

CODE OF ORDINANCES TOWN OF BROOKS, GEORGIA

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Subject Matter: Codification
Notice of Public Hearing Published in the
Fayette News: _____
Date First Presented by Council at a Public
Meeting and Hearing: _____
Date of Adoption at a Public Meeting:

TOWN OF BROOKS
COUNTY OF FAYETTE
STATE OF GEORGIA

CODIFICATION
ADOPTING ORDINANCE

ORDINANCE NO. _____

An Ordinance Adopting and Enacting a New Code of Ordinances of the Town of Brooks, Georgia; Establishing the Same; Adopting and Enacting additions to, revisions to, and deletions from existing ordinances resulting from the Codification process; Providing for the Repeal of Certain Ordinances Not Included Therein; Except as Herein Expressly Provided; Providing for the Manner of Amending Such Code of Ordinances; Providing a Penalty for the Violation Thereof and Providing When This Ordinance Shall Become Effective.

Be it Ordained by the Town Council of the Town of Brooks, Georgia and it is Hereby Ordained:

Section 1. That the Code of Ordinances, consisting of Chapters 1 through 31, each inclusive, is hereby adopted and enacted as the "Code of Ordinances, Town of Brooks, Georgia," by the Town Council of the Town of Brooks.

Section 2. That all additions to, revisions to, and deletions from existing ordinances resulting from this Codification and as reflected in this Code of Ordinances are hereby adopted and enacted.

Section 3. That all ordinances of a general and permanent nature enacted on or before the date of this Ordinance and not included in the Code or recognized and continued in force by reference therein, are hereby specifically repealed.

Section 4. That the repeal provided for in Section 3 hereof shall not affect the following:

- (a) 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 ordinance;
- (b) Any ordinance promising or guaranteeing the payment of money for the Town or authorizing the issuance of any bonds for the Town or any evidence of the Town's indebtedness, or any contract or obligation assumed by the Town;
- (c) Any administrative ordinance of the Town not in conflict or inconsistent with the provisions of such Code.
- (d) Any ordinance fixing salaries of officers or employees of the Town;
- (e) Any appropriation ordinance, or ordinance levying any tax;
- (f) Any right or franchise granted by the Town Council to any person, firm or corporation;
- (g) Any ordinance dedicating, naming, establishing, locating, relocating, opening, closing, paving, widening, vacating, etc., any street or public way in the Town;
- (h) Any ordinance establishing and prescribing the street grades of any street in the Town;
- (i) Any ordinance providing for local improvements or assessing taxes therefor;
- (j) Any ordinance dedicating or accepting any plat or subdivision in the Town or providing regulations for the same;
- (k) Any ordinance annexing property in the Town;
- (l) Any ordinance regulating zoning in the Town;
- (m) The minimum standard housing resolution;
- (n) Any ordinance prescribing traffic regulations for specific locations, prescribing through streets, parking limitations, parking prohibitions, one-way traffic, or limitations on loads of vehicles or loading zones, not inconsistent with such Code;
- (o) Any ordinance fixing utility rates and charges;
- (p) Any ordinance or resolution establishing a planning commission;
- (q) Personnel policies and manual; and
- (r) Any ordinance enacted after the date of this Ordinance.

Such repeal shall not be construed to revive any ordinance or resolution, or part thereof, that has been repealed by a subsequent ordinance or resolution.

Section 5. That whenever in such Code, or in any subsequent code adopted by reference, any act is prohibited or is made or declared to be unlawful or an offense or whenever in such Code or subsequent code adopted by reference, the doing of any act is required or the failure to do any act is declared to be unlawful, where no specific penalty is provided therefor, the violation, concealing of a violation, or the harboring, assisting or protecting of a person charged with or convicted of a violation of any such provisions of such Code or any subsequent code adopted by reference shall be punished by a fine not exceeding the maximum fine authorized in

the Town's Charter sentence of imprisonment not exceeding the maximum fine authorized in the Town's Charter, or to community service or alternative sentencing for a period not exceeding that limited by law, or any combination thereof, in the discretion of the municipal court judge.

Section 6. That all additions or amendment to such Code when passed in such form as to indicate the intention of the Town Council to make the same a part thereof shall be deemed to be incorporated in such Code so that reference to the "Code of Ordinances, Town of Brooks, Georgia," shall be understood and intended to include such additions and amendments.

Section 7. That in case of the amendment by the Town Council of any section of such Code for which a penalty is not provided, the general penalty as provided in Section 5 of this Ordinance shall apply to the section as amended; or in case such amendment contains provisions for which a penalty, other than the aforementioned general penalty is provided in another section in the same chapter, the penalty so provided in such other section shall be held to relate to the section so amended, unless such penalty is specifically repealed therein.

Section 8. That a copy of such Code shall be kept on file in the office of the Town Clerk preserved in such other form as the Town Clerk may consider most expedient. It shall be the express duty of the Town Clerk, or someone authorized by the Town Clerk, to insert in their designated places all amendments, ordinances, resolutions or motions which indicate the intention of the Town Council to make the same a part of such Code when the same have been printed or reprinted in page form, and to extract from such Code all provisions which may be repealed from time to time by the Town Council. The copy of such Code shall be available for all persons desiring to examine the same.

Section 9. That it shall be unlawful for any person to change or alter by addition or deletions, any part or portions of such Code, or to insert or delete pages or portions thereof, or to alter or tamper with such Code in any manner whatsoever, which will cause the law of the Town of Brooks to be misrepresented thereby. Any person violating this section shall be punished as provided in Section 5 of this Ordinance.

Section 10. That all ordinances or parts of ordinances in conflict herewith are, to the extent of such conflict, hereby repealed.

Section 11 If any part of this Ordinance shall be declared unconstitutional by the valid judgment or decree of any court of competent jurisdiction, such unconstitutionality shall not affect the remainder of this enactment, and such remainder shall remain in full force and effect.

Section 12. This Ordinance shall be effective on the date of its approval by the Town Council.

APPROVED BY THE MAYOR AND COUNCIL OF THE TOWN OF BROOKS, at a regular meeting of the Mayor and Council on the ____ day of _____, 2013, by the following voting for adoption:

ATTEST:

Daniel C. Langford, Mayor

Kimberly A. Morris, Clerk

Lewis B. Harper, Council Member

Scott A. Israel, Council Member

Ted H. Britt, Council Member

Jake C. Kunz, Council Member

Todd A. Speer, Council Member

CHAPTER 7 – BUILDINGS AND DEVELOPMENT

ARTICLE 1

Development Standards

Demolition

Sec. 7-1.01. No person, firm, corporation or other entity shall demolish any building or enclosed structure which is built on a permanent foundation, or any part thereof without first obtaining a permit from the Town's Zoning Administrator. No such permit shall be issued until the applicant supplies the Zoning Administrator with a certificate from a Georgia licensed exterminator which certifies that the premises to be demolished is free from rodent infestation.

Sec. 7-1.02. All buildings or structure demolition shall be completed pursuant to the following standards:

- a. During the course of demolition and removal, the public right-of-way (sidewalks, adjoining sidewalks, streets & alleys) must be kept clear of debris and materials at all times.
- b. Prior to the use or obstruction of any public right-of-way by dumpsters, barricades, equipment, material, or scaffolding, a permit must be obtained from the Town's Zoning Administrator.
- c. Demolition must be completed within thirty days of the issuance date of the permit.
- d. Burning and/or brick cleaning is not permitted without permission of the Zoning Administrator and a burn permit from the Fayette County Fire Department.
- e. Federally regulated asbestos containing material must be properly removed pursuant to federal asbestos safety standards by a licensed asbestos contractor before demolition begins.
- f. All utilities must be disconnected by, or the disconnection approved by, the relevant utility provider.
- g. Excess dust, dirt, and particulates must be controlled on the site to prevent such materials from migrating to adjacent areas and properties.
- h. All debris, garbage, furnishings, material, foundation, concrete, and like materials must be removed from the site and disposed at a legal disposal or dump site.
- i. Grade the site to control all water, to cause all water to drain towards the street, and to prevent any pooling of water on the site.

- j. The cleared lot must be seeded and strawed.
- k. In addition to the above, compliance with all ordinances of Fayette County regulating demolition of structures to the extent not in conflict with standards (a) through (j), above.

ARTICLE 2

Building and Construction Codes

Sec. 7-2.01 Applicability of Building and Construction Codes

(a) All persons, firms, partnerships, corporations, or other legal entities shall comply with the codes adopted hereby in the applicable construction, work, or activity within the Town of Brooks.

(b) Nothing contained in these codes shall be construed to affect the responsibility or liability of any person owning, operating, controlling or installing any construction, electrical devices and materials, plumbing devices or materials, or any other construction work or activity governed by the codes named in this Ordinance, for damages to persons or property caused by any defects therein; nor shall the Town be held to assume any liability by reason of the approval of any material, device, appliance or equipment subject hereto.

(c) Any person, firm, partnership, corporation, or other legal entity violating the provisions of this Ordinance or of any of the codes named in this Ordinance, upon conviction, may be punished to the full extent authorized by the Town's Charter or State law. All citations for violation of this Ordinance and the codes named in this Ordinance may be issued by any law enforcement or code enforcement officer of the Town of Brooks or Fayette County, the Town Council, or its designee, or the Town building official. All citations for violations of this Ordinance and the codes named in this Ordinance shall be returnable to the municipal court of the Town of Brooks.

(d) Should any provision of the Standard Building and Construction Codes adopted herein conflict or vary from any like provision, standard or requirement of the Town's Zoning Ordinances, or Development Standards, then the provision, standard or requirement of the Town's Zoning Ordinance or Development Standards shall control other said like provision, standard or requirement of the Standard Building and Construction Codes adopted herein.

Sec. 7-2.02 Scope

The provisions of this code shall apply to the repair, alteration, change of occupancy, addition, and relocation of existing buildings. A building or portion of a building that has not been previously occupied or used for its intended purpose shall comply with the provisions of the International Building Code for new construction. Repairs, alterations, change in occupancy, existing buildings to which additions are made, historic buildings, and relocated buildings complying with the provisions of the International Building Code, International Mechanical

Code, International Plumbing Code, and International Residential Code as applicable shall be considered in compliance with the provisions of this code.

Sec. 7-2.03 Intent

Purpose. The purpose of this code is to establish the minimum requirements to safeguard the public health, safety and general welfare insofar as they are affected by the repair, alteration, change of occupancy, addition, and relocation of existing buildings. The purpose of this code is not to create or otherwise establish or designate any particular class or group of persons who will or should be especially protected or benefitted by the terms of this code.

Public duty, warranty and quality control. The permitting, plans examination or inspection conducted with regard to a building or structure in accordance with this code constitutes a public duty and does not warrant or ensure the absence of any hazard, deficiency or other matter. Any duty created by or based on this code is transferred to the public, and no private cause of action is created by a breach of such duty. This code shall not be construed to relieve from or lessen the responsibility of any person, firm or corporation owning, operating or controlling any building or structure for any damages to persons or property caused by defects, nor shall the Town of Brooks or Fayette County be held as assuming any such liability by reason of the inspections or plans examinations authorized by this code or any permits or certificates issued under this code. The zoning administrator or code official checks for substantial compliance with this code, but reviews and inspections performed by the code official pursuant to this chapter do not create any guarantee or warranty that buildings, structures or service equipment have been constructed in accordance with all provisions of this code. The permitting, plans examination, or inspection of any building, structure, system, element, or construction document shall not be construed as a warranty of the physical condition or adequacy of such building, structure, system, element, or construction document, including without limitation a representation or warranty that a building or structure is complete, that it is in compliance with this code or any other law, that it was inspected, that it is safe or ready for occupancy or that it meets any particular degree of quality or workmanship. Quality control of materials and workmanship is not within the purview of this code except as it relates to the purposes stated therein. The amount and quality of inspection and other services provided is discretionary with the code official and may vary in response to the amount of staff, work load, training and experience, funding and other pertinent factors affecting whether and how inspection is made or whether any hazard, deficiency or similar matter is observed.

Sec. 7-2.04 Existing Buildings

The legal occupancy of any building existing on the date of adoption of this code shall be permitted to continue without change, except as is specifically covered in this code, the International Fire Code, or the International Property Maintenance Code, or as is deemed necessary by the code official for the general safety and welfare of the occupants and the public.

Sec. 7-2.05 Maintenance

Buildings and parts thereof shall be maintained in a safe and sanitary condition. The provisions of the International Property Maintenance Code shall apply to the maintenance of existing buildings and premises; equipment and facilities; light, ventilation, space heating, sanitation, life and fire safety hazards; responsibilities of owners, operators, and occupants; and occupancy of existing premises and buildings. All existing devices or safeguards shall be maintained in all existing buildings. The owner or the owner's designated agent shall be responsible for the maintenance of the building. To determine compliance with this subsection, the code zoning administrator or official shall have the authority to require a building to be reinspected. Except where specifically permitted by this code, the code shall not provide the basis for removal or abrogation of fire protection and safety systems and devices in existing buildings.

Work on individual components or portions. Where the code official determines that a component or a portion of a building or structure is in need of repair, strengthening or replacement by provisions of this code, only that specific component or portion shall be required to be repaired, strengthened, or replaced unless specifically required by other provisions of this code.

Design values for existing materials and construction. The incorporation of existing materials, construction, and detailing into the structural system shall be permitted when approved by the code official. Minimum quality levels and maximum strength values shall comply with this code.

Sec. 7-2.06 Obtaining Permits

Permits for construction, alteration, repair, removal, demolition, use and occupancy of buildings, structures, or premises shall be obtained from the Town Zoning Administrator . For new construction, one set of plans must be on premises for use of the inspector, at each inspection, for compliance. Building inspections may be conducted by a building official or inspector of Fayette County, Georgia ("code official").

Sec. 7-2.07 Minimum Standard Codes

The minimum standard construction codes hereby adopted by, and used within, the Town of Brooks shall be:

1. International Building Code
2. International Residential Code for one-and-two-Family Dwellings
3. International Mechanical Code
4. International Plumbing Code
5. International Code Council Electrical Code
6. International Fuel Gas Code
7. National Electrical Code
8. International Property Maintenance Code
9. International Existing Building Code
10. International Energy Conversation Code

The edition of the above codes in effect at any time shall be the same edition adopted for use by Fayette County, Georgia, as the same may hereinafter be amended or revised, and the same is incorporated herein by this reference.

Sec. 7-2.08 Additional Building Codes

As authorized by O.C.G.A. §8-2-25(b), the Town of Brooks hereby adopts in their entirety the following additional building codes, as the same may be hereinafter amended or revised, and the same are made a part hereof as fully as though stated verbatim herein; to wit:

- (1) Standard Housing Code (SBCCI);
- (2) Standard Amusement Device Code (SBCCI);
- (3) Excavation and Grading Code (SBCCI);
- (4) Standard Fire Prevention Code (SBCCI);
- (5) Standard Swimming Pool Code (SBCCI); and
- (6) Standard Unsafe Building Abatement Code (SBCCI).

Sec. 7-2.09 Fee Schedules. Fee Schedule for building permits and inspection fees shall be established by Town Council by resolution.

Sec. 7-2.10 Water Conservation Requirements for Toilets, Showerheads, and Faucets. The requirements for toilets, showerheads, and faucets found at O.C.G.A. §8-2-3, as the same may hereinafter be amended or revised, and the same are made a part hereof as fully as though stated verbatim herein.

ARTICLE 3

Dwelling Standards and Occupancy

Sec. 7-3.01 Generally.

- a. Scope. The provisions of this Article 3 shall apply to all existing and future residential dwellings, all existing and future premises and shall constitute part of the Town's minimum requirements and standards for said premises for the occupancy, life safety, safety from fire and other hazards.
- b. Responsibility. The owner of the structure shall provide and maintain occupancy space conditions in compliance with the requirements of this Article 3. A person shall not occupy as owner-occupant, or permit another person to occupy any premises that do not comply with the requirements of this Article 3.

- c. Intent. This Article 3 shall be construed to secure its expressed intent, which is to ensure public health, safety and welfare insofar as they are affected by the continued occupancy and maintenance of structures and premises. Existing structures and premises that do not comply with these provisions shall be altered or repaired to provide a minimum level of health and safety as required herein.
- d. No person shall occupy or let to be occupied any dwelling or dwelling unit for living therein unless there is compliance with the requirements of this Article 3.
- e. For the purposes of establishing uniform rules and regulations, the Town hereby adopts the International Property Maintenance Code, the latest edition as adopted by the Georgia Department of Community Affairs, except as otherwise provided hereinafter at this Article 3, and except as otherwise provided in the Town's Ordinances.

Sec. 7-3.02 Kitchen and eating area.

- a. Every dwelling unit shall have a separate room in which food may be prepared or cooked, which shall be equipped with the following:
 - 1 Kitchen sink. A kitchen sink in good working condition and properly connected to a potable water supply, which provides at all times an adequate amount of heated and unheated running water under pressure, and connected to the Town's sewage system or a Town and Fayette County Health Department approved septic tank system.
 - 2 Cabinets. Cabinets for the storage of eating, drinking and cooking equipment and utensils and of food that, under ordinary conditions, does not require refrigeration for safekeeping, and a counter for food preparation.
 - 3 Stove and refrigerator. A natural gas, propane or electric stove for cooking food, and an electric refrigerator for the safe storage of food at temperatures between 32 degrees Fahrenheit and 50 degrees Fahrenheit under ordinary conditions, which are properly installed with all necessary connections for safe, sanitary and efficient operation.
- b. Every dwelling unit shall have a part of the kitchen or room directly connected to the kitchen, intended for the consumption of food and adequate in size for at least a dining table and four chairs.

Sec. 7-3.03 Bathroom, lavatory and tub or shower.

- a. Bathroom shall be a separate room within the dwelling unit completely separated from the other living space by walls from floor to ceiling, with at least one door which can be locked from inside the bathroom, and at least one window which may be opened to outside of the dwelling unit for ventilation or one operating electric ventilation fan vented to the outside of the dwelling unit. The bathroom

shall be equipped with one sink with hot and cold running water faucet, a flush toilet and a shower or bathtub with a hot and cold running water faucet. All three shall be connected to a potable water system and a public sewer system or a Town and Fayette County Health Department approved septic tank system. A bathroom does not qualify to be counted toward the minimum number of bathrooms required by Sec. 7-3.03(b) unless it is on the same floor level or story as at least one bedroom that it serves. In computing minimum bathrooms under Sec. 7-3.03(b), a bedroom can be counted as being serviced by only one bathroom.

- b.** Every dwelling unit shall have at least one bathroom. The minimum number of additional bathrooms shall depend upon the number of bedrooms in the dwelling unit. The minimum number of bathrooms per number of bedrooms shall be in accordance with the following schedule:

Number of Bedrooms	Minimum Number of Bathrooms
1-3	1
4-5	2
6-7	3
8-9	4

Sec. 7-3.04 Bedrooms

- a.** Every dwelling unit shall contain at least one bedroom meeting the requirements of this section. Every bedroom in a dwelling unit shall contain at least 70 square feet of floor space for the first occupant, and at least 50 square feet of floor space for each additional occupant thereof; provided, that no bedroom shall be used to sleep more than two occupants (see minor child exception at Sec. 7-3.06).
- b.** Access from bedrooms. Bedrooms shall not constitute the only means of access to other bedrooms or habitable space and shall not serve as the only means of egress from other habitable spaces.
- c.** Bathroom accessibility. Every bedroom shall have access to at least one bathroom without passing through another bedroom. Every bedroom in a dwelling unit shall have access to at least one bathroom located in the same story as the bedroom.
- d.** Closet Space. Every bedroom shall have at least six (6) square feet of floor to ceiling heated space for the personal effects of the two permissible occupants. For one permissible occupant (see minor child exception at Sec. 7-3.06) over two there shall be an addition of four (4) square feet in the above described closet; however, if such additional space is lacking in such closet part, an amount of space equal in square footage to the deficiency shall be subtracted from the area of habitable room space used in determining permissible occupancy.

- e. The ceiling height of any bedroom shall be at least seven feet; except that for a bedroom under a sloping ceiling, at least one-half of the floor area shall have a ceiling height of at least seven feet, and the floor area of that part of such a room where the ceiling is less than five feet shall not be considered as part of the floor area in computing the total floor space of the room for the purpose of determining the maximum permissible occupancy.
- f. No space located totally or partially below grade shall be used as a bedroom of a dwelling unit unless:
 - 1 The floor and those portions of the walls are of waterproof and damp-proof construction.
 - 2 The total openable window area for allowing the entrance of outside light in each bedroom is equal to at least four square feet.
 - 3 There are no pipes, ducts or other obstructions less than six feet eight inches from the floor level which interfere with the normal use of the room or area.

Sec. 7-3.05 Minimum Room Dimensions.

- a. Minimum room widths. A habitable room, other than a kitchen, shall not be less than 7 feet in any plan dimension. Kitchens shall have a clear passageway of not less than 3 feet between counter fronts and appliances or counter fronts and walls.
- b. Minimum ceiling heights. Habitable spaces, hallways, corridors, laundry areas, bathrooms, toilet rooms and habitable basement areas shall have a clear ceiling height of not less than 7 feet (See Sec. 7-3.04 for bedroom ceiling heights).

Sec. 7-3.06 Maximum Occupancy.

- a. Maximum occupancy of a dwelling unit shall be determined by a formula of a maximum of two occupants of the dwelling unit per bedroom, which meets the minimum standards defined by town ordinances and building codes, provided the bedrooms are served by the minimum number of bathrooms as required by Sec. 7-3.03.
- b. Of the total occupants of a dwelling unit, no more than six (6) may be adults. "Adult" is defined as an individual of the age of twenty-one (21) years or older. An individual who operates a motor vehicle required by Georgia law to maintain and display a license plate, shall be presumed to be an adult, which may be rebutted by a state issued drivers license or other state identification bearing the name, photograph and date of birth of the person in question, United States government issued identification bearing the name, photograph and date of birth of the person in question, or copy of a birth certificate certified by the issuing authority bearing its seal and bearing the name, date of birth and place of birth of the individual in question, showing the individual's date of birth, or such other similar proof as determined by the Town's municipal court judge. The maximum occupancy may be exceeded by up to one additional occupant per bedroom after the first bedroom only for the purpose of accommodating children under age of 18 years who are within the legal custody of another legal occupant of the dwelling unit; but not more than three additional occupants regardless of number of bedrooms.

Sec. 7-3.07 Overcrowding. Dwelling units shall not be occupied by more occupants than permitted by the minimum requirements of Sec. 7-3.06.

Sec. 7-3.08 Penalties. Any person, firm or corporation who shall violate any provision of this Article 3 upon conviction thereof in an action brought before the Town's municipal court, shall be subject to pay a fine up to the maximum allowed by the Town's Charter and imprisonment for a term up to the maximum allowed by the Town's Charter plus court costs and state fees. Each day that a violation of this Article 3 continues which shall be found to have been violated shall constitute a separate offense.

ARTICLE 4

Additional Development Standards for Town Center District (TCD)

Sec. 7-4.01 Building Requirements.

- 1 Facades. New construction throughout the TCD (defined at Sec. 31-6.07) should be compatible with the TCD architectural control standards.
- 2 Height. No structure shall exceed thirty-five (35) feet in height, except church steeples, belfries, cupolas, bell towers or flagpoles.

