be given the opportunity to testify and present evidence and in addition thereto, the commissioner shall receive such other evidence and hear such other testimony he may find reasonably necessary to make a determination, either to sustain, modify, or overrule the dangerous dog control officer's classification of the dog.

- (e) Within ten days after the date of the hearing, the county commissioner shall notify the dog owner in writing by certified mail of his determination on the matter. If such determination is that the dog is a dangerous dog or potentially dangerous dog, the notice shall specify the date upon which that determination is effective.

**Sec. 8-66. Requirements for possession; registration; insurance; notice; enforcement of article.**

(a) It is unlawful for an owner to have or possess within this county a dangerous dog or potentially dangerous dog without a certificate of registration issued in accordance with the provisions of this section.

(b) Subject to the additional requirements of subsection (c) of this section for dangerous dogs, the dangerous dog control officer shall issue a certificate of registration to the owner of a dangerous or potentially dangerous dog in this county if the owner presents to the dangerous dog control officer or the dangerous dog control officer finds sufficient evidence of:

- (1) A proper enclosure to confine the dangerous dog or potentially dangerous dog; and
- (2) The posting on the premises where the dangerous dog or potentially dangerous dog is located with a clearly visible sign warning that there is a dangerous dog on the property and containing a symbol designed to inform children of the presence of a dangerous dog. Said sign shall conform substantially to the design provided by the department of natural resources:
  - a. The sign shall be in the shape of a diamond, similar to a standard highway warning sign, made of .08 gauge aluminum sheeting and measuring 12" x 12".

- b. The circle shall measure 10 $\frac{3}{4}$  inches in diameter. The figure of the person shall measure five inches from the top of its finger to the bottom of its feet. The top of the dog's tail to the person's elbow shall measure 6 $\frac{3}{4}$  inches. The word "DANGER!" shall measure 1 $\frac{1}{8}$  " x 6 ".
- c. The sign shall be in two colors: standard highway yellow and black. The circle, the figures of the person and the dog, and the word "DANGER!" shall be in black. The background and remainder of the sign shall be in yellow.
- d. An original sign shall be assigned to the owner at the time of registration of a dangerous dog or potentially dog. The owner will be charged the full cost for a replacement sign if the original sign is lost, destroyed, or damaged.

(c) In addition to the requirements of subsection (b) of this section, the owner of a dangerous dog shall present to the dangerous dog control officer evidence of:

- (1) A policy of insurance in the amount of at least \$15,000.00 issued by an insurer authorized to transact business in this state, insuring the owner of the dangerous dog against liability for any personal injuries inflicted by the dangerous dog; or
- (2) A surety bond in the amount of at least \$15,000.00 or more issued by a surety company authorized to transact business in this state payable to any person injured by the dangerous dog.

(d) The owner of a dangerous dog or potentially dangerous dog shall notify the dangerous dog control officer within 24 hours if the dog is on the loose, is unconfined, has attacked a human, has died, or has been sold or donated. If the dog has been sold or donated, the owner shall also provide the name, address, and telephone number of the new owner of the dog.

(e) The owner of a dangerous dog or potentially dangerous dog shall notify the dangerous dog control officer if the owner is moving from the dog control officer's jurisdiction.

(f) The dog control officer is authorized to make whatever inquiry is deemed necessary to ensure compliance with the provisions of this article. Law enforcement agencies shall cooperate with the dangerous dog control officer in enforcing the provisions of this article.

(g) Certificates of registration shall be renewed on an annual basis. At the time of the annual renewal of a certificate of registration, the dog control officer shall require evidence from the owner or make such investigations as may be necessary to verify that the dangerous dog or potentially dangerous dog is continuing to be confined in a proper enclosure and that the owner is continuing to comply with other provisions of this article.

**Sec. 8-67. Restrictions on permitting dogs to be outside proper enclosure.**

- (a) It is unlawful for an owner of a dangerous dog to permit the dog to be outside a proper enclosure unless the dog is muzzled and restrained by a substantial chain or leash and is under the physical restraint of a responsible person. The muzzle shall be made in a manner that will not cause injury to the dog or interfere with its vision or respiration but will prevent it from biting any person.

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(b) It is unlawful for the owner of a potentially dangerous dog to permit the dog to be outside a proper enclosure unless the dog is restrained by a substantial chain or leash and is under the restraint of a responsible person.

**Sec. 8-68. Confiscation of dog; grounds; disposition.**

(a) A dangerous dog shall be immediately confiscated by the dangerous dog control officer or by a law enforcement officer or by another person authorized by the dangerous dog control officer if the:

- (1) Owner of the dog does not secure the liability insurance or bond required by section 8-66(c);
- (2) Dog is not validly registered as required by section 8-66;
- (3) Dog is not maintained in a proper enclosure; or
- (4) Dog is outside a proper enclosure in violation of section 8-67(a);

(b) A potentially dangerous dog shall be confiscated in the same manner as a dangerous dog if the dog is:

- (1) Not validly registered as required by section 8-66;
- (2) Not maintained in the proper enclosure; or
- (3) Outside a proper enclosure in violation of section 8-67(b).

(c) Any dog that has been confiscated under the provisions of subsection (a) or (b) of this section shall be returned to its owner upon the owner's compliance with the provisions of this article and upon the payment of reasonable confiscation costs. If the owner has not complied with the provisions of this article within 20 days of the date the dog was confiscated, said dog shall be destroyed in an expeditious and humane manner.

**Sec. 8-69. Violations; penalties.**

(a) Violations of the provisions of this article shall be punished as provided in section 1-7.

(b) In addition to any penalties which may be imposed under this section, the dangerous dog involved shall be immediately confiscated by the dangerous dog control officer or by a law enforcement officer or another person authorized by the dangerous dog control officer and placed in quarantine for the proper length of time as determined by the county board of health, and, thereafter, the dangerous dog shall be destroyed in an expeditious and humane manner.

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top, and shall be of sufficient height and the bottom of the fence shall be constructed or secured in such a manner as to prevent the dog's escape either from over or under the fence. Any such enclosure shall also provide protection from the elements for the dog.

*Records* means records of any state or county agency; records of any county board of health; records of any federal, state, or local court; or records of the dangerous dog control officer provided for in this article.

**Sec. 8-62. Exemption.**

A dog that inflicts any injury upon a person when the dog is being used by a law enforcement officer to carry out the law enforcement officer's official duties shall not be a dangerous dog or potentially dangerous dog within the meaning of this article. A dog shall not be a dangerous dog or potentially dangerous dog within the meaning of this article if the injury inflicted by the dog was sustained by a person who at the time, was committing a willful trespass or other tort or was tormenting, abusing, or assaulting the dog or had in the past been reported to have tormented, abused, or assaulted the dog or was committing or attempting to commit a crime.

**Sec. 8-63. Jurisdiction.**

This article shall govern the unincorporated area of the county.

**Sec. 8-64. Investigations, notice of classification.**

(a) Upon receiving a report of a dangerous dog within a dog control officer's jurisdiction from a law enforcement agency, animal control agency, rabies control officer, or county board of health, the dog control officer shall make such investigations and inquiries with regard to such report as may be necessary to carry out the provisions of this article.

(b) When the dangerous dog control officer classifies a dog as a dangerous dog or reclassifies a potentially dangerous dog as a dangerous dog, the dangerous dog control officer shall notify the dog's owner in writing by certified mail to the owner's last known address of such classification or reclassification. Such notice shall be complete upon its mailing.

**Sec. 8-65. Procedures for classification; notice; hearing.**

(a) As applied to the owners of potentially dangerous dogs, the procedures provided for in this section shall be carried out as a necessary condition for the enforcement of the provisions of this article against such owners. As applied to the owners of dangerous dogs, the procedures provided for in this section shall not be an essential element of any crime provided for in this article.

(b) When a dangerous dog or potentially dangerous dog is classified as such, the dog control officer shall notify the dog's owner of such classification.

(c) The notice to the owner shall meet the following requirements:

(1) The notice shall be in writing and mailed by certified mail to the owner's last known address;

- (2) The notice shall include a summary of the dangerous dog control officer's findings that form the basis for the dog's classification as a dangerous dog or potentially dangerous dog;
- (3) The notice shall be dated and shall state that the owner, within 15 days after the date shown on the notice, has a right to request a hearing on the dog control officer's determination that the dog is a dangerous dog or potentially dangerous dog;
- (4) The notice shall state that the hearing, if requested shall be before the county commissioner;
- (5) The notice shall state that if a hearing is not requested, the dangerous dog control officer's determination that a dog is a dangerous dog or potentially dangerous dog will become effective for all purposes under this article on a date specified in the notice, which shall be after the last day on which the owner has a right to request a hearing; and
- (6) The notice shall include a form to request a hearing before the county commissioner and shall provide specific instructions on mailing or delivering such requests to the county commissioner.
  - (d) When the county commissioner receives a request for a hearing as provided in subsection (c) of this section, he shall schedule such hearing within 30 days after receiving the request. The commissioner shall notify the dog owner in writing by certified mail of the date, time and place of the hearing. At the hearing, the owner of the dog shall be given the opportunity to testify and present evidence and in addition thereto, the commissioner shall receive such other evidence and hear such other testimony he may find reasonably necessary to make a determination, either to sustain, modify, or overrule the dangerous dog control officer's classification of the dog.
  - (e) Within ten days after the date of the hearing, the county commissioner shall notify the dog owner in writing by certified mail of his determination on the matter. If such determination is that the dog is a dangerous dog or potentially dangerous dog, the notice shall specify the date upon which that determination is effective.

**Sec. 8-66. Requirements for possession; registration; insurance; notice; enforcement of article.**

- (a) It is unlawful for an owner to have or possess within this county a dangerous dog or potentially dangerous dog without a certificate of registration issued in accordance with the provisions of this section.
- (b) Subject to the additional requirements of subsection (c) of this section for dangerous dogs, the dangerous dog control officer shall issue a certificate of registration to the owner of a dangerous or potentially dangerous dog in this county if the owner presents to the dangerous dog control officer or the dangerous dog control officer finds sufficient evidence of:
  - (1) A proper enclosure to confine the dangerous dog or potentially dangerous dog; and

- (2) The posting on the premises where the dangerous dog or potentially dangerous dog is located with a clearly visible sign warning that there is a dangerous dog on the property and containing a symbol designed to inform children of the presence of a dangerous dog. Said sign shall conform substantially to the design provided by the department of natural resources:
  - a. The sign shall be in the shape of a diamond, similar to a standard highway warning sign, made of .08 gauge aluminum sheeting and measuring 12" x 12".
  - b. The circle shall measure 10 $\frac{3}{4}$  inches in diameter. The figure of the person shall measure five inches from the top of its finger to the bottom of its feet. The top of the dog's tail to the person's elbow shall measure 6 $\frac{3}{4}$  inches. The word "DANGER!" shall measure 1 $\frac{1}{8}$  " x 6 ".
  - c. The sign shall be in two colors: standard highway yellow and black. The circle, the figures of the person and the dog, and the word "DANGER!" shall be in black. The background and remainder of the sign shall be in yellow.
  - d. An original sign shall be assigned to the owner at the time of registration of a dangerous dog or potentially dog. The owner will be charged the full cost for a replacement sign if the original sign is lost, destroyed, or damaged.
- (c) In addition to the requirements of subsection (b) of this section, the owner of a dangerous dog shall present to the dangerous dog control officer evidence of:
  - (1) A policy of insurance in the amount of at least \$15,000.00 issued by an insurer authorized to transact business in this state, insuring the owner of the dangerous dog against liability for any personal injuries inflicted by the dangerous dog; or
  - (2) A surety bond in the amount of at least \$15,000.00 or more issued by a surety company authorized to transact business in this state payable to any person injured by the dangerous dog.
- (d) The owner of a dangerous dog or potentially dangerous dog shall notify the dangerous dog control officer within 24 hours if the dog is on the loose, is unconfined, has attacked a human, has died, or has been sold or donated. If the dog has been sold or donated, the owner shall also provide the name, address, and telephone number of the new owner of the dog.
- (e) The owner of a dangerous dog or potentially dangerous dog shall notify the dangerous dog control officer if the owner is moving from the dog control officer's jurisdiction.
- (f) The dog control officer is authorized to make whatever inquiry is deemed necessary to ensure compliance with the provisions of this article. Law enforcement agencies shall cooperate with the dangerous dog control officer in enforcing the provisions of this article.
- (g) Certificates of registration shall be renewed on an annual basis. At the time of the annual renewal of a certificate of registration, the dog control officer shall require evidence from the owner or make such investigations as may be necessary to verify that the dangerous dog or potentially dangerous dog is continuing to be confined in a proper enclosure and that the owner is continuing to comply with other provisions of this article.

**Sec. 8-67. Restrictions on permitting dogs to be outside proper enclosure.**

(a) It is unlawful for an owner of a dangerous dog to permit the dog to be outside a proper enclosure unless the dog is muzzled and restrained by a substantial chain or leash and is under the physical restraint of a responsible person. The muzzle shall be made in a manner that will not cause injury to the dog or interfere with its vision or respiration but will prevent it from biting any person.

(b) It is unlawful for the owner of a potentially dangerous dog to permit the dog to be outside a proper enclosure unless the dog is restrained by a substantial chain or leash and is under the restraint of a responsible person.

**Sec. 8-68. Confiscation of dog; grounds; disposition.**

(a) A dangerous dog shall be immediately confiscated by the dangerous dog control officer or by a law enforcement officer or by another person authorized by the dangerous dog control officer if the:

- (1) Owner of the dog does not secure the liability insurance or bond required by section 8-66(c);
- (2) Dog is not validly registered as required by section 8-66;
- (3) Dog is not maintained in a proper enclosure; or
- (4) Dog is outside a proper enclosure in violation of section 8-67(a);

(b) A potentially dangerous dog shall be confiscated in the same manner as a dangerous dog if the dog is:

- (1) Not validly registered as required by section 8-66;
- (2) Not maintained in the proper enclosure; or
- (3) Outside a proper enclosure in violation of section 8-67(b).

(c) Any dog that has been confiscated under the provisions of subsection (a) or (b) of this section shall be returned to its owner upon the owner's compliance with the provisions of this article and upon the payment of reasonable confiscation costs. If the owner has not complied with the provisions of this article within 20 days of the date the dog was confiscated, said dog shall be destroyed in an expeditious and humane manner.

**Sec. 8-69. Violations; penalties.**

- (a) Violations of the provisions of this article shall be punished as provided in section 1-7.
- (b) In addition to any penalties which may be imposed under this section, the dangerous dog involved shall be immediately confiscated by the dangerous dog control officer or by a law enforcement officer or another person authorized by the dangerous dog control officer and placed in quarantine for the proper length of time as determined by the county board of health, and, thereafter, the dangerous dog shall be destroyed in an expeditious and humane manner.

Chapter 9

**RESERVED**



Chapter 10

**BUILDINGS AND BUILDING REGULATIONS**

**Article I. In General**

Secs. 10-1—10-18. Reserved.

**Article II. State Minimum Codes**

Sec. 10-19. Adopted by reference.

Sec. 10-20. Administration and enforcement.



**ARTICLE I. IN GENERAL**

**Secs. 10-1—10-18. Reserved.**

**ARTICLE II. STATE MINIMUM CODES\***

**Sec. 10-19. Adopted by reference.**

(a) It is the intent of the county to enforce the latest edition of the following Georgia State Minimum Standard Codes, as adopted and amended by the Georgia Department of Community Affairs:

Standard Building Code

Standard Mechanical Code

Standard Gas Code

Standard Plumbing Code

National Electrical Code

Standard Fire Prevention Code

(b) The following appendices of said codes, as adopted and amended by the Georgia Department of Community Affairs, are hereby adopted by reference as though they were copied herein fully:

Standard Building Code: Appendix A through H

Standard Mechanical Code: Appendix A through C

Standard Plumbing Code: Appendix A through G

Standard Gas Code: Appendix A through E

Standard Fire Prevention Code: Appendix A through D

(Ord. No. 97-7-1, 7-29-1997)

**Sec. 10-20. Administration and enforcement.**

(a) *Purpose.* The purpose of this section is to provide for the administration and enforcement of the Georgia State Minimum Standard Codes.

(b) *Codes remedial.*

(1) *Generally.* Such codes are hereby declared to be remedial, and shall be construed to secure the beneficial interests and purposes thereof, which are public safety, health, and general welfare through structural strength, stability, sanitation, adequate light and ventilation, and safety to life and property from fire and other hazards attributed to the built environment including alteration, repair, removal, demolition, use and

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\***State law reference**—State minimum codes, O.C.G.A. § 8-2-20 et seq.

occupancy of buildings, structures, or premises, and by regulating the installation and maintenance of all electrical, gas, mechanical and plumbing systems, which may be referred to as service systems.

- (2) *Quality control.* Quality control of materials and workmanship is not within the purview of this Code except as it relates to the purposes stated herein.
- (3) *Permitting and inspection.* The inspection or permitting of any building, system or plan, under the requirements of such codes shall not be construed in any court as a warranty of the physical condition of such building, system or plan or their adequacy. The county, nor any employee thereof, shall be liable in tort for damages for any defect or hazardous or illegal condition or inadequacy in such building, system or plan, nor for any failure of any component of such, which may occur subsequent to such inspection or permitting.

(Ord. No. 97-7-2, exhibit A, 7-29-1997)

Chapter 11

**RESERVED**



## Chapter 12

### **BUSINESSES AND OCCUPATIONS**

#### **Article I. In General**

Secs. 12-1—12-20. Reserved.

#### **Article II. Occupational Tax**

- Sec. 12-21. Occupational tax required; occupational tax required for business dealings with the county.
- Sec. 12-22. Construction of terms; definitions.
- Sec. 12-23. Administrative and regulatory fee structure; occupation tax structure.
- Sec. 12-24. Occupation tax levied; restrictions.
- Sec. 12-25. Professionals as classified in O.C.G.A. § 48-13-9(c), paragraphs (1)—(18).
- Sec. 12-26. Practitioners exclusively practicing for the government.
- Sec. 12-27. Purpose and scope of tax.
- Sec. 12-28. When tax due and payable; effect of transacting business when tax delinquent.
- Sec. 12-29. Exemption on grounds that business operated for charitable purpose.
- Sec. 12-30. Evidence of state registration required if applicable; state registration to be displayed.
- Sec. 12-31. Evidence of qualification required if applicable.
- Sec. 12-32. Liability of officers and agents; registration required; failure to obtain.
- Sec. 12-33. Penalty of article violation.
- Sec. 12-34. County clerk charge with collecting, subpoena and arresting powers.
- Sec. 12-35. Businesses not covered by this article.
- Sec. 12-36. When occupation tax due and payable; payment options.
- Sec. 12-37. Amendment; repeal of provision.
- Sec. 12-38. Applications of provisions to prior ordinance.
- Sec. 12-39. Enforcement of provision.
- Sec. 12-40. Provisions to remain in full force and effect until changed by the board.
- Sec. 12-41. Requirement of public hearing before tax increase.
- Sec. 12-42. Option to establish exemption or reduction in occupation tax.
- Sec. 12-43. Conflicts between specific and general provisions.



**ARTICLE I. IN GENERAL****Secs. 12-1—12-20. Reserved.****ARTICLE II. OCCUPATIONAL TAX****Sec. 12-21. Occupational tax required; occupational tax required for business dealings with the county.**

For the year 1999 and succeeding years thereafter, each person engaged in any business, trade, profession or occupation in the county, whether with a location in the county, or in the case of an out-of-state business with no location in the state but exerting substantial efforts within the state pursuant to O.C.G.A. § 48-13-7, shall pay an occupation tax for said business, trade, profession or occupation; which tax and any applicable registration shall be displayed in a conspicuous place in the place of business, if the taxpayer has a permanent business location in the county. If the taxpayer has no permanent business location in the county, such business tax registration shall be shown to the county clerk or his/her deputies or to any police officer of the county, upon his/her request.

(Ord. No. 98-11-1, § I, 11-10-1998)

**Sec. 12-22. Construction of terms; definitions.**

(a) Wherever the term "Brooks County" is used herein, such term shall be construed to mean "Brooks County, Georgia"; wherever the term "county" is used herein, it shall be construed to mean "Brooks County, Georgia."

(b) As used in this article, the term:

(1) *Administrative fee* means a component of an occupation tax which approximates the reasonable cost of handling and processing the occupation tax.

(2) *Gross receipts* means the total revenue of the business or practitioner for the period, including without limitation to the following:

- a. Total income without deduction for the cost of goods or expenses incurred;
- b. Gain from trading in stocks, bonds, capital assets or instruments of indebtedness;
- c. Proceeds from commissions on the sale of property, goods or services;
- d. Proceeds from fees for services rendered; and
- e. Proceeds from rent, interest, royalty or dividend income.

*Gross receipts* shall not include the following:

- a. Sales, use or excise tax;
- b. Sales returns, allowances and discounts;

- c. Interorganizational sales or transfers between or among the units of a parent-subsidiary controlled group of corporations as defined by 26 U.S.C. section 1563(a)(1), or between or among the units of a brother-sister controlled group of corporations as defined by 26 U.S.C. section 1563(a)(2).
- d. Payments made to a subcontractor or an independent agent; and
- e. Governmental and foundation grants, charitable contributions or the interest income derived from such funds received by a nonprofit organization which employs salaried practitioners otherwise covered by this chapter, if such funds constitute 80 percent or more of the organization's receipts.

(3) *Location of office* shall not include a temporary work site which serves a single customer or project.

(4) *Occupational tax* means a tax levied on persons, partnerships, corporations or other entities for engaging in an occupation, profession or business for revenue raising purposes.

(5) *Regulatory fees* means payments, whether designed as license fees, permit fees or by another name, which are required by a local government as an exercise of its police power and as a part of or as an aid to regulation of an occupation, profession or business. The amount of a regulatory fee shall approximate the reasonable cost of the actual regulatory cost of the actual regulatory activity performed by the entity. A regulatory fee may not include an administrative fee. Development impact fees as defined by paragraph 8 of O.C.G.A. § 36-71-2 or other costs or conditions of zoning or land development are not regulatory fees.

(6) *Dominant line* means the type of business within a multiple line business that the greatest amount of income is derived from.

(7) *Person* wherever used in this article shall be held to include sole proprietors, corporations, partnerships, nonprofit or any other form of business organization, but specifically excludes charitable nonprofit organizations which utilize 50 percent of their proceeds for charitable purposes.

(8) *Practitioner of profession or occupation* is one who by state law requires state licensure regulating such profession or occupation. "Practitioners of professions and occupations" shall not exclude a practitioner who is an employee of a business, if the business pays an occupation tax.

(Ord. No. 98-11-1, § II, 11-10-1998)

**Sec. 12-23. Administrative and regulatory fee structure; occupation tax structure.**

- (a) A nonprorated, nonrefundable administrative fee of \$25.00 shall be required on all business occupation tax accounts for the initial start up, or re-opening of those accounts.
- (b) A regulatory fee will be imposed as provided under O.C.G.A. § 48-13-9 on those applicable businesses. A regulatory fee may not include an administrative fee.

(c) The regulatory fee schedule for persons in occupations are set forth in section 12-24.  
(Ord. No. 98-11-1, § III, 11-10-1998)

**Sec. 12-24. Occupation tax levied; restrictions.**

(a) An occupational tax shall be levied upon those businesses and practitioners of professions and occupations with one or more locations or offices in the unincorporated part of the county or upon the applicable out-of-state businesses with no location or office in the state pursuant to O.C.G.A. § 48-13-7 based upon the following criteria regarding the number of employees of the business or practitioner:

<i>Number of Employees</i>	<i>Tax Rate</i>
1—10	\$100.00
11—20	200.00
21—30	300.00
31—40	400.00
41—50	500.00
More than 50	600.00

(b) The county shall require an occupation tax from those real estate brokers, agents or companies whose officers are located both inside and outside the county and sell property inside the limits of the county.

(c) Where a person conducts business at more than one fixed location, each location or place shall be considered a separate business for the purpose of occupation tax.

(Ord. No. 98-11-1, § IV, 11-10-1998)

**Sec. 12-25. Professionals as classified in O.C.G.A. § 48-13-9(c), paragraphs (1)—(18).**

Practitioners of professions as defined in O.C.G.A. § 48-13-9(c)(1) through (18) shall be charged as follows:

A fee of \$500.00 per practitioner who is licensed to provide the service, such tax to be paid at the practitioner's officer or location; provided, however, that a practitioner paying according to this paragraph shall not be required to proved information to the local government relating to the gross receipts of the business or practitioner. The per practitioner fee applies to each person in the business who qualifies as a practitioner under the state's regulatory guidelines and framework.

(Ord. No. 98-11-1, § V, 11-10-1998)

**Sec. 12-26. Practitioners exclusively practicing for the government.**

Any practitioner whose office is maintained by and who is employed in practice exclusively by the United States, the state, municipality or county of the state, instrumentalities of the United States, the state or a municipality or county of the state, shall not be required to obtain a license or pay an occupation tax for that purpose.

(Ord. No. 98-11-1, § VI, 11-10-1998)

**Sec. 12-27. Purpose and scope of tax.**

The occupation tax levied herein is for revenue purposes only and is not for regulatory purposes, nor is the payment of the tax made a condition precedent to the practice of any such profession, trade or calling. The occupation tax only applies to those businesses and occupations which are covered by the provision of O.C.G.A. §§ 48-13-5 to 48-13-26. All other applicable businesses and occupations are taxed by the local government pursuant to the pertinent general and/or local law and ordinance.

(Ord. No. 98-11-1, § VII, 11-10-1998)

**Sec. 12-28. When tax due and payable; effect of transacting business when tax delinquent.**

(a) Each such occupation tax shall be for the current calendar year and succeeding calendar years thereafter unless otherwise specifically provided. Said registration and occupation tax shall be payable January 1 of each year and shall be delinquent if not paid by February 1 of each year, and shall be subject to a ten percent penalty for each 30-day delinquency period. On any new profession, trade or calling begun in the county in 1999 or succeeding years thereafter, the registration and tax shall be delinquent if not paid immediately upon beginning business and a ten percent penalty imposed.

(b) In addition to the above remedies, the county may proceed to collect in the same manner as provided by law for tax executions.

(Ord. No. 98-11-1, § VIII, 11-10-1998)

**Sec. 12-29. Exemption on grounds that business operated for charitable purpose.**

No business on which a business registration or occupation tax is levied by this article shall be exempt from said registration or tax on the ground that such business is operated for a charitable purpose, unless 50 percent or more of the entire proceeds from said business are devoted to such purpose.

(Ord. No. 98-11-1, § IX, 11-10-1998)

**Sec. 12-30. Evidence of state registration required if applicable; state registration to be displayed.**

(a) Each person who is licensed by the secretary of state pursuant to O.C.G.A. title 43 shall provide evidence of proper and current state licensure before the county registration may be issued.

(b) Each person who is licensed by the state shall post the state license in a conspicuous place in the licensee's place of business and shall keep the license then at all times while the license remains valid.

(Ord. No. 98-11-1, § X, 11-10-1998)

**Sec. 12-31. Evidence of qualification required if applicable.**

Any business required to obtain health permits, bonds, certificates of qualification, certificates of competency or any other regulatory matter shall first, before the issuance of a county business registration, show evidence of such qualification.

(Ord. No. 98-11-1, § XI, 11-10-1998)

**Sec. 12-32. Liability of officers and agents; registration required; failure to obtain.**

All persons subject to the occupation tax levy pursuant to this article shall be required to obtain the necessary registration for said business as described in this article, and in default thereof the officer or agent soliciting for or representing such persons shall be subject to the same penalty as other persons who fail to obtain a registration. Every person commencing business in the county after January 1 of each year shall likewise obtain the registration herein provided for before commencing the same; and any person transacting, or offering to transact in the county, any of the kinds of business trade, profession or occupation without first having so obtained said registration, shall be subject to penalties provided thereof.

(Ord. No. 98-11-1, § I, 11-10-1998)

**Sec. 12-33. Penalty of article violation.**

Any person violating any provisions of this article shall, upon conviction before the county magistrate judge, be fined in an amount not to exceed \$1,000.00 or imprisoned for a period not to exceed 60 days, either or both, at the discretion of the judge.

(Ord. No. 98-11-1, § XIII, 11-10-1998)

**Sec. 12-34. County clerk charge with collecting, subpoena and arresting powers.**

The county clerk and/or her duly designated employees shall be classified as deputy marshal-business inspector with full subpoena and arresting powers in conjunction with any violation pertaining to the this article for 1999 and succeeding years thereafter.

(Ord. No. 98-11-1, § XIV, 11-10-1998)

**Sec. 12-35. Businesses not covered by this article.**

The following businesses are not covered by the provisions of this article but may be assessed an occupation tax or other type tax pursuant to the provisions of other general laws of the state or by act of local law.

- (1) Those businesses regulated by the state public service commission.
- (2) Those electrical businesses organized under O.C.G.A. tit. 46, ch. 3.
- (3) Any farm operation for the production from or on the land of agricultural products, but not including agribusiness.
- (4) Cooperative marketing associations governed by O.C.G.A. § 2-10-105.
- (5) Insurance companies governed by O.C.G.A. § 33-8-8 et seq.

- (6) Motor common carriers governed by O.C.G.A. § 46-7-15.
- (7) Those businesses governed by O.C.G.A. § 48-5-355.
- (8) Agricultural products and livestock raised in the state governed by O.C.G.A. § 48-5-356.
- (9) Depository financial institutions governed by O.C.G.A. § 48-6-93.
- (10) Facilities operated by a charitable trust governed by O.C.G.A. § 48-13-55.

(Ord. No. 98-11-1, § XV, 11-10-1998)

**Sec. 12-36. When occupation tax due and payable; payment options.**

The amount of occupation tax shall be payable to the said county, at the office of the clerk, on January 1 of each year and delinquent if not paid on or before February 1 of each year. However, the taxpayer may have the following options as to payment of said tax if requested in writing and approved by the board of county commissioners; instead of electing to pay on January 1 the entire amount of the occupational tax, the taxpayer elects to pay said tax in deferred payments, said tax shall be paid in equal installments as follows: March 15, July 15, and October 15. When a taxpayer fails to make any such agreed upon payment on or before the due date for such payment, a ten percent penalty will be imposed and an additional five percent will be imposed for each additional month of delinquency thereof.

(Ord. No. 98-11-1, § XVI, 11-10-1998)

**Sec. 12-37. Amendment; repeal of provision.**

This article shall be subject to amendment or repeal in whole or in part, at any time, and no such amendment or repeal shall be construed to deny the right of the board of commissioners to assess and collect any of the taxes or other charges prescribed. Said amendment may increase or lower the amounts and tax rates of any occupation and may change the classification thereof. The payment of any occupation tax provided for shall not be construed as prohibiting the levy or collection by the county of additional occupation taxes upon the same person, property or business.

(Ord. No. 98-11-1, § XVII, 11-10-1998)

**Sec. 12-38. Applications of provisions to prior ordinance.**

This article does not repeal or affect the force of any part of any ordinance heretofore and hereinafter passed as provided for the issuing and enforcing if execution for any tax or assessment required by such ordinances, or that imposed fines or penalties for the nonpayment of such tax, or for failure to pay regulatory fees provided for in said ordinance or ordinances, or failure to comply with any other provisions hereof, shall continue and remain in force until such tax, regulatory fee or assessment shall be fully paid.

(Ord. No. 98-11-1, § XVIII, 11-10-1998)

**Sec. 12-39. Enforcement of provision.**

It is hereby made the duty of the county clerk to see that the provision of this article relating to occupation taxes are observed; and to summon all violators of the same to appear before the court. It is hereby made further the duty of the sheriff's department, and his deputies, to inspect all registrations issued by the county, as often as in their judgment it may seem necessary to determine whether the registration held is the proper one for the business sought to be transacted thereunder.

(Ord. No. 98-11-1, § XIX, 11-10-1998)

**Sec. 12-40. Provisions to remain in full force and effect until changed by the board.**

This article shall remain in full force and effect until changed by amendment and adopted by the county commission. All provisions hereto relating to any form of tax herein levied shall remain in full force and effect until such taxes have been paid in full.

(Ord. No. 98-11-1, § XX, 11-10-1998)

**Sec. 12-41. Requirement of public hearing before tax increase.**

Prior, to January 1 of each year, the county shall conduct at least one public hearing before adopting any ordinance which will increase the rate of occupation tax as set forth in this article.

(Ord. No. 98-11-1, § XXI, 11-10-1998)

**Sec. 12-42. Option to establish exemption or reduction in occupation tax.**

The board may in subsequent ordinance provide for an exemption or reduction in occupation tax for one or more type of businesses or practitioners of occupations or professions as part of a plan for economic development of attracting or encouraging selected types of businesses or practitioners of selected occupations or profession. Such exemptions or reductions in occupation tax shall not be arbitrary or capricious and the reasons shall be set forth in the minutes of the governing authority.

(Ord. No. 98-11-1, § XXII, 11-10-1998)

**Sec. 12-43. Conflicts between specific and general provisions.**

Where there is an apparent conflict in this article between specific and general provision, it is the intention hereof that the specific shall control.

(Ord. No. 98-11-1, § XXIII, 11-10-1998)



Chapter 13

**RESERVED**



## Chapter 14

# **CIVIL EMERGENCIES**

## **Article I. In General**

- Sec. 14-1. Definitions.
- Sec. 14-2. Unlawful acts during emergencies.
- Secs. 14-3—14-20. Reserved.

## **Article II. State of Emergency**

### Division 1. Generally

- Sec. 14-21. Definitions.
- Sec. 14-22. Declaration.
- Sec. 14-23. Scope.
- Sec. 14-24. Duration.
- Sec. 14-25. Prohibition.
- Secs. 14-26—14-50. Reserved.

### Division 2. Overcharging for Goods and Services

- Sec. 14-51. Definitions.
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## **Article III. Emergency Management**

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## BROOKS COUNTY CODE

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- Sec. 14-175. Fees.
- Sec. 14-176. Temporary dwellings.

**ARTICLE I. IN GENERAL****Sec. 14-1. Definitions.**

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Emergency management* means the preparation for the carrying out of all emergency functions, other than functions for which military forces are primarily responsible; to prevent, minimize and repair injury and damage resulting from emergencies, energy emergencies, disasters or their imminent threat, of manmade or natural origin caused by enemy attack, sabotage, civil disturbance, fire, flood, earthquake, wind, storm, wave action, oil spill or other water contamination requiring emergency action to avert danger or damage, epidemic, air contamination, blight, drought, infestation, explosion, riot or other hostile action, or other causes. These functions include, without limitation:

- (1) Firefighting services;
- (2) Police services;
- (3) Medical and health services;
- (4) Rescue;
- (5) Engineering;
- (6) Warning services;
- (7) Communications;
- (8) Defense from radiological, chemical and other special weapons;
- (9) Evacuation of persons from stricken area;
- (10) Emergency welfare services;
- (11) Emergency transportation;
- (12) Plant protection;
- (13) Temporary restoration of public utility services; and
- (14) Other functions related to civilian protection;

together with all other activities necessary or incidental to the preparation for and carry out of these functions.

**Sec. 14-2. Unlawful acts during emergencies.**

It shall be unlawful for any person to commit any of the following acts during an emergency:

- (1) Willfully obstruct, hinder or delay any member of the emergency management agency in the enforcement of any lawful rule or regulation issued pursuant to this article or in the performance of any duty imposed by virtue of this article.

- (2) Do any act forbidden by any lawful rules or regulations issued pursuant to this article if such act is of such a nature as to give assistance to the enemy; imperil the life or property of any inhabitant of this city; or prevent, hinder or delay the defense or protection of the city.
- (3) Wear, carry or display without authority any mark or identification specified by the emergency management agency.

**Secs. 14-3—14-20. Reserved.**

## **ARTICLE II. STATE OF EMERGENCY**

### **DIVISION 1. GENERALLY**

**Sec. 14-21. Definitions.**

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Curfew* means a regulation requiring the withdrawal from any person not otherwise exempt from this article from appearing in certain public areas during specified hours.

*Exempt individuals* includes (unless otherwise specified in the resolution implementing the curfew) those individuals engaged in the provision of designated, essential services, such as fire, law enforcement, emergency medical services and hospital services, military services, utility emergency repairs. The resolution may, in the discretion of the governing authority, also exempt regular employees of local industries traveling to and from their jobs with appropriate identification, news media employees, building and repair contractors, properly registered according to division 3 of this article performing activities related to construction, repair, renovation or improvement of buildings and other structures damaged during the disaster or emergency.

**Sec. 14-22. Declaration.**

Upon the declaration of a state of emergency by the governor, or upon the determination by the county governing authority, or its designee, of the existence of an emergency or disaster, the county governing authority, its designee or the emergency interim successor may adopt a resolution instituting a curfew when it is determined necessary to protect and safeguard the people and property of the county.

**Sec. 14-23. Scope.**

All of the territory of the unincorporated county shall be subject to the terms of the curfew, unless otherwise specified in the resolution declaring such curfew.

**Sec. 14-24. Duration.**

The resolution instituting the curfew shall include the dates and hours that the curfew shall be in effect.

**Sec. 14-25. Prohibition.**

It shall be prohibited for any person, other than exempt individuals, to appear in public in the territory subject to the curfew, including but not limited to, streets, highways, alleys, sidewalks, vacant lots, parks, public buildings or any other public places in all or a delineated part of unincorporated the county during the stated hours of the curfew.

**Secs. 14-26—14-50. Reserved.****DIVISION 2. OVERCHARGING FOR GOODS AND SERVICES****Sec. 14-51. Definitions.**

The following words, terms and phrases, when used in this division, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Overcharging* means as charging prices for goods, materials, services, or housing which are substantially in excess of the customary charges or in applicable cases substantially in excess of the supplier's or provider's costs for such goods, materials, services or housing. The existence of overcharging shall be presumed from a substantial increase in the price at which the goods, materials, services, or housing was offered in the usual course of business immediately prior to the onset of the emergency, but shall not include increase in costs to the supplier directly attributable to higher costs of materials, supplies, and labor costs resulting from the emergency.

*Subsequent recovery period* means that period during which the disaster continues to cause disruptions in the disaster area, but shall not exceed six months after the emergency declaration has been terminated by the governor unless extended by official action of the governing authority.

**Sec. 14-52. Overcharging prohibited.**

In order to preserve, protect, or sustain the life, health, or safety of persons or their property, it shall be unlawful during the duration of a state of emergency or subsequent recovery period in which the county has been designated as a disaster area, for any person located or doing business in the county to overcharge for any goods, materials, services or housing sold within the county.

**Sec. 14-53. Penalties.**

Violation of the provisions of this division upon conviction shall be punished as provided in section 1-7.

**Secs. 14-54—14-70. Reserved.**

## DIVISION 3. REGISTRATION OF BUILDING, REPAIR SERVICES

**Sec. 14-71. Definitions.**

The following words, terms and phrases, when used in this division, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Building contractor* means any person engaging in, undertaking or carrying on any business consisting of or relating to building construction, repair, renovation or making improvements to real property including dwellings, homes, buildings, structures, or fixtures attached thereto.

*Doing business* means any building contractor shall be deemed to be doing business subject to the requirements of this article if he:

- (1) Has or operates an office, agency, project site or place of business located in the unincorporated areas of the county, whether permanently, temporarily, periodically, or otherwise, that provides the following activities in the unincorporated areas of the county expressly including but not limited to the construction, renovation or repair of dwellings or buildings or the making of improvements to real property or any fixtures attached thereto; or
- (2) Performs the following activities or services in the unincorporated areas of the county expressly including but not limited to the construction, renovation or repair of dwellings or buildings or the making of improvements to real property or any fixtures attached thereto regardless of the location of the principal office.

*Subsequent recovery period* means that period during which the disaster continues to cause disruptions in the disaster area, but shall not exceed three months after the emergency declaration has been terminated by the governor.

**Sec. 14-72. Building contractor registration required.**

No person shall engage in, undertake or carry on any business in whole or in part within the unincorporated areas of the county, consisting of or relating to building, constructing, repairing, renovating or making improvements to real property including dwellings, homes, buildings, structures, or fixtures attached thereto without having registered the name of the business with the governing authority of the county and having paid fees as provided by this division.

**Sec. 14-73. Registration; certification.**

All building contractors doing business or proposing to do business in the unincorporated areas of the county during a state of emergency or the subsequent recovery period shall register and file applications with the county clerk or such other person designated by the board of commissioners at the county courthouse or such other place designated by the county. The building contractor shall, under oath, provide the board of commissioners with a statement describing the general nature of the business to be conducted and give true and correct information as may be called for on the registration form, application or certificate provided by the county.

**Sec. 14-74. Registration fees.**

Building contractor registration fees shall be as set forth in the schedule of fees and charges on file in the office of the county clerk. Registration fees shall be paid in full at the time of issuance of the registration certification.

**Sec. 14-75. Violations.**

Any building contractor required by this article to pay a registration fee who engages in business without first registering and receiving a registration certification from the county as required shall be in violation of this article.

**Sec. 14-76. Transferability.**

Each certification issued under this article is granted to, and shall be accepted by, the building contractor under the condition that the same is not transferable and after issuance no such certification shall be transferred by the county or the building contractor to another individual or entity.

**Sec. 14-77. Display of registration certification.**

Each certification issued hereunder shall be posted conspicuously by the building contractor in the place of business of the building contractor or shall be carried on his person or vehicle used in such business. Such certification shall be exhibited to any authorized enforcement officer when so requested.

**Sec. 14-78. Revocation; suspension.**

Each certification granted under this article is a mere permit to engage in the business only so long as such business is conducted in a lawful manner. The board of commissioners hereby reserves the right to revoke or suspend any certification granted hereunder, if the building contractor, or the building contractor's agent or employee acting within the scope of his employment, violates this article or any other county, state or federal law. If after issuance of a certification, the county desires to revoke such certification, written notice thereof shall be given to the building contractor, which notice shall specify the violation with which the building contractor is charged and a date, time and place at which a hearing shall be held with

regard to the violation. The building contractor shall have an opportunity to be heard at such hearing, shall have the right to be represented by counsel, and shall have the right to introduce and submit evidence in opposition to such revocation.

**Secs. 14-79—14-90. Reserved.**

## **ARTICLE III. EMERGENCY MANAGEMENT**

### **DIVISION 1. GENERALLY**

**Secs. 14-91—14-110. Reserved.**

### **DIVISION 2. EMERGENCY MANAGEMENT AGENCY**

**Sec. 14-111. Participation.**

In cases where a county has an organization for emergency management, such organization shall include participation by each city within the county unless the governing authority of any particular city elects to implement its own organization for emergency management. Any two or more of such political subdivisions may, with the approval of the state director, contract with each other so as to form one emergency management organization for the entire area included in the bounds of the contracting political subdivisions.

**Sec. 14-112. Director.**

The chairman of the board of commissioners is authorized to nominate a local director to the state director of emergency management who shall have the authority to make the appointment.

**Sec. 14-113. Duties generally.**

Upon appointment, the local emergency management agency director shall have direct responsibility for the organization, administration, and operations of the local organization for emergency management, subject to the direction and control of the chairman of the board of commissioners and shall serve at the pleasure of the chairman. The local director shall:

- (1) Maintain an emergency management office in a building owned or leased by the political subdivision and the director or his designee shall be available or on call at all times beyond working hours.
- (2) Develop, in conjunction with public and private agencies/organizations that have responsibility for designated emergency support functions, plans for responding to and recovering from disasters and/or emergencies.
- (3) Respond to emergency scenes, command posts, and operation centers.

- (4) Coordinate emergency response of public and private agencies and organizations attend training and meetings convened by the appointing authority or the state emergency management director.
- (5) Develop or cause to be developed, in collaboration with other public and private agencies within the state, mutual aid arrangements, consistent with state plans and programs, for reciprocal emergency management aid and assistance in case of emergency or disaster too great to be dealt with unassisted.
- (6) Enter into mutual aid agreements, subject to approval of the governor, with emergency management agencies or organizations in other states for reciprocal emergency management aid and assistance in case of emergency or disaster too great to be dealt with unassisted.

**Sec. 14-114. Powers during an emergency, disaster.**

Upon a manmade or natural disaster, actual enemy attack upon the United States, or any other emergency which may affect the lives and property of the citizens of the county, the mayor separately, or jointly with the chairman of the county commissioners, or in their absences their legally appointed successors, may determine that an emergency or disaster exists and thereafter shall have and may exercise for such period as such emergency or disaster exists or continues the following powers:

- (1) Enforce all rules, laws and regulations relating to emergency management, and to assume direct operational control over all emergency management resources;
- (2) Seize or take for temporary use any private property for the protection of the public;
- (3) Sell, lend, give or distribute all or any such property or supplies among the inhabitants of the county and to maintain a strict accounting of property or supplies distributed and for funds received for such property or supplies; and
- (4) Perform and exercise such other functions and duties, and take such emergency actions as may be necessary to promote and secure the safety, protection and well-being of the inhabitants of the county.

**Sec. 14-115. Volunteers.**

All persons other than officers and employees of the county volunteering in service pursuant to the defense under this article shall serve without compensation. While engaged in such service they shall have the same immunities as officers and employees of the county performing similar duties.

**Sec. 14-116. Penalties.**

Any person violating any provision of this division, or any rule, order, or regulation made pursuant to this division, shall, upon conviction, be punished as provided in section 1-7.

**Sec. 14-117. Local emergency management powers.**

The county shall have the emergency management power and authority to:

- (1) Appropriate and expend funds;
- (2) Execute contracts;
- (3) Obtain and distribute equipment, materials, and supplies;
- (4) Provide for the health and safety of persons and property, including emergency assistance to victims;
- (5) Direct and coordinate development of local emergency management plans and programs in accordance with federal and state policies and plans;
- (6) Appoint, employ, remove or provide, with or without compensation, chiefs of services, warning personnel, rescue teams, auxiliary fire and police personnel, and other emergency management workers;
- (7) Establish a primary and one or more secondary control centers to serve as command posts; and
- (8) Acquire, temporarily or permanently, by purchase, lease or otherwise identify sites required for installation of temporary housing units and prepare or equip such sites.

**Sec. 14-118. Financial assistance.**

The county shall be entitled to receive federal disaster funds if the local emergency management organization has met all state and federal requirements to receive such funds. Qualifications include:

- (1) Legal establishment of an emergency management organization by local ordinance or resolution;
- (2) A legally appointed local director who has been endorsed and appointed by the state emergency management director;
- (3) An approved emergency and disaster plan with all applicable emergency support functions; and
- (4) An approved fiscal year program and other necessary compliance documents.

**Sec. 14-119. Immunity of state and political subdivisions.**

Neither the state nor any political subdivision of the state, nor the agents or representatives of the state or any political subdivision thereof, shall be liable for personal injury or property damage sustained by any person appointed or acting as a volunteer emergency management worker or member of any agency engaged in emergency management activity. Immunity does not apply in cases of willful misconduct, gross negligence or bad faith.

**Sec. 14-120. Local emergency management agency plan.**

The county emergency management agency has developed in partnership with local government and community agencies/organizations which have primary responsibility for emergency support functions, an approved emergency management plan.

**Secs. 14-121—14-140. Reserved.****ARTICLE IV. EMERGENCY AND DISASTER MUTUAL AID AGREEMENT****Sec. 14-141. Definitions.**

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Agreement* means the emergency and disaster mutual aid agreement.

*Assisting county* means the participating county furnishing equipment, services, personnel, or other aid pursuant to this agreement.

*Disaster* means any natural technological, or civil emergency, or threat thereof that causes damage or has the potential to cause damage of sufficient severity and magnitude to result in a declaration of a state of emergency by a county, the governor or the President of the United States.

*Emergency* means any occurrence, or threat thereof, whether natural, or caused by man, in war or in peace, which results or may result in substantial injury or harm to the population or substantial damage to or loss of property.

*Emergency management director* means the person appointed by the county governing authority to implement the emergency plan of the county.

*Employees* means paid, volunteer, and auxiliary employees and emergency management workers.

*Participating county* means a county that has duly enacted this agreement.

*Receiving county* means the participating county requesting equipment, services, personnel, or other aid pursuant to this agreement.

**Sec. 14-142. Basic agreement; limitations.**

Any participating county requested to render mutual aid or requested to participate in exercises and training for mutual aid pursuant to this agreement shall take such action as is necessary to provide and make available the resources covered by this agreement in accordance with the terms hereof; provided, however, that the assisting county may withhold or withdraw those resources necessary to provide protection for such county.

**Sec. 14-143. Procedure.**

Upon any emergency or disaster, the emergency management director of any participating county, or the designee of the county governing authority, may request assistance of another participating county by contacting the emergency management director, or the designee of the governing authority, of that county. The provisions of this agreement shall only apply to requests for assistance made by and to official emergency management directors or the designees of the county governing authority. Requests may be verbal or in writing. If verbal, the request shall be confirmed in writing within ten days of the verbal request.