- 3 Main Entrances. The primary building entrances for commercial, office, institutional and manufacturing establishments shall generally open to the front sidewalk or toward the front lot line.
- 4 Accessory Structures. Detached garages, carports, and other accessory structures shall be set back at least 10 feet further from the front property line than the foremost façade of the principal building facing the front property line (stoops, porticos, open colonnades and open porches excluded), and that the facade of any accessory structure designed for accessory parking need not be set back beyond the foremost facade of the principal building on a corner lot, if such façade does not contain the main entrance to the principal building.
- 5 Porches. Stoops, porticos, open colonnades and open unglazed porches, attached to a principal building, may encroach up to 8 feet into the zone between the front setback and the front property line.

Sec. 7-4.02 Streets and Appurtenances.

- 1 New streets shall be designed to ensure the safety of motorists and pedestrians and shall, as practicable:
 - A. Minimize the alteration of natural site features;
 - B. Improve the view of and the view from buildings and other prominent vistas and vista terminations;
 - C. Promote pedestrian design so that it is generally more convenient and pleasant for most of the community to walk short distances than to drive.
- 2 Sidewalks. Sidewalk easements at least seven (7) feet wide shall be provided and dedicated to public use adjacent to all commercial and manufacturing uses, according to standards which may be adopted by the Design Review Board, where existing public sidewalks do not antedate commencement of the use. Sidewalk easements of at least four (4) feet in width shall be set aside in all areas of new residential development. Sidewalks shall generally be parallel with the streets they adjoin, and shall comply with standards adopted by the Design Review Board.
- 3 Streetlights. Streetlights conforming to specifications of the Design Review Board shall be provided at each street intersection, in cases of new construction. Such specifications shall assure that light level at the lot line does not exceed 0.2 foot-candles, measured at ground level, shall require the luminaries be shielded to prevent illumining neighboring properties or public rights-of-way where such restriction is desirable; shall set a maximum height of twenty (20) feet for such lights, and shall require that the same be equipped with an incandescent, metal halide or other full-spectrum bulb, and shall require that all lighting, except for safety or

security purposes, should be extinguished between the hours of 11 p.m. and 6 a.m., subject to special exceptions, which may be granted on application to the Town Council.

Sec. 7-4.03 *Parking Requirements.*

- 1 The following minimum numbers of parking spaces shall be required of all new development in non-residentially zoned areas:
 - A. Office/Institutional: 1 space for each 500 square feet of gross floor space.
 - B. Commercial: 1 space for each 500 square feet of gross floor space
 - C. Restaurants: 1 space for each 4 seats
 - D. Manufacturing: 1 space for each 1,000 square feet of gross floor space.

- 2 Parking Lots. Parking lots shall be located to the side or the rear of non-residential properties; may not located within 25 feet of a street intersection, and shall be landscaped and screened from view from the abutting public street, as follows:
 - A. Parking lots containing ten or more spaces shall be planted with at least one tree per ten (10) spaces, not smaller than 3 inch caliper(trunk diameter at 4 feet from ground). Each tree shall be surrounded by no less than 16 square feet of permeable, unpaved area.
 - B. Screening shall consist of a landscaped area at least 6 feet wide, densely planted with a mixture of deciduous ad evergreen trees and shrubs, and shall create an effective visual barrier.

- 3 Alleys. No vehicular parking shall be permitted in alleys not widened and constructed as approved by the Planning and Zoning Board as a special exception; provided, however, this provision shall be superseded by any general parking ordinance hereafter enacted by authority of the Mayor and Council of the Town of Brooks.

Sec. 7-4.04 *Utility Requirements*

- 1 Location. All utilities shall be located underground. All utility outlets, service entrances and transformers shall be clustered in a neat and orderly fashion and screened from view, where screening is practicable and permitted by applicable building and electrical codes.

- 2 Cellular Transmission Towers. No new tower may be built if there is space available on an existing tower in the same service area. The tower must be buffered with vegetation and secured by a solid wood fence or

brick wall. All obsolete or unused facilities must be removed within six months of cessation of operations.

- 3** Satellite Dish Antennas (To Apply to Nonresidential Uses Only). Such antennas larger in size than 8 feet in diameter and 15 feet in height are permitted only after application to and approval by the Town Council for a special exception, and after filing with the Town Clerk of a certificate by a civil engineer that the installation meets general standards in the industry for safety. If not constructed of a dark-hued wire mesh or painted so as to blend with the surrounding environment, the dishes will not be permitted. No dishes may be placed within the front or side yards of a structure unless reception is not possible in the rear yard as certified by a licensed satellite dish technician and unless special exception is approved by the Town Council. Dish antennas must be buffered with vegetation and secured by a solid wood fence or brick wall, absent a certificate by a civil or electronic engineer that such conditions will substantially hinder reception.

ARTICLE 5

Mailboxes

Sec. 7-5.01 Mailboxes/Mailbox Supports.

- a. All mailboxes shall be a U.S. Postal Service approved box, shall be installed with the bottom of the mailbox having a vertical height of 42 to 48 inches above the ground surface, and the face of the mailbox shall not extend over the edge of the traveled roadway or a paved shoulder.
- b. In addition to the above, all mailboxes, columns, posts, and other structures (excepting utility poles) installed along a roadway (within six (6) feet of the edge of the roadway or paved shoulder) where the posted speed limit is 21 miles per hour or more, shall comply with the following additional standards:
- i. The mailbox support shall be a wood post, steel pipe, or steel channel of the following dimensions:
 - Square wood post: 4 x 4 inch, or less
 - Round wood post: 4 inch diameter, or less
 - Steel pipe: 1 ½ inch inside diameter, or less
 - Steel channel: 2 pounds per foot, or less
 - ii. Dimensions exceeding these standards shall be deemed unacceptable and in violation of this ordinance, and the violator shall be subject to a fine up to the maximum allowed by the Town's charter.

ARTICLE 6

Soil Erosion, Sedimentation and Pollution Control Ordinance

DIVISION 1. GENERALLY

Sec. 7-6.01. Title. This ordinance will be known as the “Town of Brooks Soil Erosion, Sedimentation and Pollution Control Ordinance.”

DIVISION 2. DEFINITIONS

Sec. 7-6.02. Definitions; Interpretations. The following definitions shall apply in the interpretation and enforcement of this ordinance, unless otherwise specifically stated.

Best Management Practices (BMPs): Sound conservation and engineering practices to prevent and minimize erosion and resultant sedimentation, that are consistent with, and no less stringent than, those practices contained in the ‘Manual for Erosion and Sediment Control in Georgia’ (Manual.)

Board: The Board of Natural Resources.

Buffer: An 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.

Certified Personnel: A person who has successfully completed the appropriate certification course approved by the Georgia Soil and Water Conservation Commission.

Commission: The Georgia Soil and Water Conservation Commission (GSWCC.)

CPESC: Certified Professional in Erosion and Sediment Control with current certification by Certified Profession in Erosion and Sediment Control Inc., a corporation registered in North Carolina that is also referred to as CPESC or CPESC, Inc.

Cut: A portion of land surface or area from which where earth has been removed or will be removed by excavation; the depth below original ground surface to the excavated surface. Also known as an excavation.

Design Professional: A professional licensed by the State of Georgia in the field of: engineering, architecture, landscape architecture, forestry, geology, or land surveying; or is a CPESC.

Director: The Director of the Environmental Protection Division or an authorized representative.

District: The Towaliga Soil and Water Conservation District.

Division: The Environmental Protection Division (EPD) of the Department of Natural Resources.

Drainage Structure: A device composed of a virtually non-erodable material such as concrete, steel, plastic or other such material than 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: The process by which land surface is worn away by the action of wind, water, ice and/or gravity.

Erosion Sedimentation and Pollution Control Plan (“Plan”): A plan required by the Erosion and Sedimentation Act, O.C.G.A. § 12-7-1 *et seq.*, that includes, as a minimum, protections at least as stringent as the state general permit, BMPs, and requirements of this ordinance.

Fill: A portion of land surface to which soil or other solid material has been added; the depth above the original ground or an excavation.

Final Stabilization: The point where all soil disturbing activities at the site have been completed, and (unpaved areas and areas not covered by permanent structures and areas located outside the waste disposal limits of a landfill cell that has been certified by EPD for waste disposal) 100% of the soil surface is uniformly covered in permanent vegetation with a density of 70% or greater, or equivalent permanent stabilization measures (such as the use of rip rap, gabions, permanent mulches or geotextiles) have been used. Permanent vegetation shall consist of: planted trees, shrubs, perennial vines; a crop of perennial vegetation appropriate for the time of year and region; or a crop of annual vegetation and a seeding of target crop perennials appropriate for the region. Final stabilization applies to each phase of construction.

Finished Grade: The final elevation and contour of the ground after cutting or filling and conforming to the proposed design.

Grading: 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: The original elevation of the ground surface prior to cutting or filling.

Land-Disturbing Activity: Any activity that 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 exempted agricultural practices.

Larger Common Plan of Development or Sale: A contiguous area where multiple separate and distinct construction activities are occurring under one plan of development or sale. For the purposes of this paragraph, “plan” means an announcement; piece of documentation such as a sign, public notice or hearing, sales pitch, advertisement, drawing, permit application, zoning request, or computer design; or physical demarcation such as boundary signs, lot stakes, or surveyor markings, indicating that construction activities may occur on a specific plot.

Local Issuing Authority: The governing authority of any county or municipality which is certified pursuant to O.C.G.A. § 12-7-8(a). The Town of Brooks, Georgia is the Local Issuing Authority for the incorporated area of Brooks, Georgia.

Manual: The ‘Manual for Erosion and Sediment Control in Georgia’ published by the Commission as of January 1 of the year in which the land-disturbing activity was permitted and amendments to the Manual as approved by the Commission up until the date of Notice of Intent (NOI) submittal. The ‘Manual for Erosion and Sediment Control in Georgia’ is hereby incorporated by reference into this ordinance.

Natural Ground Surface: The ground surface in its original state before any grading, excavation or filling.

Nephelometric Turbidity Units (NTU): 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 where colloiddally-dispersed particles are present.

NOI: A Notice of Intent form provided by EPD for coverage under the state general permit.

NOT: A Notice of Termination form provided by EPD to terminate coverage under the state general permit.

Operator: A party or parties that have:

- (1) operational control of construction project plans and specifications, including the ability to make modifications to those plans and specifications; or
- (2) day-to-day operational control of activities necessary to ensure compliance with the Plan for the site or other permit conditions, such as a person authorized to direct workers at a site to carry out activities required by the Plan or to comply with other permit conditions.
- (3)

Plan: The Erosion and Sedimentation and Pollution Control Plan.

Permit: The authorization necessary to conduct a land-disturbing activity under the provisions of this ordinance, known as a “Land-Disturbance Permit”.

Person: Any individual, partnership, firm, association, joint venture, public or private corporation, trust, estate, commission, board, public or private institution, utility, cooperative, state agency, municipality or other political subdivision of the State of Georgia, any interstate body or any other legal entity.

Project: The entire proposed development regardless of the size of the area of land to be disturbed or multiple sites within a larger common plan of development or sale permitted by an owner or operator for compliance with the state general permit.

Phase or Phased: Sub-parts or segments of construction projects where the sub-part or segment is constructed and stabilized prior to completing construction activities on the entire construction site.

Properly Designed: Designed in accordance with the design requirements and specifications contained in the Manual

Roadway Drainage Structure: 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: Solid material, organic and/or inorganic, that is in suspension, is transported, and/or is moved from the site of origin by air, water, ice, or gravity as a product of erosion.

Sedimentation: The process where eroded material is transported with and deposited by water, wind, ice or gravity.

Soil and Water Conservation District Approved Plan: An Erosion, and Sedimentation, and Pollution Control Plan approved in writing by the Towaliga Soil and Water Conservation District. As of July 12, 1992, a Memorandum of Agreement between the District, Fayette County, and the State Soil and Water Conservation Commission permits Fayette County to review and approve Erosion, Sedimentation, and Pollution Control Plans.

Stabilization: The process of establishing an enduring soil cover by the installation of temporary or permanent vegetation and/or structures, for the purpose of reducing to a minimum the erosion and sedimentation process.

State General Permit: The National Pollution Discharge Elimination System (NPDES) general permit or permits for stormwater runoff from construction activities as is now in effect or as may be amended or reissued in the future pursuant to the state's authority to implement the same through federal delegation under the Federal Water Pollution Control Act, as amended, 33 U.S.C. § 1251, et seq., and O.C.G.A. § 12-5-30(f).

State Waters: 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 that are not entirely confined and retained completely upon the property of a single individual, partnership, or corporation.

Structural Erosion and Sediment Control Practices: 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 rip-rap, sediment basins, dikes, level spreaders, waterways or outlets, diversions, grade stabilization structures, sediment traps, land grading, etc. Such practices can be found in the Manual.

Vegetative Erosion and Sedimentation Control Measures: 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;
- (2) Temporary seeding, producing short-term vegetative cover; or
- (3) Sodding, covering areas with a turf of perennial sod-forming grass.
- (4)

Such practices can be found in the Manual.

Watercourse: Any natural or artificial watercourse, stream, river, creek, channel, ditch, canal, conduit, culvert, drain, waterway, gully, ravine, or wash where water flows either continuously or intermittently and having a definite channel, bed and banks, and including any area adjacent subject to inundation by reason of overflow or floodwater.

Wetlands: Areas that are inundated or saturated by surface 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.

DIVISION 3. EXEMPTIONS

Sec. 7-6.03. Exemptions. This ordinance shall apply to any land-disturbing activity undertaken by any person on any land within incorporated Brooks, Georgia except for the following:

- (1) Surface mining, as the same is defined in O.C.G.A. § 12-4-72 “Mineral Resources and Caves Act”;
- (2) Granite quarrying and land clearing for such quarrying;
- (3) Minor land-disturbing activities such as home gardening, individual home landscaping, repairs, maintenance work, fence installation, and other related activities resulting in minor soil erosion;
- (4) The construction of single-family residences, when such construction disturbs less than one acre and is not a part of a larger common plan of development or sale with a planned disturbance of equal to or greater than one acre and not exempted under this paragraph. Construction of any such residence shall conform to the minimum requirements as set forth in Division 4 of this ordinance.
- (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 includes but is not limited to cattle, calves, swine, hogs, goats, sheep, and rabbits or for use in the production of poultry, including but not limited to chicken, hens and turkey; producing plants, trees, fowl, or animals; the

production of aqua culture, horticultural, dairy, livestock, poultry, eggs and apiarian products and farm buildings and farm ponds;

- (6) Forestry land-management practices, including harvesting, provided when such exempt forestry practices cause or result in land-disturbing activities otherwise prohibited in a buffer, as established herein. No other land-disturbing activities, except for normal forestry management practices, shall be allowed on the entire property upon which the forestry practices were conducted for a period of three years after the 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 less than one acre of disturbed area; provided this exemption shall not apply to any land-disturbing activity within a larger common plan of development or sale with a planned disturbance of equal to or greater than one acre or within 200 feet of the bank of any state waters. For purposes of this paragraph, "state waters" excludes channels and drainage ways having water in them only during and immediately after rainfall events and intermittent streams that do not have water in them year round; provided, that any person responsible for a project involving less than one acre of land-disturbing activity and within 200 feet of any such excluded channel or drainage way, 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 Local Issuing Authority from regulating any such project not specifically exempted herein;
- (9) Construction and/or maintenance projects undertaken or financed in whole and/or in part by the Department of Transportation, the Georgia Highway Authority, or the State Road and Tollway Authority; and/or any road construction or maintenance project, undertaken by Fayette County or the Town of Brooks; provided, that construction or maintenance projects of the Department of Transportation or State Road and Tollway Authority that disturbs one or more contiguous acres of land shall be subject to provisions of O.C.G.A. § 12-7-7.1; except where the Department of Transportation, the Georgia Highway Authority, or the State Road and Tollway Authority is a secondary permittee for a project located within a larger common plan of development or sale under the state general permit, in which case a copy of a notice of intent under the state general permit shall be submitted to the Local Issuing Authority. The Local Issuing Authority shall enforce compliance with the minimum requirements set forth in O.C.G.A. § 12-7-6 as if a permit had been issued, and violations shall be subject to the same penalties as violations by permit holders;
- (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, any utility under the regulatory

jurisdiction of the Federal Energy Regulatory Commission, any cable television system as defined in O.C.G.A. § 36-18-1, or any agency or instrumentality of the United States engaged in the generation, transmission, or distribution of power; except where any previous referenced entities is a secondary permittee for a project located within a larger common plan of development or sale under the state general permit, in which case the Local Issuing Authority shall enforce compliance with the minimum requirements set forth in O.C.G.A. 12-7-6 as if a permit had been issued. Violations shall be subject to the same penalties as violations by permit holders; and

- (11) Any public water system reservoir.

DIVISION 4. MINIMUM REQUIREMENTS FOR EROSION,
SEDIMENTATION AND POLLUTION CONTROL USING
BEST MANAGEMENT PRACTICES

Sec. 7-6.04. General Provisions. Excessive soil erosion and resulting sedimentation can take place during land-disturbing activities if requirements of the ordinance and the NPDES General Permit are not met. Therefore, plans for those land-disturbing activities not exempted by this ordinance shall contain provisions for application of soil erosion and sedimentation control measures and practices. Provisions shall be incorporated into the Erosion, Sedimentation and Pollution Control Plans. Soil erosion, sedimentation and pollution control measures and practices shall conform to the minimum requirements of this ordinance. 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, sedimentation and pollution during all stages of any land-disturbing activities in accordance with requirements of this ordinance and the NPDES General Permit.

Sec. 7-6.05. Minimum Requirements/BMP's.

- (a) Best Management Practices as set forth herein shall be required for all land-disturbing activities. Proper design, installation, and maintenance of BMPs shall constitute a complete defense to any action by the Director/Local Issuing Authority or to any other allegation of noncompliance with Paragraph (b) of this subsection 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 in accordance with the hydraulic design specifications contained in the Manual specified in O.C.G.A. § 12-7-6(b).
- (b) A discharge of stormwater runoff from disturbed areas where BMPs 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 of any state general permit 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. The turbidity of the receiving waters shall be measured in accordance with guidelines issued by the Director. This paragraph shall not apply to any land disturbance associated with the construction of single-family homes not part of a larger common plan of development or sale unless the planned disturbance for such construction is equal to or greater than five (5) acres.

- (c) Failure to properly design, install, or maintain BMPs shall constitute a violation of any land-disturbing permit issued by a Local Issuing Authority or of any state general permit 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.
- (d) 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.

Sec. 7-6.06. Minimum requirements. Rules, regulations, ordinances, and/or resolutions adopted pursuant to this ordinance for the purpose of governing land-disturbing activities shall require, as a minimum, protections at least as stringent as the state general permit; and BMPs, including sound conservation and engineering practices to prevent and minimize erosion and resultant sedimentation, consistent with and no less stringent than, those practices contained in the Manual, as well as the following:

- (1) Stripping of vegetation, regrading 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 practicable 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 run-off 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 paragraph, 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 provisions must be provided to minimize damage from surface water to the cut face of excavations or the sloping surfaces 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) Erosion, Sedimentation, and Pollution Control Plans shall include provisions for treatment or control of any source of sediments and for adequate sedimentation control facilities to retain sediments onsite or preclude sedimentation of adjacent waters beyond the levels specified herein;
- (15) There is an established 25 foot buffer along the banks of any state waters, as measured horizontally from the point where vegetation has been wrested by normal stream flow or wave action, except:
 - i. 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;
 - ii. 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; or
 - iii. along any ephemeral stream. As used in this ordinance, the term 'ephemeral stream' means a stream: that under normal circumstances has water flowing only during and for a short duration after precipitation events; that has the channel located above the groundwater table year round; where groundwater is not a source of the ephemeral stream; and where runoff from precipitation is the primary source of water flow. Unless exempted as along an ephemeral stream buffers of at least 25 feet established pursuant to Part 6 of Article 5, Chapter 5 of Title 12, of the Official Code of Georgia Annotated, the "Georgia Water Quality Control Act", shall remain in force unless a variance is granted by the Director as provided in this paragraph.

The following requirements shall apply to any such buffer.

- i. 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 or her 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.
- ii. The buffer shall not apply to the following land-disturbing activities, provided that they occur at an angle, as measured from the point of crossing, within 25 degrees of perpendicular to the stream; cause a width of disturbance of not more than 50 feet within the buffer; and adequate erosion control measures are incorporated into the project plans and specifications and are implemented:
 - A. stream crossings for water lines; or
 - B. stream crossings for sewer lines.

Sec. 7-6.07. Watershed Protection. Nothing contained in this ordinance shall supersede the buffer requirements specified in the Town of Brooks' Watershed Protection Ordinance.

Sec. 7-6.08. Damage to surrounding property. 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 ordinance or the terms of the permit.

DIVISION 5. APPLICATION/PERMIT PROCESS

Sec. 7-6.09. General. The property owner, developer and designated planners and engineers shall review the general development plans and detailed plans of the Town of Brooks that affect the tract to be developed and the area surrounding it. They shall review all development ordinances that regulate land within incorporated Brooks, Georgia. However, the owner and/or operator are the only parties that can obtain a Land Disturbance Permit. Applicant and Sedimentation and Pollution Control Plan review, and permit approvals, conditional approvals shall be performed by the Fayette County Stormwater Management Department pursuant to an intergovernmental agreement between the Town of Brooks and Fayette County. The Fayette County Stormwater Management Department shall regulate and perform all inspection of sites of

land-disturbing activities within the incorporated limits of the Town of Brooks and enforcement of this Ordinance, and perform such other duties as provided in this Ordinance.

Sec. 7-6.10. Permit required; Application requirements; fees.

- (a) No person shall conduct any land-disturbing activity within the jurisdictional boundaries of incorporated Brooks, Georgia without first obtaining a Permit from the Fayette County Stormwater Management Department to perform such activity.
 - (b) The application for a permit shall be submitted to the Zoning Administrator of the Town of Brooks and must include the applicant's Erosion, Sedimentation and Pollution Control Plan with supporting data, as necessary. Said Plans shall include, as a minimum, the data specified herein. Applications for a permit will not be accepted unless accompanied by two (2) copies of the Plan. All applications shall contain a certification stating that the Plan preparer or the designee thereof visited the site prior to creation of the Plan or that such a visit was not required in accordance with rules and regulations established by the Board.
 - (c) A fee shall be charged for each application as determined by the Town of Brooks Council for the disturbed area.
 - (d) In addition to the local permitting fees, fees will also be assessed pursuant to O.C.G.A. § 12-5-23(a)(5), provided that such fees shall not exceed \$80.00 per acre of land-disturbing activity, and these fees shall be calculated and paid by the primary permittee as defined in the state general permit for each acre of land-disturbing activity included in the planned development or each phase of development. All applicable fees shall be paid prior to issuance of the Permit. In a jurisdiction that is certified pursuant to O.C.G.A. § 12-7-8(a), half of such fees levied shall be submitted to the division; except that fees due from an entity which is required to give notice pursuant to O.C.G.A. §§ 12-7-17(9) and (10) shall be submitted in full to the Division, regardless of the Town of Brooks being a Local Issuing Authority.
 - (e) Upon receipt of a permit application and plan, the Stormwater Management Department shall review the plan within fourteen (14) calendar days and approve or disapprove it concerning the adequacy of the Plan. No permit will be issued unless the plan has been approved by the Stormwater Management Department, all necessary variances have been approved, a pre-construction meeting has been conducted where the owner or duly-authorized representative is present, and all bonds, if required, have been submitted.
- (1) When reviewing any application for a land-disturbing activity permit, the Stormwater Management Department shall consider the past record of the permit applicant in complying with previous land-disturbing activity permits, this ordinance, and Fayette County's Soil Erosion, Sedimentation and Pollution Control Ordinance. If a permit applicant has had two or more violations of previous permits, this ordinance section, Fayette County's Soil Erosion, Sedimentation and Pollution Control Ordinance or the Erosion and Sedimentation

Act, as amended, within three years prior to the date of filing of the application under consideration, the Stormwater Management Department may deny the application, pursuant to O.C.G.A. § 12-7-7(f)(1).