**Sec. 14-144. Rights and duties; control.**

Each participating county shall afford to the employees of any other participating county, while operating within its jurisdiction under the terms and conditions of this agreement, the same powers (except that of arrest, unless specifically authorized by the receiving county), duties, rights, privileges and immunities as are afforded employees of the receiving county in which they are performing emergency services. Employees of the assisting county will continue under the command and control of their regular leaders, but, as a group will come under the operational control of the emergency services authorities of the receiving county, unless the receiving county relinquishes such control.

**Sec. 14-145. Licenses and permits.**

Whenever any person holds a license, certificate, or other permit issued by the state, county or other qualified agency evidencing that the individual possesses any required professional, mechanical, or other skills, such person may be permitted by the receiving county to render aid involving such skill in any other participating county to meet an emergency or disaster situation.

**Sec. 14-146. Compensation.**

In accordance with O.C.G.A. § 38-3-30(b), each participating county shall provide for the payment of compensation and death benefits to injured employees of that county and the representatives of deceased employees in case such employees sustain injuries or are killed while rendering aid pursuant to this agreement, in the same manner and on the same terms as if the injury or death were sustained within their own county.

**Sec. 14-147. Payment and reimbursement.**

Reimbursement to the assisting county shall be in accordance with O.C.G.A. § 38-3-30(b). The receiving county shall pay and reimburse the assisting county for the compensation paid to its employees during the time and rendition of the aid and shall defray the actual traveling and maintenance expenses of the employees while they are rendering the aid. The reimbursement shall include any amounts paid or due for compensation due to personal injury or death while the employees were engaged in rendering the aid. The receiving county shall also be liable for any loss or damage to equipment used in the receiving county pursuant to this

agreement and shall pay any expense incurred in the operation or maintenance thereof. No claim for the loss of, damage to, or expense of such equipment shall be allowed unless, within 60 days after the same is sustained or incurred, an itemized notice of the claim under oath is served by mail or otherwise upon the chief fiscal officer of the receiving county.

**Sec. 14-148. Immunity.**

Neither an assisting county nor, except in cases of willful misconduct, gross negligence, or bad faith, the employees, agents, or representative of any assisting county, nor any unpaid trained personnel or member of any agency engaged in any emergency management activity pursuant to this agreement, shall be liable for the death of or injury to person or for damage to property as a result of such activity.

**Secs. 14-149—14-170. Reserved.**

**ARTICLE. V. SUSPENSION OF LAW, FORMALITIES**

**Sec. 14-171. Definitions.**

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Fees* means any fee or rate charged by the county for building permits, land disturbance permits, zoning applications, special land use permits, temporary land use permits, and other fees relating to the reconstruction, repair and clean up of areas impacted by the disaster or emergency. Fees shall not include those fees collected by the county on behalf of the federal or state government or those fees charged by the county pursuant to a federal or state statute or regulation.

*Subsequent recovery period* means the period of time that the disaster emergency continues to cause disruptions in the area impacted by the disaster emergency. The "subsequent recovery period" shall not exceed six months after the state of emergency declaration by the governor is terminated unless extended by official action of the governing authority of the county.

*Temporary dwelling* means any mobile or easily movable home, trailer, recreational vehicle or structure not otherwise permitted by the zoning regulations of a particular zoning district.

**Sec. 14-172. Meetings.**

Upon proclamation by the appropriate state official of an emergency or disaster of manmade or natural causes or enemy attack impending on or affecting this state or the United States, the affairs and business of the county may be conducted at places other than the regular or usual place thereof, within or outside of the county, when it is not prudent, expedient or possible to conduct business at the regular location. When such meetings occur outside of the county, all actions taken by the local governing body shall be as valid and binding as if

performed within the county. Such meetings may be called by the presiding officer or any two members of the governing body without regard to or compliance with time-consuming procedures and formalities otherwise required by law.

**Sec. 14-173. Purchasing and public works contracts.**

Upon the declaration of a state of emergency by the governor, or upon the determination by the county governing authority, or its designee, of the existence of an emergency or disaster, the county governing authority, their designee or the emergency interim successor may contract for public works without letting such contract out to the lowest, responsible bidder and without advertising and posting notification of such contract for four weeks; provided, however, that any public works contract entered into pursuant to this subsection shall be entered on the minutes of the county as soon as practical and the nature of the emergency described therein.

**Sec. 14-174. Code enforcement.**

Upon the declaration of a state of emergency by the governor, or upon the determination by the county governing authority, or its designee, of the existence of an emergency or disaster, the county governing authority, their designee or the emergency interim successor may temporarily suspend the enforcement of this Code, or any portion thereof, where:

- (1) The emergency or disaster is of such nature that immediate action outside the Code is required;
- (2) Such suspension is consistent with the protection of the public health, safety and welfare; and
- (3) Such suspension is not inconsistent with any federal or state statutes or regulations.

**Sec. 14-175. Fees.**

Upon the declaration of a state of emergency by the governor, or upon the determination by the county governing authority, or its designee, of the existence of an emergency or disaster, the county governing authority, their designee or the emergency interim successor may temporarily reduce or suspend any permit fees, application fees or other rate structures as necessary to encourage the rebuilding of the area impacted by the disaster or emergency.

**Sec. 14-176. Temporary dwellings.**

Upon the declaration of a state of emergency by the governor, or upon the determination by the county governing authority, or its designee, of the existence of an emergency or disaster, the county governing authority, their designee or the emergency interim successor may issue temporary mobile home, trailer, recreational vehicle or other temporary dwelling structures or parks in any zoning district while the primary dwelling is being repaired provided that such temporary dwellings or parks are designed by an engineer and the plans are approved by the county health department and the county building and inspections department. The temporary permit shall not exceed six months in duration. In the case of continuing hardship and in

the discretion of the governing authority or its designee, the permit may be extended for a period for an additional six months. Upon expiration of the temporary permit or an extension, the temporary dwelling shall be removed.



Chapters 15—17

**RESERVED**



## Chapter 18

# **ENVIRONMENT**

### **Article I. In General**

Secs. 18-1—18-18. Reserved.

### **Article II. Timber Harvesting**

Sec. 18-19. Harvesting operations.  
Sec. 18-20. Prior written notice.  
Sec. 18-21. Procedure and issuance of permits.  
Sec. 18-22. Compliance and penalties.  
Sec. 18-23. Enforcement.  
Secs. 18-24—18-41. Reserved.

### **Article III. Soil Erosion and Sedimentation Control**

Sec. 18-42. Title.  
Sec. 18-43. Definitions.  
Sec. 18-44. Exemptions.  
Sec. 18-45. Minimum requirements for erosion and sedimentation control using best management practices.  
Sec. 18-46. Application/permit process.  
Sec. 18-47. Inspection and enforcement.  
Sec. 18-48. Penalties and incentives.  
Sec. 18-49. Administrative appeal; judicial review.  
Sec. 18-50. Responsibility for damage to person or property.



**ARTICLE I. IN GENERAL****Secs. 18-1—18-18. Reserved.****ARTICLE II. TIMBER HARVESTING****Sec. 18-19. Harvesting operations.**

- (a) All logging, pulpwood harvesting, stumping or farmland preparation and/or tilling shall be conducted off the county rights-of-way and behind the established ditch lines of county roads.
- (b) Loading or skidding of logs or stumps is forbidden on county road rights-of-way.
- (c) Discing, planting, or tilling in any manner what so ever are forbidden on county road rights-of-way.
- (d) No residue from such operations shall be allowed to accumulate in county drainage ditches so as to impede the flow of water therein. Nor shall any out-fall be directed into a county drainage ditch so as to cause undue erosion of the ditch, ditch walls, or the roadway.
- (e) Crossing any county drainage ditch shall be by means of a culvert of the correct size that has been installed so as to minimize damage to ditch. The Brooks County Road Superintendent is available to assist in determining how best to meet this requirement.
- (f) County roads at any access site shall be kept serviceable at all times for the motoring public, emergency vehicles, school buses, mail carriers, etc. No vehicles, equipment or blockade of any kind shall be allowed to obstruct traffic on county roads.

(Ord. No. 84-9-5B, § I, 9-5-1984)

**State law reference**—Timber harvesting ordinances, O.C.G.A. § 12-6-24.

**Sec. 18-20. Prior written notice.**

Any person or firm harvesting timber in the county shall provide prior written notice for each separate tract to be harvested and said notice shall consist of:

- (1) a. A map of the area which identifies the location of the tract to be harvested and, as to those trucks which will be traveling to and from such tract for purposes of picking up and hauling loads of cut forest products, the main point of ingress to such tract from a public road and, if different, the main point of egress from such tract to a public road;
- b. A statement as to whether the timber will be removed pursuant to a lump sum sale, per unit sale, or owner harvest for purposes of ad valorem taxation under O.C.G.A. § 48-5-7.5;
- c. The name, address, and daytime telephone number of the timber seller if the harvest is pursuant to a lump sum or per unit sale or of the timber owner if the harvest is an owner harvest; and

- d. The name, business address, business telephone number, and nighttime or emergency telephone number of the person or firm harvesting such timber;
- e. Notice may be submitted in person, by transmission of an electronic record via telefacsimile or such other means as approved by the governing authority, or by mail. Notice shall be submitted to the county administrator or his/her designate agent within forty-eight hours upon moving on the site.

(2) The county may, in its sole discretion, require persons or firms subject to such notice requirement to deliver a bond or letter of credit as provided by this paragraph, in which case notice shall not be or remain effective for such harvesting operations unless and until the person or firm providing such notice has delivered to the county administrator or his/her designated agent a valid surety bond, executed by a surety corporation authorized to transact business in this state, protecting the county or municipality, as applicable, against any damage caused by such person or firm in an amount specified by the governing authority not exceeding \$5,000.00 or, at the option of the person or firm harvesting timber, a valid irrevocable letter of credit issued by a bank or savings and loan association, as defined in O.C.G.A. § 7-1-4, in the amount of and in lieu of such bond. For purposes of this paragraph, any such surety bond or letter of credit shall be valid only for the calendar year in which delivered;

(3) Notice shall be effective for such harvesting operation on such tract within such unincorporated area of the county upon receipt of the same by the county administrator or its designated agent and, if applicable, compliance with the requirements of paragraph (2) of this subsection and until such time as the person or firm giving such notice has completed the harvesting operation for such tract; provided, however, that any subsequent change in the facts required to be provided for purposes of such notice shall be reported to the county administrator or its designated agent within three business days after such change;

(4) If the timber harvesting operator should elect to harvest more acres than specified in the original notification, an additional notification form must be transmitted to the county administrator pursuant to the time frame set out in this article.

(Ord. of 6-4-2007, § II)

**Sec. 18-21. Procedure and issuance of permits.**

- (a) Upon proper notification permits shall be issued by the county without cost or fee.
- (b) The county administrator or his/her designee shall have the authority to suspend timber harvesting operations should the said operations have detrimental affect on the county's infrastructure. Notwithstanding, any damage to the county's infrastructure shall be repaired to the county's satisfaction by the timber harvesting operator at no cost to the county as soon as is practical.
- (c) The timber harvesting operator shall be responsible for ensuring no limbs, trucks, equipment or brush resulting from the harvesting operation shall encroach on the county's right-of-way.

(d) The timber harvesting operator must notify the county administrator within 24 hours of when operator moves off of the tract temporarily, when the operator returns to the tract and when the harvesting operation is completed.

(Ord. of 6-4-2007, § III)

**Sec. 18-22. Compliance and penalties.**

Any person, firm or corporation who shall violate provisions of the ordinance shall be subject to a fine of \$50.00 per day for each day of such violation for a first offense. If violation is willful then the fine shall be \$250.00 per day. A second or subsequent offense shall be subject to a fine of \$1,000.00 per day, until the violation is corrected.

(Ord. of 6-4-2007, § IV)

**Sec. 18-23. Enforcement.**

This article shall be enforced by the county administrator or his/her designee. Citations for violations may be issued by the county administrator or his/her designee, including any certified county law enforcement officer acting under the authority of the county sheriff. Citations for violation shall require appearance before the magistrate court of the county.

(Ord. of 6-4-2007, § V)

**Secs. 18-24—18-41. Reserved.**

**ARTICLE III. SOIL EROSION AND SEDIMENTATION CONTROL\***

**Sec. 18-42. Title.**

This article will be known as "Brooks County Soil Erosion and Sedimentation Control Ordinance."

(Ord. of 8-26-2004, § I)

**Sec. 18-43. Definitions.**

The following words, terms and phrases, when used in this article shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Best management practices (BMP's)* means a collection of structural practices and vegetative measures which, when properly designed, installed and maintained, will provide effective erosion and sedimentation control for all rainfall events up to and including a 25-year, 24-hour rainfall event.

*Board* means the Board of Natural Resources.

*Buffer* means the area of land immediately adjacent to the banks of state waters in its natural state of vegetation, which facilitates the protection of water quality and aquatic habitat.

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\***State law reference**—Erosion and Sedimentation Act of 1975, O.C.G.A. § 12-7-1 et seq.

*Commission* means the State Soil and Water Conservation Commission.

*Cut* means a portion of land surface or area from which earth has been removed or will be removed by excavation; the depth below original ground surface to excavated surface. Also known as "excavation".

*Department* means the Department of Natural Resources.

*Director* means the Director of the Environmental Protection Division of the Department of Natural Resources.

*District* means the Middle South Georgia Soil and Water Conservation District.

*Division* means the Environmental Protection Division of the Department of Natural Resources.

*Drainage structure* means a device composed of virtually nonerodible material such as concrete, steel, plastic or other such material that conveys water from one place to another by intercepting the flow and carrying it to a release point for stormwater management, drainage control, or flood control purposes.

*Erosion* means the process by which land surface is worn away by the action of wind, water, ice or gravity.

*Erosion and sedimentation control plan* means a plan for the control of soil erosion and sedimentation resulting from a land-disturbing activity. Also known as the "plan".

*Fill* means a portion of land surface to which soil or other solid material has been added; the depth above the original ground.

*Finished grade* means the final elevation and contour of the ground after cutting or filling and conforming to the proposed design.

*Grading* means altering the shape of ground surfaces to a predetermined condition; this includes stripping, cutting, filling, stockpiling and shaping or any combination thereof and shall include the land in its cut or filled condition.

*Ground elevation* means the original elevation of the ground surface prior to cutting or filling.

*Issuing authority* means the governing authority of any county or municipality which has been certified by the Director of the Environmental Protection Division of the Department of Natural Resources as an issuing authority, pursuant to the Erosion and Sedimentation Act of 1975, as amended, or the division in those instances where an application for a permit is submitted to the division.

*Land-disturbing activity* means any activity which may result in soil erosion from water or wind and the movement of sediments into state waters or onto lands within the state, including, but not limited to, clearing, dredging, grading, excavating, transporting, and filling of land but not including agricultural practices as described in section 18-44(5).

*Metropolitan River Protection Act (MRPA)* means a state law referenced as O.C.G.A. § 12-5-440 et seq., which addresses environmental and developmental matters in certain metropolitan river corridors and their drainage basins.

*Natural ground surface* means the ground surface in its original state before any grading, excavation or filling.

*Nephelometric turbidity units (NTU)* means numerical units of measure based upon photometric analytical techniques for measuring the light scattered by finely divided particles of a substance in suspension. This technique is used to estimate the extent of turbidity in water in which colloidally dispersed particles are present.

*Permit* means the authorization necessary to conduct a land-disturbing activity under the provisions of this article.

*Project* means the entire proposed development project regardless of the size of the area of land to be disturbed.

*Roadway drainage structure* means a device such as a bridge, culvert, or ditch, composed of a virtually nonerodible material such as concrete, steel, plastic, or other such material that conveys water under a roadway by intercepting the flow on one side of a traveled way consisting of one or more defined lanes, with or without shoulder areas, and carrying water to a release point on the other side.

*Sediment* means solid material, both organic and inorganic, that is in suspension, is being transported, or has been moved from its site or origin by air, water, ice, or gravity as a product of erosion.

*Sedimentation* means the process by which eroded material is transported and deposited by the action of water, wind, ice or gravity.

*Soil and water conservation district approved plan* means an erosion and sedimentation control plan approved in writing by the Middle South Georgia Soil and Water Conservation District.

*Stabilization* means the process of establishing an enduring soil cover of vegetation by the installation of temporary or permanent structures for the purpose of reducing to a minimum the erosion process and the resultant transport of sediment by wind, water, ice or gravity.

*State waters* means any and all rivers, streams, creeks, branches, lakes reservoirs, ponds, drainage systems, springs, wells, and other bodies of surface or subsurface water, natural or artificial, lying within or forming a part of the boundaries of the state which are not entirely confined and retained completely upon the property of a single individual, partnership, or corporation.

*Structural erosion and sedimentation control practices* means practices for the stabilization of erodible or sediment-producing areas by utilizing the mechanical properties of matter for the purpose of either changing the surface of the land or storing, regulating or disposing of runoff to prevent excessive sediment loss. Examples of structural erosion and sediment control practices are riprap, sediment basins, dikes, level spreaders, waterways or outlets, diversions, grade stabilization structures, sediment traps and land grading, etc. Such practices can be found in the publication Manual for Erosion and Sediment Control in Georgia.

*Trout streams* means all streams or portions of streams within the watershed as designated by the Game and Fish Division of the Georgia Department of Natural Resources under the provisions of the Georgia Water Quality Control Act, O.C.G.A. § 12-5-20 et seq. Streams designated as primary trout waters are defined as water supporting a self-sustaining population of rainbow, brown or brook trout. Streams designated as secondary trout waters are those in which there is no evidence of natural trout reproduction, but are capable of supporting trout throughout the year. First order trout waters are streams into which no other streams flow except springs.

*Vegetative erosion and sedimentation control measures* means measures for the stabilization of erodible or sediment-producing areas by covering the soil with:

- (1) Permanent seeding, sprigging or planting, producing long-term vegetative cover; or
- (2) Temporary seeding, producing short-term vegetative cover; or
- (3) Sodding, covering areas with a turf of perennial sod-forming grass. Such measures can be found in the publication Manual for Erosion and Sediment Control in Georgia.

*Watercourse* means any natural or artificial watercourse, stream, river, creek, channel, ditch, canal, conduit, culvert, drain, waterway, gully, ravine, or wash in which water flows either continuously or intermittently and which has a definite channel, bed and banks, and including any area adjacent thereto subject to inundation by reason of overflow or floodwater.

*Wetlands* means those areas that are inundated or saturated by surface water or ground-water at a frequency and duration sufficient to support, and that under normal circumstances do support a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs, and similar areas.

(Ord. of 8-26-2004, § II)

**State law reference**—Definitions, O.C.G.A. § 12-7-3.

**Sec. 18-44. Exemptions.**

(a) This article shall apply to any land-disturbing activity undertaken by any person on any land except for the following:

- (1) Surface mining, as the same is defined in O.C.G.A. § 12-4-72;
- (2) Granite quarrying and land clearing for such quarrying;
- (3) Such minor land-disturbing activities as home gardens and individual home landscaping, repairs, maintenance work, and other related activities, which result in minor soil erosion;
- (4) The construction of single-family residences, when such are constructed by or under contract with the owner for his own occupancy, or the construction of single-family residences not a part of a platted subdivision, a planned community, or an association of other residential lots consisting of more than two lots and not otherwise exempted under this subsection; provided, however, that construction of any such residence shall conform to the minimum requirements as set forth in section 18-45. For single-family residence construction covered by the provisions of this subsection; there shall be a buffer zone between the residence and any state waters classified as trout streams pursuant to Article 2 of Chapter 5 of the Georgia Water Quality Control Act (O.C.G.A. § 12-5-20 et seq.). In any such buffer zone, no land-disturbing activity shall be constructed between the residence and the point where vegetation has been wrested by normal stream flow or wave action from the banks of the trout waters. For primary trout waters, the buffer zone shall be at least 50 horizontal feet, and no variance to a smaller buffer shall be granted. For secondary trout waters, the buffer zone shall be at least 50 horizontal feet, but the director may grant variances to no less than 25 feet. Regardless of whether a trout stream is primary or secondary, for first order trout waters, which are streams into which no other streams flow except for springs, the buffer shall be at least 25 horizontal feet, and no variance to a smaller buffer shall be granted. The minimum requirements of section 18-45 and the buffer zones provided by this section shall be enforced by the issuing authority;
- (5) Agricultural operations as defined in O.C.G.A. § 1-3-3, "definitions", to include raising, harvesting or storing of products of the field or orchard; feeding, breeding or managing livestock or poultry; producing or storing feed for use in the production of livestock, including but not limited to cattle, calves, swine, hogs, goats, sheep, and rabbits or for use in the production of poultry, including but not limited to chickens, hens and turkeys; producing plants, trees, fowl, or animals; the production of aquaculture, horticultural, dairy, livestock, poultry, eggs and apiarian products; farm buildings and farm ponds;
- (6) Forestry land management practices, including harvesting; provided, however, that when such exempt forestry practices cause or result in land-disturbing or other activities otherwise prohibited in a buffer, as established in section 18-45(c)(15) and

(16), no other land-disturbing activities, except for normal forest management practices, shall be allowed on the entire property upon which the forestry practices were conducted for a period of three years after completion of such forestry practices;

(7) Any project carried out under the technical supervision of the Natural Resources Conservation Service of the United States Department of Agriculture;

(8) Any project involving  $1\frac{1}{10}$  acres or less; provided, however, that this exemption shall not apply to any land-disturbing activity within 200 feet of the bank of any state waters, and for purposes of this subsection, "state waters" excludes channels and drainageways which have water in them only during and immediately after rainfall events and intermittent streams which do not have water in them year-round; provided, however, that any person responsible for a project which involves  $1\frac{1}{10}$  acres or less, which involves land-disturbing activity, and which is within 200 feet of any such excluded channel or drainageway, must prevent sediment from moving beyond the boundaries of the property on which such project is located and provided, further, that nothing contained herein shall prevent the issuing authority from regulating any such project which is not specifically exempted by this section;

(9) Construction or maintenance projects, or both, undertaken or financed in whole or in part, or both, by the Department of Transportation, the Georgia Highway Authority, or the State Tollway Authority; or any road construction or maintenance project, or both, undertaken by any county or municipality; provided, however, that such projects shall conform to the minimum requirements set forth in section 18-45(b) and (c); provided further that construction or maintenance projects of Department of Transportation or State Tollway Authority which disturb five or more contiguous acres of land shall be subject to provisions of O.C.G.A. § 12-7-7.1; and;

(10) Any land-disturbing activities conducted by any electric membership corporation or municipal electrical system or any public utility under the regulatory jurisdiction of the public service commission, provided that any such land-disturbing activity shall conform to the minimum requirements set for in section 18-45(b) and (c).

(b) Where this section requires compliance with the minimum requirements set forth in section 18-45(b) and (c), issuing authorities shall enforce compliance with the minimum requirements as if a permit had been issued and violations shall be subject to the same penalties as violations by permit holders.

(Ord. of 8-26-2004, § III)

**State law reference**—Similar provisions, O.C.G.A. § 12-7-7.

**Sec. 18-45. Minimum requirements for erosion and sedimentation control using best management practices.**

(a) *Generally.* Excessive soil erosion and resulting sedimentation can take place during land-disturbing activities. Therefore, plans for those land-disturbing activities which are not excluded by this article shall contain provisions for application of soil erosion and sedimentation control measures and practices. The provisions shall be incorporated into the erosion and

sedimentation control plans. Soil erosion and sedimentation control measures and practices shall conform to the minimum requirements of subsections (b) and (c) of this section. The application of measures and practices shall apply to all features of the site, including street and utility installations, drainage facilities and other temporary and permanent improvements. Measures shall be installed to prevent or control erosion and sedimentation pollution during all stages of any land-disturbing activity.