- (2) The Stormwater Management Department 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 a fraction thereof of the proposed land-disturbing activity, prior to issuing the permit. If the applicant does not comply with this ordinance or with the conditions of the permit after issuance, the Stormwater Management Department 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 a hearing and judicial review of any determination or order of the Stormwater Management Department with respect to alleged permit violations.

Sec. 7-6.11. Plan Requirements.

- (a) Plans must be prepared to meet the minimum requirements as contained herein, or through the use of more stringent alternate design criteria conforming to sound conservation and engineering practices.
- (b) 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. Maps, drawings and supportive computations shall bear the signature and seal of the certified design professional. Persons involved in land-development design, review, permitting, construction, monitoring, or inspections or any land-disturbing activity shall meet the education and training certification requirements, dependent on his or her level of involvement with the process, as developed by the Commission and in consultation with the Division and the Stakeholder Advisory Board created pursuant to O.C.G.A. § 12-7-20.
- (c) The Plan shall include all the information required from the appropriate Erosion, Sedimentation and Pollution Control Plan Review Checklist established by the Commission as of January 1 of the year in which the land-disturbing activity was permitted.

Sec. 7-6.12. Permits.

- (a) Permits shall be issued or denied as soon as practicable but no later than fifteen (15) days after receipt by the Stormwater Management Department of a completed application, provided all state and federal permits/variances and local bonding are obtained, as applicable.

- (b) Any variances required herein must be obtained; bonding requirements, if necessary, must be met; all Town of Brooks ordinances, rules and regulations in effect must be complied with; and the Plan must be approved prior to issuance of a Permit by the Stormwater Management Department.
- (c) If the Permit is denied, the reason for denial shall be furnished to the applicant.
- (d) Any land-disturbing activities by a Local Issuing Authority shall be subject to the same requirements of this ordinance.
- (e) If the tract is to be developed in phases, then a separate Permit shall be required for each phase. If a decision is made to plat the subdivision in phases after the Permit has been issued, and the rights-of-way have been cleared, the cleared areas outside of the phase to be constructed must be mulched and grassed. A new Permit must be issued before work can begin in any subsequent phase, though the work may be continued under the initial NOI if a NOT has not be filed with the state.
- (f) The Permit may be suspended, revoked, or modified by the Stormwater Management Department, as to all or any portion of the land affected by the Plan, upon finding that the holder or his or her successor in the title is not in compliance with the approved Plan or that the holder or his or her successor in title is in violation of this ordinance. A holder of a permit shall notify any successor in title to him or her as to all or any portion of the land affected by the approved Plan of the conditions contained in the permit.
- (g) A permit shall not be issued for any lot in a subdivision with a minimum lot size less than two (2.0) acres unless it is issued in conjunction with a building permit.
- (h) If the work has not begun within ninety (90) calendar days of the issuance of a Permit, then the Permit shall expire. The Permit will expire if the project is not completed and approved within twenty-four (24) months of the issuance of the Permit. If project is a phased project, as indicated on the approved site plan or preliminary plat, then each phase of the project has a twenty-four (24) months time limit. When a Permit expires, the developer will have to apply for a new Permit, however, once a new Permit is issued, work may continue under the initial NOI if a NOT has not be filed with the state.
- (i) The Permit must be posted at the site entrance in a place where it can easily be seen.

DIVISION 6. INSPECTION AND ENFORCEMENT

Sec. 7-6.13. Inspection. The Stormwater Management Department will periodically inspect the sites of land-disturbing activities for which where permits have been issued to determine if the activities are being conducted in accordance with the approved Plan and if the measures required in the Plan are effective in controlling erosion and sedimentation. Also, the Stormwater Management Department shall regulate primary, secondary, and tertiary permittees as such terms are defined in the state general permit. Primary permittees shall be responsible for installation

and maintenance of BMPs where the primary permittee is conducting land-disturbing activities. Secondary permittees shall be responsible for installation and maintenance of BMPs where the secondary permittee is conducting land-disturbing activities. Tertiary permittees shall be responsible for installation and maintenance where the tertiary permittee is conducting land-disturbing activities. 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, Permit conditions, or provisions of this ordinance, 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 such measures must be completed. If the person engaged in the land-disturbing activity fails to comply within the time specified, he or she shall be deemed in violation of this ordinance.

Sec. 7-6.14. Investigations. The Stormwater Management Department shall have the power to conduct such investigations as may be reasonably deemed necessary to carry out duties as prescribed in this ordinance, and for this purpose to enter, at reasonable times, upon any property, public or private, for the purpose of investigating and inspecting the sites of land-disturbing activities.

Sec 7-6.15. Entry. No person shall refuse entry or access to any authorized representative or agent of the Local Issuing Authority, the Commission, the District, or Division who requests entry for the purpose of inspection, and who presents appropriate credentials, nor shall any person obstruct, hamper or interfere with any such representative in the process of carrying out his or her official duties. Any such person refusing entry or access to any authorized representative or agent of the Local Issuing Authority, the Commission, the District, or Division shall be subject to penalties described under Sec. 7-6.15 of this ordinance.

DIVISION 7. PENALTIES AND INCENTIVES

Sec. 7-6.16. Failure to obtain a Permit for Land-Disturbing Activity. If any person commences any land-disturbing activity requiring a Permit as prescribed in this ordinance without first obtaining said Permit, the person shall be subject to revocation of his work permit or other authorization for the conduct of a business and associated work activities within the jurisdictional boundaries of Brooks, Georgia.

Sec. 7-6.17. Stop-Work Orders.

- (a) For the first and second violations of this ordinance the Director or Local Issuing Authority shall issue a written warning to the violator. The violator shall have five (5) days to correct the violation. If the violation is not corrected within five (5) days, the Director or Local Issuing Authority shall issue a stop-work order requiring that all activities be stopped until necessary corrective action or mitigation has occurred. If the violation presents an imminent threat to public health or state or if the land-disturbing activities are conducted without obtaining the necessary Permit, the Director or Local Issuing Authority shall issue an immediate stop-work order in lieu of a warning;

- (b) For a third and any subsequent violation, the Director or Local Issuing Authority shall issue an immediate stop-work order;
- (c) All stop-work orders shall be effective immediately upon issuance and shall be in effect until the necessary corrective action or mitigation has occurred; and
- (d) All such stop work orders shall be effective immediately upon issuance and shall be in effect until the necessary corrective action or mitigation has occurred. When a violation in the form of taking action without a Permit, failure to maintain a stream buffer, or significant amounts of sediment, as determined by the Local Issuing Authority or by the Director or his or her Designee, have been or are being discharged into state waters and where BMPs have not been properly designed, installed and maintained, a stop work order shall be issued by the Local Issuing Authority or by the Director or his or her Designee. Such stop work orders shall apply to all activity on the site with the exception of the installation and maintenance of temporary or permanent erosion and sediment controls.

Sec. 7-6.18. 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 with the time specified, he or she shall be deemed in violation of this ordinance and, in addition to other penalties, shall be deemed to have forfeited his or her performance bond, if required. The Stormwater Management Department may call the bond or any part hereof 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.

Sec. 7-6.19. Monetary Penalties. Any person who violates any provisions of this ordinance, or any permit condition or limitations established pursuant to this ordinance or who negligently or intentionally fails or refuses to comply with any final or emergency order of the Stormwater Management Department issued, as provided in this ordinance, shall be liable for a civil penalty not to exceed \$2,500.00 per day, per violation, or a sentence of imprisonment not to exceed sixty (60) days or both. Each day during which violation or failure or refusal to comply continues shall be a separate violation.

DIVISION 8. EDUCATION AND CERTIFICATION

Sec. 7-6.20. Requirements. Persons involved in land-development design, review, permitting, construction, monitoring, or inspection or any land-disturbing activity shall meet the education and training certification requirements, dependent on their level of involvement with the process, as developed by the Commission in consultation with the Division and the Stakeholder Advisory Board created pursuant to O.C.G.A. § 12-7-20.

Sec. 7-6.21. Representative.

- (a) For each site on where land-disturbing activity occurs, each entity or person acting as either a primary, secondary, or tertiary permittee, as defined in the state general permit, shall have as a minimum one person who is responsible for erosion, sedimentation and pollution control activities on behalf of said entity or person and meets the applicable education or training certification requirements developed by the Commission present on site whenever land-disturbing activities are conducted on that site.
- (b) Persons or entities involved in projects not requiring a state general permit but otherwise requiring certified personnel on site may contract with certified persons to meet the requirements of this ordinance.

Sec. 7-6.22. On-site representative. If a state general permittee who has operational control of land-disturbing activities for a site has met the certification requirements of O.C.G.A. § 12-7-19(b)(1), then any person or entity involved in land-disturbing activities at that site and operating in a subcontractor capacity for such permittee shall meet those educational requirements specified in O.C.G.A. § 12-7-19(b)(4) and shall not be required to meet any educational requirements that exceed those specified in said paragraph.

DIVISION 9. ADMINISTRATIVE APPEAL JUDICIAL REVIEW

Sec. 7-6.23. Administrative Remedies. The suspension, revocation, modification or grant with condition of a Permit by the Stormwater Management Department upon finding that the holder is not in compliance with the approved Erosion, Sedimentation and Pollution 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 Town Council of Brooks, Georgia within thirty (30) days after receipt by the Clerk of the Brooks' Town Council of written notice of appeal.

Sec. 7-6.24. Judicial Review. Any person, aggrieved by a decision or order of the Stormwater Management Department, after exhausting his or her administrative remedies, shall have the right to appeal de novo to the Superior Court of Fayette County.

DIVISION 10. LIABILITY

Sec. 7-6.25. Liability.

- (a) Neither the approval of a Plan under the provisions of this ordinance, nor the compliance with provisions of this ordinance shall relieve any person from the responsibility for damage to any person or property otherwise imposed by law nor impose any liability upon the Town of Brooks, Fayette County or the 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 nor create a presumption of a violation of the standards provided for in this ordinance or the terms of the permit.
- (c) No provision of this ordinance shall permit any person to violate the Georgia Erosion and Sedimentation Act of 1975, the "Georgia Water Quality Control Act" or the rules and regulations promulgated and approved hereunder or pollute any waters of the state as defined hereunder.

CHAPTER 13 – CIVIL EMERGENCIES

ARTICLE I

Emergency Management

Sec. 13-1.01. Emergency management and response powers.

- (a) *Declaration of local emergency.*
- (1) *Grant of authority.* In the event of an actual or threatened occurrence of a disaster or emergency, which may result in the large-scale loss of life, injury, property damage or destruction or in the major disruption of routine community affairs, business or governmental operations in the Town and which is of sufficient severity and magnitude to warrant extraordinary assistance by federal, state and local departments and agencies to supplement the efforts of available public and private resources, the Mayor may declare a local emergency for the Town of Brooks. The form of the declaration shall be similar to that provided in subsection (b) of this Code section.
 - (2) *Request for state assistance.* Consistent with a declaration of local emergency, the Mayor may request the Governor to provide assistance, provided that the disaster or emergency is beyond the capacity of the Town to meet adequately and state assistance is necessary to supplement local efforts to save lives and protect property, public health and safety, or to avert or lessen the threat of a disaster.
 - (3) *Continuance.* The declaration of local emergency shall continue until the Mayor finds that emergency conditions no longer exist, at which time, the Mayor shall execute and file with the Town Clerk a document marking the end of the state of emergency. No state of local emergency shall continue for longer than 30 days, unless renewed by the Mayor. The Town Council may, by resolution and in accordance with the town charter, end a state of local emergency at any time.
 - (4) *Effect of declaration of local emergency.*
 - a. *Activation of emergency operations plan.* A declaration of emergency by the Governor or a declaration of local emergency by the Mayor shall automatically activate the local emergency operations plan and shall be authority for the deployment of personnel and use of any forces to which the plan applies and for use or distribution of any supplies, equipment, materials, and facilities assembled, stockpiled or arranged to be made available pursuant to the Georgia Emergency Management Act or any other laws applicable to emergencies or disasters.
 1. The Mayor and/or his/her designees shall have the legal authority to exercise the powers and discharge the duties

conferred by law, including the implementation of the applicable local emergency operations plan, coordination of the emergency responses of public and private agencies and organizations, coordination of recovery efforts with county, state and federal officials, and inspection of emergency or disaster sites.

2. In responding to the emergency and conducting necessary and appropriate survey of the damages caused by the emergency, the Mayor or his/her designee is authorized to enter at a reasonable time upon any property, public or private, for the purpose of evaluating sites involved with emergency management functions to protect the health, safety, and welfare of the public.
 3. The Mayor is authorized to execute a right of entry and/or agreement to use property for these purposes on behalf of the Town; however, any such document shall be later presented for ratification by the Town Council.
 4. No person shall refuse entry or access to any authorized representative or agent of the Town who requests entry for purposes of evaluating sites involved with emergency management functions to protect the health, safety, or welfare of the public, and who presents appropriate credentials. Nor shall any person obstruct, hamper or interfere with any such representative while that individual is in the process of carrying out his or her official duties.
- b. *Emergency powers.* Following a declaration of emergency and during the continuance of such state of emergency, the Mayor is authorized to implement local emergency measures to protect life and property or to bring the emergency situation under control. In exercising this authority, the Mayor may cause to become effective any of the provisions of this Article as appropriate. If any of these provisions is included in a declaration of local emergency, the same shall be filed in the office of the Town Clerk and shall be in effect until the declaration of local emergency has terminated.
- c. *Authority to waive procedures and fees.* Pursuant to a declaration of emergency, the Town Council is authorized to cause to be effective any of the subsections of Section 13-1.03 of this Article as appropriate. The implementation of such subsections shall be filed in the office of the Town Clerk.
- d. *Additional emergency powers.* The Mayor shall have and may exercise for such period as the declared emergency exists or continues, the following additional emergency powers:

1. To direct and compel the evacuation of all or part of the population from any stricken or threatened area, for the preservation of life or other disaster mitigation, response or recovery;
2. To prescribe routes, modes of transportation and destinations in connection with evacuation;
3. To make provision for the availability and use of temporary emergency housing, emergency shelters and/or emergency medical shelters.
4. To transfer the direction, personnel or functions of any Town department and agency or unit thereof for the purpose of performing or facilitating emergency services;
5. To utilize all available resources of the Town and subordinate agencies over which the Town has budgetary control as reasonably necessary to cope with the emergency or disaster;
6. To utilize public property when necessary to cope with the emergency or disaster or when there is compelling necessity for the protection of lives, health and welfare; and/or the property of citizens;
7. To suspend any law, code provision or regulation prescribing the procedures for conduct of Town business, or the orders, rules or regulations of any Town agency, if strict compliance with any ordinance, resolution, order, rule or regulation would in any way prevent, hinder or delay necessary action in coping with the emergency or disaster, provided that such suspension shall provide for the minimum deviation from the requirements under the circumstances and further provided that, when practicable, specialists shall be assigned to avoid adverse effects resulting from such suspension;
8. To provide benefits to citizens upon execution of an intergovernmental agreement for grants to meet disaster-related necessary expenses or serious needs of individuals or families adversely affected by an emergency or disaster in cases where the individuals or families are unable to meet the expenses or needs from other means, provided that such grants are authorized only when matching state or federal funds are available for such purposes;
9. To perform and exercise such other functions, powers and duties as may be deemed necessary to promote and secure the safety and protection of the civilian population, including individuals with household pets and service animals prior to, during, and following a major disaster or emergency.

- (b) *Form of declaration.* Upon the declaration of local emergency, an official “Declaration of Local Emergency,” in substantially the same form set forth below, shall be signed and filed in the office of the Town Clerk and shall be communicated to the citizens of the affected area using the most effective and efficient means available. The declaration shall state the nature of the emergency or disaster, the conditions that require the declaration and any provisions of this Article which shall be in effect.

“DECLARATION OF LOCAL EMERGENCY

WHEREAS, the Town of Brooks, Georgia has experienced an event of critical significance as a result of *[DESCRIPTION OF EVENT]* on *[DATE]*; and

WHEREAS, in the judgment of the Mayor of the Town of Brooks, there exist emergency circumstances located in *[DESCRIBE GEOGRAPHIC LOCATION]* requiring extraordinary and immediate corrective actions for the protection of the health, safety and welfare of the citizens of the Town of Brooks, including individuals with household pets and service animals; and

WHEREAS, to prevent or minimize injury to people and damage to property resulting from this event;

NOW, THEREFORE, pursuant to the authority vested in me by local and state law;

IT IS HEREBY DECLARED that a local state of emergency exists and shall continue until the conditions requiring this declaration are abated.

WHEREFORE, IT IS ORDERED:

- (1) That the applicable local emergency operations plan is hereby activated;
- (2) That the following sections of the Town of Brooks Code be implemented: *[If deemed appropriate, choose from the following: Section 13-1.03, Authority to Waive Procedures and Fee Structure, Section 13-1.04, Registration of Building and Repair Services; Section 13-1.05, Closed or Restricted Areas and Curfews];* and
- (3) That the following measures also be implemented: *[If deemed appropriate, select items from Section 13-1.01(a)(4)c, d or such other measures as appropriate.]*

ENTERED at *[TIME]* on *[DATE]*.

[Signed]

Mayor, Town of Brooks.

- (c) *Contracts with local governments.* In addition to the normal agreements embodied in the applicable local emergency operations plan for mutual emergency assistance, the Town may contract with any municipality or county for the administration of a local emergency response program.

Sec. 13-1.02. Enforcement and remedies.

- (a) *Law enforcement.* In accordance with O.C.G.A. § 38-3-4, Town and Fayette County law enforcement shall be authorized to enforce the orders, rules and regulations contained in this Article and/or implemented by the Mayor or Town Council during a declared emergency.
- (b) *Penalties.* Failure to comply with any of the requirements or provisions of the regulations contained in this Article, or with any code section, order, rule or regulation made effective by the Mayor or Town Council upon or after the declaration of an emergency shall constitute a violation of the provisions of this Article. Any person who violates any provision in this Article shall, upon conviction thereof, be punishable by a fine not exceeding \$1,000.00, imprisonment for a term not exceeding 180 days, or both such fine and imprisonment, for each violation. Each person assisting in the commission of a violation, shall be guilty of separate offenses. Each day during which a violation or failure to comply continues shall constitute a separate violation.
- (c) *Injunctive relief.* In accordance with O.C.G.A. § 38-3-5, in addition to the remedies prescribed in this Section, the Mayor is authorized to obtain an injunction to restrain violation of laws, code sections, orders, rules and regulations which are contained in the Georgia Emergency Management Act and/or this code, and/or which are implemented by the Town Council during a declared emergency.
- (d) *Enforcement.* Except as otherwise provided in this Article, this ordinance may be enforced by the Town or Fayette County law enforcement.

Sec. 13-1.03. Authority to waive procedures and fee structures.

- (a) *Town business.* Upon declaration of an emergency or disaster by the Governor or Mayor, the affairs and business of the Town may be conducted at places other than the regular or usual location, within or outside of the Town, when it is not prudent, expedient or possible to conduct business at the regular location. When such meetings occur outside of the Town, all actions taken by the Town Council shall be as valid and binding as if performed within the Town. Such meetings may be called by the presiding officer or any two members of the Town Council without regard to or compliance with time-consuming procedures and formalities otherwise required by law.
- (b) *Public works contracts.* Upon declaration of an emergency or disaster by the Governor or Mayor, the Town 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 the emergency must be of such nature that immediate action is required and that the action is necessary for the protection of the public health, safety and welfare. Any public works contract entered into pursuant to this subsection shall be entered on the minutes of the Town as soon as practical and the nature of the emergency described therein in

accordance with O.C.G.A. § 36-91-22(e). Any E-Verify affidavit or other state required affidavit shall be obtained from any contractor if otherwise required by law.

- (c) *Purchasing.* Upon declaration of an emergency or disaster by the Governor or Mayor, the purchasing ordinances, regulations or policies may be suspended. Town officials shall continue to seek to obtain the best prices during the state of local emergency.
- (d) *Code enforcement.* Upon declaration of a state of emergency or disaster by the Governor or the Mayor, the Town Council may temporarily suspend the enforcement of the ordinances of the Town, or any portion thereof, where the emergency is of such nature that immediate action outside the code is required, such suspension is consistent with the protection of the public health, safety and welfare, and such suspension is not inconsistent with any federal or state statutes or regulations.
- (e) *Fees.* Upon declaration of a state of emergency or disaster by the Governor or the Mayor, the Town may temporarily reduce or suspend any permit fees, application fees or other rate structures as necessary to encourage the rebuilding of the areas impacted by the disaster or emergency. The term “fees” include fees or rates charged by the Town 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. The term “fees” does not include fees collected by the Town on behalf of the state or federal government or fees charged by the Town pursuant to a state or federal statute or regulation.
- (f) *Temporary dwellings.* Upon the declaration of a state of emergency or disaster by the Governor or Mayor, the Mayor or its designees may issue temporary mobile home, trailer, recreational vehicle or other temporary dwelling structures or parks in any zoning district, even though not otherwise permitted by development code, while the primary dwelling is being repaired. The temporary permit shall not exceed six months in duration. Upon expiration of the temporary permit and/or extension, the temporary dwelling must be removed.

Sec. 13-1.04. Registration of building and repair services.

- (a) In accordance with O.C.G.A. § 38-3-56, before building, constructing, repairing, renovating or making improvements to any real property, including dwellings, homes, buildings, structures or fixtures within an area in the Town designated in a declared emergency or disaster, any person, firm, partnership, corporation or other entity must register with the Town Clerk and secure a building permit that is posted at the work site. Each day any such entity does business in the Town without complying with this ordinance constitutes a separate offense.
- (b) The cost of registration fees in a declared emergency or disaster is fixed at \$50.00 per annum. Registration is nontransferable. The cost of the emergency building permit shall be equal to the cost for a building permit under existing regulations. The permit shall only be authorized for repairs.

- (c) When registering, any person, partnership, corporation or other entity making application must, under oath, complete an application, providing the following information:
- (1) Name of applicant;
 - (2) Permanent address and phone number of applicant;
 - (3) Applicant's Social Security number or federal Employer Identification number;
 - (4) If applicant is a corporation, the state and date of incorporation;
 - (5) Tag registration information for each vehicle to be used in the business;
 - (6) List of cities and/or counties where the applicant has conducted business within the past 12 months;
 - (7) Georgia sales tax number or authorization;
 - (8) Georgia business license number, if required.
 - (9) Copy of license from Secretary of State, if required.
 - (10) A signed and sworn affidavit verifying the applicant's legal presence in the United States as required by O.C.G.A. § 50-36-1.
 - (11) At least one secure and verifiable document as defined in O.C.G.A. § 50-36-2.