(b) *Minimum requirements / BMP's.*

- (1) Best management practices as set forth in subsections (b) and (c) of this section shall be required for all land-disturbing activities. Proper design, installation, and maintenance of best management practices shall constitute a complete defense to any action by the director or to any other allegation of noncompliance with subsection (b)(2) of this section or any substantially similar terms contained in a permit for the discharge of stormwater issued pursuant to O.C.G.A. § 12-5-30(f), the "Georgia Water Quality Control Act". As used in this subsection the terms "proper design" and "properly designed" mean designed to control soil erosion and sedimentation for all rainfall events up to and including a 25-year, 24-hour rainfall event.
- (2) A discharge of stormwater runoff from disturbed areas where best management practices have not been properly designed, installed, and maintained shall constitute a separate violation of any land-disturbing permit issued by a local issuing authority or by the division or of any general permit for construction activities issued by the division pursuant to O.C.G.A. § 12-5-30(f), the "Georgia Water Quality Control Act", for each day on which such discharge results in the turbidity of receiving waters being increased by more than 25 nephelometric turbidity units for waters supporting warm water fisheries or by more than ten nephelometric turbidity units for waters classified as trout waters. The turbidity of the receiving waters shall be measured in accordance with guidelines to be issued by the director.
- (3) Failure to properly design, install, or maintain best management practices shall constitute a violation of any land-disturbing permit issued by a local issuing authority or by the division or any general permit for construction activities issued by the division pursuant to O.C.G.A. § 12-5-30(f), the "Georgia Water Quality Control Act", for each day on which such failure occurs.
- (4) The director may require, in accordance with regulations adopted by the board, reasonable and prudent monitoring of the turbidity level of receiving waters into which discharges from land disturbing activities occur.

(c) *Rules and regulations.* The rules and regulations, ordinances, or resolutions adopted pursuant to this chapter for the purpose of governing land-disturbing activities shall require, as a minimum, best management practices, including sound conservation and engineering practices to prevent and minimize erosion and resultant sedimentation, which are consistent with, and no less stringent than, those practices contained in the Manual for Erosion and

Sediment Control in Georgia published by the Georgia Soil and Water Conservation Commission as of January 1 of the year in which the land-disturbing activity was permitted, as well as the following:

- (1) Stripping of vegetation, regarding and other development activities shall be conducted in a manner so as to minimize erosion;
- (2) Cut-fill operations must be kept to a minimum;
- (3) Development plans must conform to topography and soil type so as to create the lowest practical erosion potential;
- (4) Whenever feasible, natural vegetation shall be retained, protected and supplemented;
- (5) The disturbed area and the duration of exposure to erosive elements shall be kept to a practicable minimum;
- (6) Disturbed soil shall be stabilized as quickly as practicable;
- (7) Temporary vegetation or mulching shall be employed to protect exposed critical areas during development;
- (8) Permanent vegetation and structural erosion control practices shall be installed as soon as practicable;
- (9) To the extent necessary, sediment in runoff water must be trapped by the use of debris basins, sediment basins, silt traps, or similar measures until the disturbed area is stabilized. As used in this subsection, a disturbed area is stabilized when it is brought to a condition of continuous compliance with the requirements of O.C.G.A. § 12-7-1 et seq.;
- (10) Adequate provision must be provided to minimize damage from surface water to cut face of excavations or the sloping of fills;
- (11) Cuts and fills may not endanger adjoining property;
- (12) Fills may not encroach upon natural watercourses or constructed channels in a manner so as to adversely affect other property owners;
- (13) Grading equipment must cross flowing streams by means of bridges or culverts except when such methods are not feasible, provided, in any case, that such crossings are kept to a minimum;
- (14) Land-disturbing activity plans for erosion and sedimentation control shall include provisions for treatment or control of any source of sediments and adequate sedimentation control facilities to retain sediments on-site or preclude sedimentation of adjacent waters beyond the levels specified in this section;
- (15) Except as provided in subsection (16) of this section, there is established a 25 foot buffer along the banks of all state waters, as measured horizontally from the point where vegetation has been wrested by normal stream flow or wave action, except where the director determines to allow a variance that is at least as protective of natural resources and the environment, where otherwise allowed by the director

pursuant to O.C.G.A. § 12-2-8, or where a drainage structure or a roadway drainage structure must be constructed, provided that adequate erosion control measures are incorporated in the project plans and specifications, and are implemented; provided, however, the buffers of at least 25 feet established pursuant to part 6 of Article 5, Chapter 5 of Title 12 (O.C.G.A. § 12-5-440 et seq.), the "Georgia Water Quality Control Act", shall remain in force unless a variance is granted by the director as provided in this subsection. The following requirements shall apply to any such buffer: No land-disturbing activities shall be conducted within a buffer and a buffer shall remain in its natural, undisturbed state of vegetation until all land-disturbing activities on the construction site are completed. Once the final stabilization of the site is achieved, a buffer may be thinned or trimmed of vegetation as long as a protective vegetative cover remains to protect water quality and aquatic habitat and a natural canopy is left in sufficient quantity to keep shade on the stream bed; provided, however, that any person constructing a single-family residence, when such residence is constructed by or under contract with the owner for his own occupancy, may thin or trim vegetation in a buffer at any time as long as protective vegetative cover remains to protect water quality and aquatic habitat and a natural canopy is left in sufficient quantity to keep shade on the stream bed; and

- (16) There is established a 50 foot buffer as measured horizontally from the point where vegetation has been wrested by normal stream flow or wave action, along the banks of any state waters classified as "trout streams" pursuant to Article 2 of Chapter 5 of Title 12 (O.C.G.A. § 12-5-20 et seq.), the "Georgia Water Quality Control Act", except where a roadway drainage structure must be constructed; provided, however, that small springs and streams classified as trout streams which discharge an average annual flow of 25 gallons per minute or less shall have a 25 foot buffer or they may be piped, at the discretion of the landowner, pursuant to the terms of a rule providing for a general variance promulgated by the board, so long as any such pipe stops short of the downstream landowner's property and the landowner complies with the buffer requirement for any adjacent trout streams. The director may grant a variance from such buffer to allow land-disturbing activity, provided that adequate erosion control measures are incorporated in the project plans and specifications and are implemented. The following requirements shall apply to such buffer: No land-disturbing activities shall be conducted within a buffer and a buffer shall remain in its natural, undisturbed, state of vegetation until all land-disturbing activities on the construction site are completed. Once the final stabilization of the site is achieved, a buffer may be thinned or trimmed of vegetation as long as a protective vegetative cover remains to protect water quality and aquatic habitat and a natural canopy is left in sufficient quantity to keep shade on the stream bed: provided, however, that any person constructing a single-family residence, when such residence is constructed by or under contract with the owner for his own occupancy, may thin or trim vegetation in a buffer at any time as long as protective vegetative cover remains to protect water quality and aquatic habitat and a natural canopy is left in sufficient quantity to keep shade on the stream bed.

(d) *Rules and regulations, ordinances, or resolutions which contain requirements that may be adopted.* Nothing contained in this chapter shall prevent an issuing authority from adopting rules and regulations, ordinances, or resolutions which contain requirements that exceed the minimum requirements in subsections (b) and (c) of this section.

(e) *Terms of the permit.* The fact that land-disturbing activity for which a permit has been issued results in injury to the property of another shall neither constitute proof of nor create a presumption of a violation of the standards provided for in this article or the terms of the permit.

(Ord. of 8-26-2004, § IV)

**State law reference**—Similar provisions, O.C.G.A. § 12-7-6.

**Sec. 18-46. Application/permit process.**

(a) *Generally.* The property owner, developer and designated planners and engineers shall review the general development plans and detailed plans of the issuing authority that affect the tract to be developed and the area surrounding it. They shall review the zoning ordinance, stormwater management ordinance, subdivision ordinance, flood damage prevention ordinance, this article, and other ordinances which regulate the development of land within the jurisdictional boundaries of the issuing authority. However, the property owner is the only party who may obtain a permit.

(b) *Application requirements.*

- (1) No person shall conduct any land-disturbing activity within the jurisdictional boundaries of the county without first obtaining a permit from Brooks County Zoning and Inspection Department to perform such activity.
- (2) The application for a permit shall be submitted to the Brooks County Zoning and Inspection Department and must include the applicant's erosion and sedimentation control plan with supporting data, as necessary. Said plans shall include, as a minimum, the data specified in subsection (c) of this section. Soil erosion and sedimentation control plans shall conform to the provisions of section 18-45(b) and (c). Applications for a permit will not be accepted unless accompanied by five copies of the applicant's soil erosion and sedimentation control plans.
- (3) A fee, in the amount of \$50.00 shall be charged for each application.
- (4) Immediately upon receipt of an application and plan for a permit, the issuing authority shall refer the application and plan to the district or its review and approval or disapproval concerning the adequacy of the erosion and sedimentation control plan. The results of the district review shall be forwarded to the issuing authority. No permit will be issued unless the plan has been approved by the district, and any variances required by section 18-45(c)(15) and (16) and bonding, if required as per subsection (b)(5)b of this section, have been obtained. Such review will not be required if the

issuing authority and the district have entered into an agreement which allows the issuing authority to conduct such review and approval of the plan without referring the application and plan to the district.

(5) Violations of previous permits; bond:

- a. If a permit applicant has had two or more violations of previous permits, this section, or the Erosion and Sedimentation Act, as amended, within three years prior to the date of filing of the application under consideration, the issuing authority may deny the permit application.
- b. The issuing authority may require the permit applicant to post a bond in the form of government security, cash, irrevocable letter of credit, or any combination thereof up to, but not exceeding, \$3,000.00 per acre or fraction thereof of the proposed land-disturbing activity, prior to issuing the permit. If the applicant does not comply with this article or with the conditions of the permit after issuance, the issuing authority may call the bond or any part thereof to be forfeited and may use the proceeds to hire a contractor to stabilize the site of the land-disturbing activity and bring it into compliance. These provisions shall not apply unless there is in effect an ordinance or statute specifically providing for hearing and judicial review of any determination or order of the issuing authority with respect to alleged permit violations.

(c) *Plan requirements:*

- (1) Plans must be prepared to meet the minimum requirements as contained in section 18-45(b) and (c). Conformance with the minimum requirements may be attained through the use of design criteria in the current issue of the Manual for Erosion and Sediment Control in Georgia, published by the State Soil and Water Conservation Commission as a guide; or through the use of more stringent, alternate design criteria which conform to sound conservation and engineering practices. The Manual for Erosion and Sediment Control in Georgia is hereby incorporated by reference into this article. The plan for the land-disturbing activity shall consider the interrelationship of the soil types, geological and hydrological characteristics, topography, watershed, vegetation, proposed permanent structures including roadways, constructed waterways, sediment control and stormwater management facilities, local ordinances and state laws.

(2) Data required for site plan:

- a. Narrative or notes, and other information: Notes or narratives are to be located on the site plan in general notes or in erosion and sediment control notes.
- b. Description of existing land use at project site and description of proposed project.
- c. Name, address, and phone number of the property owner.
- d. Name and phone number of 24-hour local contractor who is responsible for erosion and sedimentation controls.

- e. Size of project, or phrase under construction, in acres.
- f. Activity schedule showing anticipated starting and completion dates for the project. Include the statement in bold letters that "the installation of erosion and sedimentation control measures and practices shall occur prior to or concurrent with land-disturbing activities."
- g. Stormwater and sedimentation management systems-storage capacity, hydro-logic study, and calculations, including off-site drainage areas.
- h. Vegetative plan for all temporary and permanent vegetative measures, including species, planting dates, and seeding, fertilizer, lime, and mulching rates. The vegetative plan should show options for year-round seeding.
- i. Detail drawings for all structural practices. Specifications may follow guidelines set forth in the Manual for Erosion and Sediment Control in Georgia.
- j. Maintenance statement: "Erosion and sedimentation control measures will be maintained at all times. Additional erosion and sedimentation control measures and practices will be installed if deemed necessary by onsite inspection."

(3) Maps, drawings, and supportive computations shall bear the signature/seal of a registered or certified professional in engineering, architecture, landscape architecture, land surveying, or erosion and sedimentation control. The certified plans shall contain:

- a. Graphic scale and north point or arrow indicating magnetic north.
- b. Vicinity maps showing location of project and existing streets.
- c. Boundary line survey.
- d. Delineation of disturbed areas within project boundary.
- e. Existing and planned contours, with an interval in accordance with the following:

<i>Map Scale</i>	<i>Ground Scope</i>	<i>Contour Interval, ft.</i>
1 inch = 100 ft. or larger scale	Flat 0-2% rolling 2-8% Steep 8% +	0.5 or 1 1 or 2 2, 5 or 10

- f. Adjacent areas and feature areas such as streams, lakes, residential areas, etc., which might be affected should be indicated on the plan.
- g. Proposed structures or additions to existing structures and paved areas.
- h. Delineate the 25-foot horizontal buffer adjacent to state waters and the specified width in MRPA areas.
- i. Delineate the specified horizontal buffer along designated trout streams, where applicable.

- j. Location of erosion and sedimentation control measures and practices using coding symbols from the Manual for Erosion and Sediment Control in Georgia, Chapter 6.
- (4) Maintenance of all soil erosion and sedimentation control practices, whether temporary or permanent, shall be at all times the responsibility of the property owner.

(d) *Permits.*

- (1) Permits shall be issued or denied as soon as practicable but in any event not later than 45 days after receipt by the issuing authority of a completed application, providing variances and bonding are obtained, where necessary.
- (2) No permit shall be issued by the issuing authority unless the erosion and sedimentation control plan has been approved by the district and the issuing authority has affirmatively determined that the plan is in compliance with this article, any variances required by section 18-45(c)(15) and (16) are obtained, bonding requirements, if necessary, as per subsection (b)(5)b of this section are met and all ordinances and rules and regulations in effect within the jurisdictional boundaries of the issuing authority are met. If the permit is denied, the reason for denial shall be furnished to the applicant.
- (3) If the tract is to be developed in phases, then a separate permit shall be required for each phase.
- (4) The permit may be suspended, revoked, or modified by the issuing authority, as to all or any portion of the land affected by the plan, upon finding that the holder or his successor in the title is not in compliance with the approved erosion and sedimentation control plan or that the holder or his successor in title is in violation of this article. A holder of a permit shall notify any successor in title to him as to all or any portion of the land affected by the approved plan of the conditions contained in the permit.
- (5) No permit shall be issued unless the applicant provides a statement by the county tax commissioner certifying that all ad valorem taxes levied against the property and due and owing have been paid.

(Ord. of 8-26-2004, § V)

**State law reference**—Permits, O.C.G.A. §§ 12-7-7, 12-7-9.

**Sec. 18-47. Inspection and enforcement.**

- (a) The Brooks County Zoning and Building Inspection Department will periodically inspect the sites of land-disturbing activities for which permits have been issued to determine if the activities are being conducted in accordance with the plan and if the measures required in the plan are effective in controlling erosion and sedimentation. If, through inspection, it is deemed that a person engaged in land-disturbing activities as defined herein has failed to comply with the approved plan, with permit conditions, or with the provisions of this article, a written notice to comply shall be served upon that person. The notice shall set forth the

measures necessary to achieve compliance and shall state the time within which such measures must be completed. If the person engaged in the land-disturbing activity fails to comply within the time specified, he shall be deemed in violation of this article.

(b) The Brooks County Zoning and Building Inspection Department shall have the power to conduct such investigations as it may reasonably deem necessary to carry out duties as prescribed in this article, and for this purpose to enter at reasonable times upon any property, public or private, for the purpose of investigation and inspecting the sites of land-disturbing activities.

(c) No person shall refuse entry or access to any authorized representative or agent of the issuing authority, the commission, the district, or division who requests entry for the purposes of inspection, and who presents appropriate credentials, nor shall any person obstruct, hamper or interfere with any such representative while in the process of carrying out his official duties.

(d) The districts or the commission or both shall periodically review the actions of counties and municipalities which have been certified as issuing authorities pursuant to O.C.G.A. § 12-7-8(a). The districts or the commission or both may provide technical assistance to any county or municipality for the purpose of improving the effectiveness of the county's or municipality's erosion and sedimentation control program. The districts or the commission shall notify the division and request investigation by the division if any deficient or ineffective local program is found.

(e) The division may periodically review the actions of counties and municipalities which have been certified as issuing authorities pursuant to O.C.G.A. § 12-7-8(a). Such review may include, but shall not be limited to, review of the administration and enforcement of a governing authority's ordinance and review of conformance with an agreement, if any, between the district and the governing authority. If such review indicates that the governing authority of any county or municipality certified pursuant to O.C.G.A. § 12-7-8(a) has not administered or enforced its ordinances or has not conducted the program in accordance with any agreement entered into pursuant to O.C.G.A. § 12-7-7(d), the division shall notify the governing authority of the county or municipality in writing. The governing authority of any county or municipality so notified shall have 30 days within which to take the necessary corrective action to retain certification as an issuing authority. If the county or municipality does not take necessary corrective action within 30 days after notification by the division, the division may revoke the certification of the county or municipality as an issuing authority.

(Ord. of 8-26-2004, § VI)

#### **Sec. 18-48. Penalties and incentives.**

(a) *Failure to obtain a permit for land-disturbing activity.* If any person commences any land-disturbing activity requiring a land-disturbing permit as prescribed in this article without first obtaining said permit, the person shall be subject to revocation of his business license, work permit or other authorization for the conduct of a business and associated work activities within the jurisdictional boundaries of the issuing authority.

(b) *Stop-work orders.*

- (1) For the first and second violations of the provisions of this article, the director or the issuing authority shall issue a written warning to the violator. The violator shall have five days to correct the violation. If the violation is not corrected within five days, the director or the issuing authority shall issue a stop-work order requiring that land-disturbing activities be stopped until necessary corrective action or mitigation has occurred; provided, however, that, if the violation presents an imminent threat to public health or waters of the state or if the land-disturbing activities are conducted without obtaining the necessary permit, the director or issuing authority shall issue an immediate stop-work order in lieu of a warning;
- (2) For a third and each subsequent violation, the director or issuing authority shall issue an immediate stop-work order; and
- (3) All stop-work orders shall be effective immediately upon issuance and shall be in effect until the necessary corrective action or mitigation has occurred.

(c) *Bond forfeiture.* If, through inspection, it is determined that a person engaged in land-disturbing activities has failed to comply with the approved plan, a written notice to comply shall be served upon that person. The notice shall set forth the measures necessary to achieve compliance with the plan and shall state the time within which such measures must be completed. If the person engaged in the land-disturbing activity fails to comply within the time specified, he shall be deemed in violation of this article and, in addition to other penalties, shall be deemed to have forfeited his performance bond. The issuing authority may call the bond or any part thereof to be forfeited and may use the proceeds to hire a contractor to stabilize the site of the land-disturbing activity and bring it into compliance.

(d) *Monetary penalties.* Except as provided in subsection (b) of this section, any person who violates any provisions of this article, the rules and regulations adopted pursuant hereto, or any permit condition or limitation established pursuant to this article or who negligently or intentionally fails or refuses to comply with any final or emergency order of the director issued as provided in this article shall be liable for a civil penalty not to exceed \$2,500.00 per day. For the purpose of enforcing the provisions of this article, notwithstanding any provisions in any city Charter to the contrary, municipal courts shall be authorized to impose penalty not to exceed \$2,500.00 for each violation. Notwithstanding any limitation of law as to penalties which can be assessed for violations of county ordinances, any magistrate court or any other court of competent jurisdiction trying cases brought as violations of this article under county ordinances approved under this article shall be authorized to impose penalties for such violations not to exceed \$2,500.00 for each violation. Each day during which violation or failure or refusal to comply continues shall be a separate violation.

(e) *Penalties.* The following penalties shall apply to land-disturbing activities performed in violation of any provision of this article, any rules and regulations adopted pursuant hereto, or any permit condition or limitation established pursuant to this article:

- (1) There shall be minimum penalty of \$250.00 per day for each violation involving the construction of a single-family dwelling by or under contract with the owner for his own occupancy; and

(2) There shall be a minimum penalty of \$1,000.00 per day for each violation involving land-disturbing activities other than as provided in subsection (a) of this section.

(Ord. of 8-26-2004, § VII)

**State law reference**—Violations and penalties, O.C.G.A. § 12-7-13 et seq.

**Sec. 18-49. Administrative appeal; judicial review.**

(a) The suspension, revocation, modification or grant with condition of a permit by the issuing authority upon finding that the holder is not in compliance with the approved erosion and sediment control plan; or that the holder is in violation of permit conditions; or that the holder is in violation of any ordinance; shall entitle the person submitting the plan or holding the permit to a hearing before the board of commissioners within 30 days after receipt by the issuing authority of written notice of appeal.

(b) Any person, aggrieved by a decision or order of the issuing authority, after exhausting his administrative remedies, shall have the right to appeal de novo to the Superior Court of Brooks County.

(Ord. of 8-26-2004, § VIII)

**Sec. 18-50. Responsibility for damage to person or property.**

(a) Neither the approval of a plan under the provisions of this article, nor the compliance with provisions of this article shall relieve any person from the responsibility for damage to any person or property otherwise imposed by law nor impose any liability upon the issuing authority or district for damage to any person or property.

(b) The fact that a land-disturbing activity for which a permit has been issued results in injury to the property of another shall neither constitute proof of nor create a presumption of a violation of the standards provided for in this article or the terms of the permit.

(c) No provision of this article shall permit any persons to violate the Georgia Erosion and Sedimentation Act of 1975, the Georgia Water Quality Control Act or the rules and regulations promulgated and approved thereunder or pollute any waters of the state as defined thereby.

(Ord. of 8-26-2004, § IX(C))

Chapters 19—21

**RESERVED**



## Chapter 22

### **FLOODS**

#### **Article I. In General**

Secs. 22-1—22-17. Reserved.

#### **Article II. Flood Damage Prevention**

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- Sec. 22-18. Definitions.
- Sec. 22-19. Authorization.
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## ARTICLE I. IN GENERAL

### Secs. 22-1—22-17. Reserved.

## ARTICLE II. FLOOD DAMAGE PREVENTION\*

### DIVISION 1. GENERAL PROVISIONS

#### Sec. 22-18. Definitions.

Unless specifically defined below, words or phrases used in this article shall be interpreted so as to give them the meaning they have in common usage and to give this article its most reasonable application.

*Addition (to an existing building)* means any walled and roofed expansion to the perimeter of a building in which the addition is connected by a common load-bearing wall other than a firewall. Any walled and roofed addition, which is connected by a firewall or is separated by an independent perimeter load-bearing wall, shall be considered "new construction."

*Appeal* means a request for a review of the zoning administrator's interpretation of any provision of this article.

*Area of shallow flooding* means a designated AO or AH zone on a community's flood insurance rate map (FIRM) with base flood depths from one to three feet, and/or where a clearly defined channel does not exist, where the path of flooding is unpredictable and indeterminate, and where velocity flow may be evident.

*Area of special flood hazard* is the land in the floodplain within a community subject to a one percent or greater chance of flooding in any given year. In the absence of official designation by the Federal Emergency Management Agency, areas of special flood hazard shall be those designated by the local community and referenced in section 22-24.

*Base flood* means the flood having a one percent chance of being equaled or exceeded in any given year.

*Basement* means that portion of a building having its floor sub grade (below ground level) on all sides.

*Building* means any structure built for support, shelter, or enclosure for any occupancy or storage.

*Development* means any man-made change to improved or unimproved real estate, including, but not limited to, buildings or other structures, mining, dredging, filling, grading, paving, excavating, drilling operations, and permanent storage of materials or equipment.

**\*Editor's note**—An ordinance of October 4, 2004, amended the Code by, in effect, repealing former art. II, §§ 22-18—22-33, and adding a new art. II. Former art. II pertained to similar subject matter, and derived from Ord. No. 82-1A, adopted March 15, 1982.

*Elevated building* means a non-basement building built to have the lowest floor of the lowest enclosed area elevated above the ground level by means of fill, solid foundation perimeter walls, pilings, columns, piers, or shear walls adequately anchored so as not to impair the structural integrity of the building during a base flood event.

*Existing construction* means any structure for which the "start of construction" commenced before May 3, 1982 (i.e., the effective date of the first floodplain management code or ordinance adopted by the community as a basis for that community's participation in the national flood insurance program (NFIP)).

*Existing manufactured home park or subdivision* means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum the installation of utilities, the construction of streets, and final site grading or the pouring of concrete pads) is completed before May 3, 1982. (i.e., the effective date of the first floodplain management regulations adopted by a community).

*Expansion to an existing manufactured home park or subdivision* means the preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed, including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads.

*Flood or flooding* means a general and temporary condition of partial or complete inundation of normally dry land areas from:

- (1) The overflow of inland or tidal waters; or
- (2) The unusual and rapid accumulation or runoff of surface waters from any source.

*Flood hazard boundary map (FHBM)* means an official map of a community, issued by the Federal Insurance Administration, where the boundaries of areas of special flood hazard have been defined as zone A.

*Flood insurance rate map (FIRM)* means an official map of a community, issued by the Federal Insurance Administration, delineating the areas of special flood hazard and/or risk premium zones applicable to the community.

*Flood insurance study* means the official report by the Federal Insurance Administration evaluating flood hazards and containing flood profiles and water surface elevations of the base flood.

*Floodplain* means any land area susceptible to flooding.