(d) *Effective date.* This Section shall become effective only upon the signing of a declaration of emergency, stating this Section is in effect. Unless otherwise specified in the declaration of emergency or otherwise extended by the Town Council, the provisions of this Code section shall remain in effect during the state of emergency and for a subsequent recover period of three months.

Sec. 13-1.05. Closed or restricted areas and curfews during emergency.

- (a) To preserve, protect or sustain the life, health, welfare or safety of persons, or their property, within a designated area within the Town limits under a declaration of emergency, it shall be unlawful for any person to travel, loiter, wander or stroll in or upon the public streets, highways, roads, lanes, parks or other public grounds, public places, public buildings, places of amusement, eating places, vacant lots or any other place during a declared emergency between hours specified by the Mayor until the curfew is lifted.
- (b) To promote order, protect lives, minimize the potential for looting and other crimes, and facilitate recovery operations during an emergency, the Mayor shall have discretion to impose reentry restrictions on certain areas within the Town limits. The Mayor shall exercise such discretion in accordance with the applicable local emergency operations plan, which shall be followed during emergencies.
- (c) The provisions of this section shall not apply to persons acting in the following capacities:
 - (1) Authorized and essential law enforcement personnel;

- (2) Authorized and essential health care providers;
 - (3) Authorized and essential personnel of the Town;
 - (4) Authorized National Guard or federal military personnel;
 - (5) Authorized and essential firefighters;
 - (6) Authorized and essential emergency response personnel;
 - (7) Authorized and essential personnel or volunteers working with or through an emergency management agency (EMA);
 - (8) Authorized and essential utility repair crews;
 - (9) Citizens seeking to restore order to their homes or businesses while on their own property or place of business;
 - (10) Other authorized and essential persons as designated on a list compiled by the Mayor (see Sec. 13-1.01(a)(4)a.1.).
- (d) *Enforceability.* This Section shall be enforced by officers of the law enforcement personnel approved to provide aid and assistance during the emergency. Nothing contained in this Section shall prohibit a law enforcement officer from bringing other charges under state law.
- (e) *Effective date.* This Section shall become effective only upon the signing of a declaration of emergency, stating this Section is in effect.”

CHAPTER 15 - ENVIRONMENT

ARTICLE 1

Dumping, depositing on or in premises or another, streets, streams, lakes, including public or private property or waters.

Sec. 15-1.01. It shall be unlawful for any person in person or by its agent or employee, to cast, dump, deposit accumulate, throw or leave, or to cause to permit the dumping, depositing, placing, accumulating, throwing or leaving of litter, garbage, or rubbish on any public or private property in the Town or any waters in the Town, unless:

- (1) The property is designated by the Town or by Fayette County for the disposal of such materials and the person is authorized by the proper public authority to use such property; or
- (2) The litter is placed into a litter receptacle or container installed on such property and the receptacle or container is installed for the purpose of receiving and discard of the litter, garbage, or rubbish.

Sec. 15-1.02. It shall be unlawful for any person in person or by its agent or employee, to cast, dump, deposit, accumulate, throw or leave, or to cause to permit the dumping, depositing, placing, accumulating, throwing or leaving of lawn or garden trash or brush upon the property of others, without the property owner's consent, on Town property, public right of ways or ditches along public right of ways, streams, or within fifty feet of one's property line or within one hundred feet of another person's residence.

Sec. 15-1.03. Should Town Council determine that any person is violating the term of this Section, the Mayor or Town Clerk shall give the offending party five days' written notice within which to remove and properly dispose of said litter, garbage, or rubbish.

Sec. 15-1.04. Should the person to whom the notice is directed fails to comply with the request made herein within the five-day period, the Town Council shall be authorized to proceed with the bringing of charges as for the violation of any Town ordinance. Each day of violation of this Section after said 5 days post-notice shall be deemed a separate offense. Upon conviction the person may be punished up to the maximum extent authorized by the Town's Charter.

ARTICLE 2

Outdoor storage/out of store marketing.

Sec. 15-2.01. Outdoor storage.

- (1) Outdoor storage of inoperable vehicles, machinery, appliances and equipment shall be limited to those enterprises requiring storage of these items being repaired. This storage time shall not exceed 30 days from the time the item is delivered to the time the item is removed from the site. All outdoor storage areas of this type shall be screened from public view with opaque fencing (or a combination of fencing and plant materials to provide sufficient opacity; however, the fence shall delineate the entire storage area except where a building delineates part of the storage area), with a minimum height of four feet and shall be reviewed and approved by the Town's Zoning Administrator.
- (2) The outdoor storage of retail merchandise after the establishment is closed for business shall be allowed only by businesses which have one or more of the following lines of sales and only as to the following types of merchandise:
 - a. Automobile.
 - b. Watercraft.
 - c. Motorcycles.
 - d. Trucks.
 - e. Tractor and tractor-related equipment.
 - f. Trees or plants.
 - g. Building materials.
 - h. Landscape materials, unpackaged, bulk only.
 - i. Lawn furniture.
 - j. Outdoor playground equipment.
 - k. Vending machines.
 - l. LP tanks, if located in storage bins.
 - m. Ice bins used for the sale of ice.
 - n. Merchandise consisting predominately of antiques may be stored on an outside porch attached to the business establishment.
- (3) The merchandise shall not be stored upon the public rights-of-way, town sidewalks or required off-street automobile parking and loading and unloading spaces or sidewalks or driveways thereto, other areas marked for automobile parking, landscape islands, driveways, and all driving lanes.
- (4) No outside storage of household appliances, equipment, furniture or other similar goods is allowed in any zoning district. All such storage must be within a closed weather-proof structure. The storage structure must meet the requirements for an Accessory Structure.

Sec. 15-2.02. Out of store marketing. Out of store marketing is defined as the displaying of retail merchandise outside of the building or structure or a commercial enterprise. Out of store marketing shall be allowed only with the following restrictions:

- (1) Retail goods may be displayed outside the building only during these times in which the relevant business is open and staffed to sell the merchandise in question to the general public.
- (2) Merchandise cannot be displayed upon required off-street automobile parking and loading and unloading spaces, other parking areas marked for automobile parking, landscape islands, driveways and driving lanes within and without parking areas.
- (3) Sidewalk display must allow a five-foot clear area as measured from the outside edge of the sidewalk for pedestrian traffic. If the sidewalk is five feet or less in width, the entire sidewalk must be left clear. Displays shall not be located between a sidewalk and a street, driving lane, driveway, landscape island, required off-street automobile parking and loading and unloading spaces or other parking areas marked for automobile parking.

ARTICLE 3

Grass Cutting

Sec. 15-3.01. The Town Council has found and determined that the following conditions are detrimental to the health, safety, and welfare of the citizens of the Town and, therefore, are determined to be a public nuisance and are prohibited:

- (1) On any portion of a lot or parcel of land within TCD district (as defined at Sec. 31-6.07) upon which a house, dwelling, or commercial, industrial, or institutional structure is located, the accumulation of weeds, grass or underbrush in excess of 12 inches in height.
- (2) On any portion of a lot or parcel of land within TCD district where any part of said lot or parcel is within 100 feet of any house, dwelling, or commercial, industrial or institutional structure, the accumulation of weeds, grass or underbrush in excess of 12 inches in height (measurement of distance shall be from the point on the property line of the offending lot or parcel closest to the house, dwelling, or commercial, industrial, or institutional structure).

Sec. 15-3.02. The Town's Mayor or Clerk shall be authorized to give written notice to the property owner of the requirement that the lot be cut or mowed within five (5) days of receipt of the notice.

Sec. 15-3.03. Maintenance by the owner or occupant of structures or land of the condition prohibited hereby after notice as provided above, shall constitute an offense against the Town,

which may be punished to the extent authorize in the Town’s Charter for ordinance violation, and/or may be abated as provided in the Town’s nuisance ordinance.

ARTICLE 4

Abandonment of wrecked, junked, dismantled or inoperative motor vehicle, furniture, appliances, machinery or equipment.

Sec. 15-4.01. It shall be unlawful for the owner, tenant, lessee, occupant, or person in possession of any lot or parcel of land in the Town to keep or permit to be kept or stored on said land any abandoned, wrecked, junked, dismantled or inoperative motor vehicle, furniture, appliance, machinery or equipment or parts of same, which are not completely enclosed in a building.

Sec. 15-4.02. Should Town Council determine that any person is violating the terms of this section, the Mayor or Town Clerk shall give the offending party five days’ written notice within which to remove such vehicles, appliances, furniture, machinery or equipment or parts.

Sec. 15-4.03. For the purposes of this section the following shall apply:

- (1) An “abandoned, wrecked, junked, dismantled or inoperable motor vehicle” is defined as one that is in such a state or disrepair as to be incapable of operating under its own power, or which does not have a current license plate or tag, and is visible from a right of way or the residence of another.
- (2) “Abandoned, wrecked, junked, dismantled or inoperable furniture, appliances, machinery or equipment” shall be items incapable of, and not being used for the purposes for which they were intended.

Sec. 15-4.04. Should the person to whom the notice is directed fails to comply with the request made herein within the five-day period, the Town Council shall be authorized to proceed with the bringing of charges as for the violation of any Town ordinance. Each day of violation of this section after said 5 days post-notice shall be deemed a separate offense, and upon conviction may be punished up to the maximum extent authorized by the Town’s Charter.

ARTICLE 5

Restriction on Outdoor Watering

Sec. 15-5.01. Persons may irrigate outdoors daily for purposes of planting, growing, managing, or maintaining ground cover, trees, shrubs, or other plants only between the hours of 4:00 P.M. and 10:00 A.M. eastern time.

Sec. 15-5.02. The restrictions set forth in Sec. 15-5.01 of this Article shall not apply to the following outdoor water uses:

- (1) Commercial agricultural operations as defined in O.C.G.A. § 1-3-3;
- (2) Capture and reuse of cooling system condensate or storm water in compliance with applicable local ordinances and state guidelines;
- (3) Reuse of gray water in compliance with O.C.G.A. § 31-3-5.2 and applicable local board of health regulations adopted thereto;
- (4) Use of reclaimed waste water by a designated user from a system permitted by the Environmental Protection Division of the Department of Natural Resources to provide reclaimed waster water;
- (5) Irrigation of personal food gardens;
- (6) Irrigation of new and replanted plant, seed, or turn in landscapes, gold courses, or sports turfs fields during installation and for a period of 30 days immediately following the date of instillation;
- (7) Drip irrigation or irrigation using soaker hoses;
- (8) Hand watering with a hose with automatic cutoff or handheld container;
- (9) Use of water withdrawn from private water wells or surface water by an owner or operator of property if such well or surface water is on said property;
- (10) Irrigation of athletic fields, golf courses, or public turn grass recreational areas;
- (11) Installation, maintenance, or calibration of irrigation systems; or
- (12) Hydro seeding.

ARTICLE 6

Solid Waste Management

Sec.15- 6.01. Definitions

As used in this chapter, the words below shall have the following meanings:

Ashes means residue from fires used for cooking and for heating buildings.

Container means any receptacle designed or used for the depositing of garbage, refuse, trash, ashes, or recyclable materials.

Dumpster, recyclable means a receptacle, designed for the depositing of recyclable material, made of any material and having a capacity of two cubic yards or more.

Dumpster, refuse means a receptacle designed for the depositing of garbage, refuse, trash, ashes or reusable materials, made of any material and having a capacity of two cubic yards or more.

Garbage means wastes resulting from the handling, preparation, cooking and consumption of food; wastes from the handling, storage and sale of produce.

Recyclable material means material that is capable of being reused or returned to use in the form of a raw material.

Refuse means combustible trash, including, but not limited to, paper, cartons, boxes, barrels, wood, excelsior, tree branches, yard trimmings, wood furniture, bedding; noncombustible trash, including, but not limited to, metals, tin cans, metal furniture, dirt, small quantities of rock and pieces of concrete, glass, crockery, other mineral waste; street rubbish, including, but not limited to, street sweepings, dirt, leaves, catch basin dirt, contents of litter receptacles. Provided, refuse shall not include earth and wastes from building operations, nor shall it include solid wastes resulting from industrial processes and manufacturing operations.

Reusable material means items or materials that can be reused with little or no value added.

Sec. 15-6.02. Administrative regulation.

The town clerk of the Town of Brooks shall not issue a business license or certificate of occupancy to any person, firm, or corporation which has not complied with the requirements of this ordinance. The violation, noncompliance, or other violation of an administrative order issued by the town manager, under this Ordinance, will be grounds for suspension or revocation of business licenses.

Sec. 15-6.03. Penalty.

Any person, firm, or corporation violating any of the provisions of this chapter shall, upon conviction thereof, be fined up to \$200.00 for each offense and a separate offense shall be deemed committed on each day during or on which a violation continues.

Sec. 15-6.04. Wind-blown refuse.

It shall be unlawful to cause or permit to accumulate any dust, ashes, or trash of such a material capable of being blown away by the wind anywhere in the town, except in a covered container.

Sec. 15-6.05. Depositing garbage on the street.

It shall be unlawful to deposit or permit to fall from any vehicle any garbage, refuse or ashes on any public street, parking area, or alley in the town; provided, that this section shall not be construed to prohibit temporarily placing garbage, refuse, trash or ashes or recyclable materials in a container at an approved collection point complying with the provisions of this chapter preparatory to having such material collected and disposed of in the manner provided herein.

Sec. 15-6.06. Supervision by town clerk/Building Inspector.

The town clerk and building inspector shall be empowered to inspect the manner in which all garbage, refuse or ashes within the town are accumulated or disposed for compliance with this Ordinance. The town clerk and building inspector are empowered to order the discontinuance of actions in violation of this Ordinance or take any other action authorized to ensure compliance with or to prevent violation of this Ordinance.

Sec. 15-6.07. Pickup hours regulated.

It shall be unlawful for any commercial garbage service to pick up trash containers, dumpsters, or other such containers between the hours of 9:00 p.m. and 7:00 a.m., except in the case of a bona fide emergency, the nature of which has been communicated to the town clerk of the Town of Brooks at the time of said emergency.

Sec. 15-6.08. Owner and operator of premises to maintain container site.

The owner and/or the person in charge of the premises for which a container is permitted shall, at all times, maintain the premises in a high state of police, free and clear of litter, debris, and trash.

Sec. 15-6.09. Uncovered garbage.

It shall be unlawful to place or permit to remain anywhere in the town any garbage, or other material subject to decay, other than leaves or grass, except in a tightly covered container.

Sec. 15-6.10. Consent of owner.

It shall be unlawful to dump or place any garbage, refuse or ashes on any premises in the town without the consent of the owner of such premises.

Sec. 15-6.11. Disposal.

It shall be unlawful to dispose of any garbage, refuse, trash or ashes anywhere in the town except in an incinerator, or disposal device, properly constructed and operated or in a lawfully established garbage or refuse dump. Such materials not so properly disposed of shall be placed in containers for collection by the town or licensed trash and garbage collection service as hereinafter described.

Sec. 15-6.12. Accumulation of material treated as disposed.

Where a party claims the accumulation of refuse, ashes, dust, or wastes from building operations is not a "disposal" within the Sec. 15-6.11 meaning, the allowance of the accumulation for a period of more than seven days without removal will presumptively cause the accumulation to come within the meaning of Sec. 15-6.11.

Sec. 15-6.13. Screening of dumpsters.

Business, commercial, educational, and other nonresidential buildings and any multifamily residential building for which the use of a commercial or multi-user dumpster has been authorized by the Town of Brooks shall screen any portion of a dumpster which is visible to an average person from a public street, parking lot, or residential building, which is within 300 feet of such dumpster. Said screening shall be constructed of building or fencing materials that are of sufficient opacity to conceal the dumpster from view.

Sec.15-6.14. Restaurant containers.

Restaurant containers shall be placed on a concrete pad or other nonabsorbent surface material, in accordance with Fayette County Health Department requirements. Each restaurant shall have its own container or share a container with another restaurant, but shall not share a container with another type of business.

Sec. 15-6.15. Certain matters not to be placed in containers.

Dead animals, feces, explosives, dangerous and corrosive materials, clothing taken from persons with infectious diseases, heavy metals, or any substance deemed to be a hazardous or toxic waste by any agency of the state or federal government shall not be placed in any trash or garbage receptacle. Produce, meats, poultry, and food preparation oils shall be placed in sealed bags prior to being placed in any trash or garbage receptacle in such a manner as to minimize noxious or offensive odor emanating therefrom.

Sec. 15-6.16. Doors and lids to be kept closed.

Except when trash or garbage is being loaded into containers, or pickup of the same is being effected, all doors for screening, doors or lids of containers shall be kept closed.

ARTICLE 7

Tree Protection

Sec. 15-7.01. Tree Protection and Conservation

The purpose of this section is protect the rural and wooded character of the Town of Brooks through preservation and/or replanting of trees when development does occur. Trees are a valuable asset to the community and should be protected. For the purpose of this section, *DBH* shall have the meaning Diameter-at-breast-height, which is a standard of measure of existing tree size, and is the trunk diameter measured in inches at a height of 4.5 feet above the ground. If a tree splits into multiple trunks below 4.5 feet, then each trunk is measured and added together to determine DBH. A tree which splits into multiple trunks above 4.5 feet is measured as a single tree at 4.5 feet.

No person shall cut, destroy, cause to be destroyed or remove any tree of eight inch DBH (25-inch circumference) or larger or any dogwood, redbud or magnolia tree with a trunk diameter of four inches DBH or larger without an approved plan for protecting and/or replacing trees created by a certified arborist or licensed landscape architect. Such plan shall be reviewed by the

Planning and Zoning Commission. The plan shall include location of existing trees, location of trees to be planted, as required, boundaries of buildings, vehicle use areas and other information as requested/required by the Zoning Administrator. Reasonable efforts shall be made to prevent erosion (by wind, water or other means) and run-off during and after construction. Exemptions to this ordinance are:

- a. property containing dead, diseased, or infected trees as determined by the Georgia Forestry Commission.
- b. orchards and tree nurseries in commercial operation

Sec. 15-7.02. Penalties

Violation of this section constitutes a misdemeanor offense, and is punishable by a fine not to exceed \$1,000.00 per offense. The minimum fine for unauthorized removal, of a protected tree is \$750.00. In situations of deforestation, as defined by Georgia law, or where attempts have been made to remove evidence of a tree (stump removal, etc.), the maximum fine shall be levied. For the purpose of enforcement, each tree removed shall be treated as a separate offense. Each violation of this article will constitute a separate offense.

CHAPTER 17 – ETHICS

ARTICLE 1

Conflicts of Interest in Zoning Decisions

Sec. 17-1.01 For purposes of this section the following terms shall have the meanings as follows:

(a) *Financial Interest* shall mean all direct ownership interest of the total assets or capital stock of a business entity where such ownership interest is ten percent or more.

(b) *Local Government Official* shall mean the mayor, members of the town council, and members of the planning and zoning board of the town.

(c) *Property Interest* shall mean the direct ownership of all property and includes any percentage of ownership less than total ownership.

(d) *Rezoning Action* means an action by the town adopting an amendment to a zoning ordinance which has the effect or rezoning property from one zoning classification to another.

Sec. 17-1.02 A conflict of interest arises when a local government official knows or reasonably should have known that he or she or a member of his or her family [spouse, mother, father, brother, sister, son or daughter (hereinafter “family member”)] has none of the following interests:

(a) A property interest in any real property affected by a rezoning action which the town will have a duty to consider.

(b) A financial interest in any business entity which has a property interest in any real property affected by a rezoning action which the town will have the duty to consider.

Sec. 17-1.03 If a local government official finds that he or she or a family member has an interest as set forth hereinabove, then the government official must immediately disclose the nature and extent of such interest, in writing, to the town council or the planning and zoning board, as appropriate. If the government official or his/her family member as hereinabove defined personally has the conflicting interest, then the government official must disqualify himself from voting on the rezoning decision and may not take any other action on behalf of himself or any other person to influence action on the application for rezoning. Any disclosures of conflict of interest are considered public records and are available for public inspection.

Sec. 17-1.04 Where one or more disqualifications required by this section result in the inability of the town council to attain a quorum for the purpose of making a final decision when considering a rezoning action, the town council shall immediately petition the superior court for appointment of a disinterested special master to hear

evidence regarding the proposed rezoning action and to make a nonbinding recommendation to the town council, as required pursuant to O.C.G.A. § 36-67A-5, as the same may from time to time be amended.

Sec. 17-1.05 One or more disqualifications required by this section which result in the inability of the planning and zoning board to attain a quorum shall not prevent the commission from taking a vote and making its recommendation or decision.

Sec. 17-1.06 A local government official shall not be prohibited from voting on a zoning decision when the town is adopting a zoning ordinance for the first time or when the town is voting upon a revision of the zoning ordinance initiated by the town pursuant to its comprehensive plan.

CHAPTER 19 – FINANCE AND TAXATION

ARTICLE 1

Occupational Tax

Sec.19-1.01 Occupational Tax Required

For the year 2014 and succeeding years thereafter, each person engaged in any business, trade, profession or occupation in Brooks, Georgia, whether with a location in Brooks, or in the case of an out-of-state business with no location in Georgia exerting substantial efforts within the state pursuant to O.C.G.A. § 48-13-7, shall pay an occupational 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 Brooks, Georgia. If the taxpayer has no permanent business location in Brooks, Georgia, such business tax registration shall be shown to the Town Council, Town Zoning Administrator, Town Clerk, or the Council's other designees or to any law enforcement or code enforcement officer of Brooks, Georgia, or Fayette County, upon request.

Sec. 19-1.02 Purpose

(a) The occupational tax levied herein is for revenue purposes only and is not for regulatory purposes. The occupational tax only applies to those businesses and occupations which are covered by the provisions of O.C.G.A. §§ 48-13-5 and 48-13-26. All other applicable businesses and occupations are taxed by the Town pursuant to the pertinent Town ordinances, as provided by state law.

(b) The Town shall not impose any occupation tax, regulatory fee, or administrative fee on any state or local authority or nonprofit organization exempt from federal income tax on its revenues.

Sec. 19-1.03 Occupation Tax Structure and Tax Levied Restrictions

(a) An occupational tax of twenty-five (\$25.00) per year or partial year shall be levied upon those businesses and practitioners of professions and occupations with one or more locations or offices within the corporate limits of the Town of Brooks, or upon the applicable out-of-state businesses with no location or office in Georgia pursuant to O.C.G.A. 46-13-7 based upon the following criteria:

(1) No business or practitioner shall be required to pay more than one occupational tax for each of its locations.

(2) Registration and occupational tax shall be required from real estate brokers, agents, or companies whose offices are located outside the Town and who sell property inside the Town. The occupational tax shall be due and payable within ten days of the closing of the sale of property inside the Town.

(3) An occupational tax shall not be levied in any other manner except as described in this Ordinance.

(4) Out-of-state businesses with no location in Georgia shall be assessed occupational taxes only if gross receipts of the business as defined in O.C.G.A. § 48-13-5 are reasonably attributed to sales or services in the Town of Brooks.

(b) No person shall conduct a business subject to the Town's occupational tax within the Town, without first obtaining a Town business registration.

(c) The Town business registration shall be issued upon the person registering with the Town and paying the applicable occupational taxes.

(d) All persons conducting a business subject to the Town's occupational tax shall exhibit and display the business registration issued by the Town in some conspicuous place in the business establishment at which address the registration was issued. Any person conducting a transient business within the Town, which is subject to this Ordinance, shall carry the registration either upon his person, or in any vehicle, or in any other convenience which is used in the business, and the person shall exhibit it to any authorized enforcement officer of the Town when so requested.

(e) Business registration shall not be transferable, and a transfer of ownership of the business shall be considered as the termination of the prior business and the establishment of a new business. A new registration shall be required, and issuance of a new registration shall be required for any new owner of the business.

(f) Any person moving from one location to another shall notify the Town of the move and the new address in writing no later than the day of moving. The same business registration will be valid at the new location, provided the new location conforms to the zoning and other regulations of the Town.

(g) The business registration shall automatically expire on April 1 of the year subsequent to its issuance.

Sec. 19-1.04 Businesses Not Covered By This Ordinance

The following businesses are not covered by the provisions of this Ordinance but may be assessed as an occupational tax or other type of tax pursuant to the provisions of other general laws of the State of Georgia or by Town ordinance:

(1) Those businesses regulated by the Georgia Public Service Commission.

(2) Those electrical service businesses organized under O.C.G.A. Title 46, Chapter 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 of Georgia 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.
- (11) Alcoholic beverages.
- (12) An occupational tax shall not apply to any business where such levy is prohibited or exempted by the laws of Georgia or of the United States.

Sec. 19-1.05 Payment Due/Delinquency

(a) The amount of occupational tax shall be payable to the Town, at the office of the Town Council, on January 1 each year and delinquent if not paid on or before April 1 each year. If delinquent, the person or business liable for the tax shall pay a penalty of ten (10%) percent of the tax owing plus eighteen (18%) percent per annum of the occupational tax owing from the date the occupational tax became delinquent to the date of payment shall be assessed.

(b) Effect of transacting business when tax is delinquent:

(1) Each such occupational tax shall be for the calendar year 2014 and each succeeding calendar years thereafter unless otherwise specifically provided. Said registration and occupational tax shall be payable January 1 of each year and shall be delinquent if not paid by April 1 of each year, subject to penalties for delinquency as prescribed in of this Ordinance. On any new profession, trade or calling begun in the Town of Brooks after January 1st of any year, the registration and tax shall be delinquent if not obtained immediately upon beginning business and a penalty of ten (10%) percent of the amount of the occupational tax owing plus eighteen (18%) percent per annum of the occupational tax owing from the date the occupational tax become delinquent to the date of payment shall be assessed. The tax registration herein provided for shall be issued by the Town Council and if any person, firm or corporation whose duty it is to obtain a registration shall, after said registration or occupational tax becomes delinquent, transact or offer to transact, in the Town of Brooks any of the kind of profession,

trade or calling in this Ordinance specified without having first obtained said registration, such offender shall, upon conviction, be subject to up to the maximum fine as authorized by the Town's Charter.

(2) The tax registration herein provided for shall be issued by the Town Council and if any person, firm or corporation whose duty it is to obtain registration shall, after said offer to transact in the Town of Brooks any of the kind of profession, trade or calling in this Ordinance specified without having first obtained said registration, such offender shall, upon conviction, be subject to up to the maximum fine as authorized by the Town's Charter.

Sec. 19-1.06 Registration and Failure to Obtain

(a) All persons subject to the occupational tax levy pursuant to this Ordinance shall be required to obtain the necessary registration for said business as described in this Ordinance, 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 Town of Brooks 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 Town of Brooks any of the kinds of business, trade, profession or occupation without first having so obtained said registration, shall be subject to penalties provided therefore.

(b) Each such registration shall be for the calendar year in which the registration was obtained unless otherwise specifically provided. There is hereby imposed a penalty upon each business which fails to apply for and obtain an appropriate business registration and pay all tax and fees as provided herein before April 1 of each year. Every person commencing business in the Town of Brooks after January 1 of each year shall obtain the registration required before commencing such business. Any person transacting or offering to transact in the Town of Brooks any business, trade, profession or occupation without first having obtained said registration shall be subject to the penalties provided in this Ordinance. Said penalties shall be in addition to all other penalties, civil and criminal herein provided; and may be collected in rem proceedings, herein provided for collection of the occupational tax, and shall have the same lien and priority as the occupational tax to which the penalty is applied.

Sec. 19-1.07 Multiple Locations

(a) For those businesses which have multiple locations inside of the Town the occupational taxes assessed as to each Town of Brooks location.

(b) Out-of-state transient businesses or occupations, which plan to, intend to, or actually do, transact business within the Town shall register with the Town prior to transacting business within the Town, and shall pay to the Town the twenty-five (\$25.00) occupational tax.

(d) 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 Town registration may be issued.

(e) 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 there at all times while the license remains valid.

(f) Any business required to obtain health permits, bonds, certificates of qualification, proper zoning certificates of occupancy or any other regulatory matter shall first, before the issuance of a Town business registration, show evidence of such qualification.

Sec. 19-1.08 Revocation

(a) Upon the failure of any business to pay said occupational tax or any part thereof before it becomes delinquent, any business tax registration granted by the Town of Brooks under this Ordinance permitting the owner of said business to do business in the Town for the current year shall be, ipso facto, revoked, without appeal. No new business tax registration shall be granted by the Town for the operation of a business for which any part of the occupational tax herein provided for is at that time unpaid. If the Town cannot suspend the right of the practitioner to conduct its business, the imposition of civil penalties shall be permitted and pursued by the Town Council as in the case of a delinquent debt owed to the Town.

(b) Any person, their managers, agents or employees, who do business in the Town of Brooks after the registration for said business has been revoked as above; shall be subject to penalties provided herein. If the Town cannot suspend the right of the practitioner to conduct its business, the imposition of civil penalties shall be permitted.

(c) In addition to the other remedies herein provided for the collection of the occupational tax herein levied, the Town Council of the Town of Brooks, Georgia, upon any tax or installment of said tax or penalty becoming delinquent and remaining unpaid, shall issue execution for the correct amount of said tax and penalty against the persons, partnership or corporation liable for said tax, which said execution shall bear interest at the rate of eighteen (18%) percent per annum from the date when such tax or installment becomes delinquent, and the lien shall cover the property (in the Town) of the person, partnership or corporation liable for said tax, all as provided by the ordinances and Charter of the Town and the laws of Georgia. The lien of said occupational tax shall become fixed on and date from the time when such tax or any installment thereof becomes delinquent.

(d) If any holder of a business registration issued by the Town should be engaged in unlawful activities, acts which would constitute violations of laws of the State of Georgia, Town ordinances, Town zoning regulations, Town heating, electrical, building codes, and Fayette County health codes, and where such unlawful activities are such as to directly or indirectly affect their qualification to conduct the business for which they were registered or involves the conduct of such business, and where the holder is doing business within the Town, the business occupational registration may be revoked or suspended in the manner provided herein.

(e) Where it is reported to the Town Council that a holder of a business occupational registration is engaged in such unlawful activities, a preliminary investigation shall be conducted by the Town's Zoning Administrator or its designee in order to determine whether there is a basis for the reports. If the Zoning Administrator's preliminary investigation reveals that there may be a basis for revocation or suspension of the registration, the holder will be notified to appear before the Zoning Administrator on a date certain and show cause why his business occupational registration should not be revoked or suspended. The holder may appear in person at said hearing and may be represented by counsel. At the conclusion of the hearing, the Zoning Administrator, based upon evidence submitted at said hearing, shall enter an order making a finding of fact and then:

- (1) Find that the evidence does not authorize revocation or suspension;
- (2) Issue a warning to the holder;
- (3) Suspend the registration and probate suspension;
- (4) Suspend the registration for up to 30 days;
- (5) Suspend the registration pending a hearing by the mayor and Town Council.

(f) Within ten days from the date of the order from the Zoning Administrator, the holder may appeal the decision of the Zoning Administrator by filing a notice of appeal with the Town Clerk. Any decision of the Town Council to suspend pending a hearing by the Mayor and Town Council shall automatically be scheduled for a hearing before the Town Council and Mayor no later than 30 days from the date of the suspension. Notice of appeal shall supersede any suspension, pending hearing, except a suspension pending a hearing by the Mayor and Council on revocation. The Town Council shall schedule a hearing before the Mayor and Town Council and notify the holder of the time and date of the hearing. Either party shall have the right to subpoena witnesses at this hearing. At the conclusion of the hearing, the Mayor and Council may affirm, overrule, or partially affirm and partially overrule the decision of the Zoning Administrator.

(g) The mayor and Town council are authorized to:

- (1) Find in favor of the holder;
- (2) Issue a warning to the holder;
- (3) Suspend the registration and probate suspension;
- (4) Revoke the registration and probate revocation;
- (5) Revoke the registration; and
- (6) Take any other appropriate action regarding holder.

(h) Any person who shall knowingly violate the Town's requirement for business occupational registration shall place in jeopardy such person's privilege of doing business in the

Town. The mayor and council, at its discretion, may rescind or suspend the registration of any such person, or withhold the issuance of a business registration.

Sec. 19-1.09 Appeals

Any person who is of the opinion that such person's occupational tax has been incorrectly assessed shall have the right to appeal to the Mayor and Town Council; provided, that such person shall first have stated such position in writing to the Town Clerk and shall have been unable to resolve the issue.

Sec. 19-1.10 Public Hearings

(a) The Town council shall conduct at least one public hearing before adopting any ordinance or resolution regarding the occupational tax as set forth in this Ordinance.

(b) In any year when revenue from occupation taxes is greater than the revenue from occupation taxes for the preceding year, the Town Council shall conduct at least one public hearing as a part of the process of determining how to use the additional revenue.

Sec. 19-1.11 Exemption or Reduction

The Council may by subsequent ordinance or resolution provide for an exemption or reduction in occupational tax or a credit against occupation tax owed to one or more types of businesses or practitioners of occupations or professions as part of a plan for economic development or attracting or encouraging or maintaining selected types of businesses or practitioners of selected occupations or professions. Such exemptions or reductions in occupational tax shall not be arbitrary or capricious and the reasons shall be set forth.

CHAPTER 21 – FIRE PREVENTION AND PROTECTION

See Chapter 7, Section 7-2.08(4)

CHAPTER 23 - HEALTH AND SANITATION

ARTICLE 1

Nuisance Abatement

Sec. 23-1.01. Definitions.

“Applicable codes” means:

(a) any optional housing or abatement standard provided in Chapter 2 of Title 8 of the Official Code of Georgia Annotated, as adopted by ordinance or operation of law, or other property maintenance standards as adopted by ordinance or operation of law, or general nuisance law, relative to the safe use of real property;

(b) any fire or life safety code as provided for in Chapter 2 of Title 25 of the Official Code of Georgia Annotated;

(c) the minimum standard codes provided in Chapter 2 of Title 8 of the Official Code of Georgia Annotated, provided that such building or minimum standard codes for real property improvements shall be deemed to mean those building or minimum standard codes in existence at the time such real property improvements were constructed unless otherwise provided by law;

(d) Chapter 7, Articles 2 and 3 of the Town’s Code.

“Closing” means causing a dwelling, building, or structure to be vacated and secured against unauthorized entry.

“Drug Crime” means an act which is a violation of Article 2 of Chapter 13 of Title 16 of the Official Code of Georgia Annotated, known as the “Georgia Controlled Substances Act”.

“Dwellings, buildings, or structures” means any building or structure or part thereof used and occupied for human habitation or commercial, industrial, or business uses, or intended to be so used, and includes any outhouses, improvements, and appurtenances belonging thereto or usually enjoyed therewith and also includes any buildings or structure belonging thereto or usually enjoyed therewith and also includes any building or structure of any design. As used in this Ordinance, the term “dwellings, buildings, or structures” shall not mean or include any farm, any building or structure located on a farm, or any agricultural facility or other building or structure used for the production, growing,

raising, harvesting, storage, or processing of crops, livestock, poultry, or other farm products.

“*Governing Authority*” means the Town Council of the Town of Brooks.

“*Municipality*” shall mean the Town of Brooks.

“*Owner*” means the holder of the title in fee simple and every mortgage or record.

“*Parties in interest*” means:

(a) Persons in possession of said property and premises;

(b) Persons having record in the Fayette County Superior Court any vested right, title, or interest in or lien upon such dwelling, building, or structure or the lot, tract, or parcel of real property upon which the structure is situated or upon which the public health hazard or general nuisance exists based upon a 50 year title examination conducted in accordance with the title standards of the State Bar of Georgia;

(c) Persons having paid an occupational tax to the governing authority for a location or office at the subject building or structure; or

(d) Persons having filed a property tax return with the governing authority as to the subject property, building, or structure.

“*Public Authority*” means: any member of a governing authority, any housing authority officer, or any officer who is in charge of any department or branch of the government of the Town of Brooks or Fayette County, relating to health, fire, or building regulations or to other activities concerning dwellings, building, or structures in the Town of Brooks.

“*Public Officer*” means the officer or officers who are authorized by this Ordinance to exercise the powers prescribed by this ordinance, including the Zoning Administrator.

“*Repair*” means altering or improving a dwelling, building, or structure so as to bring the structure into compliance with the applicable codes in the jurisdiction where the property is located and the cleaning or removal of debris, trash, and other materials present and accumulated which create a health or safety hazard in or about any dwelling, building, or structure.

“*Resident*” means any person residing in the jurisdiction where the property is located on or after the date on which the alleged nuisance arose.

Sec. 23-1.02. Nuisances.

(a) Whenever the Town Council of the Town of Brooks, or its duly appointed Public Officer, finds the existence or occupancy of dwellings or other buildings or structures which are unfit for human habitation or for commercial, industrial, or business occupancy or use and not in compliance with the applicable state minimum standard codes as adopted by ordinance or operation of law or any optional building, fire, life safety, or other codes relative to the safe use of real property and real property improvements adopted by ordinance; or general nuisance law, and which constitute a hazard to the health, safety, and welfare of the people of the Town of Brooks; and that a public necessity exists for the repair, closing, or demolition of such dwellings, buildings, or structures. It is found and declared where there is in existence a condition or use of real estate which renders adjacent real estate unsafe or inimical to safe human habitation, such use is dangerous and injurious to the health, safety, and welfare of the people of the Town of Brooks and a public necessity exists for the repair of such condition or the cessation of such use which renders the adjacent real estate unsafe or inimical to safe human habitation. Whenever the Town Council finds that there exist in the Town dwellings, buildings, or structures which are unfit for human habitation or for commercial, industrial, or business uses due to dilapidation and not in compliance with applicable codes; which have defects increasing the hazards of fire, accidents, or other calamities; which lack of adequate ventilation, light, or sanitary facilities; or where other conditions exist rendering such dwellings, buildings, or structures unsafe or unsanitary, or dangerous or detrimental to the health, safety, or welfare, or otherwise inimical to the welfare of the residents of the Town of Brooks, or vacant, dilapidated dwellings, buildings, or structures in which drug crimes are being committed, the Town of Brooks exercises its police power to repair, close, or demolish the aforesaid dwellings, buildings, or structures in the manner provided in this Ordinance.

All the provisions of this Ordinance may be applied to private property where there exists an endangerment to the public health or safety as a result of unsanitary or unsafe conditions to those persons residing or working in the vicinity. A finding by the Town Council, or its designee, that such property is a health or safety hazard shall constitute prima-facie evidence that said property is in violation of this Ordinance.

(b) A finding by any Public Authority that property constitutes a nuisance shall constitute prima facie evidence that said property is in violation of this Ordinance.

(c) If the existence in the Town of Brooks of a nuisance is complained of, the municipal court of the Town of Brooks or the Superior Court of Fayette County shall have jurisdiction to hear and determine the question of the existence of such nuisance, and if found to exist, to order its abatement.

Sec. 23-1.03. Procedures for Enforcement.

(a) The Town Council is hereby designated to exercise the powers prescribed in this Ordinance. The Town Council may appoint a designee to exercise its powers under this Ordinance.

(b) Whenever a request is filed with a Public Officer or by a Public Authority or by at least five residents of the Town of Brooks charging that any dwelling, building, structure, or property is unfit for human habitation or for commercial, industrial, or business use, and not in compliance with applicable codes; is vacant and being used in connection with the commission of drug crimes; or constitutes an endangerment to the public health or safety as a result of unsanitary or unsafe conditions; the Public Officer shall make an investigation or inspection of the specific dwelling, building, structure, or property. If the officer's investigation or inspection identifies that any dwelling, building, structure, or property is unfit for human habitation or for commercial, industrial, or business use and not in compliance with applicable codes; is vacant and being used in connection with the commission of drug crimes; or constitutes an endangerment to the public health or safety as a result of unsanitary or unsafe conditions, the Public Officer may issue a complaint in rem against the lot, tract, or parcel of real property on which such dwelling, building, or structure is situated or where such public health hazard or general nuisance exists and shall cause summons and a copy of the complaint to be served on the owner and parties in interest in such dwelling, building, or structure. The complaint shall identify the subject real property by appropriate street address and official tax map reference; identify the owner and parties in interest; state with particularity of the factual basis for the action; and contain a statement of the action sought by the Public Officer to abate the alleged nuisance. The summons shall notify the owner and parties in interest that a hearing will be held before the municipal court or a court of competent jurisdiction as determined by O.C.G.A. §41-2-5, as amended, at a date and time certain and at a place within the county or municipality where the property is located. Such hearing shall be held not less than 15 days nor more than 45 days after the filing of said complaint in the proper court. The owner and parties in interest shall have the right to file an answer to the complaint and to appear in person or by attorney and offer testimony at the time and place fixed for hearing;

(c) That if, after such notice and hearing, the court determines that the dwelling, building, or structure in question is unfit for human habitation or is unfit for its current commercial, industrial, or business use and not in compliance with applicable codes; is vacant and being used in connection with the commission of drug crimes; or constitutes an endangerment to the public health or safety as a result of unsanitary or unsafe conditions, the court shall state in writing findings of fact in support of such determination and shall issue and cause to be served upon the owner and any parties in interest that have answered the complaint or appeared at the hearing an order:

(1) If the repair, alteration, or improvement of the said dwelling, building, or structure can be made at a reasonable cost in relation to the present value of the dwelling, building, or structure, requiring the owner, within the time specified in the order, to repair, alter, or improve such dwelling, building, or structure so as to bring it into full compliance with the applicable codes relevant to the cited violation and, if applicable, to secure the structure so that it cannot be used in connection with the commission of drug crimes; or

(2) If the repair, alteration, or improvement of the said dwelling, building, or structure in order to bring it into full compliance with applicable codes relevant to the cited violations cannot be made at a reasonable cost in relation to the present value of the dwelling, building, or structure, requiring the owner, within the time specified in the order, to demolish and remove such dwelling, building, or structure and all debris from the property.

The court shall make its determination of “reasonable cost in relation to the present value of the dwelling, building, or structure” without consideration of the value of the land on which the structure is situated; provided, however, that costs of the preparation necessary to repair, alter, or improve a structure may be considered. Income and financial status of the owner shall not be a factor in the court’s determination. The present value of the structure and the costs of repair, alteration, or improvement may be established by affidavits of real estate appraisers with a Georgia appraiser classification as provided in Chapter 39A of Title 43 of the Official Code of Georgia Annotated, qualified building contractors, or qualified building inspectors without actual testimony presented. Costs of repair, alteration, or improvement of the structure shall be the cost necessary to bring the structure into compliance with the applicable codes relevant to the cited violations in force in the jurisdiction.

(3) That, if the owner fails to comply with an order to repair or demolish the dwelling, building, or structure, the Public Officer may cause such dwelling, building, or structure to be repaired altered, or improved or to be vacated and closed or demolished. The Public Officer shall cause to be posted on the main entrance of the building, dwelling, or structure a placard with the following words:

“This building is unfit for human habitation or commercial, industrial, or business use and does not comply with the applicable codes or has been ordered secured to prevent its use in connection with drug crimes or constitutes an endangerment to public health or safety as a result of unsanitary or unsafe conditions. The use or occupation of this building is prohibited and unlawful.”

(4) If the Public Officer has the structure demolished, reasonable effort shall be made to salvage reusable materials for credit against the cost of demolition. The proceeds of any money received from the sale of salvaged materials shall be used or applied against the cost of the demolition and removal of the structure, and proper records shall be kept showing application of sales proceeds. Any such sale of salvaged materials may be made without the necessity of public advertisement and bid. The Public Officer and Governing Authority are relieved of any and all liability resulting from or occasioned by the sale of any such salvaged materials, including, without limitation, defects in such salvaged materials.

(5) That the amount of the cost of demolition, including all court costs, appraisal fees, administrative costs incurred by the tax commissioner, and all other costs necessarily associated with the abatement action, including restoration to grade of the real property after demolition, shall be a lien against the real property upon which such cost was incurred.

(6) The lien provided for in paragraph (5) of this subsection shall attach to the real property upon the filing of a certified copy of the order requiring repair, closure, or demolition in the office of the clerk of superior court of Fayette County and shall relate back to the date of the filing of the lis pendens notice required under subsection (g) of O.C.G.A. § 41-2-12. The clerk of superior court shall record and index such certified copy of the order in the deed records of the county and enter the lien on the general execution docket. The lien shall be superior to all other liens on the property, except liens for taxes to which the lien shall be inferior, and shall continue in force until paid. After filing a

certified copy of the order with the clerk of superior court, the Public Officer shall forward a copy of the order and a final statement of costs to the county tax commissioner. It shall be the duty of the county tax commissioner to collect the amount of the lien in conjunction with the collection of ad valorem taxes on the property and to collect the amount of the lien as if it were a real property ad valorem tax, using all methods available for collecting real property ad valorem taxes, including specifically Chapters 4 of Title 48 of the Official Code of Georgia Annotated; provided, however, that the limitation of O.C.G.A. §48-4-78 which requires 12 months of delinquency before commencing a tax foreclosure shall not apply. The tax commissioner shall remit the amount collected to the governing authority of the Town whose ordinance is being enforced. Thirty days after imposition of the lien, the unpaid lien amount shall bear interest and penalties in the same amount as applicable to interest and penalties on unpaid real property ad valorem taxes.

(7) The tax commissioner shall collect and retain an amount equal to the cost of administering a lien authorized by this Ordinance unless such costs are waived by resolution of the County governing authority. Any such amount collected and retained for administration shall be deposited in the general fund of the county to pay the cost of administering the lien.

(8) The Town Council may waive and release any such lien imposed on property upon the owner of such property entering into a contract with the Town Council agreeing to a timetable for rehabilitation of the real property or the dwelling, building, or structure on the property and demonstrating the financial means to accomplish such rehabilitation.

(9) Where the abatement action does not commence in the superior court, review of a court order requiring the repair, alteration, improvement, or demolition of a dwelling, building, or structure shall be by direct appeal to the superior court under O.C.G.A. §5-3-29.

(10) In addition to the procedures and remedies in this Ordinance, the designated Public Officers may issue citations for violations of state minimum standard codes, optional building, fire, life safety, and other codes adopted by ordinance, and conditions creating a public health hazard or general nuisance, and seek to enforce such citations in a court of competent jurisdiction prior to issuing a complaint in rem as provided in this Ordinance.

Sec. 23-1.04. Service of Summons and Order

(a) Complaints issued by a Public Officer pursuant to this Ordinance shall be served in the following manner. In all cases, a copy of the complaint and summons shall be conspicuously posted on the subject dwelling, building, or structure within three business days of filing of the complaint and at least ten days prior to the date of the hearing. A copy of the complaint and summons shall be served in one of the following ways:

(1) Personal service upon each owner and party in interest if such parties are residents of the county. Service shall be perfected at least ten days prior to the date of the hearing. Service may be made by the Public Officer designated by the Town Council to abate nuisances or by any law enforcement officer of the county or municipality whose ordinance is being enforced; and a return of service, filed with the clerk of the appropriate court, shall be deemed sufficient proof that service was perfected;

(2) Pursuant to the provisions of Article 5 of Chapter 4 of Title 48 of the Official Code of Georgia Annotated; or

(3) Statutory overnight deliver.