*Floodway* means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height.

*Highest adjacent grade* means the highest natural elevation of the ground surface, prior to construction, adjacent to the proposed foundation of a building.

*Historic structure* means any structure that is:

- (1) Listed individually in the national register of historic places (a listing maintained by the U.S. Department of Interior) or preliminarily determined by the secretary of the interior as meeting the requirements for individual listing on the national register;
- (2) Certified or preliminarily determined by the secretary of the interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the secretary to qualify as a registered historic district;
- (3) Individually listed on a state inventory of historic places and determined as eligible by states with historic preservation programs which have been approved by the secretary of the interior; or
- (4) Individually listed on a local inventory of historic places and determined as eligible by communities with historic preservation programs that have been certified either:
  - a. By an approved state program as determined by the secretary of the interior, or
  - b. Directly by the secretary of the interior in states without approved programs.

*Lowest floor* means the lowest floor of the lowest enclosed area, including basement. An unfinished or flood resistant enclosure, used solely for parking of vehicles, building access, or storage, in an area other than a basement, is not considered a building's lowest floor, provided that such enclosure is not built so as to render the structure in violation of other provisions of this code.

*Manufactured home* means a building, transportable in one or more sections, built on a permanent chassis and designed to be used with or without a permanent foundation when connected to the required utilities. The term also includes park trailers, travel trailers, and similar transportable structures placed on a site for 180 consecutive days or longer and intended to be improved property.

*Mean sea level* means the average height of the sea for all stages of the tide. It is used as a reference for establishing various elevations within the floodplain. For purposes of this article, the term is synonymous with national geodetic vertical datum (NGVD).

*National geodetic vertical datum (NGVD)* as corrected in 1929 is a vertical control used as a reference for establishing varying elevations within the floodplain.

*New construction* means any structure (see definition) for which the "start of construction" commenced after May 3, 1982 and includes any subsequent improvements to the structure (i.e., the effective date of the first floodplain management ordinance adopted by the community as a basis for community participation in the (NFIP)).

*New manufactured home park or subdivision* means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the

construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after May 3, 1982 (i.e., the effective date of the first floodplain management regulations adopted by a community).

*Recreational vehicle* means a vehicle, which is:

- (1) Built on a single chassis;
- (2) 400 square feet or less when measured at the largest horizontal projection;
- (3) Designed to be self-propelled or permanently towable by a light duty truck; and
- (4) Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

*Start of construction* means the date the development permit was issued, provided the actual start of construction, repair, reconstruction, or improvement was within 180 days of the permit date. The actual start means the first placement of permanent construction of the structure such as the pouring of slabs or footings, installation of piles, construction of columns, or any work beyond the stage of excavation, and includes the placement of a manufactured home on a foundation. Permanent construction does not include initial land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers or foundations or the erection of temporary forms; nor does it include the installation on the property of buildings appurtenant to the permitted structure, such as garages or sheds not occupied as dwelling units or part of the main structure (Note: accessory structures are not exempt from any ordinance requirements). For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

*Structure* means a walled and roofed building that is principally above ground, a manufactured home, a gas or liquid storage tank.

*Substantial damage* means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

*Substantial improvement* means any combination of repairs, reconstruction, alteration, or improvements to a building, taking place during a five-year period, in which the cumulative cost equals or exceeds 50 percent of the market value of the structure prior to the improvement. The market value of the building should be:

- (1) The appraised value of the structure prior to the start of the initial repair or improvement; or
- (2) In the case of damage, the value of the structure prior to the damage occurring.

This term includes structures, which have incurred "substantial damage", regardless of the actual amount of repair work performed.

For the purposes of this definition, "substantial improvement" is considered to occur when the first alteration of any wall, ceiling, floor, or other structural part of the building commences, whether or not that alteration affects the external dimensions of the building. The term does not, however, include those improvements of a building required to comply with existing health, sanitary, or safety code specifications which are solely necessary to assure safe living conditions, which have been pre-identified by the code enforcement official, and not solely triggered by an improvement or repair project.

*Substantially improved existing manufactured home parks or subdivisions* is where the repair, reconstruction, rehabilitation or improvement of the streets, utilities and pads equals or exceeds 50 percent of the value of the streets, utilities and pads before the repair, reconstruction or improvement commenced.

*Variance* is a grant of relief from the requirements of this article, which permits construction in a manner otherwise prohibited by this article.

(Ord. of 10-4-04, art. 6)

**Sec. 22-19. Authorization.**

Article IX, Section II of the Constitution of the State of Georgia and O.C.G.A. § 36-1-20(a) have delegated the responsibility to local governmental units to adopt regulations designed to promote the public health, safety, and general welfare of its citizenry. Therefore, the county board of commissioners does ordain as follows:

(Ord. of 10-4-04, art. 1, § A)

**Sec. 22-20. Findings of fact.**

(a) The flood hazard areas of the county are subject to periodic inundation which results in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood relief and protection, and impairment of the tax base, all of which adversely affect the public health, safety and general welfare.

(b) These flood losses are caused by the occupancy in flood hazard areas of uses vulnerable to floods, which are inadequately elevated, flood-proofed, or otherwise unprotected from flood damages, and by the cumulative effect of obstructions in floodplains causing increases in flood heights and velocities.

(Ord. of 10-4-04, art. 1, § B)

**Sec. 22-21. Statement of purpose.**

It is the purpose of this article to promote the public health, safety and general welfare and to minimize public and private losses due to flood conditions in specific areas by provisions designed to:

- (1) Require that uses vulnerable to floods, including facilities, which serve such uses, be protected against flood damage at the time of initial construction;

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- (2) Restrict or prohibit uses which are dangerous to health, safety and property due to water or erosion hazards, or which increase flood heights, velocities, or erosion;
- (3) Control filling, grading, dredging and other development which may increase flood damage or erosion, and;
- (4) Prevent or regulate the construction of flood barriers which will unnaturally divert flood waters or which may increase flood hazards to other lands;
- (5) Control the alteration of natural floodplains, stream channels, and natural protective barriers, which are involved in the accommodation of floodwaters.

(Ord. of 10-4-04, art. 1, § C)

**Sec. 22-22. Objectives.**

The objectives of this article are:

- (1) To protect human life and health;
- (2) To minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, streets and bridges located in floodplains;
- (3) To help maintain a stable tax base by providing for the sound use and development of flood prone areas in such a manner as to minimize flood blight areas,
- (4) To minimize expenditure of public money for costly flood control projects;
- (5) To minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
- (6) To minimize prolonged business interruptions, and;
- (7) To insure that potential homebuyers are notified that property is in a flood area.

(Ord. of 10-4-04, art. 1, § D)

**Sec. 22-23. Lands to which this article applies.**

This article shall apply to all areas of special flood hazard within the jurisdiction of the county.

(Ord. of 10-4-04, art. 2, § A)

**Sec. 22-24. Basis for area of special flood hazard.**

The areas of special flood hazard identified by the Federal Emergency Management Agency in its flood insurance study (FIS), dated March 15, 1982, with accompanying maps and other supporting data and any revision thereto, are adopted by reference and declared a part of this article. For those land areas acquired by a municipality through annexation, the current effective FIS and data for the county are hereby adopted by reference. Areas of special flood

hazard may also include those areas known to have flooded historically or defined through standard engineering analysis by governmental agencies or private parties but not yet incorporated in a FIS (county road map or topographic map).

(Ord. of 10-4-04, art. 2, § B)

**Sec. 22-25. Establishment of development permit.**

A development permit shall be required in conformance with the provisions of this article prior to the commencement of any development activities.

(Ord. of 10-4-04, art. 2, § C)

**Sec. 22-26. Compliance.**

No structure or land shall hereafter be located, extended, converted or altered without full compliance with the terms of this article and other applicable regulations.

(Ord. of 10-4-04, art. 2, § D)

**Sec. 22-27. Abrogation and greater restrictions.**

This article is not intended to repeal, abrogate, or impair any existing ordinance, easements, covenants, or deed restrictions. However, where this article and another conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

(Ord. of 10-4-04, art. 2, § E)

**Sec. 22-28. Interpretation.**

In the interpretation and application of this article all provisions shall be:

- (1) Considered as minimum requirements;
- (2) Liberally construed in favor of the governing body; and
- (3) Deemed neither to limit nor repeal any other powers granted under state statutes.

(Ord. of 10-4-04, art. 2, § F)

**Sec. 22-29. Warning and disclaimer of liability.**

The degree of flood protection required by this article is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur; flood heights may be increased by man-made or natural causes. This article does not imply that land outside the areas of special flood hazard or uses permitted within such areas will be free from flooding or flood damages. This article shall not create liability on the part of the county or by any officer or employee thereof for any flood damages that result from reliance on this article or any administrative decision lawfully made thereunder.

(Ord. of 10-4-04, art. 2, § G)

**Sec. 22-30. Penalties for violation.**

Violation of the provisions of this article or failure to comply with any of its requirements, including violation of conditions and safeguards established in connection with grants of variance or special exceptions shall constitute a misdemeanor. Any person who violates this article or fails to comply with any of its requirements shall, upon conviction thereof, be fined not more than \$1,000.00 or imprisoned for not more than 60 days, or both, and in addition, shall pay all costs and expenses involved in the case. Each day such violation continues shall be considered a separate offense. Nothing herein contained shall prevent the county from taking such other lawful actions as is necessary to prevent or remedy any violation.

(Ord. of 10-4-04, art. 2, § H)

**Secs. 22-31—22-40. Reserved.**

DIVISION 2. ADMINISTRATION

**Sec. 22-41. Designation of administrator.**

The zoning administrator is hereby appointed to administer and implement the provisions of this article.

(Ord. of 10-4-04, art. 3, § A)

**Sec. 22-42. Permit procedures.**

Application for a development permit shall be made to the zoning administrator on forms furnished by the community prior to any development activities, and may include, but not be limited to the following: plans in duplicate drawn to scale showing the elevations of the area in question and the nature, location, dimensions, of existing or proposed structures, earthen fill placement, storage of materials or equipment, and drainage facilities.

Specifically, the following information is required:

- (1) *Application stage.*
  - a. Elevation in relation to mean sea level (or highest adjacent grade) of the lowest floor, including basement, of all proposed structures;
  - b. Elevation in relation to mean sea level to which any nonresidential structure will be flood-proofed;
  - c. Design certification from a registered professional engineer or architect that any proposed nonresidential flood-proofed structure will meet the flood-proofing criteria of section 22-52(2);
  - d. Description of the extent to which any watercourse will be altered or relocated as a result of a proposed development; and
- (2) *Construction stage.* For all new construction and substantial improvements, the permit holder shall provide to the administrator an as-built certification of the

regulatory floor elevation or flood-proofing level immediately after the lowest floor or flood proofing is completed. Any lowest floor certification made relative to mean sea level shall be prepared by or under the direct supervision of a registered land surveyor or professional engineer and certified by same. When flood proofing is utilized for nonresidential structures, said certification shall be prepared by or under the direct supervision of a professional engineer or architect and certified by same.

Any work undertaken prior to submission of these certifications shall be at the permit holder's risk.

The zoning administrator shall review the above referenced certification data submitted. Deficiencies detected by such review shall be corrected by the permit holder immediately and prior to further progressive work being allowed to proceed. Failure to submit certification or failure to make said corrections required hereby, shall be cause to issue a stop-work order for the project.

(Ord. of 10-4-04, art. 3, § B)

**Sec. 22-43. Duties and responsibilities of the administrator.**

Duties of the zoning administrator shall include, but shall not be limited to:

- (1) Review all development permits to assure that the permit requirements of this article have been satisfied;
- (2) Review proposed development to assure that all necessary permits have been received from governmental agencies from which approval is required by federal or state law, including section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1334. Require that copies of such permits be provided and maintained on file.
- (3) When base flood elevation data or floodway data have not been provided in accordance with section 22-24, then the zoning administrator shall obtain, review and reasonably utilize any base flood elevation and floodway data available from a federal, state or other sources in order to administer the provisions of sections 22-51—22-55.
- (4) Verify and record the actual elevation in relation to mean sea level (or highest adjacent grade) of the lowest floor, including basement, of all new or substantially improved structures in accordance with section 22-42(2).
- (5) Verify and record the actual elevation, in relation to mean sea level to which any new or substantially improved structures have been flood-proofed, in accordance with section 22-42(2).
- (6) When flood-proofing is utilized for a structure, the zoning administrator shall obtain certification of design criteria from a registered professional engineer or architect in accordance with section 22-42(1)c. and section 22-52(2) or 22-54(2).
- (7) Notify adjacent communities and the state department of natural resources prior to any alteration or relocation of a watercourse and submit evidence of such notification to the Federal Emergency Management Agency (FEMA).

- (8) For any altered or relocated watercourse, submit engineering data/analysis within six months to the FEMA to ensure accuracy of community flood maps through the letter of map revision process. Assure flood carrying capacity of any altered or relocated watercourse is maintained.
- (9) Where interpretation is needed as to the exact location of boundaries of the areas of special flood hazard (for example, where there appears to be a conflict between a mapped boundary and actual field conditions) the zoning administrator shall make the necessary interpretation. Any person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in this article.
- (10) All records pertaining to the provisions of this article shall be maintained in the office of the zoning administrator and shall be open for public inspection.

(Ord. of 10-4-04, art. 3, § C)

**Secs. 22-44—22-50. Reserved.**

**DIVISION 3. PROVISIONS FOR FLOOD HAZARD REDUCTION**

**Sec. 22-51. General standards.**

In all areas of special flood hazard the following provisions are required:

- (1) New construction and substantial improvements of existing structures shall be anchored to prevent flotation, collapse or lateral movement of the structure;
- (2) New construction and substantial improvements of existing structures shall be constructed with materials and utility equipment resistant to flood damage;
- (3) New construction or substantial improvements of existing structures shall be constructed by methods and practices that minimize flood damage;
- (4) Elevated buildings: All new construction or substantial improvements of existing structures that include any fully enclosed area located below the lowest floor formed by foundation and other exterior walls shall be designed so as to be an unfinished or flood resistant enclosure. The enclosure shall be designed to equalize hydrostatic flood forces on exterior walls by allowing for the automatic entry and exit of floodwater.
  - a. Designs for complying with this requirement must either be certified by a professional engineer or architect or meet the following minimum criteria:
    1. Provide a minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding;
    2. The bottom of all openings shall be no higher than one foot above grade; and,
    3. Openings may be equipped with screens, louvers, valves or other coverings or devices provided they permit the automatic flow of floodwater in both direction.

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- b. So as not to violate the "lowest floor" criteria of this article, the unfinished or flood resistant enclosure shall only be used for parking of vehicles, limited storage of maintenance equipment used in connection with the premises, or entry to the elevated area, and
- c. The interior portion of such enclosed area shall not be partitioned or finished into separate rooms.

- (5) All heating and air conditioning equipment and components, all electrical, ventilation, plumbing, and other service facilities shall be designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.
- (6) Manufactured homes shall be anchored to prevent flotation, collapse, or lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors. This standard shall be in addition to and consistent with applicable state requirements for resisting wind forces.
- (7) New and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system;
- (8) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters;
- (9) On-site waste disposal systems shall be located and constructed to avoid impairment to them or contamination from them during flooding, and;
- (10) Any alteration, repair, reconstruction or improvement to a structure, which is not compliant with the provisions of this article, shall be undertaken only if the nonconformity is not furthered, extended or replaced.

(Ord. of 10-4-04, art. 4, § A)

### **Sec. 22-52. Specific standards.**

In all areas of special flood hazard the following provisions are required:

- (1) *New construction and substantial improvements.* Where base flood elevation data are available, new construction or substantial improvement of any structure or manufactured home shall have the lowest floor, including basement, elevated no lower than one foot above the base flood elevation. Should solid foundation perimeter walls be used to elevate a structure, openings sufficient to facilitate equalization of flood hydrostatic forces on both sides of exterior walls shall be provided in accordance with standards of section 22-51(4), elevated buildings.
- (2) *Nonresidential construction.* New construction or the substantial improvement of any structure located in A1-30, AE, or AH zones, may be flood-proofed in lieu of elevation. The structure, together with attendant utility and sanitary facilities, must be designed to be water tight to one foot above the base flood elevation, with walls substantially

impermeable to the passage of water, and structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effect of buoyancy. A registered professional engineer or architect shall certify that the design and methods of construction are in accordance with accepted standards of practice for meeting the provisions above, and shall provide such certification to the official as set forth above and in section 22-43(6).

(3) *Standards for manufactured homes and recreational vehicles.* Where base flood elevation data are available:

- a. All manufactured homes placed or substantially improved on:
  1. Individual lots or parcels;
  2. In new or substantially improved manufactured home parks or subdivisions;
  3. In expansions to existing manufactured home parks or subdivisions; or
  4. On a site in an existing manufactured home park or subdivision where a manufactured home has incurred "substantial damage" as the result of a flood,

must have the lowest floor including basement, elevated no lower than one foot above the base flood elevation.

- b. Manufactured homes placed or substantially improved in an existing manufactured home park or subdivision may be elevated so that either:
  1. The lowest floor of the manufactured home is elevated no lower than one foot above the level of the base flood elevation, or
  2. The manufactured home chassis is elevated and supported by reinforced piers (or other foundation elements of at least an equivalent strength) of no less than 36 inches in height above grade.
- c. All manufactured homes must be securely anchored to an adequately anchored foundation system to resist flotation, collapse and lateral movement (refer to section 22-51(6) above)
- d. All recreational vehicles placed on sites must either:
  1. Be fully licensed and ready for highway use, (a recreational vehicle is ready for highway use if it is licensed, on its wheels or jacking system, attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached structures or additions), or
  2. The recreational vehicle must meet all the requirements for new construction, including the anchoring and elevation requirements of section 22-52(3)a.—c., above.

(4) *Floodway.* Located within areas of special flood hazard established in section 22-24 are areas designated as floodway. A floodway may be an extremely hazardous area due to

velocity floodwaters, debris or erosion potential. In addition, the area must remain free of encroachment in order to allow for the discharge of the base flood without increased flood heights. Therefore, the following provisions shall apply:

- a. Encroachments are prohibited, including earthen fill, new construction, substantial improvements or other development within the regulatory floodway. Development may be permitted however, provided it is demonstrated through hydrologic and hydraulic analyses performed in accordance with standard engineering practice that the encroachment shall not result in any increase in flood levels or floodway widths during a base flood discharge. A registered professional engineer must provide supporting technical data and certification thereof.
- b. Only if section 22-52(4)a. above is satisfied, then any new construction or substantial improvement shall comply with all other applicable flood hazard reduction provisions of division 3.

(Ord. of 10-4-04, art. 4, § B)

**Sec. 22-53. Building standards for streams without established base flood elevations and/or floodway (A zones).**

Located within the areas of special flood hazard established in section 22-24, where streams exist but no base flood data have been provided (A zones), or where base flood data have been provided but a floodway has not been delineated, the following provisions apply:

- (1) When base flood elevation data or floodway data have not been provided in accordance with section 22-24, then the zoning administrator shall obtain, review, and reasonably utilize any scientific or historic base flood elevation and floodway data available from a federal, state, or other source, in order to administer the provisions of division 3. Only if data are not available from these sources, then the following provisions (2) and (3) shall apply.
- (2) No encroachments, including structures or fill material, shall be located within an area equal to the width of the stream or 20 feet, whichever is greater, measured from the top of the stream bank, unless certification by a registered professional engineer is provided demonstrating that such encroachment shall not result in any increase in flood levels during the occurrence of the base flood discharge.
- (3) In special flood hazard areas without base flood elevation data, new construction and substantial improvements of existing structures shall have the lowest floor of the lowest enclosed area (including basement) elevated no less than three feet above the highest adjacent grade at the building site. Openings sufficient to facilitate the unimpeded movements of floodwaters shall be provided in accordance with standards of 22-51(4), elevated buildings.

The zoning administrator shall certify the lowest floor elevation level and the record shall become a permanent part of the permit file.

(Ord. of 10-4-04, art. 4, § C)

**Sec. 22-54. Standards for areas of shallow flooding (AO zones).**

Areas of special flood hazard established in 22-24 may include designated "AO" shallow flooding areas. These areas have base flood depths of one to three feet above ground, with no clearly defined channel. The following provisions apply:

- (1) All new construction and substantial improvements of residential and nonresidential structures shall have the lowest floor, including basement, elevated to the flood depth number specified on the flood insurance rate map (FIRM), above the highest adjacent grade. If no flood depth number is specified, the lowest floor, including basement, shall be elevated at least three feet (3) above the highest adjacent grade. Openings sufficient to facilitate the unimpeded movements of flood waters shall be provided in accordance with standards of section 22-51(4), elevated buildings.

The zoning administrator shall certify the lowest floor elevation level and the record shall become a permanent part of the permit file.

- (2) New construction or the substantial improvement of a nonresidential structure may be flood-proofed in lieu of elevation. The structure, together with attendant utility and sanitary facilities, must be designed to be water tight to the specified FIRM flood level plus one (1) foot, above highest adjacent grade, with walls substantially impermeable to the passage of water, and structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effect of buoyancy. A registered professional engineer or architect shall certify that the design and methods of construction are in accordance with accepted standards of practice for meeting the provisions above, and shall provide such certification to the official as set forth above and as required in subsections 22-42(1)c. and (2).
- (3) Drainage paths shall be provided to guide floodwater around and away from any proposed structure.

(Ord. of 10-4-04, art. 4, § D)

**Sec. 22-55. Standards for subdivisions.**

- (a) All subdivision proposals shall be consistent with the need to minimize flood damage;
- (b) All subdivision proposals with public utilities and facilities such as sewer, gas, electrical and water systems shall be located and constructed to minimize flood damage;
- (c) All subdivision proposals shall have adequate drainage provided to reduce exposure to flood hazards, and;
- (d) Base flood elevation data shall be provided for subdivision proposals and all other proposed development, including manufactured home parks and subdivisions, greater than 50 lots or five acres, whichever is less.

(Ord. of 10-4-04, art. 4, § E)

**Secs. 22-56—22-60. Reserved.**

DIVISION 4. VARIANCE PROCEDURES

**Sec. 22-61. Variance procedures.**

- (a) The appeals board as established by the county board of commissioners shall hear and decide requests for appeals or variance from the requirements of this article.
- (b) The appeals board shall hear and decide appeals when it is alleged an error in any requirement, decision, or determination is made by the zoning administrator in the enforcement or administration of this article.
- (c) Any person aggrieved by the decision of the appeals board may appeal such decision to the superior court of the county, as provided in O.C.G.A. § 5-4-1.
- (d) Variances may be issued for the repair or rehabilitation of historic structures upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and the variance is the minimum to preserve the historic character and design of the structure.
- (e) Variances may be issued for development necessary for the conduct of a functionally dependent use, provided the criteria of this article are met, no reasonable alternative exists, and the development is protected by methods that minimize flood damage during the base flood and create no additional threats to public safety.
- (f) Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.
- (g) In reviewing such requests, the appeals board shall consider all technical evaluations, relevant factors, and all standards specified in this and other sections of this article.
- (h) Conditions for variances:
  - (1) A variance shall be issued only when there is:
    - a. A finding of good and sufficient cause,
    - b. A determination that failure to grant the variance would result in exceptional hardship, and;
    - c. A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisance, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.
  - (2) The provisions of this article are minimum standards for flood loss reduction; therefore any deviation from the standards must be weighed carefully. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief; and, in the instance of an historic structure, a determination that the variance is the minimum necessary so as not to destroy the historic character and design of the building.

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- (3) Any applicant to whom a variance is granted shall be given written notice specifying the difference between the base flood elevation and the elevation of the proposed lowest floor and stating that the cost of flood insurance will be commensurate with the increased risk to life and property resulting from the reduced lowest floor elevation.
- (4) The zoning administrator shall maintain the records of all appeal actions and report any variances to the Federal Emergency Management Agency upon request.
  - (i) Upon consideration of the factors listed above and the purposes of this article, the appeals board may attach such conditions to the granting of variances as it deems necessary to further the purposes of this article.

(Ord. of 10-4-04, art. 5)

Chapters 23—25

**RESERVED**



## Chapter 26

### **OFFENSES\***

#### **Article I. In General**

- Sec. 26-1. Disorderly conduct.
- Sec. 26-2. Theft and diversion of county and public utility services.
- Sec. 26-3. Loitering or prowling.
- Secs. 26-4—26-18. Reserved.

#### **Article II. Noise**

- Sec. 26-19. Excessive, unnecessary, and unusually loud noise prohibited.
- Sec. 26-20. Special permit for relief from designated noise level.