(b) If any owner or party in interest is a resident of this state but resides outside of the Fayette County, service shall be perfected by a certified mail or statutory overnight delivery, return receipt requested, to the most recent address shown in county tax filings and mailed at least 14 days prior to the date of the hearing.

(c) Nonresidents of this state, whose mailing address is known, shall be served by certified mail or statutory overnight delivery, return receipt requested, mailed at least 14 days prior to the date of the hearing. For nonresidents whose mailing address is unknown, a notice stating the date, time, and place of the hearing shall be published in the newspaper in which the sheriff's advertisements appear in Fayette County once a week for two consecutive weeks prior to the hearing.

(d) In the event either the owner or any party in interest is a minor, an estate, an incompetent person, or person laboring under disabilities, the guardian or other personal representative of such person shall be served and if such guardian or personal representative resides outside Fayette County or is a nonresident of this state, he or she shall be served as provided for in subsection (c) of this Ordinance. If such owner or party in interest has not guardian or personal representative service shall be perfected by serving the judge of the probate court of Fayette County at least 30 days prior to the date of the hearing which judge shall stand in the place of and protect the rights of such minor, estate, or incompetent person or appoint a guardian ad litem for such person.

(e) In the event of unknown persons or unborn remaindermen who are likely to have any rights in the property or interest or the proceeds thereof, the judge of the probate court of Fayette County shall be personally served at least 30 days prior to the date of the hearing, and it shall be the duty of the judge of the probate court to stand in the place of and protect the rights of such unknown parties or unborn remaindermen.

(f) In the event the whereabouts of any owner or party in interest is unknown and the same cannot be ascertained by the Public Officer in the exercise of reasonable diligence, or if any owner or party in interest cannot, after due diligence, be served as provided in this Ordinance, the Public Officer shall make an affidavit to that effect, and serve by publication in the manner provided in subsection (c) of this Ordinance, and such publication shall be sufficient proof that service was perfected.

(g) A notice of lis pendens shall be filed in the office of the clerk of superior court Fayette County. Such notice shall have the same force and effect as other lis pendens notices provided by law.

(h) Orders and other filings made subsequent to service of the initial complaint shall be served in the manner provided in this Ordinance on the owner and any party in interest who answers the complaint or appears at the hearing. Any party who fails to answer or appear at the hearing shall be deemed to have waived all further notice in the proceedings.

ARTICLE 2

Body Art

Sec. 23-2.01. Definitions

As used in this Article:

- (a) *Antibacterial* means a substance which inhibits and reduces the growth of bacteria.
- (b) *Body Piercing* means the piercing of any part of the body by someone other than a physician licensed in the State of Georgia, who utilizes a needle or other instrument for the purpose of inserting an object into the body for non-medical purposes; Body Piercing includes ear piercing except when the ear piercing procedure is performed on the ear with an ear piercing gun.
- (c) *Body Piercing Establishment* means any place whether temporary or permanent, stationary or mobile, wherever situated, where Body Piercing is performed including any area under the control of the operator.
- (d) *Business* means any entity that provides Body Piercing services for compensation.
- (e) *Disinfection* means a process that kills or destroys nearly all disease-producing microorganisms, with the exception of bacterial spores.
- (f) *Ear Piercing Gun* means a mechanical device that pierces the ear by forcing a disposable, single-use stud or solid needle through the ear.
- (g) *Infectious Waste* means waste that may be blood, bodily fluids or other potentially infectious materials.
- (h) *Operator* means any person, firm, company, corporation or association that owns, controls, operates, conducts or manages a Body Piercing establishment.
- (i) *Patron* means a person requesting and receiving Body Piercing or tattooing services or ear piercing services by an ear piercing gun.
- (j) *Premises* means the physical location of a Body Piercing establishment.
- (k) *Sterilize* means a process by which all forms of microbial life, including bacteria, viruses, spores, and fungi, are destroyed.

Sec. 23-2.02. License; purpose and intent. It is the purpose of this ordinance to regulate body piercing businesses to promote the health, safety, morals and general welfare of the citizens of the town, and to establish reasonable and uniform regulations to prevent deleterious effects of body piercing businesses within the town. Similarly, it is not the intent nor effect of this ordinance to restrict or deny access by adults to body piercing which may be protected by the First Amendment, or to deny access by the operators and owners of body piercing business to their intended market.

Sec. 23-2.03. Body piercing business license required.

- (a) It shall be unlawful for a person to operate a body piercing business without a valid license issued pursuant to this ordinance.
- (b) It shall be unlawful for a person to operate a body piercing business under any name or designation, or under any premises name or designation, or at any premises address not specified in a valid license issued pursuant to this ordinance. Each additional premises sought to be operated as a body piercing business shall require a separate license.
- (c) It shall be unlawful for any person to own, operate, or conduct any business located within the town unless the license is posted at or near the principal public entrance to the body piercing business in such a manner that it will be conspicuous to patrons who enter the premises.
- (d) In any prosecution under this section, it shall be presumed that there was no license at the time of the alleged offense, unless a license was then posted as provided in this Chapter.

Sec. 23-2.04. Application for license.

- (a) A person who wishes to operate a body piercing business shall make application for a license in person at the office of the town clerk or their designee. The application shall be on a form prescribed by the town clerk or their designee and obtainable from the town clerk or their designee. The application shall be signed under oath by each individual listed as an applicant and notarized. An application shall be deemed filed with the town when the town clerk or their designee has received the required fee in full, a completed application with all information required in subsection (c), and the photograph and fingerprints of each applicant. The application shall be in duplicate, including all addendum or attachments thereto, with one copy being kept on file with the town clerk's office and one copy being transmitted to the police chief of Fayette County.
- (b) If a person who wishes to operate a body piercing business is an individual, that individual must be listed in the application for the license as the applicant and also as the designated license holder. If a person who wishes to operate a body piercing business is a legal entity other than an individual, each officer, manager, or general partner of the entity, and any other individual who will participate directly in decisions relating to management of the body piercing business, must be listed in the application as an applicant, with the individual appearing in person to make application being further designated as the primary applicant with general authority to act on behalf of the entity in connection with the application, and the entity listed as

the designated license holder. Each applicant shall provide his or her photograph and fingerprints as above.

(c) In addition to such other information as may be requested on the face of the application form, the application shall include the following information:

- (1) The name, premises address, business mailing address if different for the premises address, and phone number of the proposed body piercing business;
- (2) The name, address and phone number of the designated license holder;
- (3) Where the person seeking to operate the body piercing business is other than an individual, the entity's state of origination and date of formation;
- (4) The name under which the body piercing business is to be operated and a general description of the services to be provided;
- (5) The telephone number of the body piercing business;
- (6) The address, plat and/or legal description of the tract of land on which the body piercing business is to be located;
- (7) If the body piercing business is in operation, the date on which the owner(s) acquired the body piercing business for which the license is sought, and the date on which the body piercing business began operations as a body piercing business at the location for which the license is sought;
- (8) If the body piercing business is not in operation, the expected start-up date (which shall be expressed in number of days from the date of issuance of the license). If the expected start-up date is to be more than ten days following the date of issuance of the license, then a detailed explanation of the construction, repair or remodeling work or other cause of the expected delay and a statement of the owner's time schedule and plan for accomplishing the same;
- (9) Each applicant's full true name and any other names, aliases or stage names used in the preceding five years;
- (10) Each applicant's current residential mailing address and telephone number. This information shall be supplemented in writing to the town clerk or their designee by letter postmarked not later than ten days after any change in this information;
- (11) Written proof of each applicant's age, in the form of either a current drivers license with picture or other picture identification issued by an appropriate governmental agency;

- (12) The issuing jurisdiction and the effective date of any license or license relating to the operation of a body piercing business or relating to the provision of any body piercing services which is held or has been held at any time by any applicant or by the designated license holder, whether any such license has been revoked or suspended, and the reason or reasons therefor;
- (13) Any "specified criminal" act(s) committed by the applicant or the intended license holder for which:
- i. Less than two years have elapsed since the date of conviction or the date of release from confinement, whichever is the later date, if the conviction is of a misdemeanor offense for the "specified criminal" acts which are assault, battery, practice of medicine without license, sexual crimes against children, sexual abuse, rape or statutory rape, prostitution, bestiality, sodomy, sexual assault, kidnapping, or crimes connected with another body piercing business including, but not limited to, distribution of obscenity or material harmful to minors, prostitution, pandering, or any conviction in another jurisdiction for conduct which, if carried out in the town or the State of Georgia, would constitute a specified criminal act under this section;
 - ii. Less than five years have elapsed since the date of conviction or the date of release from confinement, whichever is the later date, if the conviction is of a felony offense for the "specified criminal" acts which are sexual crimes against children, sexual abuse, rape or statutory rape, prostitution, bestiality, sodomy, sexual assault, kidnapping, or crimes connected with another body piercing business including, but not limited to, distribution of obscenity or material harmful to minors, prostitution, pandering, or any conviction in another jurisdiction for conduct which, if carried out in the town or the State of Georgia, would constitute a specified criminal act under this section;
 - iii. Less than five years have elapsed since the date of conviction or the date of release from confinement, whichever is the later date, if the convictions are of two or more misdemeanor offenses occurring within any 24-month period for the "specified criminal" acts which are sexual crimes against children, sexual abuse, rape or statutory rape, prostitution, bestiality, sodomy, sexual assault, kidnapping, or crimes connected with another body piercing business including, but not limited to, prostitution, pandering, or any conviction in another jurisdiction for conduct which, if carried out in the town or the State of Georgia, would constitute a specified criminal act under this section;
- (14) The fact that a conviction is being appealed shall have no effect on the disqualification of the applicant;

- (15) The name and address of the statutory agent or other agent authorized to receive service of process;
 - (16) The name(s) of the body piercing business manager(s) who will have actual supervisory authority over the operation of the business. This information shall be supplemented in writing to the town clerk or their designee by letter postmarked not later than ten days after any change in this information; and
 - (17) An accurate, to-scale, but not necessarily professionally drawn, floor plan or diagram of the business premises clearly showing the configuration of the premises, including a statement of total floor space occupied by the business, the place at which the license will be conspicuously posted, if granted, the location of all manager's stations and overhead lighting fixtures, and clearly designating all portions of the premises in which patrons will not be permitted. Each diagram should be oriented to the north or to some designated street or object and shall be drawn to a designated scale or with marked dimensions sufficient to show the various internal dimensions of all areas of the interior of the premises to an accuracy of plus or minus six inches. The town clerk may waive the foregoing diagram for renewal applications if the applicant adopts a diagram that was previously submitted and certifies that the configuration of the premises has not been altered since it was prepared.
- (d) The application shall be accompanied by the following:
- (1) Payment in full of the fee required in this ordinance;
 - (2) Current photograph and the fingerprints of each applicant. Fingerprints shall be taken by any law enforcement agency and shall be accompanied by a notarized verification by that agency;
 - (3) A certified copy of the tradename certificate filed in compliance with the tradename statute of the Official Code of Georgia Annotated, if the body piercing business is to be operated under an assumed name;
 - (4) If the body piercing business is a Georgia corporation, a certified copy of the chapters of incorporation, together with all amendments thereto;
 - (5) If the body piercing business is a foreign corporation, a certified copy of the certificate of authority to transact business in the State of Georgia, together with all amendments thereto;
 - (6) If the body piercing business is a limited partnership formed under the laws of the State of Georgia, a certified copy of the certificate of limited partnership, together with all amendments thereto, filed in the office of the Secretary of State of Georgia;

- (7) If the body piercing business is a foreign limited partnership, a certified copy of the certificate of limited partnership and the qualification documents, together with all amendments thereto, filed in the office of the Secretary of State of Georgia;
 - (8) Proof of the current fee ownership of the tract of land on which the body piercing business is to be situated in the form of a copy of the recorded deed;
 - (9) If the persons identified as the fee owner(s) of the tract of land in item (7) are not also the owners of the body piercing business, then the lease, purchase contract, purchase option contract, lease option contract or other document(s) evidencing the legally enforceable right of the owners or proposed owners of the body piercing business to have or obtain the use and possession of the tract or portion thereof that is to be used for the body piercing business for the purpose of the operation of the body piercing business; and
 - (10) Any of items above, shall not be required for a renewal application if the applicant states that the documents previously furnished the town clerk or their designee with the original application or previous renewals thereof remain correct and current.
- (e) The application shall contain a statement under oath that:
 - (1) The applicant has personal knowledge of the information contained in the application and that the information contained therein and furnished therewith is true and correct; and
 - (2) The applicant has read the provisions of this ordinance.
 - (f) A separate application and license shall be required for each body piercing business.

Sec. 23-2.05. Fees. Every application for issuance or renewal of a body piercing business license shall be accompanied by a nonprorated and nonrefundable application fee in the amount of \$ 15.00.

Sec. 23-2.06. Issuance or denial.

- (a) Within 45 days after the application for a body piercing business license is filed with the town, the town or their designee shall mail to the designated license holder a license or a written notice of intent to deny.
- (b) The town clerk shall issue a license to the applicant unless one or more of the following conditions exist:
 - (1) The applicant's body piercing business is located in a section of the town that is zoned other than the Community Commercial (CC) zoning district;

- (2) The applicant failed to supply all of the information requested on the application;
- (3) The applicant gave materially false, fraudulent or untruthful information on the application. The applicant, or the intended license holder, has been convicted of a specified criminal act, as described in this Chapter;
- (4) The applicant's body piercing business is not in compliance with this ordinance (the town clerk may allow any noncompliance with this ordinance to be cured during the town clerk's review period established in subsection (a), above, provided that it must be cured before the notice of decision on the license is issued);
- (5) The application or the body piercing business does not meet any other requirement of this ordinance;
- (6) The operator has had a license revoked for the same body piercing business within the 12-month period next preceding the date that the application was filed. The fact that a revocation is being appealed shall have no effect;
- (7) The applicant has not demonstrated that the owner of the body piercing business owns or holds a lease for the property or the applicable portion thereof upon which the body piercing business will be situated or has a legally enforceable right to acquire the same;
- (8) The applicant, the applicant's spouse, or the designated license holder is delinquent in payment to the town of taxes, fees, fines, or penalties assessed against or imposed upon the applicant, the applicant's spouse, or the designated license holder in relation to a body piercing business or arising out of any other business activity owned or operated by the applicant, the applicant's spouse, or the designated license holder and licensed by the town; or
- (9) The applicant or the designated license holder has failed to comply with or is in violation of applicable provisions of the zoning ordinances, or the building codes, development standards or other land use ordinances and regulations of the town relating to the business or activity to be conducted under the license.
- (10) Within the past two years, the applicant or the designated license holder has had a license similar to that authorized under this ordinance, but issued in another jurisdiction, revoked on the basis of conduct which would be a ground for revocation of a license issued under this ordinance if committed in the town. The fact that the revocation is being appealed at the time of the decision on this application shall have no effect.
- (11) The granting of a license would violate a state or federal statute, county ordinance, or a court order.

Sec. 23-2.07. Appeal from denial of license.

(a) In the event that the town clerk or their designee determines that an applicant is not eligible for a license, the applicant shall be given notice in writing of the reasons for the denial within 20 days of the receipt of its application by the town clerk or their designee, provided that the applicant may request, in writing, that such period be extended for an additional period of not more than ten days at any time before the notice is issued in order to make modifications necessary to comply with this ordinance. An applicant may appeal the decision of the town clerk or their designee regarding such denial by filing a written request for a hearing with the town clerk or their designee within ten days after the applicant is given notice of such denial. The town clerk's or their designee decision on the application shall be final unless an appeal is timely filed. An appeal shall not stay the town clerk's or their designee decision on the issuance of a license. The applicant's written request for a hearing shall set out the grounds on which the denial is challenged. The hearing shall be conducted before the mayor and town council at a reasonable date and time established by the mayor and after reasonable notice to the applicant. At the hearing, the mayor and town council shall receive oral and written testimony regarding the application. Hearings shall be conducted under procedures established by the mayor, which shall be consistent with the nature of the proceedings and shall ensure that each party may present evidence, cross examine witnesses and be represented by legal counsel.

(b) The mayor and town council shall conduct the hearing within 30 days after receipt of the applicant's written request for a hearing unless the applicant requests an extension in writing. The mayor and town council shall render a written decision and issue notice thereof to the applicant within ten days after the conclusion of the hearing. The written decision of the mayor and town council shall be final.

Sec. 23-2.08. Nontransferability of license.

(a) Licenses issued under this ordinance are not transferable as to licensee or location. A licensee shall not conduct a different classification of a body piercing business than that designated in the license or conduct a body piercing business under the authority of a license at any place other than the address designated in the application. No body piercing business shall be conducted under any name or under any designation or classification not specified in the license for that business.

(b) It shall be unlawful for any person to counterfeit, forge, change, deface, or alter a license.

Sec. 23-2.09. Term; renewal.

Each license shall be valid until December 31st of the year of issue and shall expire on December 31st of the year of issue, unless sooner revoked, or surrendered.

Sec. 23-2.10. Suspension of license.

The town clerk or their designee shall suspend a license for a period of 30 days if a licensee is convicted of violating a provision of this ordinance.

Sec. 23-2.11. Revocation of license.

(a) The town clerk or their designee shall revoke a license issued pursuant to this ordinance if the licensee:

- (1) Knowingly performed or allowed body piercing on a person under 18 years of age without parental consent as required by this ordinance;
- (2) Is convicted of a violation of this ordinance in any 12-month period;
- (3) Is convicted of any crime or crimes on the basis of which a license may be denied under this ordinance;
- (4) Gave false or misleading information in the application;
- (5) The body piercing business has not been open for business for a period of 30 consecutive days, unless due to circumstances beyond the control of the owner, and the owner is proceeding with due diligence, given all attendant circumstances, to open or reopen the establishment;
- (6) That the license was erroneously issued in contravention of the criteria of this ordinance;
- (7) Has knowingly operated or worked in the body piercing business during a period of time when the license was suspended; or
- (8) Is delinquent in payment to the town of taxes or fees related to the body piercing business or arising out of any other business activity owned or operated by the licensee and licensed by the town.

(b) The fact that a conviction is being appealed shall have no effect on the revocation of the license.

Sec. 23-2.12. License renewal.

- (a) A license may be renewed by filing an application for renewal on a form provided by the town clerk or their designee. The application for renewal shall be received by the town clerk or their designee not less than 45 days before the expiration of the license. When the application for renewal is received less than 45 days before the expiration date, the expiration of the license shall not be delayed, postponed or otherwise affected.
- (b) The town clerk or their designee may deny an application for renewal for any reason for which an application may be denied or revoked under this ordinance.
- (c) An application for issuance or renewal of a body piercing business license shall be accompanied by such fee as required under Sec. 23-2.05 of this Ordinance.

Sec. 23-2.13. Procedure for revocation, suspension and denial of renewal of existing licenses.

- (a) If the town clerk or their designee determines that grounds exist to suspend or revoke a license, or to deny an application for renewal of a license, the town clerk or their designee shall notify the designated license holder, license applicant, or licensee (respondent), as applicable, in writing of the intent to deny, suspend, or revoke, which notice shall include a summary of the grounds therefor. The notice shall be sent by registered or certified mail to the address of the designated license holder, license applicant, or licensee listed in the current year's license application or renewal application.
- (b) Within ten days after the effective date of notice, the respondent may provide to the town clerk or their designee in writing a response which shall include a statement of reasons why the license, or renewal thereof, should not be denied, suspended, or revoked and which may include a request for a hearing. If a response is not received by the town clerk or their designee in the time stated, the denial of renewal, suspension or revocation shall be final, and notice thereof shall be sent to the applicable designated license holder, license applicant or licensee by registered or certified mail.
- (c) Within ten days after receipt of a response, the town clerk or their designee shall either withdraw the intent to deny the renewal, suspend, or revoke, and so notify the respondent, or shall deny the renewal, impose a suspension or revoke the license. Following a decision to deny renewal, suspend or revoke a license, the town clerk or their designee shall send notice thereof to the respondent, which shall include a statement of the reason(s) for the denial, suspension or revocation. The effective date of notice shall be the date the notice is actually received or five days after the date the notice is mailed, whichever occurs first.

Sec. 23-2.14. Appeal from suspension, revocation or denial of renewal.

- (a) An applicant may appeal the decision of the town clerk or their designee regarding a suspension, revocation or denial of renewal of a license by filing a written request for a hearing with the town clerk or their designee within ten days after he is given notice of such denial. The town clerk's decision on the application shall be final unless an appeal is timely filed. The

applicant's written request for a hearing shall set out the grounds on which the town clerk's or their designee's decision is challenged. The hearing shall be conducted before the mayor and town council at a reasonable date and time established by the mayor and after reasonable notice to the applicant. At the hearing, the mayor and town council shall receive oral and written testimony regarding the application. Hearings shall be conducted under procedures established by the mayor, which shall be consistent with the nature of the proceedings and shall ensure that each party may present evidence, cross examine witnesses and be represented by legal counsel.

(b) The mayor and town council shall conduct the hearing within 30 days after receipt of the applicant's written request for a hearing unless the applicant requests an extension in writing. The mayor and town council shall render a written decision and issue notice thereof to the applicant within ten days after the conclusion of the hearing. The written decision of the mayor and town council shall be final.

Sec. 23-2.15. Permit required.

(a) It shall be unlawful for any person who does not hold a permit to act as a body piercing provider or a body piercing business manager of or in a body piercing business.

(b) It shall be the duty of the operator and owners of each body piercing business to ensure that no person acts as a body piercing provider or manager of or in the body piercing business unless that person holds a permit.

Sec. 23-2.16. Issuance of permits.

(a) Any person who desires to obtain an original or renewal permit shall make application to the town clerk or their designee in person. The application shall be made under oath upon a form prescribed by the town clerk or their designee and shall include:

- (1) The name, home street address and mailing address (if different) of the applicant;
- (2) The applicant's age, date and place of birth;
- (3) Proof of the date of birth of the applicant and the identity of the applicant, including at least one photographic identity card issued by a governmental agency;
- (4) Height, weight, hair and eye color;
- (5) A list of any specified criminal acts, and time of service in jail or prison, as specified in this ordinance; and
- (6) Two passport-type photographs of the applicant of a size specified by the town clerk or their designee, which shall become part of the photographic identity cards if a permit is issued.

(b) Each application shall be accompanied by a nonrefundable processing fee of \$250. Each applicant shall be required to provide fingerprints to be used to verify the applicant's identity and criminal history information. Each applicant shall sign a waiver and authorization form authorizing the town clerk or their designee on behalf of the applicant criminal history reports from the Georgia Department of Public Safety or any other appropriate state or federal government entity.

(c) Town clerk or their designee shall issue the permit within ten days from the date of filing of the application unless he finds that the applicant has been convicted of or spent time in jail or prison for an offense specified in the applicable provisions of section 104 of this ordinance within the time specified therein. If the application is not granted, then the applicant shall be mailed notice of the grounds and of their right to provide evidence and request a hearing as provided below, within ten days from the date of filing of the application.