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**\*State law reference**—Authority to adopt ordinances for purpose of preserving public health and welfare, O.C.G.A. § 6-1-20.



**ARTICLE I. IN GENERAL****Sec. 26-1. Disorderly conduct.**

It shall be unlawful for any person within the unincorporated area of the county to engage in any of the following activities:

- (1) Act in a violent or tumultuous manner toward another whereby any person is placed in fear of the safety of his life, limb or health.
- (2) Act in a violent or tumultuous manner toward another whereby the property of any person is placed in danger of being damaged or destroyed.
- (3) Cause, provoke or engage in any fight, brawl or riotous conduct so as to endanger the life, limb, health, or property of another.
- (4) Assemble or congregate with another or others for the purpose of or with the intent to engage in gaming.
- (5) Be in or about any place, along or with another or others with the purpose of or intent to engage in any fraudulent scheme, trick or device to obtain any money or valuable thing; or to aid or abet any person in doing so.
- (6) Be in or about any place where gaming or the illegal sale or possession of alcoholic beverages or narcotics or dangerous drugs (controlled substances) is practiced, allowed or tolerated, for the purpose of or intent to engage in gaming or the purchase, use, possession or consumption of such illegal drugs, narcotics or alcoholic beverages.
- (7) Direct fighting words toward another, that is, words which by their very nature tend to incite a breach of the peace.
- (8) Interfere, by acts of physical obstruction, with another's pursuit of a lawful occupation.
- (9) Congregate with another or others in or on any public way or grounds so as to halt the flow of vehicular or pedestrian traffic, and to fail to clear that public way or grounds after being ordered to do so by a county law enforcement officer or other lawful authority.
- (10) Disrupt, by actions which tend to incite a breach of peace, the activities of any house of worship, hospital, home for the elderly or any lawful meeting, gathering, or procession.
- (11) Throw bottles, paper, cans, glass, sticks, stones, missiles, or any other debris on public property.
- (12) Be and appear in an intoxicated condition in any public place or within the curtilage of any private residence not their own other than by invitation of the owner or lawful occupant, which condition is made manifest by boisterousness, by indecent condition or act, or by vulgar, profane, or loud unbecoming language.

**Sec. 26-2. Theft and diversion of county and public utility services.**

(a) It shall be unlawful for any person, intentionally and without authority, to destroy, damage or tamper with any meter, pipe, conduit, wire, line, post, lamp or other apparatus owned by the county or by any company engaged in the manufacture or sale of electricity, gas, water, telephone, cable television or other public service, herein called "utility services."

(b) It shall be unlawful for any person, intentionally or without authority, to prevent a meter from properly registering the quantity of such service supplied or in any way to interfere with the proper action of the county or of a company engaged in the manufacture or sale of utility services, or to intentionally divert any of the services of the county or such company, or otherwise intentionally and without authority to use or cause to be used, without consent of the county or such company, any service manufactured, sold or distributed by the county or such company.

(c) No person shall knowingly receive the benefits of acts of diversion or of tampering with utility services without the proper charge.

(d) Proof that any of the acts specified in this section were done on premises in possession of an accused, or that the accused received the benefit of any such act, shall be *prima facie* evidence that the accused committed such act or aided and abetted in the commission thereof.

**Sec. 26-3. Loitering or prowling.**

(a) A person commits the offense of loitering or prowling when that person 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 or under circumstances which cause a justifiable and reasonable alarm or immediate concern that such person is involved in unlawful activity.

(b) The circumstances which may be considered in determining whether alarm or concern is warranted include, but are not limited to, the following: taking flight upon the appearance of a law enforcement officer; refusing to identify oneself; or manifestly endeavoring to conceal oneself or any object. 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 allowing the person to produce satisfactory identification and an explanation of that person's presence and conduct.

**Secs. 26-4—26-18. Reserved.****ARTICLE II. NOISE****Sec. 26-19. Excessive, unnecessary, and unusually loud noise prohibited.**

It shall be unlawful for any person to make, continue, or cause to be made or continued any excessive, unnecessary, or unusually loud noise or any noise which annoys, disturbs, injures,

or endangers the comfort, repose, health, peace, or safety of others in the unincorporated areas of the county. The following acts, among others, are declared to be loud, disturbing, and unnecessary noises in violation of this article, but said enumeration shall not be deemed to be exclusive, namely:

- (1) *Horns, signaling devices, etc.* The sounding of any horn or signaling device on any automobile, motorcycle, street car, or other vehicle on any street, road, highway, or public place in the unincorporated areas of the county, except as a danger warning; the creation by means of any such signaling device of any unreasonably loud and harsh sound; and the sounding of any such device for an unnecessary and unreasonable period of time. The use of any signaling device except one operated by hand or electricity; the use of any horn, whistle, or other device operated by engine exhaust; and the use of any such signaling device when traffic is for any reason held up.
- (2) *Radios, phonographs, etc.* The using, operating, or permitting to be played, used, or operated any radio receiving set, musical instrument, phonograph, or other machine or device for the producing or reproducing of sound in such manner as to disturb the peace, quiet, and comfort of the neighboring inhabitants or at any time with louder volume than is necessary for convenient hearing for the person who is in the room, vehicle, or chamber in which such machine or device is operated and who are voluntary listeners thereto. The operation of any such set, instrument, phonograph, machine, or device between the hours of 11:00 p.m. and 7:00 a.m. in such a manner as to be plainly audible at a distance of 50 feet from the building, structure, or vehicle in which it is located shall be *prima facie* evidence of a violation of this section.
- (3) *Loudspeakers, amplifiers, for advertising.* The using, operating, or permitting to be played, used, or operated of any radio receiving set, musical instrument, phonograph, loudspeaker, sound amplifier, or other machine or device for the producing or reproducing of sound which is cast upon the public streets for the purpose of advertising or attracting the attention of the public to any building or structure.
- (4) *Yelling, shouting, etc.* Yelling, shouting, hooting, whistling, or singing on the public streets, particularly between the hours of 11:00 p.m. and 7:00 a.m. or at any time or place so as to annoy or disturb the quiet, comfort, or repose of persons in any office or in any dwelling, hotel, or other type of residence, or of any persons in the vicinity.
- (5) *Construction or repairing of buildings.* The erection (including excavation), demolition, alteration, or repair of any building other than between the hours of 7:00 a.m. and 11:00 p.m. on weekdays except in case of urgent necessity in the interest of public health and safety, and then only with a permit from the building inspector, which permit may be granted for a period not to exceed three days or less while the emergency continues and which permit may be renewed for periods of three days or less while the emergency continues. If the building inspector should determine that the public health and safety will not be impaired by an erection, demolition, alteration, or repair of any building or the excavation of streets and highways within the hours of 11:00 p.m. and 7:00 a.m.; and if he shall further determine that loss or inconvenience

would result to any party in interest, he may grant permission for such work to be done within the hours of 11:00 p.m. and 7:00 a.m., upon application being made at the time the permit for the work is awarded for during the progress of the work.

- (6) *Schools, courts, churches, hospitals.* The creation of any excessive noise on any street adjacent to any school, institution of learning, church, or court while the same are in use, or adjacent to any hospital, which unreasonably interferes with the workings of such institution, or which disturbs or unduly annoys patients in the hospital provided conspicuous signs are displayed in such streets indicating that the same is a school, hospital, or court street.
- (7) *Pile drivers, hammers, etc.* The operation between the hours of 11:00 p.m. and 7:00 a.m. of any pile driver, steam shovel, pneumatic hammer, derrick, steam or electric hoist, or other appliance, the use of which is attended by loud or unusual noise.

(Ord. No. 99-5-1, § 1, 5-5-1999)

**Sec. 26-20. Special permit for relief from designated noise level.**

Applications for a permit for relief from the noise level designated in this article on the basis of undue hardship may be made to the board of commissioners. Any permit granted by the county commission hereunder shall contain all conditions upon which said permit has been granted and shall specify a reasonable time that the permit shall be effective. The county commission may grant the relief as applied for if they find:

- (1) That additional time is necessary for the applicant to alter or modify his activity or operation to comply with this article; or
- (2) The activity, operation, or noise source will be of temporary duration, and cannot be done in a manner that would comply with other subsections of this section;
- (3) That no other reasonable alternative is available to the applicant; and
- (4) The county commission may prescribe any conditions or requirements they deem necessary to minimize the adverse effects upon the community or the surrounding neighborhood.

(Ord. No. 99-5-1, § 2, 5-5-1999)

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## Chapter 30

### **PLANNING\***

#### **Article I. In General**

Secs. 30-1—30-18. Reserved.

#### **Article II. Planning Commission**

- Sec. 30-19. Created.
- Sec. 30-20. Membership.
- Sec. 30-21. Organization, rules, staff, and finances.
- Sec. 30-22. Powers and duties.

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**\*State law references**—Coordinated and comprehensive planning by counties and municipalities, O.C.G.A. § 36-70-1 et seq.; authority to adopt plans and exercise the power of zoning, Ga. Const. art. IX, § II, ¶ IV.



**ARTICLE I. IN GENERAL****Secs. 30-1—30-18. Reserved.****ARTICLE II. PLANNING COMMISSION****Sec. 30-19. Created.**

The Brooks County Planning Commission, hereafter referred to as the planning commission, is hereby created and established, and said planning commission shall be organized and empowered as set out below.

(Ord. of 5-13-1997)

**Sec. 30-20. Membership.**

The planning commission shall consist of five members. The terms of the membership shall be for five years, and on a staggered basis. In the appointment of the first planning commission members under the terms of this article, there shall be the following terms of appointment to establish the staggered appointment pattern: one for one-year term; one for two-year term; one for three-year term; one for four-year term; and one for five-year term. Any vacancy in membership shall be filled for the unexpired term by the board of commissioners, which shall also have the authority to remove any appointed member for cause, on written charges, after a public hearing. All members shall serve without compensation but may be reimbursed for actual expenses incurred in connection with their official duties.

(Ord. of 5-13-1997, § 1)

**Sec. 30-21. Organization, rules, staff, and finances.**

The planning commission shall elect its chairman and vice-chairman from among its members. The term of the chairman and vice-chairman shall be one year with eligibility for re-election. The planning commission shall appoint a secretary who may be an officer or employee of the county. The planning commission shall adopt its own rules of procedure (by-laws) and determine its time and place of meeting. All meetings of the planning commission shall be open to the public and all records of the planning commission shall be a public record. The planning commission may appoint such employees and staff as it may deem necessary for its work and may contract with public or private consultants for such services as it may require. The expenditures of the planning commission, exclusive of gifts, shall be within the amounts appropriated for the purposes by the board of commissioners.

(Ord. of 5-13-1997, § 2)

**Sec. 30-22. Powers and duties.**

From and after the time when the planning commission shall have been organized and selected its officers, and shall have adopted its rules of procedure, then said planning commission shall function only in an advisory capacity to the board of commissioners and

perform such additional functions and services for and on behalf of the county as shall be authorized or directed from time to time by the board of commissioners. The planning commission duties and responsibilities shall include, but not be limited to, the following:

- (1) To research, review, conduct hearings and make recommendations to the board of commissioners on updates and amendments to the 2010 Greater Brooks County Comprehensive Plan.
- (2) To work with various public and private organizations and agencies engaged in or interested in planning and development activities so as to provide leadership in identifying and implementing city/county goals and policies for planning and development.
- (3) To advise member units of government on environmental, public health, safety and general welfare matters which will include land development codes and ordinances.

(Ord. of 5-13-1997, § 3)

Chapters 31—33

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## Chapter 34

### **ROADS AND BRIDGES\***

#### **Article I. In General**

Secs. 34-1—34-18. Reserved.

#### **Article II. Weight Limits**

Sec. 34-19. Title.  
Sec. 34-20. Unlawful use of county roads.  
Sec. 34-21. Issuance of citation.  
Sec. 34-22. Stop-work order.  
Sec. 34-23. Emergency exceptions.  
Secs. 34-24—34-60. Reserved.

#### **Article III. Permits, Right-of-Way, Improvements, and Obstructions**

Sec. 34-61. Driveway culvert specifications and installation requirements.  
Sec. 34-62. Obstructions or improvements in right-of-way.  
Secs. 34-63—34-80. Reserved.

#### **Article IV. Road Addresses**

Sec. 34-81. Purpose, authority and jurisdiction.  
Sec. 34-82. Definitions.  
Sec. 34-83. Addressing.  
Sec. 34-84. Notice.

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**\*State law references**—County road systems, O.C.G.A. § 32-4-40 et seq.; power to construct and maintain roads, including curbs, sidewalks, street lights and devices to control the flow of traffic, Ga. Const. art. IX, § II, ¶ III(a)(4).



## ARTICLE I. IN GENERAL

### Secs. 34-1—34-18. Reserved.

## ARTICLE II. WEIGHT LIMITS

### Sec. 34-19. Title.

This article shall be known and may be cited as the "Road Use Ordinance" of Brooks County, Georgia.

(Ord. of 3-10-1998, art. I)

### Sec. 34-20. Unlawful use of county roads.

(a) For purposes of this article, the terms "heavily laden trucks," "delivery vehicles," "transport vehicles" and "pulpwood, logging or other timber cutting operations" shall include all vehicles having a gross vehicle weight in excess of 26,001 pounds.

- (1) All heavily laden trucks or delivery vehicles shall proceed over state routes, truck routes, or major highway systems for the delivery of their goods where at all possible or feasible.
- (2) Said delivery or transport vehicles shall not proceed over residential paved streets and roads unless the use of said residential route is essential to their delivery.
- (3) Said delivery or transport vehicles shall not proceed over the county's unimproved road systems during periods of rain or inclement weather when said travel will cause excessive damage and maintenance to the road system or when the passage of smaller and lighter passenger vehicles will be substantially hampered.
- (4) Said heavily laden delivery and transport vehicles are restricted from crossing county bridges where their carted load exceeds the posted limit of said bridge.

(b) All timber cutting and mining operations which necessitate the use of county maintained roads and the crossing of county right-of-way ditches, shall, prior to commencement of such operation at any single work site, apply for and be issued a permit from the commissioners' office to use county roads and to cross right-of-way ditches at that worksite. If said permit is granted, a copy shall be provided by the commissioner's office to the road department, county tax appraiser and tax commissioner.

- (1) The applicant shall install and bear the entire expense of an approved culvert pipe for the purpose of crossing the ditch; and at the conclusion of the applicant's operations, the applicant shall return, and bear the expense of returning, the ditch to its original or better condition. The applicant is required to restore and shape the ditch, backslope and road bed and road shoulders to its original condition or better. The county shall inspect the ditch prior to installation and after the removal of the culvert pipe. The county shall provide a temporary culvert for a fee of \$200.00.

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- (2) It shall be the responsibility of said applicant to ensure all debris, trees and limbs are removed from county road sides and ditches so as to not restrict water flow or hamper the passage of county road department maintenance equipment, mowers, etc. This applies to both county unimproved road surfaces and county paved roadways.
- (3) Dirt or mud brought onto the county road surfaces or county right-of-way will be removed immediately so as to prevent the destruction of improved surfaces and so as to not impede or hamper safe motor vehicle operations over said surfaces. It shall be the responsibility of the applicant to place enough stone pad surface at access points and/or to take sufficient preventive action to stop any dirt and mud from adhering to county roadways.
- (4) Should a mining or timber cutting company depart a work site without complying with subsection (b)(1), (2), or (3) of this section, then the county shall repair the damage, charge the cost of repair against the deposit required below, and bill the company for any excess costs. No further permits shall be issued to that company until payment has been settled.
- (5) The "worksites area" is considered to be the area at which contact is made with county roadways, ditches, right-of-way, roadway access points and access via county bridges.
- (6) During periods of inclement weather no mining, logging or other timber cutting travel shall take place on county roads until passage can be completed without damage to the county's roads, ditches, right-of-ways and/or bridges.

(c) Permits shall be applied for at the commissioner's office.

- (1) Upon approval of a permit, the applicant shall be required to establish financial security by cashing a cash serve deposit in favor of the county, which deposit shall be returned to the applicant upon full compliance with this article and after final inspection.
- (2) Financial security may be provided by the landowner, timber company, truck company, or individual.
- (3) Financial security may be made on a "per site" or "blanket" basis. The "per site" requirement shall be \$1,000.00. The "blanket" requirement shall be \$5,000.00 and applies to multi-sites, not more than five active at any given time on a calendar year basis. Individual permits are still required when a blanket security is used.

(Ord. of 3-10-1998, art. II)

**Sec. 34-21. Issuance of citation.**

The sheriff and deputies of the county and the road superintendent are authorized to issue citations for the enforcement of this article as provided in O.C.G.A. §§ 15-10-62 and 15-10-63.  
(Ord. of 3-10-1998, art. VI, § 6.1)

**Sec. 34-22. Stop-work order.**

The sheriff and deputies of the county and the road superintendent shall have the authority to temporarily stop/half access to county roads at worksite areas when they may deem the applicant to be in noncompliance of this article and until such time as the applicant brings the worksite back into compliance.

(Ord. of 3-10-1998, art. VI, § 6.2)

**Sec. 34-23. Emergency exceptions.**

The provisions of this article shall not apply to any authorized emergency vehicle when responding to an emergency call, nor shall it apply to any utility or public service vehicle while making an emergency service call or repair.

(Ord. of 3-10-1998, art. VII)

**Secs. 34-24—34-60. Reserved.**

**ARTICLE III. PERMITS, RIGHT-OF-WAY, IMPROVEMENTS, AND OBSTRUCTIONS**

**Sec. 34-61. Driveway culvert specifications and installation requirements.**

The following are the specifications for materials, size, and installation of driveway culvert pipes on county maintained roads and required process for obtaining permits and/or culvert installation in the county. Fees shall be set by the board. A list of fees shall be posted in the office of the building inspector.

- (1) *Driveway permit must be obtained.* Obtain driveway permit from the zoning and building inspector office before a building or mobile home permit is issued. All driveway culvert installations are required to be permitted by the zoning and building inspection office prior to being evaluated by the county road superintendent or county engineer. Prior to installation, whether by county officials or property owner, the permit must be approved and all fees paid. Permit applications must be filled out and a fee paid.
- (2) *Permit and site evaluation are required.* A permit and site evaluation are required in both cases. If the site abuts a state right-of-way, the applicant must contact the state department of transportation for their requirements and permitting.
  - a. *County installed.* The county will provide up to two loads of fill material at no cost to the applicant; however, any additional fill will be charged per load. After the permit is issued, you will be provided two colored flags to mark the proposed location of the culvert. County road department personnel will then evaluate to determine proper size required. The permittee will be contacted as to final cost. After payment, the culvert, with material, and sand-cement bag riprap will be installed and the fill graded to receiver roadway specifications.

- b. *Owner installed.* Property owners installing their own culvert must obtain an installation permit, which covers the site evaluation and final inspection. The county road superintendent must determine the size of the culvert before installing the culvert. After the culvert is installed, the owner is required to notify the road department for an inspection. All owner installed culverts shall conform to the state department of transportation material specifications as well as county standards, including but not limited to the following: proper size and placement, stable fill material (two minimum), pipe and riprapped or sandbagged, and other requirements as required by the road superintendent or county engineer. Concrete, brick, wood, or metal head walls at pipe ends shall not be permitted in conjunction with any culvert installation. If the final inspection fails to meet county specifications, you will be notified and given two weeks to perform the required corrections. Failure to complete corrections will result in removal of the nonconforming culvert by county forces to allow for proper drainage. Anyone failing to complete corrections on nonconforming culverts will be removed to avoid drainage obstructions. Failure to perform required corrections will result in owner receiving a citation for failure to abide by culvert installation ordinance requiring court appearances and possible fine and/or payment or expenses for county to remove improper culvert.
- c. *Temporary culverts.* Temporary culverts must be permitted for logging, farming, construction or related activities crossing county road ditches or county easements for drainage. Temporary permits may be issued by contacting the zoning and building inspector office 24 hours prior to proposed installation. Culvert size and materials of temporary culverts are to be approved by the county road superintendent. Temporary permits shall expire 60 days after issuance. Temporary culverts must be removed within two weeks after expiration of permit. Failure to remove within such two-week period shall result in permittee being cited for violation of culvert ordinance and possible fines of up to \$100.00 per day per violation and payment of costs to remove temporary culvert.
- d. *Existing culverts.* All county owned and maintained culverts will be replaced or repaired by the county with the same material. For headwalls refer to section 34-20. Permit is not required for headwalls, just call the county road department to report needed repairs.

- e. *Ownership.* Any culvert installed by owner with the proper permit and inspection, the county will take ownership and maintain. Any culvert installed by the county belongs to the county.

(Ord. of 8-6-2001)

**Sec. 34-62. Obstructions or improvements in right-of-way.**

The following outlines current county policy on existing obstructions or improvements that lie inside the area of additional right-of-way:

- (1) *Driveways.* All active driveways, previously paved or concrete, will be placed to the new right-of-way using the same type asphalt or surface treatment pavement as used on the main roadway. Driveway pavement will be 12 feet wide with ten feet radius or meter at the roadway pavement. Should the property owner prefer a different material or width, it will be at the owner's expense and will require a driveway permit.
- (2) *Trees, shrubs, and landscaping.* Property owners will be notified prior to the beginning of clearing activities. Property owners are responsible for relocating trees, shrubs and other landscape features that are on the new right-of-way.
- (3) *Income producing trees.* Payment for income producing trees will be negotiated on a case-by-case basis. Factors affecting the offer are size, age and the general health of each tree.
- (4) *Mailboxes.* Mailboxes on posts will be moved by the contractor during constructions, and will be installed in their final location by the contractor after construction. Brick and other masonry mailboxes will not be replaced within the right-of-way. Such masonry mailboxes will be replaced with mailboxes on four x four wooden posts.
- (5) *Decorative headwalls, driveway entrance walls and/or columns.* Property owners are responsible for relocating such improvements. Walls, columns, and headwalls not relocated prior to beginning construction will be removed during the clearing process of construction.
- (6) *Property pins and monuments.* During the right-of-way acquisition process, each owner must specifically request compensation of property pins/monuments materials that will be disturbed by construction. The owner is responsible for locating and flagging existing property pins/monuments. Payment for pins or monuments will be negotiated on a case-by-case basis, however surveying expenses generated in relocating property pins/monuments will be paid by the property owner.
- (7) *Fences.* The county will reimburse the property owner for fence that is capable of holding livestock at a rate of \$1.90 per linear foot. Reimbursement is not automatic, and each owner must request this reimbursement during right-of-way acquisition process.
- (8) *Individual utility systems (water and irrigation systems, septic systems).* The county will reimburse the property owner for relocating utilities that are in right-of-way to be acquired. Reimbursement is not automatic, and each owner must request this

reimbursement during the right-of-way acquisition process. Utilities not relocated in a timely manner and causing delay of construction will be relocated by the county and no reimbursement will be made to the utility owner.

(9) *Community utility systems (water and sewer systems).* The county will reimburse the utility owner for relocating utilities that are in right-of-way to be acquired. The utility owner will be required to relocate utilities that lie within the existing roadbed or right-of-way at their expense. Utilities not relocated in a timely manner and causing delay of construction will be relocated by the county and no reimbursement will be made to the utility owner.

Please review this information carefully. For the cases listed above as well as for any other existing obstruction, negotiations must be completed during the right-of-way acquisition process. After additional right-of-way is obtained by the county no consideration will be made for removal of improvements or obstructions.

ACKNOWLEDGMENT \_\_\_\_\_ DATE \_\_\_\_\_

Property Owner(s) Signature(s)

Attachment (See attached Obstructions Form)

#### OBSTRUCTION FORM

County Road (Name & Number) \_\_\_\_\_

R/W Deed # \_\_\_\_\_ Tax Parcel # \_\_\_\_\_

R/W Map # \_\_\_\_\_ R/W Map Date \_\_\_\_\_

Name (as shown on deed) \_\_\_\_\_

Correct Mailing Address \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Telephone Number Day \_\_\_\_\_ Night \_\_\_\_\_

There are obstructions (fences, etc.) located on the right-of-way.

List Obstructions Below:

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Number and Width of Existing Drains: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Other Comments: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

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Property Owner Print Name \_\_\_\_\_

Property Owner Signature \_\_\_\_\_ Date \_\_\_\_\_

County Representative \_\_\_\_\_ Date \_\_\_\_\_  
(Mo. of 12-17-2001)

**Secs. 34-63—34-80. Reserved.**

#### **ARTICLE IV. ROAD ADDRESSES**

**Sec. 34-81. Purpose, authority and jurisdiction.**

The purpose of this article is to provide a comprehensive and uniform system of permanent road addresses for all properties and building throughout the county in order to facilitate provision of adequate public safety and emergency response services. It is further designed to benefit the United States Postal Service, local business owners and individual citizens by minimizing difficulty in locating properties and buildings.