(d) Each permit issued by the town clerk or their designee shall consist of two photographic identification cards, a personal card and an on-site card.

(e) Any applicant whose application is denied and who requests a hearing on the denial shall be granted a hearing within ten days following the receipt of the request by the town clerk or their designee. The hearing shall be conducted as provided in section 107 of this ordinance.

(f) If any personal card or on-site card is lost or stolen, the holder thereof shall immediately notify the town clerk or their designee and request a replacement, which shall be issued for a fee of \$15.00 within three days following verification of the identity of the holder.

(g) No permit application shall be accepted nor shall a permit be issued to any person who does not provide proof that applicant is at least 18 years old. Any permit issued by virtue of any misrepresentation or error to any person under age 18 shall be void.

Sec. 23-2.17. Term, transfer, amendment.

(a) A permit is valid for one year from the date of its issuance.

(b) A permit is personal to the named permit holder and is not valid for use by any other person.

(c) Each permit holder shall notify the town clerk or their designee of his or her new address within ten days following any change of his or her address.

Sec.23-2.18. Display.

(a) Each manager or body piercing provider shall conspicuously display, in a manner readily available to the general public, their personal card at all times while acting as a body piercing provider or manager of or in a body piercing business.

(b) In any prosecution under this section 118, it shall be presumed that the actor did not have a permit unless the permit was in display as required under subsection (a) of this section.

Sec. 23-2.19. Revocation.

In the event that the town clerk or their designee has reasonable grounds to believe that any permit holder has been convicted of an offense as specified in the applicable provision of section 104 of this ordinance within the time specified therein or after, or has violated a requirement or prohibition of this ordinance, then the town clerk or their designee may revoke the permit following a notice of the grounds and a hearing as provided in this ordinance.

Sec. 23-2.20. General Safety and Sanitation Standards.

(a) A business offering Body Piercing services shall comply with the following provisions:

- (1) The premises in which Body Piercing is conducted shall have an area of at least one hundred square feet. The floor space for each individual performing Body Piercing shall have an area of at least thirty six (36) square feet. These areas shall be separated from each other and from waiting patrons or observers by a panel or by a door. Complete privacy should be available upon a Patron's request.
- (2) The entire procedure room and equipment shall be maintained in a clean, sanitary condition and in good repair.
- (3) The Business shall be equipped with artificial light sources equivalent to at least twenty foot-candles at a distance of thirty inches above the floor throughout the establishment. A minimum of forty (40) foot candles of light shall be provided at the level where the Body Piercing is being performed. Spotlighting may be used to achieve this required degree of illumination.
- (4) All floors directly under equipment used for Body Piercing activities shall be an impervious, smooth, washable surface; have a minimum dimension of six (6) feet by six (6) feet and shall be maintained in a sanitary manner at all times. All walls shall be maintained in a sanitary manner.
- (5) All tables and other equipment shall be constructed of easily cleanable material, with a smooth, washable finish.
- (6) Restroom facilities shall be made available to the employees and costumers of the business and must be located within the establishment. The restroom shall be equipped with a toilet, toilet paper installed in a holder, lavatory supplied with hot

and cold running water, liquid or granulated soap and single-use towels. Equipment and supplies used in the course of Body Piercing services or disinfection and sterilization procedures shall not be stored or utilized within the restroom.

- (7) A lavatory or hand washing sink, with hot and cold water, liquid or granular soap, and single-use towels shall be located in close proximity of each individual performing Body Piercing procedures.
 - (8) There shall be no overhead or otherwise exposed sewerage lines so as to create a potential hazard to the sanitary environment of the business.
 - (9) Sufficient and appropriate receptacles shall be provided for the disposal of used gloves, dressings, and other trash. Each receptacle shall have a lid and be closed at all times while not in use.
 - (10) The operator shall not allow live animals to enter area(s) used for Body Piercing procedures. This subsection shall not prohibit patrol dogs accompanying security or police officers, guide dogs or other support animals accompanying handicapped persons.
 - (11) At no time shall food or drink be consumed, or smoking or other tobacco use in rooms used for Body Piercing.
 - (12) All water supplies, waste water disposal systems, solid waste disposal, and infectious waste disposal shall meet the requirements of Occupational Health and Safety Administration.
- (b) Persons approved to operate a Body Piercing Establishment and persons providing ear piercing services with an Ear Piercing Gun shall comply with the following provisions:
- (1) Persons performing the service shall not perform services if:
 - i. They are under the influence of any drugs or alcohol; or
 - ii. They knowingly have, in a communicable stage, an infectious or contagious disease, parasitic infestation, exudative lesions or weeping dermatitis.
 - (2) In accordance with O.C.G.A. 16-5-71.1, no person shall perform a Body Piercing procedure, with the exception of ear piercing, without the prior written consent of a custodial parent or guardian.
 - (3) Prior to performing a Body Piercing procedure, the Operator who will be performing the procedure shall inquire of a Patron for conditions which could affect the healing process, including but not limited to, diabetes, vascular disease

or any condition which may cause an immunosuppressed immune system such as HIV or cancer. The Operator shall not perform a Body Piercing procedure on Patrons indicating the presence of such a condition without documentation from a licensed physician indicating acceptance of the patient for appropriate care following the procedure.

Sec. 23-2.21. Additional Requirements.

Any person operating an approved business offering Body Piercing services shall comply with the following provisions pertaining to Body Piercing services.

- (a) Operators shall ensure that individuals performing Body Piercing services shall be certified in blood-borne pathogen response procedure training pertaining to unintentional needle sticks, and shall seek out appropriate medical care in the event of such an accident.
- (b) Immediately prior to beginning any Body Piercing operation, each individual performing the procedure shall wash their hands in hot water with liquid or granulated soap, or equivalent, if approved by the board of health. The operator's fingernails shall be kept clean and short.
- (c) The individual performing the procedure shall wear a clean new pair of disposable gloves, made of latex or similar material, for each new customer. Should the gloves develop a break or tear, or if the individual performing the procedure touches another surface during the course of the procedure, the gloves shall be immediately replaced.
- (d) Individuals shall perform Body Piercing services only on normal, healthy skin surface. No procedures shall be done on scar tissue that is a result of surgery, including but not limited to, mole removal.
- (e) The individual performing the procedure shall use povidone-iodine to thoroughly clean the area of skin to be pierced; or in the case of an iodine-sensitive patron, an FDA approved surgical scrub shall be used. The area shall then be rinsed with a solution such as benzalkonium chloride. While seventy percent isopropyl alcohol may be used to swab the area to be pierced prior to cleaning, it shall not be used as a cleaning agent. In the case of oral piercings, the operator shall provide a patron with antibacterial mouthwash in a single use cup and shall ensure that the patron utilizes the mouthwash provided. In the case of a lip, labret, or cheek piercing, procedures described in this paragraph for both skin and oral piercings shall be followed.
- (f) No operator performing Body Piercing services shall use styptic pencils, alum blocks, or other solid styptics to check the flow of blood.
- (g) Operators performing Body Piercing services shall utilize a single-use, sterile

needle for each piercing performed and shall appropriately dispose of the needle after performing each piercing procedure in a medical sharps container.

(h)

(1) Operators performing Body Piercing services shall install only sterilized jewelry that complies with the following standards:

- i. Steel that is ASTM F-138 compliant or ISO 5832-1 compliant; or
- ii. Steel that is ISO 10993-6, 10993-10 and /or 10993-11 compliant (EEC Nickel Directive compliant); or
- iii. Titanium (Ti6Al4V ELI) that is ASTM F-136 compliant or ISO 5832-3 compliant; or
- iv. Titanium that is ASTM F-67 compliant; or
- v. Solid 14 karat or higher nickel-free white or yellow gold; or
- vi. Solid nickel-free platinum alloy; or
- vii. Niobium (Nb); or
- viii. Fused quartz glass, lead-free borosilicate or lead-free soda-lime glass; or
- ix. Tygon® Medical Surgical Tubing S-50HL or S-54HL
Polytetrafluoroethylene (PTFE) that is ASTM F754-00 compliant; or
- x. Plastic material that is ISO 10993-6, 10993-10 and /or 10993-11 compliant and/or meets the United States Pharmacopeia (USP) Class VI material classification.

(2) All threaded or press-fit jewelry must have internal tapping (no threads on posts). For body jewelry purposes, surfaces and ends must be smooth, free of nicks, scratches, burrs, polishing compounds and metals must have a consistent mirror finish.

(i) Operators shall provide each patron with oral and written care instructions following the Body Piercing procedure.

(j) The operator performing the Body Piercing service shall maintain a record of service, including the patron's name, address, the date of service, jewelry used including the size, material composition and manufacturer, and placement of piercing. The operator shall maintain such record for at least two years. In the event of the closing of the business, all Body Piercing records shall be made available to the Fayette County Health Department and the Georgia Department of Human Resources.

(k) All obvious injuries or infections directly resulting from the practice of Body Piercing which are known or become known to the operator shall be reported to the Fayette County Health Department and the Georgia Department of Human Resources by the operator who shall immediately advise the patron to seek the services of a physician.

(l) Operators shall comply with applicable standards of the Occupational Health and Safety Administration, as well as any applicable Georgia laws and regulations while disposing of

waste items including, but not limited to needles and other supplies capable of causing lacerations or puncture wounds, generated through the provision of Body Piercing services.

- (m) Operators of an approved business performing Body Piercing services, other than those utilizing a piercing gun, shall not perform such services outside the business premises, unless otherwise authorized by Georgia law.

Sec. 23-2.22. Body Piercing Services Prohibited.

Due to the negative health risks and negative impact on the health safety morals and general welfare of the Town of Brooks related to the piercing of the genitals, such negative effects being outlined in the Study which was reviewed and understood by the Mayor and Town Council before passage of this Chapter, it shall be unlawful for any person other than a licensed physician to pierce in whole or in part, the genitals or anus of the any person, including but not limited to, the labia majora, labia minora, clitoris or anus of a female or the scrotum, penis or anus of a male.

Sec. 23-2.23. Ear Piercing Gun Standards

Any person operating a business offering ear piercing services with a piercing gun shall comply with the following provisions pertaining to such services:

- (a) Individuals providing ear piercing services with an Ear Piercing Gun shall be adequately trained to properly use, clean, disinfect and store the Ear Piercing Gun, in accordance with the rules of this chapter.
- (b) The individual performing the procedure shall wear a clean, new pair of disposable gloves made of latex or similar material for each piercing performed.
- (c) The Ear Piercing Gun shall be cleaned and disinfected between uses on each patron, by utilizing the following methods:
 - (1) The piercing gun shall be designed so that all parts of the gun that touch the patron's skin are disposable, such parts shall be removed from the gun and disposed of in an appropriate receptacle; and
 - (2) Following initial cleaning procedures appropriate for the Ear Piercing Gun, as described above, the Ear Piercing Gun shall be thoroughly wiped down with an appropriate disinfectant in accordance with directions for use from the manufacturer of the disinfectant; and
 - (3) In the case of a visible exposure of the gun to blood, the individual performing the service shall immediately:
 - i. Place the gun in a rigid, tightly closed container, before returning the Ear Piercing Gun to the manufacturer, in accordance with instructions provided by the manufacturer; or

- ii. Sterilize the Ear Piercing Gun; or
 - iii. Discard the Ear Piercing Gun.
- (d) The Ear Piercing Gun shall be stored in a covered container, or cabinet, when not in use.
- (e) Prior to performing an ear piercing procedure with an Ear Piercing Gun, the individual offering the service shall inform all patrons requesting such services of the frequency and method utilized to disinfect and sterilize all equipment used in the ear piercing procedure and the extent to which the methods used destroy disease-producing microorganisms.

Sec. 23-2.24. Sterilization and Disinfection Procedures for Body Piercing Services.

- (a) The operator shall keep all tubes, needle bars and other sterilized pieces of equipment in the wrappers or sterilizer bags used during sterilization. The operator shall store these wrapped ordinances in a clean, closed case or storage cabinet while not in use. The operator shall maintain such case or cabinet in a sanitary manner at all times. The operator shall keep all instruments, tubes, needles, and other items used in tattooing or Body Piercing procedures free of all contamination and shall not remove the wrappers or sterilizer bags until immediately prior to use.
- (b) The individual performing the service shall use all tattoo needles or instruments intended to penetrate the skin only once and dispose of them in a medical sharps container. The individual performing the service shall use instruments not intended to penetrate the skin, but which may become contaminated, only once and such instruments shall be disposed of in appropriate receptacle.
- (c) The operator shall place all used, nondisposable instruments in an ultrasonic-type machine to remove excess dye or other matter from the instruments; or the operator shall immerse nondisposable instruments for at least twenty minutes in a disinfectant solution registered with the united states environmental protection agency as a hospital disinfectant before the operator proceeds to scrub the instruments. When this process is completed, the operator shall place the instruments into either a covered container or into a wrapper designed or suitable for steam sterilization and sterilize. The operator shall daily sanitize the ultrasonic-type unit with a germicidal solution.
- (d) The operator shall provide a steam sterilizer (autoclave) for sterilizing all needles and similar instruments before use on any patron. Alternate sterilizing procedures may be used when specifically approved by the board of health. Sterilization of instruments will be accomplished in the autoclave by exposure to steam for at least fifteen minutes at a minimum pressure of fifteen pounds per square inch, temperature of two hundred fifty degrees Fahrenheit or one hundred twenty-one degrees Celsius.
- (e) The operator shall monitor and document the sterilizing function of all sterilizers as

follows:

- (1) The operator shall use autoclave sterilization bags, with a process indicator which changes color upon proper steam sterilization, during the autoclave sterilization process.
 - (2) The operator shall monitor each sterilizer load by the use of a sterilization indicator that ensures that minimum conditions exist to achieve sterilization through appropriate levels of:
 - i. Pressure of saturated steam;
 - ii. Temperature of exposure;
 - iii. Exposure time.
 - (3) The operator of the sterilizer shall follow the manufacturer's use instructions for the sterilizer and the sterilization indicator being used. Further, the operator shall maintain the sterilizer in serviceable condition and keep a record of any maintenance performed for at least two years.
 - (4) If the sterilization indicator demonstrates that sterilization has been achieved, the operator may place the contents of the packaged unit in inventory.
 - (5) If the sterilization indicator demonstrates that sterilization has not been achieved, the operator shall not use the sterilizer further. The operator shall have the sterilizer examined to determine the malfunction and shall have the sterilizer repaired or replaced.
 - (6) The operator shall use best practices, as recommended by the Association of Professional Piercers (“APP”), to ensure all instruments are free from all spore contamination.
- (f) The operator shall maintain a log, for a period of at least two years, of date, time, the name of the person or independent testing entity performing the test and sterilization indicator results for all needles and instruments used. The operator may also keep this record in each client file for all needles and instruments used on that client.

Sec. 23-2.25. Penalty.

- a) Violation of any requirement or prohibition stated in this ordinance is a misdemeanor, punishable upon conviction by a fine of not more than \$1,000.00. With respect to a violation that is continuous in nature, each day that the violation continues shall constitute a separate offense.
- (b) The revocation or suspension of any license shall not prohibit the imposition of a criminal penalty and the imposition of a criminal penalty shall not prevent the revocation or suspension of a license. Imposition of a criminal penalty shall be a prerequisite to the revocation or suspension of a license.

CHAPTER 25 – OFFENSES

ARTICLE I

Public Conduct

Sec. 25-1.01. Defacing public property. It shall be unlawful for any person to write, print, draw, carve or imprint on any public property any letters, words, or devices, or in any manner mutilate or deface any public property in the Town.

Sec. 25-1.02. Sounds and noises prohibited; violation.

(a) It shall be unlawful for any person to make, continue to make or cause to be made, within the Town, any loud, unnecessary or unusual sound or noise which either unreasonably disturbs, injures, or unreasonably endangers the comfort, repose, health, peace, or safety of reasonable persons of ordinary sensibilities, and which is audible to a person of reasonably normal hearing ability more than 50 feet from the point of origin of such sound or noise, if the point of origin is on public property, or more than 50 feet from the boundaries of the privately owned property on which the sound or noise originates.

(b) For purposes of this Section the terms unreasonable and unreasonably shall mean unreasonable to the reasonable person of ordinary sensibilities.

(c) For purposes of this Section the terms inhabitant, person or persons shall mean a reasonable person of ordinary sensibilities.

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

(1) *Horns, signaling devices.* The sounding of any horn or signaling device on any automobile, motorcycle or other vehicle on any street or other place in the Town, except as a danger warning, for any unnecessary and unreasonable period of time.

(2) *Devices that produce, reproduce or amplify.* The using, operating or permitting to be played, used or operated of any machine or device for the producing, reproducing or amplifying of sound within the Town in such manner as to unreasonably disturb the peace, quiet and comfort of the neighboring inhabitants within the Town, with louder volume than is reasonably necessary for convenient hearing for a voluntary listener who is in the room, vehicle or chamber in which such machine or device is operated. The operation of any such machine or device between the hours of 9:00 p.m. and 7:00 a.m. in such a manner as to be plainly audible to a

person with reasonably normal hearing at a distance of 50 feet from the point or origin of the sound or noise produced if the point of origin is on public property, or more than 50 feet from the boundaries of the privately owned property on which the sound or noise originates, shall be prima facie evidence of a violation of this section.

- (3) *Loudspeakers, amplifiers for advertising or attention.* The using, operating or permitting to be played, used or operated of any machine, device or instrument within the Town for the producing, reproducing or amplification of sound which is cast upon the public streets for the purpose of commercial advertising or otherwise attracting the attention of the public for any purpose to any building, structure or activity.
- (4) *Yelling, shouting, etc.* Yelling, shouting, hooting, or whistling on the public streets, between the hours of 9:00 p.m. and 7:00 a.m. or at any time or place so as to unreasonably disturb the quiet, comfort or repose of persons in any office, dwelling, or other type of residence, courtroom or Town council chambers.
- (5) *Animals, birds.* The keeping of any animal or bird within the Town which, by causing frequent or long continued sound or noise, shall unreasonably disturb the comfort or repose of any persons.
- (6) *Exhausts.* The discharge within the Town into the open air of the exhaust of any steam engine, stationary internal combustion engine, motor vehicle, or motorboat except through a muffler or other device which will effectively prevent unreasonably loud or explosive noises therefrom.
- (7) *Loading, unloading, opening boxes.* The creation of an unreasonably loud and excessive noise within the Town in connection with loading or unloading any vehicle or the opening and destruction of bales, boxes, crates, and containers, between the hours of 9:00 p.m. and 7:00 a.m.
- (8) *Construction or repair of buildings.* The erection (including excavating), demolition, alteration or repair of any building within the Town other than between the hours of 9:00 p.m. and 7:00 a.m.
- (9) *Hawkers, peddlers, vendors.* The shouting and crying of peddlers, hawkers or vendors within the Town which unreasonably disturbs the peace and quite of the neighborhood.

- (10) *Noises to attract attention.* The use of any drum or other instrument or device within the Town for the purpose of attracting attention by creation of noise to any performance, show or sale.
- (11) *Pile drivers, hammers, similar equipment.* The operation within the Town between the hours of 9:00 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 unreasonably loud sounds or noises.
- (12) *Blowers.* The operation within the Town of any noise-creating blower, vacuum or power fan between the hours of 9:00 p.m. and 7:00 a.m., the operation which causes unreasonable noise.
- (13) *Sound trucks.* The use within the Town of mechanical loudspeakers or amplifiers on trucks or other moving or standing vehicles for advertising or other commercial purposes or when used at such an unreasonably loud volume so as to unreasonably disturb persons in their residence, offices, schools, hospitals, churches or courts.

(e) Exemptions. The following are noises and sounds permissible and do not violate this section:

- (1) Noises resulting from any authorized emergency vehicles when responding to an emergency.
- (2) Noises made by persons having obtained a parade or concert permit from the Town.
- (3) Any vehicle of the State, County or Town while engaged in necessary public business.
- (4) Excavations or repairs of bridges, streets or highways by or on behalf of the Town, County or the State, at night, when the public welfare and convenience renders it impossible to perform such work during the day.

(f) All times herein shall be Eastern Standard Time or Eastern Daylight Saving Time, whichever is then in effect.

Sec. 25-1.03. Disorderly conduct. It shall be unlawful for any person or persons within the corporate limits of the Town to engage in any conduct described in the following subsections:

- (1) To act in violent or tumultuous manner toward another whereby any person is reasonably placed in fear of the safety of his life, limb, or health; or
- (2) To act in a violent or tumultuous manner towards another whereby the property of any person is placed in danger of being damaged or destroyed; or
- (3) To cause, provoke, or engage in any fight, brawl, or riotous conduct so as to endanger the life, limb, health, or property of another; or
- (4) To direct "fighting words" towards another, that is, words which by their very nature tend to incite a breach of the peace; or
- (5) To interfere, by acts of physical obstruction, another's pursuit of a lawful occupation or activity; or
- (6) To congregate with another or others on or about any public way or private way which is open to the public so as to halt the flow of vehicular or pedestrian traffic, and to fail to clear that public way or above described private way after being ordered to do so by a police officer or other lawful authority; or
- (7) To disrupt by actions which tend to incite a breach of the peace, the activities of any house of worship, hospital, home for the elderly, school, court, town council or chambers; or
- (8) To throw bottles, paper, cans, glass, sticks, stones, missiles, or any other debris on public property or private property without the consent of the owner or occupant thereof; or
- (9) Without lawful authority, to purposely obstruct, block, or impede pedestrian or vehicular traffic on any public sidewalk, public street, or entrance or exit to any public way, private residence, house of worship, business, public hall, theater, public convenience, or other public place.

Sec. 25-1.04. Loitering. It shall be unlawful within the Town's limits for any person to be in any public place or business where the person's presence is unrelated to the normal activity, use or business conducted at the premises or place, and said person commits one of the following acts:

- (1) Said person is hindering or obstructing unreasonably the free passage of pedestrians or vehicular traffic; or
- (2) Said person refuses to leave the premises or place after being asked to leave by the owner of the premises, the authorized agent of the owner, or a law enforcement officer; or
- (3) Said person is involved in conduct which unreasonably disrupts the repose or peace of persons acting lawfully; or
- (4) Said person is involved in conduct causing the obstruction, molestation, or interference with persons so as to cause them to reasonably fear for their safety.

Sec. 25-1.05. Disorderly houses.

(a) It shall be unlawful for any person, either for himself or as agent of another, to permit persons who are acting in a boisterous, noisy or riotous manner to assemble in or about any house, building, structure, vehicle or upon any private property located within the Town, owned, occupied or controlled by him, to the reasonable annoyance or disturbance of persons residing or working near said house, building, structure or vehicle.

(b) It shall be unlawful for any person, either for himself or as agent of another, to permit persons who are gambling or participating in other illegal activity or purpose to assemble in or about any house, building, structure, vehicle or private property, within the Town, owned, occupied or controlled by him/her.

(c) It shall be unlawful for any person to assemble within or about a house, building, structure or vehicle, or upon private property, within the Town, while acting in a boisterous, noisy or riotous manner, to the reasonable annoyance or disturbance of persons residing or working near said house, building, structure, vehicle or private property.

(d) It shall be unlawful for any person to assemble within or about a house, building, structure, or vehicle, or upon private property, within the Town, while participating in gambling or other illegal activity or purpose.

Sec. 25-1.06. Public defecation or urination. It shall be unlawful for any person to defecate or urinate on the streets or sidewalks, or on any property in the Town, or in public or commercial buildings within the Town, except in areas designated as toilets, restrooms, bathrooms, or for such purposes.