- (1) *Duties of the addressing office.* The Brooks County Addressing Office, hereafter referred to as the addressing office, shall be responsible for assigning all numbers for properties and building as well as compiling a database of addresses of each property and building. It shall also recommend change of existing addresses when necessary to meet specifications established by this article. When each building has been assigned its respective address, the addressing office, in cooperation with the United States Postal Service shall notify the owners, occupants or person in charge of the affected building, advising of their new address.
- (2) *Jurisdiction.* This article shall apply to all properties and buildings within the county, which are located outside any incorporated municipality. Municipalities within the county may elect to allow this article to be effective within their corporate limits.

(Ord. of 11-10-1998, art. I)

**Sec. 34-82. Definitions.**

The following words, terms and phrases, when used in this article shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Address coordinator* means the official of Brooks County charged with the administration of this article, including any authorized agent or delegate.

*Building* means any structure having a roof supported by columns or walls and intended for shelter, housing or enclosure of persons, animals, chattels or equipment. When separated by division walls from the ground up without openings, each portion of such building may be deemed a separate building. For the purpose of this article, the term building may also include other manmade structures.

*Driveway* means a driveway begins at the property line of a lot abutting a public road, private road, easement or private right-of-way, and leading to a building, use or structure on that lot. A driveway only serves a single building, use or structure.

*Frontage unit* means a frontage unit is a standard interval in feet used to assign a consecutive property number on a street or road. The standard front unit adopted for use throughout the county is 5.28 feet. Even numbers shall always be on the right side and odd numbers on the left side of the street or road as numbers increase.

*Private road* means a road not maintained by the Georgia Department of Transportation which is not intended to become a public road but which shall be used for access to a particular site, group development or business.

*Public road* means any road, street, highway, thoroughfare, or other way of passage that has been irrevocably dedicated to the public or in regard to whether it is open for travel. This definition shall include any road located on a public right-of-way which either has been accepted for maintenance by the state or which has been dedicated for public travel by the recording of a plat of a subdivision with the Brooks County Register of Deeds Office.

*Roadway* means any road, street, drive, land, cart way, tramway, easement, right-of-way, access area, thoroughfare, highway, boulevard, or any other corridor used for or having the potential use as a means of conveyance by a motor vehicle.

*Road address* means the combination of numbers and road names assigned by the county, which uniquely identifies a particular building or lot.

(Ord. of 11-10-1998, art. II)

### **Sec. 34-83. Addressing.**

(a) *New address assignment.* The owner, occupant or person in charge of any building in need of an address in the unincorporated area of the county shall apply to the addressing office. Addresses shall be assigned using 1000 numbers per road mile. Even number shall be on the right side and odd numbers on the left side as numbers increase.

(b) *Display of address numbers.* Every owner of improved property shall purchase and display official numbers so that they are visible from the road providing access to the property. The following criteria shall be used to properly display the number:

- (1) The official address number must be displayed on the front of a building or at the entrance to a building, which is most clearly visible from the road during both day and night.
- (2) If a building is more than 75 feet from any road or is not visible from the road, the address number shall be displayed at the end of the driveway or easement nearest the road, which provides access to the building. The number shall be attached to a fence, gate, mailbox, etc., adjacent to the road right-of-way.

- (3) Numerals indicating the address number of a single-family dwelling shall be at least three inches in height and shall be posted and maintained so as to be legible from the road.
- (4) Numerals for multiple dwelling units and nonresidential buildings shall be at least four inches in height and shall be placed on the front of the building facing the road or on the end of the building nearest the road. Individual units shall be required to display unit numbers at least three inches in height on the front door or immediately adjacent to the door.
- (5) Numerals must be of contrasting color to the background and shall be plain block numeric numbers, not alpha print. It is recommended that these numbers be reflective to ensure better visibility at night.
- (6) Mobile home lots shall have sequential address numbers throughout the park. Each lot shall have a separate address number assigned. The address number of each lot must be clearly displayed on the lot by being attached to the mobile home or on the electrical utility box for each lot when the lot is vacant, consistent with subsection (b)(1) of this section. When the occupant owns the mobile home lot, the owner/occupant is responsible for the posting and maintenance of the address number. When the lot is leased or rented, the landlord shall be responsible for the posting and maintenance of the address number, in accordance with this section.
- (7) The address shall be placed on existing buildings within 30 days from the date of the mailing of the letter of notification required under this section.
- (8) The address coordinator shall have the authority to authorize and approve alternate methods of displaying address numbers, which meet the intent of this section when strict adherence to these standards cannot reasonably be met.

(c) *Enforcement.*

- (1) Owners or occupants of buildings already constructed which do not comply with this article shall be notified and instructed to meet the requirements of this article within 60 days from the date of mailing of the notification. A warning notice shall be issued by the registered or certified mail after the 60 days if the requirements have not been met. If the owner or occupant does not comply voluntarily with this article within 30 days of receiving delivery of a warning notice by registered or certified mail or by hand delivery, enforcement action may be initiated.
- (2) Final approval for a certificate of occupancy of any principal building erected or repaired after the effective date of this article from which this article is derived shall be withheld until a permanent and proper address has been displayed in accordance with the requirements outlined in this article.
- (3) No certificate of completion will be issued for mobile home parks until address numbers are properly displayed for each lot within the park.

(Ord. of 11-10-1998, art. III)

**Sec. 34-84. Notice.**

Where notice is required pursuant to this article, the county shall be deemed to have complied with its duties of notification by depositing such notice in the United States Postal Service system, addressed to such address as appears upon the tax listing records of the tax assessors office of the county for such property owner.

(Ord. of 11-10-1998, art. IV)

Chapters 35—37

**RESERVED**



## Chapter 38

# **TELECOMMUNICATIONS**

## **Article I. In General**

Secs. 38-1—38-18. Reserved.

## **Article II. Telecommunication Towers and Antennas**

### Division 1. Generally

- Sec. 38-19. Purpose.
- Sec. 38-20. Definitions.
- Sec. 38-21. Application and interpretation of article.
- Sec. 38-22. Principal or accessory use.
- Sec. 38-23. Pre-application meeting.
- Sec. 38-24. Inventory of existing sites.
- Sec. 38-25. Aesthetics.
- Sec. 38-26. Setbacks.
- Sec. 38-27. Security fencing/anti-climbing devices.
- Sec. 38-28. Landscaping.
- Sec. 38-29. Review of tower and antenna erection by the county airport authority and Moody AFB.
- Sec. 38-30. Federal requirements.
- Sec. 38-31. Building codes; safety standards.
- Sec. 38-32. Transfer of ownership.
- Sec. 38-33. Removal of abandoned towers and antennas.
- Secs. 38-34—38-64. Reserved.

### Division 2. Collocation

- Sec. 38-65. Collocation of antennas required.
- Sec. 38-66. Design requirements.
- Sec. 38-67. Availability of suitable existing structures.
- Sec. 38-68. Alternative options.
- Secs. 38-69—38-95. Reserved.

### Division 3. Variances and Appeals

- Sec. 38-96. Variances.
- Sec. 38-97. Public hearing required.
- Sec. 38-98. Appeals.
- Secs. 38-99—38-124. Reserved.

### Division 4. Administrative Approval

- Sec. 38-125. General.
- Sec. 38-126. Uses allowed by administrative approval.



**ARTICLE I. IN GENERAL**

**Secs. 38-1—38-18. Reserved.**

**ARTICLE II. TELECOMMUNICATION TOWERS AND ANTENNAS****DIVISION 1. GENERALLY****Sec. 38-19. Purpose.**

The purpose of this article is to establish guidelines for the setting of all wireless, cellular, television, and radio telecommunications towers and antennas. The goals of this article are to:

- (1) Enhance the ability of the providers of telecommunications services to deliver such services to the community effectively and efficiently; and
- (2) Locate telecommunications towers and antennas in areas where adverse impacts on the community are minimized and to promote harmonious co-existence of telecommunications towers with other land uses; and
- (3) Encourage the location of towers in nonresidential areas and to minimize the total number of towers within residential areas; and
- (4) Encourage the innovative use of alternative tower structures such as church steeples, outdoor advertising signs, electric transmission towers, etc., where technologically feasible; and
- (5) Encourage the design and construction of towers and antennas to minimize adverse visual impacts and promote visual quality; and
- (6) Encourage the joint use or collocation of new and existing tower sites among service providers.

(Ord. of 6-19-2001, art. I)

**Sec. 38-20. Definitions.**

Except as specifically designated herein, all words used in this article shall be defined in The New Illustrated Book of Development Definitions (1993, Rutgers). Words not defined herein or in the above referenced text shall be interpreted within the context of the sentence, section and article in which they occur. For the purpose of this article, certain words or terms used herein shall be defined as follows:

*Generally* means words used in the singular include the plural, and words used in the plural include the singular. Words used in the present tense include the future tense.

*Airport height restriction area* means the area encompassed by the designated Moody Activity Zone (MAZ) of the comprehensive plan, and the area within one mile to the Brooks County Airport property boundaries. Includes the words constructed, located or relocated.

*Alternative tower structure* means clock tower, bell tower, water tower, church steeple, light/power pole, electric transmission tower, manmade tree (without accessory buildings/structures), and similar natural or manmade alternative-design mounting structures that camouflage or conceal the presence of antennas or towers.

*Antenna* means any exterior apparatus designed for wireless telecommunication, radio, or television communications through the sending and/or receiving of electromagnetic waves.

*Collocation* means the placement of antennas of two or more service providers upon a single tower or alternative tower structure.

*Comprehensive plan* means the Brooks County Comprehensive Plan, as prepared, adopted and amended pursuant to state law.

*County commission* means the Brooks County Board of Commissioners.

*Director of inspections* means the Director of the Brooks County Inspection Department or other jointly provided inspections department with local municipalities as established by interlocal agreement.

*Erected* includes the words constructed, located or relocated.

*FAA* means the Federal Aviation Administration.

*FCC* means the Federal Communications Commission.

*Geographic antenna placement area* means the general vicinity within which the placement of an antenna is necessary to meet the engineering requirements of an applicant's cellular network or other broadcasting need.

*Governing authority* means the board of commissioners of Brooks County, Georgia.

*Group location* means a pre-determined site approved through the special exception process that contains more than one tower structure.

*Height* (when referring to a tower or other structure), means the distance measured from ground level to the highest point on the tower structure or appurtenance.

*Inspections department* means the Brooks County Department of Inspections or other jointly provided inspections department with local municipalities as established by interlocal agreement. A director of inspections manages said department.

*Map or zoning map* means the Official Zoning Map of Brooks County, Georgia.

*Parcel* includes the words plot or lot.

*Person* includes the words individuals, firms, partnerships, corporations, associations, governmental bodies, and all other legal entities.

*Planning commission* means the Brooks County Planning Commission.

*Pre-existing towers or antennas* means structures as set forth in this section.

*Scenic views* means those geographic areas containing visually significant or unique natural features, as identified in the Brooks County Comprehensive Plan or determined as such by the planning commission.

*Shall* is always mandatory and never discretionary.

*Special exception* means special use permit and review process as prescribed in the zoning ordinance.

*Tall structure* means any manmade structure exceeding 25 feet in height, and in the context of this article, used to support an antenna or other telecommunications device.

*Tower* means any structure, including base and foundation components, that is designed and constructed primarily for the purpose of supporting one or more antennas, including self-supporting lattice towers, guy towers, or monopole towers. The term includes radio and television transmission towers, microwave towers, common-carrier towers, cellular telecommunication towers, manmade trees (with accessory building/structures) and other similar structures.

*Tower/antenna owner* means the owner of the physical tower structure and/or lessee of such tower.

*Used or occupied* includes the words, intended, arranged or designed to be used or occupied.

*Visual quality* means the appropriate design arrangement and location of tower and/or antenna structures in relation to the built or natural environment to avoid abrupt or severe differences.

*Zoning administrator* means the zoning administrator for Brooks County, Georgia as designated by the Brooks County Commission.

*Zoning board of appeals* means the Brooks County Zoning Board of Appeals.

*Zoning ordinance* means the officially adopted Zoning Ordinance for Brooks County, Georgia.

(Ord. of 6-19-2001, art. II)

### **Sec. 38-21. Application and interpretation of article.**

In interpreting and applying these regulations, the requirements contained herein are declared to be the minimum requirements necessary to carry out the purpose of these regulations. The zoning administrator shall be the official interpreter of this article where official interpretations are needed, required, or requested.

- (1) *Height thresholds.* Except as set forth in subsection (3) of this section, the requirements of this article shall govern the location of all telecommunications towers and/or antennas that exceed a height of 25 feet within the airport height restriction area, or exceed a height of 50 feet elsewhere in the unincorporated county.
- (2) *Governmental exemption.* The provisions of this article shall not apply to governmental facilities and structures.

- (3) *Amateur radio, receive-only antenna.* For locations outside the airport height restriction area, this article shall not govern any tower or the installation of any antenna, that is 75 feet or less in height and is owned and operated by a federally licensed amateur radio station operator from the operator's residence, or is used exclusively as a receive-only antenna. Also for locations outside the airport height restriction area, this article shall not govern any device designed for over the air reception-only of television broadcast signals, multi-channel multipoint distribution service or direct broadcast satellite service whose tower and/or antenna is 75 feet or less in height.
- (4) *Pre-existing towers and antennas.* Any tower or antenna for which a permit has been properly issued prior to the effective date of the ordinance from which this article is derived shall not be required to meet the provisions of this article, other than the requirements of sections 38-30 and 38-31. Any such towers or antennas shall be referred to in this article as pre-existing towers or pre-existing antennas. If an additional antenna is collocated upon a pre-existing tower after adoption of this article, then fencing and landscaping requirements of sections 38-27 and 38-28 shall be met as part of the permitting process.

(Ord. of 6-19-2001, art. III)

**Sec. 38-22. Principal or accessory use.**

Principal or accessory use of a tower and/or antenna is considered a principal use if located on any lot or parcel of land as the sole or primary structure, and is considered an accessory use if located on a lot or parcel shared with a different existing primary use or existing structure. An existing use or structure on the same lot or parcel shall not preclude the installation of an antenna or tower. For purposes of determining whether the installation of a tower or antenna complies with zoning district requirements, including but not limited to setback, buffer and other requirements, the dimensions of the entire lot or parcel shall control, even though the antenna or tower may be located in a leased area within such lot or parcel. Towers that are constructed, and antennas that are installed, in accordance with the provisions of this article shall not be deemed to constitute the expansion of a nonconforming use or structure.

(Ord. of 6-19-2001, art. IV(400))

**Sec. 38-23. Pre-application meeting.**

Prior to applying for a building permit or special exception approval, the applicant is required to participate in a pre-application meeting with local development review staff. The purpose of this meeting shall be for fact finding and determining the correct or most feasible course of action for review and potential approval of the project. This pre-application meeting shall be scheduled at least two weeks in advance.

(Ord. of 6-19-2001, art. IV(401))

**Sec. 38-24. Inventory of existing sites.**

- (a) To facilitate the collocation review of antennas, each applicant seeking to locate a new tower, alternative tower structure or antenna, or modify any such existing structure, shall have provided to the zoning administrator and the inspections department, and to the

planning commission as part of the special exception review, an updated inventory of its existing towers or alternative tower structures. Applicants seeking to erect an amateur radio tower or antenna, or receive-only antenna as described in section 38-21(3), shall be exempt from this provision. This required inventory information shall be maintained by the inspections department and the zoning administrator in the form of a digital database that is geographically referenced and encoded as part of the county's geographic information system (GIS). It is the responsibility of the applicant to ensure that this inventory data is accurate and kept up to date.

(b) The inventory shall include all such structures that are within the jurisdiction of the governing authority; within a municipality located, in whole or in part, within the county; or within one-quarter mile outside the border of the county. This inventory shall include specific information about the location (latitude and longitude coordinates), height, design, tower type and general suitability for antenna collocation of each tower, and other pertinent information as may be required by the director of inspections or zoning administrator. The director of inspections or zoning administrator may share such information with other applicants under the terms of this article, or other organizations seeking to locate towers or antennas within the jurisdiction of the governing authority, provided, however that the director of inspections or zoning administrator is not, by sharing such information, in any way representing or warranting that such sites are available or suitable.

(Ord. of 6-19-2001, art. IV(402))

### **Sec. 38-25. Aesthetics.**

The guidelines set forth in this section shall govern the design and construction of all towers and the installation of all antennas, governed by this article.

- (1) Towers/antennas shall either maintain a galvanized steel or concrete finish or, subject to any applicable standards of the FAA, be painted a neutral color so as to reduce visual obtrusiveness.
- (2) At all tower sites, the design of all buildings and related structures shall use materials, colors, textures, screening, and landscaping that will blend the tower facilities to the natural setting and building environment.
- (3) For antennas installed on a structure other than a tower, the antenna and supporting electrical and mechanical ground equipment shall be of a neutral color so as to make the antenna and related equipment visually unobtrusive.
- (4) Towers shall not be artificially lighted, unless required by the FAA or applicable authority. If lighting is required, the governing authority may review the available lighting alternatives and approve the design that would cause the least disturbance to the surrounding views.
- (5) No signage or other identifying markings of a commercial nature shall be permitted upon any tower.

- (6) Towers shall not be located where they will negatively affect historic structures or districts, or scenic view corridors.

(Ord. of 6-19-2001, art. IV(407))

**Sec. 38-26. Setbacks.**

The following setback requirements shall apply to all towers:

- (1) Towers/antennas shall be setback a minimum distance equal to one-third of the height of the tower from its base to any public right-of-way or property line of the lot or parcel containing the tower.
- (2) Guy wires and accessory buildings and facilities shall meet the minimum accessory use location and setback requirements prescribed in the zoning ordinance.

(Ord. of 6-19-2001, art. IV(408))

**Sec. 38-27. Security fencing/anti-climbing devices.**

All towers and supporting equipment governed by this article shall be enclosed by fencing not less than seven feet in height and shall also be equipped with appropriate anti-climbing devices. Fencing shall be of chainlink, wood or other alternative as approved through the special exception process.

(Ord. of 6-19-2001, art. IV(409))

**Sec. 38-28. Landscaping.**

The following landscaping requirements shall apply to all towers governed by this article:

- (1) Tower facilities shall be landscaped with a landscaped area of plant materials, which effectively screens the view of the tower compound. Landscaped areas shall be a minimum of the ten feet in which and located outside the fenced perimeter of the compound. Landscaped areas shall satisfy the minimum design and planting requirements for buffers established in the zoning ordinance. Where applicable, specific landscape plans shall be submitted and approved as part of the special exception process.
- (2) Existing mature tree growth and natural landforms on the site shall be preserved to the maximum extent possible. Where natural vegetation around the perimeter of the site would provide an adequate visual screen, an undisturbed buffer may be utilized.

(Ord. of 6-19-2001, art. IV(410))

**Sec. 38-29. Review of tower and antenna erection by the county airport authority and Moody AFB.**

If upon receipt of an application for the erection of any tower or alternative tower structure governed by this article within the airport height restriction area, or the director of inspections and zoning administrator otherwise deem that the proposed structure may interfere with the use of the aircraft traffic pattern around the county airport or Moody AFB, or interfere with the

operation of existing or proposed airport facilities, a copy of the application shall also be submitted to the county airport authority and/or Moody AFB for review and recommendation. (Ord. of 6-19-2001, art. IV(411))

**Sec. 38-30. Federal requirements.**

All towers must meet or exceed current standards and the regulations of the FAA, the FCC, and any other agency of the federal government with the authority to regulate towers and antennas. If such standards and regulations are changed, the owners of the towers and antennas governed by this article shall bring such towers and antennas into compliance with such revised standards and regulations within six months of the effective date of such standards and regulations unless a more or less stringent compliance schedule is mandated by the controlling federal agency. Failure to bring towers and antennas into compliance with such revised standards and regulations shall constitute grounds for the removal of the tower or antenna at the owner's expense. Any such removal by the governing authority shall be in the manner provided in O.C.G.A. §§ 41-2-7 through 41-2-17.

(Ord. of 6-19-2001, art. IV(412))

**Sec. 38-31. Building codes; safety standards.**

To ensure the structural integrity of towers, permittee or subsequent lessee of a tower or an alternative tower structure shall ensure that it is maintained in compliance with standards contained in applicable local building codes and the applicable standards for towers that are published by the Electronics Industries Association, as amended from time to time. If upon inspection, the director of inspections concludes that a tower fails to comply with all applicable codes and standards, or constitutes a danger to persons or property, then upon receipt of written notice to the owner, permittee or lessee of the tower, said party shall have 15 days to bring the tower into compliance with such standards. If the owner, permittee or lessee fails to bring the tower into compliance within the 15 days, the governing authority may remove the tower at the owner, permittee or lessee's expense. Prior to the removal of any tower, the inspections department may consider detailed plans submitted by the owner, permittee or subsequent lessee for repair of substandard towers, and may grant a reasonable extension of the above-referenced compliance period. Any such removal by the governing authority shall be in the manner provided in O.C.G.A. §§ 41-2-7 through 41-2-17.

(Ord. of 6-19-2001, art. IV(413))

**Sec. 38-32. Transfer of ownership.**

Upon the transfer of ownership of any tower, alternative tower structure, or lot upon which a structure has been erected, the tower permittee shall notify the inspections department of the transaction in writing within 30 days.

(Ord. of 6-19-2001, art. IV(414))

**Sec. 38-33. Removal of abandoned towers and antennas.**

Any tower or antenna that is not operated for a continuous period exceeding 12 months shall be considered abandoned and the owner of such antenna or tower shall remove the structure and return the site back to its original condition within 90 days of receipt of notice from the inspections department notifying the owner of such abandonment. Foundation components shall be removed to a minimum depth of 24 inches below original grade. If said tower or antenna is not removed within said 90 days, the governing authority may, in the manner provided in O.C.G.A. §§ 41-2-8 through 41-2-17, remove such antenna or tower at the owner's expense. If there are two or more users of a single tower, then this provision shall not become effective until all users cease utilizing the tower.

(Ord. of 6-19-2001, art. VII)

**Secs. 38-34—38-64. Reserved.****DIVISION 2. COLLOCATION****Sec. 38-65. Collocation of antennas required.**

Applicants for the erection of a tower or placement of an antenna shall be required to collocate upon an existing tower or alternative tower structure. An exception to collocation shall only be made if the applicant adequately demonstrates that an existing tower suitable for collocation does not exist in the geographic antenna placement area utilizing the tower inventory maintained by the inspections department, and that no suitable alternative tower structure is available as set forth in section 38-67.

(Ord. of 6-19-2001, art. IV(403))

**Sec. 38-66. Design requirements.**

In addition to all applicable building and safety codes, all towers, except amateur radio towers, shall be designed to accommodate the collocation of other telecommunication antennas according to the following:

- (1) For towers up to 150 feet in height, the structure and fenced compound shall be designed to accommodate at least two providers;
- (2) For towers 150 feet in height, the structure and fenced compound shall be designed to accommodate at least three providers;
- (3) For towers that are exempted from collocation, they cannot locate within a five-mile radius of an existing tower or antenna structure governed by this article, or they must locate in an area that has been set aside for group location.

(Ord. of 6-19-2001, art. IV(404))

**Sec. 38-67. Availability of suitable existing structures.**

No new tower, except amateur radio towers, shall be permitted unless the applicant demonstrates to the satisfaction of the director of inspections, zoning administrator, and county commission that no existing tower or existing alternative tower structure can accommodate the applicant's proposed antenna. All evidence submitted shall be signed and sealed by appropriate licensed professionals or qualified industry experts. Evidence submitted to demonstrate that no existing tower or structure can accommodate the proposed antenna should consist of one or more of the following:

- (1) That no existing towers or suitable alternative tower structures are located within the geographic antenna placement area required to meet the applicant's engineering requirements.
- (2) That existing towers or structures are not of sufficient height to meet the applicant's engineering requirements.
- (3) That existing towers or structures do not have sufficient structural strength to support the applicant's antenna and related equipment.
- (4) That the applicant's proposed antenna would cause electromagnetic interference with the antenna on the existing tower or structure, or the antenna on the existing tower or structure would cause interference with the applicant's proposed antenna.
- (5) That the cost or contractual provisions required by the tower owner to share an existing tower or structure, or to adapt an existing tower or structure for sharing are unreasonable. Costs exceeding new tower development are presumed to be unreasonable.
- (6) That the applicant adequately demonstrates that there is other limiting factors that render existing towers and structures unsuitable.