Sec. 25-1.07. Public drinking. It shall be unlawful within the Town limits for any person to drink any vinous, malt, or other alcoholic beverage while on any streets, sidewalks, alleyways, parking areas, or other public areas, or areas open to the public (including while in vehicles), or in any business or commercial area not licensed by the Town for selling of alcoholic, vinous or malt beverages for on-premises consumption.

Sec. 25-1.08. Public drunkenness. It shall be unlawful within the Town limits for any person, in an intoxicated condition, to be in a public place, business, or the yard of a private residence of another without the consent of the owner or lawful occupant, and to act in a boisterous or indecent manner, or speak in a vulgar or profane language, or speak in an unreasonably loud manner.

CHAPTER 27 - PARKS AND RECREATION

ARTICLE 1

Special Events

Sec. 27-1.01. Definition. A Special Event is any activity that occurs upon public or private property that affects the ordinary use of public parks, public streets, rights-of-way or sidewalks, or causes an increase of more than 100% in average daily trips on any public street within the Town. Special Events may include but are not limited to such activities as arts festivals, athletic events, craft fairs, other fairs, educational tours, group activities, concerts, holiday celebrations, promotional events, parades, marches, bike tours or races, fun runs, foot races or walks.

Sec. 27-1.02. Permit Required. All Special Events may be conducted within the Town only upon prior issuance of a permit by the Town. A Special Events Permit Application, approved by the Council, must be filed with the Town Clerk at least sixty (60) days prior to the proposed Special Event on an application form approved by the Council. Special Event Application Fees shall be established by the Council.

Sec. 27-1.03. Permit Process

- (a) Upon application, the Town Council may deny a permit if:
- (1) the location sought is not suitable because of landscaping, planting, or other environmental conditions reasonably likely to be harmed by the proposed event; or
 - (2) the location sought is not suitable because it is a specialized area including, but not limited to, a children's play area, athletic facilities, garden areas, or because the proposed event is of such nature or duration that it cannot reasonably be accommodated in that location; or
 - (3) the date and time requested have previously been allotted; or
 - (4) within the preceding two years, the applicant has been granted a permit and did, on that prior occasion, knowingly violate a material term or condition of the permit, or any law, ordinance, statute or regulation relating to the use of public property or the protection of private property; or
 - (5) the event would interfere unreasonably with the enjoyment of the public property by other users; or
 - (6) the event would interfere unreasonably with private property rights or the enjoyment of private property by its owners or legal occupants.
- (b) Permit may be granted upon such terms and conditions as the Council shall reasonably impose and shall authorize the permitted acts or activities only insofar as they are performed in strict accordance with the terms and conditions thereof.
- (c) The Council may require the permittee of a Special Events Permit ("Permittee") to post a bond in an amount sufficient to ensure full compliance with the terms and conditions of the permit. The decision of whether to require a bond will be based on the following factors:

- (1) The location of the event and such location's vulnerability to damage;
 - (2) Whether the event or any activities associated with the event present a high risk of property damage;
 - (3) The number of people expected to be in attendance;
 - (4) The type of equipment to be brought onto the site;
 - (5) The number of days the permittee will occupy the site;
- (d) The Council may require the Permittee to obtain personal liability insurance for the event, with the Town as additional insured. The decision on whether to require insurance will be based on the following factors:
- (1) Whether the special event or any activities included as part of the special event present a risk of personal injury or property damage.
 - (2) Whether the special event involves the sale of food.
 - (3) Whether the special event involves over 500 participants, or a large number of participants relative to the size of the site.
 - (4) Whether the special event involves transportation and installation of heavy equipment, or the installation of a stage or other temporary structure.
- (e) If the permit application is denied, the applicant may appeal the determination by written request filed within 10 days of the denial delivered to the Town Clerk. The Town Council within 10 days shall hear the appeal and may reverse, affirm, or modify the original determination with a written explanation.
- (f) Permit applications must indicate whether electrical energy is required for the event. Permittees shall be responsible for the procurement of and payment for any electrical energy used during the event.
- (g) Applications requiring the closing of a public way or restricting public access upon a public way must obtain approval of Fayette County and arrange for traffic control by the Fayette County Sheriff Department.
- (h) All permits for races, tours or walks on the public roads in Brooks shall require the use of Fayette County Sheriff's personnel for traffic control.

Sec. 27-2.01. Use of Town Parks and Other Town Property

- (a) No person shall conduct any activity for which a Special Events Permit is required unless such permit has been issued, and all terms and conditions of such permit have been or are being complied with.
- (b) *Hours:* Special Event Activities within Town Parks or at Special Events are prohibited after 9:00 p.m. (athletic events therefore started prior to 9:00 a.m. may continue, but in no case past 10:00 p.m.) and before 7:00 a.m. Loudspeakers, amplified music, bullhorn or public address

systems during event hours are strictly regulated, and Special Events or within Town Parks can only be used between 9:00 a.m. and 9:00 p.m.

- (c) *Alcohol*: No alcohol is to be served or sold.
- (d) *Restrooms/Trash/Cleanup*: The Town may require special Event Permittees to provide temporary toilet facilities. Trash must be disposed of in approved containers provided by the Permittee. Daily cleanup is required. The Permittees must clean the right-of-way or public property of all rubbish and debris, returning it to its pre-event condition within 24 hours of the conclusion of the event. If the Permittee fails to clean up such refuse, cleanup will be arranged by the Town and the costs charged to the Permittee.
- (e) *Traffic & Parking*: Parking is permitted in areas designated by the Zoning Administrator. All entries, exits and the fire lanes shall be maintained open. All posted speed limits must be followed.
- (f) *Signs*: Permits issued by the Town are required for temporary signs. No signs may be affixed to trees, buildings or street fixtures.
- (g) *Fireworks*: Are not permitted.
- (h) *First Aid and Medical*: The Council may require provision of first-aid and medical personnel.
- (i) *Enforcement*: The Town's Zoning Administrator or Fayette County law enforcement may eject any event participant from any public park or public facility for violation of these rules and regulations or other ordinances of the Town.
- (j) Permittees are subject to the rules of the Town, the specific terms and conditions of the permit, and all applicable Town, Fayette County, State, and Federal laws.
- (k) Permittees must have the permit in their possession at the time and on the site of the event, as well as any other permits for the event required by the Fayette County Sheriff.
- (l) Permittees must confine their activities to the locations and times specified on their permit. The Council may establish specific guidelines for certain designated locations.
- (m) During the course of an a Special Event or any other event or activity, the Council or Fayette County Law Enforcement may suspend a permit or close Town Property or part thereof to the public where exigent circumstances resulting from any natural cause, accident, dangerous activity or otherwise, exist in the vicinity of the location for which such permit has been issued and for such duration deemed necessary to ensure the safety and well-being of the public.
- (n) Permits are not transferable by the Permittee.
- (o) Permittees shall be held liable for any and all damages or injuries to persons or property that may occur or caused by the use of the permit. By accepting a permit, Permittees agree to

indemnify and hold harmless the Town and the Fayette County and Fayette County Sheriff's Department from any and all claims whatsoever that may result from such use.

(p) Should there be any injuries, accidents, or other health incidents at an event, Permittee must notify the Fayette County Sheriff immediately by calling 911 and follow up with a written description of the incident to the Town Clerk on the next business day.

(q) It shall be a violation of these Town's rules to advertise the location of any event requiring a permit under this ordinance via posting, print media, radio, television, or the internet when the location and event is under the jurisdiction of this ordinance and the person who is responsible for placing the advertisement has not been informed that the Council has issued a permit authorizing the event date and location.

(r) No person shall erect any structure, stand, booth, platform, or exhibit in connection with any Special Event without approval of the Town Council.

(s) Vendors at Special Events are required to apply to the Town under its occupational tax ordinance and hold an issued certificate or a waiver by the time of the Special Event.

(t) Children under 16 years old must be accompanied by an adult during the Special Event.

Sec.27-2.02. Prohibited Uses

(a) No person shall kindle, build, maintain, or use a fire in any place on Town property, portable receptacle, or grill except in places provided by the Town and so designated by sign or by Special Event Permit. In no event shall open or ground camp fires be allowed in any Town property. Any fire authorized shall be contained in a portable receptacle grill or other similar device, and continuously under the care and direction of a competent person over eighteen (18) years of age, from the time it is kindled until it is extinguished. No fire shall be within ten feet of any building, tree, or underbrush or beneath the branches of any tree.

(b) No overnight sleeping or camping on Town property.

(c) No person shall engage in camping, or erect or maintain a tent, shelter, or camp in any park.

(d) No person shall engage in any form of gambling or game of chance for money, or fortune telling for money.

Sec.27-2.03. Prohibited Conduct

(a) No person shall make, or cause or allow to be made, unreasonable noise upon any Town property so as to cause public inconvenience, annoyance or harm. Unreasonable noise means any excessive or unusually loud sound that disturbs the peace, comfort or repose of a reasonable

person of normal sensitivity or injures or endangers the health or safety of a reasonable person of normal sensitivity, or which causes injury to plant or animal life, or damage to property or business.

(b) No person shall injure, deface, alter, write upon, destroy, remove or tamper with in any way, any real or personal property or equipment owned by or under the jurisdiction or control of the Town.

(c) No person shall deface, write upon, injure, sever, mutilate, kill or remove from the ground any trees or plants on Town Property without permission of the Council.

(d) No person shall go upon or allow any animal or child in his or her custody to go upon any area enclosed by fencing, temporary or permanent, where such fencing or signs posted thereon, reasonably indicate that entry into such area is forbidden.

(e) No person shall litter in any Town Property. All persons shall use receptacles provided for the disposal of refuse.

(f) No person shall allow any dog in his custody or control to discharge any fecal matter in any Town Property unless he promptly removes and disposes of same.

(g) No person owning, possession of controlling any animal shall cause or allow such animal to be unleashed or unrestrained in any Town Property.

(h) No person shall urinate or defecate on any Town Property, except in a facility which is specifically designed for such purpose.

(i) No person shall interfere with, encumbers, obstructs or renders dangerous any part of a Town Property or Town road; obstructs vehicular or pedestrian traffic.

(j) No person shall engage in fighting or assaults any person.

(k) No person shall engage in a course of conduct or commits acts that unreasonably alarm or seriously annoy another person.

(l) No person shall engage in any form of sexual activity.

(m) No person shall engage in a course of conduct or commits acts that endanger the safety of others.

(n) No person shall loiter or remain in a Town Property for the purpose of engaging, or soliciting another person to engage, in sexual activity for money; or other illegal purpose.

(o) No person shall appear in public on Town Property in such a manner that one's genitalia are unclothed or exposed.

CHAPTER 29 – STREETS, SIDEWALKS AND PARKING

ARTICLE 1

Off-Street Parking and Service Requirements

- Sec. 29-1.01** Scope of Provisions. Except as provided in this section, no application for a building permit shall be approved unless there is included with the plan for such building, improvements, or use, a plot plan showing the required space reserved for off-street parking and service purpose. Occupancy shall not be allowed unless the required off-street parking and service facilities have been provided in accordance with those shown on the approved plan.
- Sec. 29-1.02** Parking Spaces Shall Not be Reduced. Off-street parking spaces shall not be reduced below the minimum required number for the use or facility to which they are assigned.
- Sec. 29-1.03** Street Access-Curb Cuts in other than R (residential) Districts. Curb cuts for service drives, entrances, exits and other similar facilities or public streets in other than R Districts shall not be located within fifty (50) feet of any intersection or within forty (40) feet of another curb cut. A curb cut shall be no greater than thirty (30) feet in width and no closer than twenty (20) feet to any property line.
- Sec. 29-1.04** State Department of Transportation (DOT). All entrances or exits to any street or drive, public or private, from or to any state highway shall be approved by the State Department of Transportation prior to the construction of such street or drive, or the issuance of any development permit for any improvement to be served by such street or drive, but permit approval shall not be held longer than thirty (30) days.
- Sec. 29-1.05** Corner Visibility, Clearance. In any district no fence, structure, sign, planting or other obstruction above a height of three (3) feet shall be maintained, within fifteen (15) feet of the intersection of right-of-way lines of two (2) streets, or of a street intersection with a railroad right-of-way.
- Sec. 29-1.06** Off-Street Automobile Parking. Off-street automobile parking shall be provided in accordance with all applicable provisions of this section.
- a.** Design Standards. All parking facilities, including entrances, exits and maneuvering areas, shall comply with the following provisions:
- 1** Shall have access to a public street;
 - 2** Shall be graded and paved, including access drive(s), and be curbed when needed for effective drainage control; however, parking facilities for, charitable or nonprofit organizations need only be graded and have, at a minimum, an all-weather surface;

- 3** Shall have all spaces marked with paint lines, curbstones or other similar designations;
- 4** Parking stalls shall have a minimum width often (10) feet and length of twenty (20) feet. There shall be provided adequate interior driveways to connect each parking space with a public right-of-way. Interior driveways shall be at least twenty-four (24) feet wide where used with ninety (90) degree angle parking; at least eighteen (18) feet wide where used with (60) degree angle parking; at least twelve (12) feet wide where used with forty-five (45) degree angle parking; and at least twelve (12) feet wide where used with parallel parking; or where there is no parking, interior driveways shall be at least twelve (12) feet wide for one-way traffic movement;
- 5** Curb return radius shall not exceed fifteen (15) feet or be less than ten (10) feet;
- 6** Shall be drained so as to prevent damage to abutting properties or public streets;
- 7** Shall be separated from sidewalks and streets by a strip of land at least ten (10) feet wide as measured from the right-of-way, reserved as open space and planted in grass;
- 8** If a parking area is established within an R (residential) District for a nonresidential use permitted in an R District, a continuous visual buffer at least four (4) feet in height between the parking area and the abutting Property shall be provided on a strip of land at least ten (10) feet wide adjoining the lot used for residential purposes;
- 9** Adequate lighting shall be provided if the facilities are to be used at night. Such lighting shall be arranged and installed so as not to reflect or cause glare on abutting properties;
- 10** No parking or loading area shall be established within the required front yard of any Non Conforming multi-family District; The Council shall have the authority to determine the number of front yard parking or loading areas to be allowed in each particular case based upon the space available and safety and aesthetic conditions, and any other provisions of this ordinance to the contrary notwithstanding.
- 11** No parking or loading area shall be established in the required front yard of any R District except for a single-dwelling unit residential use; no more than thirty-five percent (35%) of the required front yard may be used for parking in such case;
- 12** The Provisions of 2, 3, 4, 7, 9, and 10 above shall not apply to single-dwelling unit residential uses where three (3) or less spaces are required.

b. Location. All parking facilities shall be located in accordance with the following provisions:

- 1 The required space shall be provided on the same lot with the use it serves, except as provided herein;
 - i. If vehicular parking or storage space required cannot be reasonably provided on the same lot on which the principal use is conducted, the Brooks Town Council may permit such space to be provided on other off-street property provided such space lies within four hundred (400) feet of the main entrance to such principal use. Such vehicular parking space shall be associated with the permitted uses and shall not hereafter be reduced or encroached upon in any manner; and,
 - ii. The required parking space for any number of separates uses may be combined in one lot but the required space assigned to one may not be assigned to another use at the same time, except that one-half (1/2) of the parking space required for churches, theaters, or assembly halls whose attendance will be at night or on Sunday may be assigned to a use which will be closed nights or on Sundays.

c. Location and Surface of Parking Area. The parking of any vehicle on any lot in any district another than a paved surface to accommodate said vehicle is prohibited except as provided herein. In addition, parking of vehicles in the front yard or the front of the principal building line in an AR District shall be prohibited except on a asphalt, concrete, or gravel driveway or in a carport or garage.

Sec. 29-1.07 Number of Parking Spaces. In order to assure a proper and uniform development of public parking areas throughout the Town of Brooks, to relieve traffic congestion on the streets, and to minimize any detrimental effects of adjacent properties, off-street parking space shall be provided and maintained as called for in the following schedule and the requirements shall be the same as a similar use as mentioned herein. Parking requirements for additions to existing uses shall be based upon the new addition even if the existing use is deficient.

<u>USE</u>	<u>NUMBER OF PARKING SPACES</u>
Non-Conforming Multi- Dwelling Unit	Two (2) spaces for each dwelling units plus one (1) space for each two hundred (200) square feet of club house.

<u>USE</u>	<u>NUMBER OF PARKING SPACES</u>
Auditorium, Stadium, Assembly Hall, Gymnasium, Theater, Community Recreation Center, Church	The greater of: (b) One (1) space per four (4) fixed seats in the largest assembly room or area, or (c) One (1) for each forty (40) square accommodation of moveable seats in the largest assembly room or feet of floor area available for the combination of fixed and moveable seats, or one (1) space per each one hundred fifty (150) square feet of gross floor area.
Automobile Fueling Station	One (1) space (in addition to service area) for each pump and grease rack and one (1) space for each two (2) employees during period of greatest employment but not less than four (4) overall spaces.
Automobile Sales and Repair, Service Stations and Car Wash	Same as above plus one (1) space for each five hundred (500) square feet of gross floor area of the shop or car wash.
Bowling Alley	Four (4) spaces per alley plus requirements for any other use associated with the establishment such as a restaurant, etc.
Club or Lodge	One (1) space for each two (2) employees plus one (1) space for each two-hundred (200) square feet of gross floor area plus additional spaces for other uses permitted within the premises.
Combined Uses	Parking spaces shall be the total of the spaces required for each separate use established by this schedule.
Dance School	One (1) space for each employee plus one (1) space per one-hundred fifty (150) square feet of gross floor area plus safe and convenient loading and unloading of students.
Fraternity or Sorority	One (1) parking space for each two (2) residents and one (1) space for each two (2) employees.
Golf Course	Two (2) spaces for each hole and one (1) space for each two (2) employees plus requirements for any other use associated with golf course.
High Schools, Trade Schools, College and Universities	One (1) space for each teacher, employee, and administrative person plus safe and convenient loading of students, plus five (5) spaces for each classroom.

<u>USE</u>	<u>NUMBER OF PARKING SPACES</u>
Hospital or Care Home	One (1) space for each three (3) beds plus one (1) space for each two (2) employees (nurses, attendants, etc.) plus one (1) space for each staff or visiting doctor.
Hotel	One (1) space for each three (3) guest rooms, suites, or units plus one (1) space for each two (2) employees.
Indoor and Outdoor Recreation Areas (Commercial), YMCA and Similar Uses	The greater of: (a) One space for each one hundred fifty (150) square feet of gross floor, building, ground area, or combination devoted to such use, or (b) One (1) space for each four (4) seats or facilities available for patron use; which every is greater
Industrial or Manufacturing Establishments or Warehouse	Two (2) spaces for each three (3) employees on shift of greatest employment, plus one (1) space for each vehicle used directly in conduct of the business.
Kindergarten and Nursery	One (1) space for each employee, plus safe and convenient loading of students.
Motel	One (1) space for each unit plus one (1) space for each two (2) employees.
Office, Professional Building or Similar Use	One (1) space for each three-hundred (300) square feet of gross floor area plus one (1) space for each two (2) employees.
One-Dwelling Unit Residences	Two (2) spaces per each unit (residential) driveways will satisfy this need.
Restaurant or Place Dispensing Food, Drink or Refreshments	One (1) space for each three (3) seats plus one (1) space for each two (2) employees on shift of greatest employment
Schools, Elementary	One (1) space for each teacher, one (1) employee and each administrative person and one (1) space per classroom, plus safe and convenient loading of students
Swimming Pool, Public	One (1) space for every two-hundred (200) square feet of water surface area plus requirements for additional associated uses and establishments such as a restaurant, etc.
Shopping Center	One (1) space for every two hundred (200) square feet of gross floor area.

<u>USE</u>	<u>NUMBER OF PARKING SPACES</u>
Retail Stores of All Types	One (1) space for every two-hundred (200) square feet of gross floor area.
Veterinarian Clinic	One (1) space per two-hundred (200) square feet of gross floor area.
Wholesale Establishment	One (1) space for each employee plus sufficient spaces to accommodate vehicles used in the conduct of the business.

Sec. 29-1.08 Minimum Number of Loading Spaces Required. Industrial, wholesale and retail operations shall provide loading spaces as follows:

- a. Spaces Appropriate to Functions: Off-street loading spaces shall be provided as appropriate to the functions and scope of operation of individual or groups of buildings and uses.
- b. Design of Loading Spaces: Off-street loading spaces shall be designed and constructed so that all maneuvering to park or unpark vehicles for loading can take place entirely within the property lines of the premises. Loading spaces shall be provided so as not to interfere with the free and normal movement of vehicles and pedestrians on public rights-of-way.
- c. Ingress and egress: Ingress and egress to off-street loading spaces shall conform to driveway entrance regulations of Fayette County, amended from time to time (said regulations are hereby adopted by the Town of Brooks).
 - 1 Along the 85 Connector, ingress and egress may be limited in order to provide for safe access to the development and to provide for maintenance of adequate sight distances. Where frontage drives are required, these may be extended to the side property line in order to permit joint use by adjacent properties.

Sec. 29-1.09 No more than one (1) Business Vehicle may be parked on a residential lot overnight (11:00pm-7:00am eastern standard time or eastern daylight savings time., as appropriate) except during temporary and town permitted construction project upon the residential lot.

Sec. 29-1.10 For purposes of this section, vehicle means a motorized equipment or a non-motorized equipment designed to be pulled by a motorized equipment, which are designed to travel with persons or cargo upon land, air or water. Without limiting the generality of the above, vehicle shall include (but not exclusive): cars, automobiles, trucks, trailers, boats, airplanes, motorcycles, golf carts, campers, recreation vehicles, buses. A trailer designed to carry one boat, or up to two motorcycles, or up to two personal water craft, when loaded, as designed, with

one boat, or up to two motorcycles, or up to two personal water craft shall be counted as one vehicle for the purposes of this section. While a trailer, designed to be pulled by a car, automobile, or truck, is hitched to a care, automobile or truck for travel on public roads, the hitched frailer and the car, automobile or truck shall be considered one vehicle for purposes of this section.

Sec. 29-1.11 Except when being utilized in a temporary, town permitted, construction project on the lot in question, it shall be unlawful for the driver of a vehicle described herein below to park overnight, or the owner of occupant of the residential zoned lot in question to knowingly allow to be parked overnight, upon a residential zoned lot, any vehicle meeting any one of the following classifications:

- a. A vehicle exceeding 30 feet in length (for purposes of this length restriction a trailer hitched to a car, motor vehicle or truck shall he measured as a separate vehicle);
- b. A vehicle whose gross vehicle weight rating exceeds 12,000 pounds;
- c. A vehicle which sits upon more than two (2) axles;
- d. A vehicle which sits, or is designed to sit, upon more than six (6) wheels;
- e. A trailer of a tractor trailer or a semi-trailer;
- f. Dump truck, wrecker truck, tow truck, auto transportation truck, freight truck, logging truck, dirt-sand-gravel hauling truck, bull dozer, bucket truck, cement truck, crane, forklift, backhoe, track hoe, articulated truck, compactor roller, excavator, front-end loader, motor grader.

Sec. 29-1.12 A recreational vehicle which fits any classification listed in 8-11(a-d), above may be parked unoccupied overnight upon a residential zoned lot upon the condition that the recreational vehicle is parked on a constructed impervious surface and is not visible from any street or road.