(Ord. of 6-19-2001, art. IV(405))

**Sec. 38-68. Alternative options.**

(a) If it is adequately demonstrated that antenna collocation as required above, is not possible for a given geographic antenna placement area, the following options are allowed pursuant to the special exception process.

(b) However, all such options shall comply with all applicable requirements of this article as well as all other applicable codes and ordinances.

- (1) Constructing a new tower, including the placement of additional buildings or other supporting equipment used in connection with said tower or antenna provided however, that all structures shall meet the setback, screening and buffer requirements contained herein, and are located a minimum distance of 110 percent of the height of the tower from any residentially zoned property.
- (2) Installation of an antenna on an existing structure other than a tower (such as a building, sign, light pole, water tower, or other freestanding nonresidential structure)

that is 50 feet in height or greater, if the additional antenna height adds no more than 20 feet to the height of the existing structure, subject to the special review provisions of section 38-29.

(Ord. of 6-19-2001, art. IV(406))

**Secs. 38-69—38-95. Reserved.**

### DIVISION 3. VARIANCES AND APPEALS

**Sec. 38-96. Variances.**

In such instance, the county commission may approve such variances from the terms of this article as will not be contrary to the public interest where, owing to special conditions, a literal enforcement of this article will, in an individual case, result in unnecessary hardship, so that the spirit of the article shall be observed, public safety and welfare secured, and substantial justice done. Such variances may be granted in such individual cases of undue hardship upon a finding by the county commission that the denial of the variance presents a significant detriment to the telecommunications service provider making application, and that the denial of the variance is unsubstantially related to the public welfare.

**Sec. 38-97. Public hearing required.**

The county commission may take action on a requested variance at a public hearing held in conjunction with the special exception approval where applicable, or else take action at a public hearing that has been advertised in the same manner as a special exception.

**Sec. 38-98. Appeals.**

Applicants or persons aggrieved by the zoning administrator's interpretation of the provisions of this article, may appeal such interpretation to the zoning board of appeals in the same manner as prescribed for appeals in the zoning ordinance.

(Ord. of 6-19-2001, art. V)

**Secs. 38-99—38-124. Reserved.**

### DIVISION 4. ADMINISTRATIVE APPROVAL

**Sec. 38-125. General.**

(a) The director of inspections and zoning administrator may administratively approve the placement of additional antennas upon towers or alternative tower structures as set forth in section 38-126.

(b) Each applicant requesting an administrative approval under this article shall submit a scaled site plan, scaled elevation view and supporting drawings, calculations, and other documentation, signed and sealed by appropriate licensed professionals, showing the location

and dimensions of all improvements, including topography, tower height requirements, setbacks, access driveways or easements, parking, fencing, landscaping, adjacent uses, and any other information deemed by the director of inspections or zoning administrator to be necessary to assess compliance with this article and compatibility with surrounding uses. Amateur radio antennas shall meet the requirements of the county's adopted building codes. The director of inspections and zoning administrator for amateur radio antenna applications may waive certain documentation requirements of this section.

(c) If a request for administrative approval is denied, the applicant may appeal the decision to the county commission to be acted upon at a public hearing during a regularly scheduled meeting.

**Sec. 38-126. Uses allowed by administrative approval.**

The inspections department and zoning administrator may approve the following uses after conducting an administrative review, and special review provisions of section 38-29 where applicable:

- (1) Installation of an antenna on any alternative tower structure, and further including the placement of additional buildings or other supporting equipment used in connection with said antenna, so long as such addition does not add more than 20 feet to the height of the existing structure.
- (2) Installation of an antenna on an existing tower of any height, including a pre-existing tower, and further including the placement of additional buildings or other supporting equipment used in connection with said antenna, so long as the addition of said antenna adds no more than 20 feet to the height of said existing tower.

(Ord. of 6-19-2001, art. VI)



Chapters 39—41

**RESERVED**



## Chapter 42

# **TRAFFIC\***

### **Article I. In General**

- Sec. 42-1. Adoption of rules of the road.
- Sec. 42-2. Parental responsibility.
- Sec. 42-3. Temporary traffic regulations.
- Sec. 42-4. Parking in deceleration or acceleration lanes prohibited.
- Secs. 42-5—42-30. Reserved.

### **Article II. Operation of Vehicles.**

- Sec. 42-31. Traffic, speed zone, signs and traffic control devices
- Sec. 42-32. Speed zones.
- Sec. 42-33. General speed limit.
- Sec. 42-34. Speed detection devices.
- Sec. 42-35. Commercial trucks in subdivisions.
- Sec. 42-36. Covering of loads.

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**\*State law references**—Authority of county to regulate traffic in unincorporated areas, O.C.G.A. § 36-1-20; uniform rules of the road, O.C.G.A. § 40-6-1 et seq.; powers of local authorities generally, O.C.G.A. § 40-6-371.



**ARTICLE I. IN GENERAL****Sec. 42-1. Adoption of rules of the road.**

Pursuant to O.C.G.A. § 40-6-370; O.C.G.A. §§ 40-6-1—40-6-395, known as the uniform rules of the road, are hereby adopted as and for the traffic regulations of the county with like effect as if recited in this chapter.

**State law reference**—Adoption of uniform rules of the road by local authorities, O.C.G.A. § 40-6-372.

**Sec. 42-2. Parental responsibility.**

It shall be unlawful for the parent, guardian or other adult person having the care and custody of a minor under the age of 16 years to permit, whether knowingly or through ineffective control or supervision, such minor to violate any provision of this Code or state law regarding the operation of vehicle.

**Sec. 42-3. Temporary traffic regulations.**

In cases where traffic upon the roads of the county may become congested upon occasions of parades, at theaters and other public assemblages where large numbers of vehicles are assembled, the chief of police may make temporary rules directing and regulating the traffic in these congested districts, and any person, who, after being warned of the temporary traffic regulations, shall violate them, shall be liable therefor as for other violations of this Code.

**Sec. 42-4. Parking in deceleration or acceleration lanes prohibited.**

(a) It shall be unlawful for any person to park any automobile, truck, bus, truck tractor, tractor trailer, or any trailer combination, motorcycle, moped, or other motor vehicle within or upon the deceleration or acceleration lanes lying in the unincorporated areas of the county.

(b) Deceleration and acceleration lanes shall be defined for the purpose of this section as those strips of pavement lying adjacent to and to the east of the northbound lanes of traffic and adjacent to and to the west of the southbound lanes of traffic which are not part of the regular roadway but afford access into and out of the driveways and side roads along the highway.

(c) Violation of the provisions of this section shall be a violation of a county ordinance and shall be prosecuted in the municipal court. A violation of this section shall be punished as provided in section 1-7.

**Secs. 42-5—42-30. Reserved.****ARTICLE II. OPERATION OF VEHICLES****Sec. 42-31. Traffic, speed zones, signs and traffic devices.**

(a) Upon approval of the county commissioner, the county sheriff is authorized to designate and maintain by appropriate traffic control signs, markings and devices:

(1) Crosswalks at intersections where there is particular danger to pedestrians crossing the roadway.

- (2) Other safety zones for pedestrians.
- (3) Traffic lanes.
- (4) Speed, parking, truck or other traffic control zones.
- (5) Stop, yield, one-way and other directional devices.
- (6) Any other sign, marking, device or zone necessary for orderly and safe conditions on the roads and streets of the county.

(b) All traffic control signs, signals, devices and markings shall conform to specifications in the Manual on Uniform Traffic Control Devices adopted by the state transportation board. All signs and signals required under this chapter for a particular purpose shall so far as practicable be uniform as to type and location throughout the county. All traffic control devices so erected and not inconsistent with the provisions of state law of the Code shall be official traffic control devices of the county.

(c) The county clerk shall keep and maintain an accurate official map setting out all traffic zones, markings, signs and other traffic control devices. The map and any amendments or changes thereto shall be adopted by the county commissioner and the map shall be known as the official traffic control map of the county. An official copy thereof shall be kept in the office of the county clerk; shall be available to the public; and copies certified by the county clerk shall be admissible in court as proof of the location of any traffic zone, marking, sign or other traffic control device.

(d) No person shall be charged with violating a traffic zone, marking, sign or other traffic control device unless appropriate signs, markings or devices are in fact operating or in existence on the streets involved.

(e) Any violation of any traffic zone, marking, sign or other traffic control device established hereunder shall be a violation of this Code.

**Sec. 42-32. Speed zones.**

Speed limits shall be as follows:

**ON-SYSTEM**

See latest state speed zone order for the county as effected and issued by the Georgia Department of Transportation and the Georgia Department of Public Safety. Said state order is hereby adopted by reference thereto for those sections of state routes in the county and outside of any municipality.

Signs to be erected by the Georgia Department of Transportation.

**OFF-SYSTEM**

County Road 1 from State Route 76 mile log 0.00 to State Route 33 mile log 9.08 a distance of 9.08 miles to be zoned 55 mph.

County Road 10 from State Route 94 mile log 0.00 to State Route 33 mile log 2.95 a distance of 2.95 miles to be zoned 55 mph County Road 14 from State Route 94 mile log 0.00 to County Road 276 mile log 5.04 a distance of 5.04 miles to be zoned 55 mph.

County Road 39 from County Road 271 mile log 0.00 to State Route 94 mile log 5.58 a distance of 5.58 miles to be zoned 55 mph.

County Road 53 from State Route 76 mile log 0.00 to County Road 54 mile log 2.93 a distance of 2.93 miles to be zoned 55 mph.

County Road 54 from County Road 275 mile log 0.00 to County Road 53 mile log 0.65 a distance of 0.65 miles to be zoned 55 mph County Road 91 from County Road 100 mile log 11.47 to a point 2640 feet south of County Road 187 mile log 15.67 a distance of 4.20 miles to be zoned 55 mph.

County Road 91 from a point 2460 feet south of County Road 187 mile log 15.67 to a point 1320 feet south of County Road 187 mile log 15.92 a distance of 0.25 miles to be zoned 45 mph.

County Road 91 from a point 1320 feet south of County Road 187 mile log 15.92 to County Road 305 mile log 16.80 a distance of 0.88 miles to be zoned 35 mph.

County Road 97 from County Road 99 mile log 1.67 to County Road 96 mile log 3.48 a distance of 1.81 miles to be zoned 55 mph.

County Road 99 from County Road 268 mile log 0.00 to County Road 97 mile log 1.64 a distance of 1.64 miles to be zoned 55 mph.

County Road 100 from County Road 91 mile log 0.00 to State Route 76 mile log 3.55 a distance of 3.55 miles to be zoned 55 mph County Road 124 from County Road 122 mile log 0.00 to State Route 38 mile log 1.80 a distance of 1.80 miles to be zoned 55 mph.

County Road 136 from State Route 122 mile log 4.32 to a point 2482 feet north of County Road 261 (Brooks-Colquitt county line) mile log 8.41 a distance of 4.09 miles to be zoned 55 mph.

County Road 158 from a point 1320 feet north of County Road 157 (Brooks-Colquitt county line) mile log 0.00 to County Road 274 mile log 2.61 a distance of 2.61 miles to be zoned 55 mph.

County Road 160 from County Road 274 mile log 0.00 to County Road 159 mile log 3.16 a distance of 3.16 miles to be zoned 55 mph.

County Road 167 from County Road 272 mile log 0.00 to a point 1478 feet north of County Road 149 (Pavo south city limits) mile log 4.06 miles to be zoned 55 mph.

County Road 177 from State Route 76 mile log 0.00 to State Route 122 mile log 3.53 a distance of 3.53 miles to be zoned 55 mph.

County Road 195 from a point 106 feet west of County Road 202 (Brooks-Thomas county line) mile log 0.00 to State Route 38 mile log 6.61 a distance of 6.61 miles to be zoned 55 mph.

County Road 209 from State Route 33 mile log 3.35 to County Road 1 mile log 7.27 a distance of 3.92 miles to be zoned 55 mph.

County Road 236 from State Route 76 mile log 0.00 to State Route 38 mile log 2.12 a distance of 2.12 miles to be zoned 45 mph.

County Road 245 from State Route 33 mile log 0.00 to a point 6178 feet north of County Road 121 (Quitman south city limits) mile log 9.87 a distance of 9.87 miles to be zoned 45 mph.

County Road 268 from a point 6177 feet south of County Road 117 (Brooks-Madison county line) mile log 0.00 to State Route 76 mile log 8.79 miles to be zoned 55 mph.

County Road 269 from a point 369 feet west of County Road 272 (Quitman west city limits) mile log 0.07 to a point 422 feet south of City Street 611 (Barwick south city limits) mile log 12.48 a distance of 12.41 miles to be zoned 55 mph.

County Road 270 from a point 2270 feet north of City Street 504 (Pavo north city limits) mile log 0.62 to County Road 274 mile log 5.65 a distance of 5.03 miles to be zoned 55 mph.

County Road 272 from a point 264 feet north of County Road 269 (Quitman north city limits) mile log 0.70 to a point 3802 feet west of County Road 65 (Barwick west city limits) mile log 13.20 a distance of 13.20 miles to be zoned 55 mph.

County Road 272 from a point 106 feet north of City Street 794 mile log 0.76 to a point 2851 feet north of City Street 794 mile log 1.28 a distance of 0.52 miles to be zoned 35 mph (from 7:30 a.m. to 8:30 a.m. and 2:45 p.m. to 3:30 p.m. school days only).

County Road 273 from State Route 33 mile log 0.00 to a point 1900 feet west of County Road 83 (Brooks-Lowndes city limits) mile log 4.70 a distance of 4.70 miles to be zoned 55 mph.

County Road 274 from County Road 272 mile log 0.00 to a point 3643 feet north of County Road 157 (Brooks-Colquitt county line) mile log 9.82 a distance of 9.82 miles to be zoned 55 mph.

County Road 275 from a point 5597 feet west of County Road 94 (Brooks-Thomas county line) mile log 0.00 to County Road 305 mile log 14.10 a distance of 14.10 miles to be zoned 55 mph.

County Road 276 from State Route 76 mile log 0.00 to State Route 94 mile log 11.64 a distance of 11.64 miles to be zoned 55 mph.

County Road 279 from County Road 274 mile log 0.00 to a point 6705 feet east of County Road 1 (Morven west city limits) mile log 7.65 a distance of 7.65 miles to be zoned 55 mph.

County Road 279 from a point 3186 feet east of County Road 1 mile log 6.98 to a point 3748 feet west of State Route 76 mile log 7.48 a distance of 0.50 miles to be zoned 35 mph (from 7:15 a.m. to 8:30 a.m. and 3:00 p.m. to 4:00 p.m. school days only).

County Road 280 from a point 739 feet east of State Route 94 mile log 0.68 to a point 9134 feet east of County Road 176 (Brooks-Lowndes county line) mile log 4.60 a distance of 3.92 miles to be zoned 55 mph.

County Road 281 from State Route 38 mile log 0.00 to County Road 269 mile log 2.95 a distance of 2.95 miles to be zoned 55 mph.

County Road 305 from a point 2006 feet west of County Road 79 (Brooks-Thomas county line) mile log 0.00 to a point 1795 feet west of City Street 850 mile log 4.53 a distance of 4.53 miles to be zoned 55 mph.

County Road 305 from a point 1795 feet west of City Street 850 mile log 4.53 to a point 1795 feet west of County Road 856 mile log 5.59 a distance of 1.06 miles to be zoned 45 mph.

County Road 305 from City Street 850 mile log 4.87 to City Street 856 mile log 5.25 a distance of 0.38 miles to be zoned 35 mph (from 7:30 a.m. to 8:30 a.m. and 2:45 p.m. to 3:30 p.m. school days only).

County Road 305 from a point 1795 feet west of County Road 856 mile log 5.59 to State Route 38 mile log 10.51 a distance of 4.92 miles to be zoned 55 mph.

Signs shall be erected by the county.

(Ord. of 11-12-1995)

#### **Sec. 42-33. General speed limit.**

It shall be unlawful for any person to operate a motor vehicle on any street or portion of a street in the county at a rate of speed greater than 30 miles per hour unless another speed limit is posted or otherwise designated for such street or portion of a street.

#### **Sec. 42-34. Speed detection devices.**

(a) The county is hereby authorized to use speed detection devices for the purpose of traffic control on the roads and streets in the county.

(b) Such speed detection devices shall be used only for the purpose of public safety and traffic control, and shall not be used for the purpose of raising revenue.

#### **Sec. 42-35. Commercial trucks in subdivisions.**

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

*Dump trucks, earthmovers, crane trucks, and other heavy equipment* means when such vehicle or equipment is not necessary for the construction, renovation, or maintenance of the road or structures within the subdivision.

*Pole-trailer* means every vehicle without motive power designed to be drawn by another vehicle and attached to the towing vehicle by means of a reach or pole, or by being boomed or otherwise secured to the towing vehicle and ordinarily used for transporting long or irregular shaped loads, such as poles, pipes, or structural members capable, generally, of sustaining themselves as beams between the supporting connections.

*Semi-trailer* means every vehicle with or without motive power, other than a pole trailer, designed for carrying persons or property and for being drawn by a motor vehicle and so constructed that some part of its weight and that of its load rests upon or is carried by another vehicle.

*Tractor* means any self-propelled vehicle designed for use as a traveling power plant or for drawing other vehicles but having no provision for carrying loads independently.

*Truck* means every motor vehicle designed, used, or maintained primarily for the transportation of property; except, that class of vehicles known as pickup trucks shall not constitute commercial trucks unless they are towing a pole-trailer or a semi-trailer.

*Truck tractor* means every motor vehicle designed and used primarily for drawing other vehicles and not so constructed as to carry a load other than a part of the vehicle and load so drawn.

(b) *Operation prohibited.* The operation of a commercial truck or other vehicle, as defined in section 42-1, within subdivisions approved by the board of commissioners is hereby prohibited.

(c) *Exemptions.*

- (1) This article shall not apply to, impede, or restrict the use of agricultural farm machinery around or adjacent to an approved subdivision.
- (2) Residents who use company vehicles for transport to and from their place of employment shall be exempt from the provisions of this chapter, provided that the vehicle is parked on private property and not the public right-of-way when not in use.

(Ord. No. 99-07-01, §§ 1—3, 7-20-1999)

**Sec. 42-36. Covering of loads.**

No person shall operate or load any vehicle on the public streets and roads of this county unless the vehicle is constructed, loaded and securely covered so as to prevent any of its load from dropping, escaping, or shifting in such a manner as to create a safety hazard or in such a manner so as to litter the streets and roads of the county.

## CODE COMPARATIVE TABLE

### ORDINANCES

This is a listing of the ordinances of the city used in this Code. Repealed or superseded laws at the time of the codification and any omitted materials are not reflected in this table.

<b>Ordinance Number</b>	<b>Date</b>	<b>Section</b>	<b>Section this Code</b>
82-1A	3-15-1982	1—3	22-19
		4—15	22-20—22-22
		16	22-22—22-33
9- 8-1982(Res.)	I		22-18
	II—IV		6-19
			6-44—6-46
11-12-1995(Ord.)			42-32
5-13-1997(Ord.)			30-19
	1—3		30-20—30-22
84-9-5B	3-10-1998	arts. I—VII	18-19
97-7-1	7-29-1997		10-19
97-7-2	7-29-1997	exhibit A	10-20
	3-10-1998(Ord.)	art. I,	34-19, 34-20
		art. II	
		art. VI, § 6.1,	34-21, 34-22
		art. VI, § 6.2	
		art. VII	34-23
98-11-1	11-10-1998	I—XXIII Added	12-21—12-43
	11-10-1998(Ord.)	art. I,	34-81, 34-82
		art. II	
		art. III	34-83
		art. IV	34-84
99-5-1	5- 5-1999	1, 2	26-19, 26-20
99-07-01	7-20-1999	1—3	42-35
	8- 3-1999(Ord.)	1	1-7
	6-19-2001(Ord.)	art. I,	38-19, 38-20
		art. II	
		art. III	38-21
		art. IV(400)—	38-22—38-24
		art. IV(402)	
		art. IV(403)—	38-65—38-68
		art. IV(406)	
		art. IV(407)—	38-25—38-32
		art. IV(414)	
		art. V	38-98
		art. VI	38-126
		art. VII	38-33
8- 6-2001(Ord.)			34-61

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<b>Ordinance Number</b>	<b>Date</b>	<b>Section</b>	<b>Section this Code</b>
12-17-2001(Mo.)			34-62
8-26-2004(Ord.)		I—VIII	18-42—18-49
		IX(C)	18-50
10- 4-2004(Ord.)		Rpld	22-18—22-33
	art. 1, §§ A—		22-19—22-22
	D	Added	
	art. 2, §§ A—		22-23—22-30
	H	Added	
	art. 3, §§ A—		22-41—22-43
	C	Added	
	art. 4, §§ A—		22-51—22-55
	E	Added	
	art. 5	Added	22-61
	art. 6	Added	22-18
6- 4-2007(Ord.)	II—V	Added	18-20—18-23

## STATE LAW REFERENCE TABLE

This table shows the location within the Local Acts and Local Constitutional Amendments and the Code either in the text or notes following the text, of references to the Official Code of Georgia Annotated.

O.C.G.A. Section	Section this Code	O.C.G.A. Section	Section this Code
1-3-1(3)—		12-7-13 et seq.	18-48
1-3-1(7)	1-2	12-7-17	18-19
1-3-1(a), (b)	1-2	tit. 15	LALCA § 330
1-3-3	18-44	15-1-1 et seq.	LALCA § 330
1-3-3(5)	1-2	15-6-50 et seq.	LALCA § 124
1-3-3(8)	1-2	15-7-1 et seq.	LALCA § 328
1-3-3(10)—			LALCA § 331
1-3-3(12)	1-2		LALCA § 338,
1-3-3(14)—			LALCA § 339
1-3-3(16)	1-2	15-9-1 et seq.	LALCA Div. 2
1-3-3(19)	1-2		LALCA § 72
1-3-3(23),		15-9-63 et seq.	LALCA § 72
1-3-3(24)	1-2	15-10-61	LALCA § 335
2-10-105	12-35	15-10-62	34-43
3-1-1 et seq.	Ch. 6		LALCA § 335
3-1-2	6-19	15-10-63	34-43
3-3-2	Ch. 6		LALCA § 335
3-5-1 et seq.	Ch. 6, Art. II	15-16-20	LALCA § 98
3-5-42	6-45	16-13-20 et seq.	6-44
3-5-80	6-20		6-46
3-6-1 et seq.	Ch. 6, Art. II	21-1-1 et seq.	LALCA § 306
3-6-40	6-45	32-4-40 et seq.	Ch. 34
5-4-1	22-61	33-8-8 et seq.	12-35
6-1-20	Ch. 26	tit. 36, ch. 10	2-152
7-1-4	18-19	36-1-1 et seq.	Ch. 2
	18-20	36-1-20	Ch. 42
8-2-20 et seq.	Ch. 10, Art. II	36-1-20(a)	22-19
12-2-8	18-45	36-1-20(b)	1-7
12-4-72	18-44	36-5-20	LALCA §§ 1—
12-5-20 et seq.	18-43—18-45		342
12-5-30(f)	18-45	36-5-22.1	LALCA § 24
12-5-440 et seq.	18-43	36-5-24	LALCA § 23
	18-45	36-6-1	LALCA § 51
12-6-24	18-19	36-62-80 et seq.	LALCA § 208
12-7-1 et seq.	Ch. 18, Art. III	36-70-1 et seq.	Ch. 30
	18-45	36-71-2	12-22
12-7-3	18-43	36-80-19	1-1
12-7-6	18-45	36-82-60 et seq.	LALCA § 202
12-7-7	18-44		LALCA § 212
	18-46	38-3-30(b)	14-146, 14-147
12-7-7(d)	18-47	40-6-1 et seq.	Ch. 42
12-7-7.1	18-44	40-6-1-40—	
12-7-8(a)	18-47	6-395	42-1
12-7-9	18-46	40-6-370	42-1

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<b>O.C.G.A. Section</b>	<b>Section this Code</b>
40-6-371	Ch. 42
41-2-7—	
41-2-17	38-30, 38-31
41-2-8—	
41-2-17	38-33
tit. 43	12-30
tit. 46, ch. 3	12-35
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**\*Note**—The adoption, amendment, repeal, omissions, effective date, explanation of numbering system and other matters pertaining to the use, construction and interpretation of this Code are contained in the adopting ordinance and preface which are to be found in the preliminary pages of this volume.

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